
**Regulatory and Institutional
Issues Impeding Cleanup at
U.S. Department of Energy Sites:
Perspectives Gained from an
Office of Environmental Restoration
Workshop**

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REGULATORY AND INSTITUTIONAL ISSUES IMPEDING
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Richland, Washington 99352



PREFACE

The U.S. Department of Energy's (DOE) nuclear weapons and energy operations are conducted across a nation-wide industrial complex engaged in a variety of manufacturing, processing, testing, and research and development activities. The overall mission of DOE's Office of Environmental Restoration and Waste Management (EM) is to protect workers, the public, and the environment from waste materials generated by past, current, and future DOE activities and to bring the DOE complex into compliance with all applicable laws, regulations, and agreements related to health, safety, and the environment. EM addresses this broad mandate through related and interdependent programs that include corrective actions, waste operations, environmental restoration, and technology development.

EM activities and programs are subject to more than two dozen federal statutes. Principal among these are the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Atomic Energy Act, and the National Environmental Policy Act. Other regulatory requirements are set forth in state and local statutes, DOE Orders, standards, and other guidance documents.

In addition to regulations, EM programs are frequently affected by operational or oversight responsibilities exercised by other DOE organizations. Principal among these are the major statutory program areas of the Offices of Defense Programs, Energy Research, and Nuclear Energy; the Office of Environment, Safety and Health (EH); the Office of the Controller; the Office of the General Counsel; and the Office of Civilian Radioactive Waste Management.

Given this degree of programmatic scope, statutory constraint, and organizational interface, EM faces an increasingly complex array of regulatory and institutional issues. The EM Office of Environmental Restoration (EM-40) recognizes the importance of implementing a complex-wide process to identify and resolve those issues that may impede progress towards site cleanup. As a first step in this process, EM-40 sponsored an exercise to identify and

characterize major regulatory and institutional issues and to formulate integrated action steps towards their resolution. The exercise also complemented and supported EH policy activities.

This report is the first product of that exercise. It is intended that the exercise described here will mark the beginning of an ongoing process of issue identification, tracking, and resolution that will benefit cleanup activities across the DOE complex. Although participation in this exercise was limited to DOE and Management and Operations contractor staff, it is intended that the results reported here will serve as a basis for subsequent activities that will include broader representation. It is envisioned that the action items described and the individuals who developed them could serve as a point of departure for further developing ideas and dialogue in collaboration with regulatory agencies, states, regions, tribes, and other concerned parties and organizations.

The approach described here has been used previously by Pacific Northwest Laboratory for similar objectives. The success and limitations of the approach may offer valuable lessons for planning future workshops. To this end, appendixes are included that document operational details of the exercise.

SUMMARY

The Pacific Northwest Laboratory conducted an exercise sponsored by the U.S. Department of Energy's (DOE) Office of Environmental Restoration to identify and suggest solutions for high-priority regulatory and institutional issues that are impeding site cleanup activities. The exercise was conducted in two steps. The first step was a series of conference calls and meetings with selected DOE Field Office and Headquarters (HQ) staff and Management and Operations (M&O) contractors. These were designed to capture the universe of issues of concern, to cite specific examples, and to indicate how individual sites and offices are currently coping with the issues confronting them. These conversations and discussions were transcribed and distilled into an issue summary document that clustered the issues into 13 issue groups:

- Regulatory Integration
- Regulatory Streamlining
- Cleanup Authority and Consistency
- Environmental Management Integration
- Implementation of Agreements/Documentation
- U.S. Environmental Protection Agency Issues
- General DOE Guidance and Administration
- Risk Management
- Future Land Use
- Cleanup Levels
- DOE Infrastructure
- Information Systems
- Community Relations Programs.

The second step was a workshop for 43 participants held on December 17 and 18, 1990, in Gaithersburg, Maryland. After reviewing and refining the

13 issue groups, participants selected five for detailed discussion in working groups. These were:

- Regulatory Streamlining/Integration
- General DOE Guidance and Administration
- Cleanup Levels/Cleanup Authority and Consistency
- Environmental Management Integration
- Implementation of Agreements/Documentation.

The working groups reviewed, prioritized, characterized, and expanded on issues included under each of these five issue groups with the goal of developing sequential action items that could be implemented in the field or at HQ.

Workshop participation met the objective of a balanced representation of HQ and Field Office staff. Of 43 attendees, 25 were from the field and 18 were from HQ. Headquarters representation included 11 from the Office of Environmental Restoration, six from the Office of Environment, Safety and Health, and one from the Office of General Counsel. Field representation included ten from DOE, nine M&O contractors, and six National Laboratory personnel.

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INTRODUCTION

The array of issues, problems, and constraints confronting the U.S. Department of Energy (DOE) as it begins environmental restoration activities is extensive and complex. The list of considerations includes, but is by no means limited to budget, policy, law, regulations, administration, public affairs, science, engineering, health, welfare, and national security. The task of making progress despite this range of impediments is a daunting one. Recognizing the difficulty of resolving or even addressing all these issues concurrently, DOE's Office of Environmental Restoration (EM-40) initiated a process to begin addressing two of its most difficult categories of issues: 1) those deriving from regulations, and 2) those from DOE's institutional structure and operating procedures. Pacific Northwest Laboratory (PNL) staff planned and implemented this process for EM-40.

Regulatory and institutional issues often overlap. Moreover, both of these categories also overlap other kinds of issues. However, in general terms, the following definitions apply:

- regulatory issue - an impediment to progress arising from overlapping, conflicting, unclear, flawed, or missing regulatory statutes, directives, or guidance
- institutional issue - an impediment to progress arising from a lack of or a weakness in 1) DOE's internal communication linkages or operational interfaces; 2) the definition of roles, responsibilities, and authorities within and between DOE Headquarters (HQ), Field Offices, National Laboratories, support contractors and regulators; and 3) policy and policy implementation guidance.

The decision to focus on these two categories reflects EM-40's belief that the resolution of other issue categories will be expedited and facilitated if regulatory and institutional problems are addressed and resolved early in DOE's site cleanup effort. The decision to solicit extensive input on a broad array of issues from Field Office and HQ staff involved in environmental restoration activities via conference calls, interviews, and a highly participative workshop reflects the belief that the resolution of complex-wide problems will require the integration of perspectives and experiences from both HQ and the Field Offices.

The following sections are the reports presented by working groups at the workshop held December 17 and 18, 1990, in Gaithersburg, Maryland. Conclusions and recommendations from the PNL team are also given. Extensive use is made of appendixes that describe details of the planning and execution of the conference calls, HQ meetings, and the workshop as a reference for potential use or adaptation in future exercises. Appendix A describes the process for identifying and characterizing issues, which was primarily through conference calls to the Field Offices and interviews with HQ staff from EM-40 and the Office of Environment, Safety and Health (EH). Appendix B describes the format and execution of the December regulatory and institutional issues workshop. Appendixes C through H include lists of participants in all parts of the exercise; the entire list of issues; materials given out before, during, and after the workshop; and a resource list for addressing the workshop issue group.

WORKING GROUP REPORTS

The following sections contain the working group reports presented to the plenary session on the second day of the workshop. Both before and during the workshop, participants were encouraged to exercise flexibility relative to the suggested discussion format. Given this latitude, it is not surprising that the different groups exercised different prerogatives, such as restating the problem that the issue group addressed, integrating the various issues into a single issue for discussion purposes, differentiating the issues into component subissues, or commenting on related topics.

In documenting the group reports, every effort has been made to balance the advantages of a consistent format with the obligations to faithfully convey each group's thought processes, products, and prerogatives. Likewise, every effort was made to incorporate reviewers' comments that were not otherwise addressed and that further developed the workshop discussions. The following format was judged to provide the best balance and was used for each of the five working group reports.

- group membership - identification of the members and affiliations of the small group as well as the group leader and facilitator
- issue priority and selection - a review of the issues included in the original issue group and subsequent additions, deletions, and modifications; identification of the issues selected for discussion.

For each issue the group discussed, the report then presents

- discussion - an elaboration of the issue. Depending on the direction that the group discussion took, this section may focus on general characteristics of the issue, historical factors, site-specific examples, current regulatory or institutional considerations, or the subissues that comprise the issue.
- suggested action items - a delineation of specific actions that could be implemented by the Field Offices or HQ to ameliorate or resolve the issue or its component subissues. The items identified during the workshop have been sequentially ordered to the extent possible.
- supplemental points - peripheral or related points or summary observations.

ISSUE GROUP - REGULATORY STREAMLINING

GROUP MEMBERSHIP

Susan Brechbill, DOE-San Francisco (Group Leader)
Roy Gephart (Facilitator), Pacific Northwest Laboratory
Lyle Harris, DOE-HQ, EM-44
Fred Hoffman, Lawrence Livermore National Laboratory
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Bill White, DOE-Argonne
Andre Williams, DOE-HQ, EM-55

ISSUE PRIORITY AND SELECTION

The group reviewed the following six issues contained in the original issue group, Regulatory Streamlining:

- Permitting Process
- Document Review and Approval Times
- Extent of Site Characterization
- Technology Baseline
- Limited or Expedited Cleanups
- National Priorities List (NPL) Versus Non-NPL Sites.

In addition, the working group addressed the three issues found under another issue group, Regulatory Integration:

- Resource Conservation and Recovery Act (RCRA)/Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Functional Equivalency
- National Environmental Protection Act (NEPA)/CERCLA Integration
- Other Regulatory Integration Concerns.

From these nine issues, three were chosen for discussion:

1. Extent of Site Characterization
2. Document Review and Approval Times
3. Technology Baseline.

ISSUE 1: EXTENT OF CHARACTERIZATION

Discussion

The crux of this issue is the need for all interested parties (DOE, the regulatory community, and stakeholders) to agree on how much site characterization data are needed before cleanup work begins. There is a general impression that everyone wants more data so as to reduce the risk associated with decision-making. This often results in generation of excessive data; that is, data that do not actually reduce risk certainty. The group believed that the extent of characterization should be closely tied to site-specific collection requirements. Neither less data nor more data is necessarily better in all cases. One must factor in site-specific data, such as cleanup levels, cleanup technology selection, land use, local regulatory preferences, environmental heterogeneity (or homogeneity), and quality/quantity of the existing data base.

Participants noted that technically defensible work plans should begin with solidly established data quality objectives (DQOs) and should include built-in flexibility that enables DOE to negotiate or renegotiate characterization levels. DOE should continue to limit the degree of detail found in the agreements, per se. Specifics such as the number of characterization wells to be drilled in the future should be included in revisable work plans or scope statements that are appended to the agreements. The point is to avoid predetermined "strategies" that do not permit past characterization findings to guide future characterization work. DOE should also strongly consider interim measures, especially if they achieve Applicable or Relevant and Appropriate Requirements (ARARs) for a site.

EH and EM are currently engaged in a joint effort to streamline the entire Remedial Investigation (RI)/Feasibility Study (FS) process, with special attention on the nature and extent of site characterization. To date, these efforts have centered on the evaluation, presentation, and potential application of the observational approach to environmental restoration efforts at several DOE sites. Recently, EH and EM have sponsored efforts to integrate

the observational approach with the U.S. Environmental Protection Agency's (EPA) DQO methodology in an attempt to provide greater refinement to the site characterization process.

Close coordination with regulatory agencies through frequent technical meetings is essential for large-scale RI/FS activities.

Suggested Action Items

The following action items were recommended:

- Publish guidance to assist sites in integrating and implementing the DQO approach and the observational approach. Apply the integrated approach at one or more sites as a test case of the approach's practicality and applicability.
- Analyze the cleanup process carefully to identify those actions and decision points for which schedule, cost, and regulatory compliance may be significantly impacted by characterization activities.
- Develop an approach to the cleanup process in which data acquisition is an integral part of the planning. This approach should emphasize feedback of data needs from anticipated critical analyses essential to decision making, such as risk assessment and examination of alternate remedies. The level of certainty required for those decisions should be estimated *a priori* and used to drive the DQOs for the characterization activities. The approach should include an analysis of the degree of risk associated with alternative cleanup strategies and how characterization may or may not reduce risk.
- Collect, collate, and interpret existing environmental data. Have results peer-reviewed. Take a systematic approach that sequentially defines data needs, examines existing data to meet those needs, and then implements a characterization program to collect the missing data required to proceed expeditiously with cleanup work.
- Limit data collection during RIs to that needed to select a remedy. Supplement data needs to fine-tune remedies during the Record of Decision (ROD) process and remedial actions.
- Define and continually re-define DQOs. These should factor in such information as the sources and extent of contamination, transport mechanisms and pathways, and risk and cleanup needs.
- Negotiate/re-negotiate scopes of work of agreements to reflect the DQO approach rather than a predetermined/prescriptive characterization approach.

The following items were suggested by reviewers:

- Involve regulators at the conceptual stages of a cleanup project to potentially expedite the later review process. If they are involved from the beginning in data collection, determining cleanup levels, selecting a cleanup technology, and determining future land use, reviews would require less time and changes because the regulators would be reviewing a cleanup strategy that they understood from its conception.
- Use an "observational approach," i.e., plan for uncertainties with built-in contingencies.

ISSUE 2: DOCUMENT REVIEW AND APPROVAL TIME

Discussion

While both external and internal document review problems were acknowledged, emphasis was placed on internal review because DOE has direct control of it at this time.

In relation to internal document reviews, the group noted that there is no defined process for HQ review or tracking of documents. The Field Offices have no single point of contact, the submittal process itself is undefined, and review times are based on "applying pressure." Generally, reviews for simple materials such as Categorical Exclusions (CXs) for field characterization activities are taking months. There is concern that as the number and complexity of documents increase, DOE will become even less able to handle the work load. HQ's reluctance to delegate review authority down the line, either within HQ itself or to the Field Offices complicates this issue. For example, the Office of Environmental Restoration and Waste Management (EM-1) does not appear sensitive to the dates on which documents are due to the regulators in enforceable cleanup agreements.

Suggested Action Items

The following action items were recommended:

- Establish DOE-HQ review procedures that must be followed. (There was some discussion that EM-40 may have already started this activity.)

- Convey to Field Offices up front any concerns HQ has regarding these documents so that the concerns can be addressed as documents are written. Also, documents should be considered approved if HQ comments are not received on schedule.
- Examine the programmatic impact (time and dollars) of HQ review times on all documentation associated with Federal Facility Agreements (FFAs).
- Negotiate or renegotiate realistic schedules in the Interagency Agreements (IAGs)/FFAs/Consent Agreements to take into account needed review times both at the Field Office and HQ levels.
- Develop and implement a document tracking system to assure reviews are completed on schedule.
- Systemize document review to draw on site-wide risk/review analysis. Create, review, and disseminate document macros and templates to Field Offices, so that only deviations would need HQ approval/review. Expand on EM-40's existing FFA tracking program.
- Develop criteria for the type of documents submitted to HQ. The criteria should limit HQ review to key, high-level reports. HQ could also do random reviews as a quality assurance check.
- EH has developed the Graphical Approach to Guidance packages to guide people in complying with complex requirements. Similar packages should be developed to guide people through the review process in standard document formats.
- Establish normal timeframes for HQ review of different types of documents. This would allow the Field Offices to factor into document release schedules a review time tailored to the nature of the document.
- Define the primary purpose of HQ review (e.g., to identify "show stoppers" or to build in national consistency) and incorporate in the guidance.
- Schedule HQ and Field Office technical reviews to occur concurrently.
- Use standardized document formats (e.g., to first-order headings) to facilitate review process. While the details and suborder headings would match Field Office needs, some high-level standardization would assure HQ that certain key topics would be addressed in various reports.

The following items were recommended by reviewers:

- Regulators should not be involved in concurrent technical reviews with HQ and Field Offices.
- DOE should arrange meetings with the states to explain funding mechanisms for allowing additional state personnel or contractors to review documents.
- There is a need to examine the programmatic impact (time and dollars) of HQ review times on all documentation associated with FFAs.

ISSUE 3: TECHNOLOGY BASELINE

Discussion

The group approached the issue of a technology baseline from the perspective of DOE needing to define what cleanup problems could be addressed today versus those requiring technology development. The gap between existing and needed technologies would help define work to be undertaken by the Office of Technology Development (EM-50). In other words, the technology gap should determine where EM places its technology development budget. As the existing technology base is extended by the introduction of new technologies, this information must be effectively and widely disseminated.

The capabilities of some currently used and available commercial technologies are not well communicated across DOE. Communication is fragmented, making technology needs hard to define. Technology development is a multiyear process, especially when starting with basic research and development (R&D). Future needs must be anticipated long before the technology is applied.

The potential availability of expert-type systems, such as the Remedial Action Assessment System (RAAS), which include technology information components, should be better communicated to the field. In reviewing this group report, however, one reviewer noted that EH has sponsored a complex-wide presentation of a 4-day course on environmental regulations targeted at mid-level managers. RAAS was presented during the discussion and was well received. Also, an article on RAAS appeared recently in the *RCRA/CERCLA Update*, a newsletter published by EH with a circulation of more than 500 within DOE.

Suggested Action Items

The following action items were recommended, both within the workshop and by reviewers after the workshop:

- Define DOE complex-wide cleanup requirements.
- Assess cleanup capabilities of present technology as applied to DOE needs.
- Establish a central clearinghouse for access, storage, and release of quality-assessed cleanup technology information. Keep the system maintained and updated.
- Issue a periodic (e.g., quarterly) technical newsletter to keep the Field Offices apprised of key developments. This newsletter could also serve as a source of information to industry of DOE technology needs.
- More effectively explain the role of EM-50 to the DOE complex.
- Appoint an EM-50 liaison to each Field Office to ensure communication of key developments.
- Define projected technology development needs for both the Field Offices and HQ.
- Hold technical seminars with cross-cutting federal, state, and industrial participation.
- Develop a program similar to the EPA's Superfund Innovative Technology Evaluation (SITE) program and make use of lessons learned to improve any similar DOE effort.
- Disseminate information on a private sector participation program being developed by EM to enhance DOE's access to commercial technologies.
- Submit an annual technical report from Field Offices to HQ that delineates technical assessments and performance.
- Integrate and distribute an annual report from all sites to all Field Offices.
- Provide guidance at HQ level on providing a budget for non-NPL sites.

SUPPLEMENTAL POINTS

The following supplemental information was discussed by the group.

NPL Versus Non-NPL Sites

It was thought that EH had already established guidance on how non-NPL sites were treated in the DOE and regulatory areas. Generally, the requirements for each are the same though it was recognized that NPL sites received priority funding and emphasis by regulators.

Current policy in DOE Order 5400.4 states that "DOE will enter into IAGs and/or FFAs at both NPL and non-NPL sites, as appropriate...for the execution of RI/FSs and remedial actions under the requirements prescribed in DOE 5400.2A and under Section 120(e) of CERCLA." Where response is carried out under another authority (e.g., RCRA corrective action), DOE must "ensure that these corrective actions are not inconsistent with the NCP in order for them to satisfy CERCLA requirements." The Tiger Teams have interpreted this language to mean that cleanups at non-NPL sites may be taken under another authority, but that such cleanups must also meet all CERCLA requirements. EH-22 and EH-23 have disagreed with this interpretation, but the Tiger Team maintains their right to this interpretation until such time as the Order is changed. In addition, EH-231 is currently in the process of revising DOE Order 5400.4. The current draft revision states that if a non-NPL cleanup is being taken under a non-CERCLA authority (e.g., RCRA corrective action, state law) and includes public participation requirements, such cleanup need not be supplemented to meet CERCLA requirements. Non-NPL sites that do not come under any other cleanup authority should be conducted in accordance with CERCLA requirements (removal or remedial, as appropriate). However, it is important to note that this draft has not yet been reviewed by all appropriate HQ offices, so it may not reflect the final policy.

With regard to regulatory policy, National Contingency Plan preamble language at 55 FR 8698 (March 8, 1990) states that at NPL or non-NPL sites, EPA has discretion to use its authorities under CERCLA, RCRA, or both to achieve cleanup.

Limited or Expedited Cleanups

The group asked if DOE was using interim actions (remedial or removal) actions enough or at all. If yes, is this information being communicated (publicized) to the nearby communities? Such communication would show cleanup progress and "bias for action." DOE needs to develop policy and guidance on this issue and advise the Field Offices when and how removal actions can be performed. On the other side, the question was raised whether DOE is misusing the removal authority in some cases.

NEPA/CERCLA Integration

The group believed this issue was already receiving high-level attention within DOE, the Department of Justice, and the Council on Environmental Quality (CEQ), and therefore further discussion in the workshop was not warranted. Ray Berube of EH presented an excellent overview of this issue during his introductory remarks. It was felt that integration continues to be an issue because "people don't like what they are hearing."

RCRA/CERCLA Functional Equivalency

The group thought this should not be an issue because either CERCLA or RCRA should prevail. The regulators should agree with some given documentation that would satisfy both RCRA and CERCLA. Federal Facility Compliance Agreements are key to up-front concurrence from regulators. However, some participants did not agree that the issue is that simple. For example, at Hanford, the state won't agree to any cleanup standards less than background, despite the fact that EPA under CERCLA would allow health-based standards. Data and procedures may reach equivalency, but actual work is a problem.

Additionally, EPA distributed a July 11, 1990, policy memorandum concerning the applicability of RCRA corrective action authority at NPL sites. EH recently contacted EPA's Office of Federal Facilities regarding application of this policy to federal facilities environmental restoration sites. EPA stated that it is pursuing this policy with federal facilities. However, EPA cautioned that this policy is subject to change depending on the outcome of the Rocky Mountain Arsenal lawsuit, which centers on whether CERCLA supersedes RCRA authority at NPL sites.

In summary, the group believed that the Regulatory Streamlining issue group ultimately reflected the lack of both adequate guidance and funds. Consequently, effective communication is lacking. Uncertain issues are given a lower priority, and a backlog develops. Better guidance and procedures will help DOE to work more effectively with the regulators, resulting in a more streamlined regulatory process.

ISSUE GROUP - GENERAL DOE GUIDANCE AND ADMINISTRATION

GROUP MEMBERSHIP

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Paul Davis, Sandia National Laboratories
Keener Earle, Westinghouse Idaho Nuclear
Ray Greenberg, DOE-HQ, EM-45
Steve Mellington, DOE-Nevada
Rich Sena, DOE-Albuquerque (Group Leader)
Bob Sleeman, DOE-Oak Ridge
Lisa Stevenson (Facilitator), Battelle Human Affairs Research Center

ISSUE PRIORITY AND SELECTION

The group reviewed the eight issues within the issue group:

- Delegation of Authority and Responsibility
- Administrative Requests
- Budget and Funding
- Cleanup Subcontractors
- Liability Protection for Staff and Contractors
- Use of Existing Environmental Data
- Quality Assurance/Quality Control Standards
- Protracted Procurement Cycle.

The group then prioritized the issues and chose the following two as most important to address during the workshop:

1. Delegation of Authority and Responsibility
2. Administrative Requests.

ISSUE 1: DELEGATION OF AUTHORITY AND RESPONSIBILITY

Discussion

The group first proposed a fundamental restatement of this issue: DOE is not working as a team or using its resources as well as possible. Ideally,

DOE should work as a team, "passing the ball" back and forth from EM, as well as its other offices, to other organizational components, with problems and actions in one area leading to involvement of other components as appropriate. However, in contrast to this ideal teamwork model, micromanagement, lack of concrete policy guidance, and overly centralized decision-making are prevalent in EM. The Japanese model of team building and empowerment should be the operative philosophy.

The group felt this restated issue included the following subissues:

- HQ role - HQ should focus more on policy development and less on micromanagement. Many problems arise from EM's micromanagement. EM keeps authority, but delegates responsibility. They should be delegated concomitantly. In addition, there is a lack of resolution of policy issues. EM should negotiate national policies before sending directives to the Field Offices, otherwise the Field Offices are put in the middle between EM and the regulators. A key function of EM is to work closely with EH in addressing and ultimately resolving regulatory issues. The Director must take the lead in resolving issues with the EPA, states, and other agencies. This practice is particularly important given the degree of autonomy states and EPA Regions have. To accommodate this autonomy, it is important that decision-making responsibilities for dealing with states and EPA regions reside at the Field Office level. A HQ/Field Office team should clarify who should review what, how value is added, and what is the policy.
- partnership - There is a need to define roles and encourage a spirit of partnership between HQ and the Field Offices. Empowerment at the lowest level is needed. Private industry is increasingly receptive to this idea, but it is inconsistent with the centralized authority of EM-1. There is a need to define more clearly and explicitly roles and responsibilities and push decision-making authority down to lower levels. However, reluctance to delegate and a lack of confidence are normal in a new organization. Implementing management plans should be a top priority.
- oversight versus EM-40 line management - An overemphasis on oversight is taking resources away from line management, even though the Secretary has stated that line management is key to EM's success. Care should be taken to ensure that line management is provided with adequate resources.
- lack of process for technical review.

Suggested Action Items

The most fundamental action is to define clearly the functions, responsibilities, and linkages that should be in effect. These should be defined in the HQ and Field Office management plans. The group recommended the following actions and roles to assist in developing consistent and coordinated management policies for EM activities:

EM-1 Recommended Role:

- Define policy.
- Solve policy problems.
- With EH support, resolve policy issues with regulators before sending guidance to Field Offices.
- Request funding adequate to meet regulatory requirements rather than refusing Field Office estimates because the regulatory requirements are viewed unfavorably.
- Provide resources to the field.

EM Staff Recommended Role:

- Develop policy.
- Track Field Office implementation of policy.
- Get EM-1 focused on major actions.
- Be EM lead in resolving issues with EH, GC, or Field Offices.

Field Office/M&O Contractor Recommended Roles:

- Implement policy.
- Bring policy issues to EM staff attention.
- EM-1's management plan and charter are under development. Parallel documents for EM-30, EM-40, and EM-50 are also being developed. The group recommends Field Office involvement in the development, not just the review of these documents. The management plans should be developed in accordance with partnership principles.
- Ensure that the EM program management plans define
 - operational philosophy
 - decision authorities and delegation
 - HQ/Field Office roles and responsibilities.

To begin resolving key regulatory and technical issues, the following sequence of actions should be taken.

1. Form a HQ/Field Office group to further define key policy issues.
2. HQ and Field Offices develop jointly an action plan that consolidates, prioritizes, and focuses various site-specific action plans. EH-5, EH-20, EM-30, EM-40, and EM-50 should be represented on the task force for developing the plan.
3. HQ issues implementing orders to the Field Offices.
4. Identify performance indicators for EM. The Office of Nuclear Energy (NE) has been given the lead to develop DOE-wide performance indicators. A similar effort for EM could be coordinated with NE.

The following additional comments were made by reviewers:

- Develop a process for the Field Offices and HQ to reach conscientious decisions and forward-moving paths when "pushbacks" occur with the regulators.
- Hold Field Offices reviews at HQ twice yearly to give an opportunity to discuss lessons learned.
- Establish a procedure whereby a Field Office can successfully demonstrate the ability to handle particular activities and thus have authority delegated for those activities.

ISSUE 2: ADMINISTRATIVE REQUESTS

Discussion

The group believes that administrative requests are often characterized by redundancy and a lack of coordination, and that the Tiger Teams have frequently compounded the problem.

Field Offices recognize that HQ often must respond to various needs outside of its control, such as requests from the Secretary or the Office of Management and Budget. In such cases, quick-turnaround requests are understandable. However, other requests to the Field Offices could be better planned and scrutinized by HQ to make sure the information isn't already at HQ. Administrative requests are a resource drain and very expensive for the

Field Offices to respond to. Too many requests are poorly coordinated, redundant, and reflect a lack of EM and EH coordination and communication.

Also, Tiger Team assessments have shifted the emphasis previously placed on ER activities and redirected it to lower priority needs that now get too much funding and attention. A Tiger Team often misses major compliance issues and recommends actions that are inconsistent with EM policies and priorities. These recommendations need to be reviewed or checked for validity and sensitivity before being transmitted as action items back to the Field Offices. A key issue is the validity of findings. How many reviews are needed to ensure that a job is being done properly? Lack of trust appears to be an underlying issue, especially with M&O contractors.

One reviewer closely involved with the Tiger Team program commented that the group discussion reflected a faulty perception of Tiger Team function and procedures. The following points were noted.

- The Tiger Teams do not make recommendations, establish priorities or determine funding levels. These activities are the responsibility of the Program Offices (and, through the program office, the DOE line organization and Management and Operations (M&O) contractor).
- The Tiger Team process has been designed to ensure that both verbal and written information have been verified by all the participants in the assessment process (M&O contractor, DOE line organization, DOE Program Offices, and regulators). Team meetings are open to all participants, and written materials are subjected to multiple reviews for factual accuracy by participants.
- The Tiger Team assessments have been comprehensive. The reports have received much public and congressional scrutiny. All draft and final assessment reports are placed in DOE public reading rooms.
- EM is currently required to provide concurrence on the action plans developed in response to each assessment before the Secretary's approval of the plan for implementation.
- EM is routinely asked to provide representatives to participate in the Tiger Team process and provide recommendations with regard to the scope of each individual assessment.

Suggested Action Items

- Screen HQ requests before passing to Field Offices. All requests should go through an EM-40 advocate for screening before passing on

to the Field Office. The purpose is to prioritize, eliminate unnecessary requests and avoid or at least minimize "fire drills." The EM advocate would determine if data are already at HQ, determine the benefit versus cost of the request, and attempt to provide time for a quality response. A centralized data base is under development within EM-43 that will provide a resource for this activity.

- Inform Field Offices why information is needed. HQ requestors need to explain the reason for requests and changes. Currently, these reasons are not always obvious. The Field Offices would take the requests more seriously if they understood why the information is needed and how it will be used. It would also help the Field Offices better tailor the information.

The following items were suggested by reviewers:

- Establish HQ protocol for administrative requests including approval hierarchy and a formal electronic tracking system. Direct computer linkage to Field Offices would facilitate requests for data, which could then be formatted by HQ to fit its needs.
- Establish single contact points (staff and organization) for administrative requests.
- Develop an information tracking system to capture the results of administrative requests.
- Determine if the information has already been provided to another HQ office. Minimize the use of contractors in seeking information directly from the Field Offices.
- Establish an EM-Field Office coordination group, perhaps by region.
- Forecast HQ requests twice yearly to the Field Offices to minimize resource-intensive fire drills.
- Evaluate the need to include EM in the major System Acquisition Program, and if included, to what degree.
- Use the Waste Information Network so that data are at hand and can be easily retrieved.

ISSUE GROUP - CLEANUP LEVELS/CLEANUP AUTHORITY AND CONSISTENCY

GROUP MEMBERSHIP

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ISSUE PRIORITY AND SELECTION

Two issue groups, which originally had a total of eight issues, were addressed by this working group.

Issue Group - Cleanup Levels

- Limited Cleanup Standards
- Basis for Cleanup Levels
- Flexibility of Remedial Action Cleanups
- Common Terminology Requirements.

Issue Group - Cleanup Authority and Consistency

- Cleanup of Sites Not Under DOE's Control
- State Versus Federal Authority
- Requirements for DOE Versus Private Industry
- Consistency Among EPA Regions and States.

Instead of prioritizing and focusing on these eight issues individually, the group decided to address them collectively. The eight issues were integrated into a single issue: There is no process to establish cleanup levels for DOE sites.

ISSUE 1: THERE IS NO PROCESS TO ESTABLISH CLEANUP LEVELS FOR DOE SITES

Discussion

For the past 20 years, various environmental statutes have been enacted with little or no integrated or consistent guidance on how they should be implemented across all media. Consequently, many federal and state cleanup efforts have proceeded without the benefit and guidance of specified action limits, such as the ARARs. The situation is exacerbated by the fact that when ARARs do exist, they are often in conflict relative to the precise level of cleanup that is required.

Cleanup parameters are primarily based on regulations rather than on available technology or risk. These regulations often tend to be extremely conservative. Because the regulators have control over DOE site cleanup, DOE has perceived itself to be subject to the edict "comply or die," no matter how stringent or unrealistic cleanup levels are. In addition, there is inconsistent cleanup terminology used among sites, lack of specifically defined cleanup levels, and little or no consideration by the regulators of the differences among the various DOE sites.

In regard to cleanup levels, DOE is in a unique position. DOE has its applicable orders and procurement restraints to contend with and must also deal with ten highly autonomous EPA regions and numerous states and municipalities, all of which have their own inconsistencies in defining cleanup standards. All these factors argue for a site-by-site approach to cleanup levels, which makes it difficult for DOE to implement a consistent approach to its complex-wide cleanup mission.

Funding is limited, and without a process or system in place to establish cleanup levels based on site-specific needs and parameters, as opposed to strict regulatory guidance, DOE can't effectively achieve maximum risk reduction benefits for the dollars spent.

Because of the wide range of cleanup problems at the DOE sites, a single, national DOE standard for cleanup levels is not reasonable. Instead, what is needed is development of a methodology for a process to establish appropriate cleanup standards on a site-by-site basis. National standards

won't be applicable to all sites; therefore, site-specific flexibility is needed. A process that provides consistent, systematic guidance among DOE sites would provide sites with a framework to follow, while also providing the flexibility to apply them to a particular site's different needs.

It may be impossible to establish cleanup levels that all regions and states agree to. However, guidelines could be established with a rationale to be used when negotiating cleanup levels. This practice would hopefully keep levels for similar sites close to each other.

Suggested Action Items

The group suggested several steps towards development of flexible cleanup standards at DOE sites.

- EH-20, in conjunction with EM, has established a DOE working group for risk-based standards. One objective of the working group will be to develop a risk-based approach for such standards that can be applied across the DOE complex and possibly to other non-DOE sites (e.g., the U.S. Department of Defense (DOD) or private sector). This group should be the focal point for all DOE activities relating to the development of risk-based standards, and will report on the status of the group's activities to all DOE elements on a regular basis. This group should be the point of contact and coordination with EPA's risk-based approach.
- Develop a white paper on flexible cleanup standards that factors in technology, risk, and site-specific parameters and the various concerns of competing regulators. The paper should include a rationale for cleanup and an action plan for developing a consistent approach or methodology for cleanup standards and levels.
- In regard to long-term storage and disposal of wastes, establish a *de minimis* level for storage, and in turn, an upper limit or boundary of cleanup below which a site can be stabilized with little or no monitoring. Technical limitations, health risks, prior work, and site-specific factors must all be considered.
- Develop a guidance document at HQ describing the methodology for cleanup standards development. The document should emphasize the need for flexibility and that standards (ARARs) must be developed on a site-by-site basis. The document should also encourage development of ARARs early in the RI/FS process.
- After developing proposed standards (ARARs), begin negotiations with regulators. ARARs can be updated, modified, and improved at

any time during the RI/FS process. This is an iterative process to be performed concurrently with characterization studies.

- Identify/evaluate existing methods for setting cleanup levels. This evaluation should include methods used for radionuclides and hazardous chemicals. Examples where standards are in place include the Formerly Utilized Sites Remedial Action Program (FUSRAP) at Oak Ridge, the Uranium Mill Tailings Reclamation Action Program (UMTRAP), as well as EPA, DOD, and the U.S. Nuclear Regulatory Commission (NRC). Those standards and methods need to be reviewed and evaluated for "lessons learned" from which DOE can benefit.
- Catalog the current situation at DOE sites, recognizing the different scenarios at each site. Such a catalog would include waste types, releases, and site characterization as well as types of facilities (Decontamination and Decommissioning, operations, waste management) and RCRA/CERCLA requirements to determine the "universe" DOE must deal with. In addition, analyze prior experience at sites such as Weldon Spring that have completed several stages that must proceed the remedial action.
- Ask the National Academy of Sciences to form a panel to review the advantages and disadvantages of flexible risk-based cleanup standards.
- Establish acceptable levels of risk or a procedure for establishing risk. The acceptable level of risk may be site-specific, contaminant-specific, or a function of the quality of data used to support the risk determination.
- Conduct a test case that factors in NEPA requirements as appropriate. Get feedback from the Field Offices and HQ, and fine tune the process accordingly. Guidance from HQ is needed on whether such a review should go from the Field Offices up, or HQ down.
- Adopt media and cross-media approaches; e.g., using emerging Clean Air Act policy development models to focus on other media.
- Move toward a government-wide federal facility approach by establishing liaison with DOD, the U.S. Department of Transportation, and EPA.

Supplemental Points

A viable cleanup methodology can be developed and implemented internally. However, the early cooperation and buy-off of EPA and the states is critical if the method is to be adopted. Early involvement of the regulators is crucial to the planning and development of the methodology. Differences can be addressed through the interagency dispute resolution process and

negotiation. Other key external factors include public awareness and peer review (e.g., Society of Risk Analysis).

During this working group's presentation to the workshop plenary group, it was suggested that by getting public and professional cooperation and input, the credibility of the methodology and the probability of its adoption will be enhanced. Suggestions included looking for relevant comparisons internationally, and Dr. Curtis Travis was cited as a good resource and proponent of risk assessment (reference: article in December 1990 issue of *Science* magazine).

RCRA reauthorization will be considered in future arguments for EPA retention of authority over federal facilities under RCRA 3004(a) as well as CERCLA. Then there will be one organization setting cleanup goals, at least for federal facilities, instead of 51. Los Alamos managers are planning to use risk-based criteria incorporating Future Land Use scenarios to drive cleanup decision making. They want to ensure that their approach agrees with a complex-wide approach.

ISSUE GROUP - ENVIRONMENTAL MANAGEMENT INTEGRATION
(WASTE OPERATIONS AND ENVIRONMENTAL RESTORATION)

GROUP MEMBERSHIP

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ISSUE PRIORITY AND SELECTION

The group reviewed the three original issues in the issue group and the two additional issues suggested during the issue presentation. The following priority was determined.

1. Treatment, Storage, and Disposal (TSD) of Waste Generated from Environmental Restoration (ER) Activities
2. Waste Minimization
3. Waste Transportation
4. Strategic Value of Special Nuclear Materials (SNMs)
5. Security of Classified Wastes.

There was consensus within the working group that the last two issues were not appropriate issues for this discussion because SNMs are not ER wastes. However, the workshop sponsor pointed out later that the Office of Defense Programs (DP) may wish to transfer the SNMs to EM on short notice. This transfer would create serious problems for EM, because custody of SNMs are not currently part of EM's mission or planning. One reviewer observed that SNMs are a major driver for this issue group. Recent court rulings have held that many tons of processing residue at Rocky Flats are wastes and must be treated in some manner.

ISSUE 1: TSD OF WASTE GENERATED FROM ER ACTIVITIES

Discussion

Before addressing the history and suggested action items for this issue, the group discussed it in general terms. Solving the capacity issue related to TSD of wastes generated from ER activities must be given highest priority. Failure to provide adequate capacity will result in schedule slippage and the inability to comply with federal or state regulatory requirements. Projection of TSD needs is required very early in the EM planning process. If data for accurate projections are not available, conservative projections should be made. Resolving the capacity issues with regulators is critical; they must be brought into the planning and made aware of problems from the start.

It was suggested that the issue should be restated as two parallel questions:

1. Does EM-40 adequately identify its TSD needs to Waste Operations (EM-30)? If so, where and how?
2. Does EM-30 plan for ER waste as well as for production-related wastes?

Five examples were cited to illustrate historic TSD problems.

Example #1

The 1988 183-H Basin cleanup at Hanford predates the Tri-Party Agreement. A compliance agreement was signed with the Washington Department of Ecology stipulating that drums of mixed waste from the cleanup would go to a central facility. EM has the lead on this activity, and EM-30 is to provide support. However, as EM completes cleanup, EM-30 is unable to receive or accommodate the drums because of a lack of storage capacity. Drums are currently sitting on the ground, and some are corroding. The site is in noncompliance, and the corroding drums pose a health and safety risk. Additional storage construction is about 80% complete; however, this new construction is being used for other wastes.

Example #2

At Idaho National Engineering Laboratory, EM did not define roles for EM-40 and EM-30 for wastes generated during ER activities. Although a waste

management Activity Data Sheet has been submitted for construction of a new TSD facility for stored transuranic (TRU) wastes, a TSD facility may be needed for pre-1971 Rocky Flats waste if this facility is built there. This issue was confirmed and clarified during a follow-up conference call. EM-40 will be responsible for facilities needed for TSD of ER-generated waste.

Waste acceptance criteria for the Waste Isolation Pilot Plant does not include pre-1971 TRU waste. Local waste acceptance criteria are developed for wastes to be received by EM-30 facilities but not for ER-generated waste.

Example #3

At Hanford, ER activities generate samples that become wastes; e.g., soil drilling residues or groundwater samples. Since enactment of RCRA, there is no proper method for disposing of these samples. Consequently the samples are stored in the lab awaiting disposition. This is not yet an overwhelming problem; however, the labs are not TSD facilities, and the situation does impact the ability to store other materials. Per a HQ request, an inventory of these stored samples/wastes is under way with a July 1991 completion date scheduled.

However, one reviewer noted that in 1988 EPA issued a final rule (#53 FR 27290, July 19, 1988) conditionally exempting waste samples used in small-scale treatability studies from full regulation under Subtitle C of RCRA. A recently distributed CERCLA Information Brief provides more information on the details of what is and is not covered by the exemption.

Example #4

The Land Disposal Restriction Third Third National Capacity Variance will impact the storage time limit. A 2-year variance was given in May 1990, but the clock is ticking. DOE-HQ is working on a DOE-wide case-by-case extension, and Field Offices may also choose to initiate individual case-by-case extensions.

Example #5

The bulk of Brookhaven National Laboratory's (BNL) wastes will be generated during remedial implementation (after 1995). Despite an existing TSD facility, there is a need to define EM-40/EM-30 logistics.

Suggested Action Items

The following action items were recommended to address the TSD issue.

- Develop a current complex-wide inventory and a projection of future inventories of the quantities and nature of ER wastes that will require TSD.
- Update the National Compliance Report on Mixed Wastes.
- Conduct a complex-wide assessment of TSD capacity and technology, including the applicability of available technologies.
- Initiate an annual site planning review process to formulate integration of EM-30 and EM-40 TSD activities.
- Assess the shortfall between what TSD capacity is available and what is or will be needed.
- Develop a strategy to address and remedy the projected shortfall. Such a strategy might include ER activity slowdown or phases, prioritized technology development and deployment, renegotiation of agreements, and requests and justifications for increased ER budgets.

Two other actions were cited as being potentially helpful for integrating waste operations and environmental restoration.

- Factor results of DOE's Reconfiguration Study into EM-30 and EM-40 strategies.
- Crosswalk and integrate DOE Orders 5400.4 and 5820.2A.

ISSUE 2: WASTE MINIMIZATION

Discussion

Before the small group report on this issue was given, the workshop sponsor commented that it was of particular concern. Specifically, he observed that DOE cannot continue with the institutional storage of ever-increasing quantities of materials. It is essential that steps be taken to

put these inventories into productive use whenever possible. In cases where productive use is impossible, the materials should be economically and permanently disposed of, preferably without DOE custodianship. Ray Greenberg has been designated the EM-40 waste minimization representative. The sponsor also pointed out the issue of who is to be responsible for the TSD of EM-40 wastes. At the time of the workshop it was thought that EM-40 would be given responsibility for the TSD of all wastes generated from EM activities.

The group agreed that there was little or no applicable waste minimization history, per se, within the ER context. However, the group identified the following examples of waste minimization activities from an operations perspective and agreed that they may have future applicability to ER activities.

- Rocky Flats has conducted a soil volume reduction project.
- Hanford has succeeded with several "product substitution activities." For example, in 1990 Hanford began using nonlisted paint thinners rather than listed thinners, thereby reducing the overall volume of listed wastes.
- BNL is investigating use of nonhazardous decontamination fluids, thereby reducing mixed wastes. Also improved drilling protocols and methods may reduce volume of hazardous and mixed wastes.
- The Army routinely uses benchtop degreasing units. These units are more economical than larger units and may be applicable to DOE needs. The U.S. Army Corps of Engineers Toxic and Hazardous Materials Agency (USATHAMA) would be the appropriate point of contact.

Suggested Action Items

The following action items were recommended to address the waste minimization issue.

- Explicitly define the role and goals of waste minimization within the ER program.
- Canvass other agencies regarding waste minimization activities at remediation sites.
- Conduct a complex-wide survey to document and locate reusable material inventories and ongoing ER waste reduction processes and procedures.

- Canvass the private sector regarding decontamination and decommissioning (D&D) waste minimization strategies.
- Initiate an annual site planning review process to formulate integration of EM-30 and EM-40 waste minimization activities.
- Support EM-50 development of ER waste minimization procedures; e.g., separation of hazardous components from soils and separation of recyclable materials.
- Promulgate a policy that establishes whether in situ stabilization constitutes waste minimization.
- Develop evaluation models for waste minimization economic analysis.
- Apply the technical expertise that was developed through the Plutonium Recovery Modification Project to DOE's other TSD, waste minimization, and D&D missions.

Supplemental Points

- EPA's regulatory perspective may have a bearing on what DOE does. In particular, EPA does not view volume reduction (after the fact) as equivalent to waste minimization (before the fact).
- DOE's R&D programs should consider EM as a key customer. R&D efforts and products should address EM's current and future needs.
- There is a need to integrate EM-30 planning with EM-40 waste minimization/reduction goals and to incorporate this integrated approach into the Programmatic Environmental Impact Statement (PEIS) and site-wide EISs.

ISSUE 3: WASTE TRANSPORTATION

The group considered this issue but concluded that it lacked sufficient experience or expertise to address it adequately. It was recommended that appropriate staff from EM-50 provide input for this issue.

ISSUE GROUP - IMPLEMENTATION OF AGREEMENTS/DOCUMENTATION

GROUP MEMBERSHIP

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ISSUE PRIORITY AND SELECTION

The group reviewed the three issues originally included within this issue group:

- Programmatic Environmental Impact Statement (PEIS)
- Federal Facility Agreements (FFAs) and Interagency Agreements (IAGs)
- Interagency Relations.

An additional issue group, Future Land Use, was recommended for this group's consideration. The amended list of issues, in the order in which they were discussed, was

1. PEIS/Future Land Use
2. Implementation of FFAs/IAGs
3. Interagency Relations.

ISSUE 1: PEIS/FUTURE LAND USE

Discussion

The PEIS was mandated following a successful lawsuit against DOE by the Natural Resources Defense Council and others. As it is currently being developed, the PEIS reflects DOE's need to establish a unified cleanup strategy and its desire to obtain public comment and consensus.

A Notice of Intent was issued in October 1990, and public scoping meetings were recently completed. EH proposed guidance (NEPA strategy) in October that described the role of PEISs in the overall NEPA process. Basically, the PEIS is the tip of a pyramid with site-wide EISs and Environmental Assessments (EAs)/EISs for individual cleanup actions/CXs below it. For cleanup actions, EAs and CXs are expected to represent 75% to 90% of NEPA documentation. EM did not extensively comment on the policy.

The group discussion delineated a number of subissues associated with the PEIS/Future Land Use issue. These included the following:

- A contractor has not yet been selected to develop the PEIS. DOE's National Project Manager left the position 6 months ago and, at the time of the workshop, had not yet been replaced. In general, staffing for this effort at both the HQ and field levels is greatly deficient.
- EM lacks an overall "game plan" for the PEIS compared to other efforts such as the Complex Reconfiguration PEIS. One reason for this planning deficiency is the institutional experience in older offices such as DP, compared to the relatively new EM organization.
- HQ wanted standardization of the scoping presentations. Therefore, there was a lack of Field Office input on how best to deal with the public interest groups active in each location where scoping meetings are held. Further, the scoping process as conducted did not allow the public to get any immediate feedback from DOE. In addition, there is a perception by the public that the PEIS will delay cleanup.
- The role of the Field Offices in the development of the PEIS has not been defined. HQ has initiated weekly conference calls with Field Offices, but information has not been properly disseminated.
- The pyramid described in the EH proposed guidance is being driven from the bottom (EAs/CXs) as compared to the top (PEIS). A ROD for the PEIS is not scheduled to be signed until FY 1993 (most believe that schedule to be unattainable). On the other hand, EAs, CXs, and even EISs are being developed at a much faster pace. Therefore, the PEIS is not serving as a general framework for other decisions.
- The PEIS needs to be better integrated with actions required under RCRA and CERCLA. EPA is questioning why we need to do a PEIS (or other NEPA reviews) because the work is covered by these two laws.

By definition, all decisions made before signing the PEIS ROD are "interim." It is unlikely that the regulators will be comfortable with this designation.

- It is unclear how future land use will be considered within the development of the PEIS. The designation of use will be an important driver in the development of cleanup levels.

Suggested Action Items

The following action items are recommended in support of this issue. Specific responsible parties are noted in parentheses where necessary.

- Provide better guidance to the Field Offices by answering the following questions: 1) What is the relationship between the PEIS and site-specific EISs and where do the handoffs between the two take place? 2) What is expected from the field in the development of the PEIS? 3) What resources will be needed at the HQ and field levels to develop the PEIS?
- Improve communication both internally and externally.
 - Direct a public outreach program on cleanup/PEIS.
 - Clearly identify and communicate the goals of the PEIS to the public and states. DOE should not go overboard in an attempt to show that no decisions are preordained. The PEIS should identify preferred alternatives or even a single preferred alternative.
- Develop a firm concept of what pre-PEIS ROD decisions represent (i.e., which ones will have to be revisited after the PEIS ROD).
- Identify how far the Field Offices can go under CERCLA/RCRA and remain in compliance with NEPA. Meet with EPA-HQ to discuss integration of RCRA and CERCLA with NEPA, assist EPA in drafting guidance on the concept, and have EPA-HQ disseminate the guidance to its Regional Offices.
- Assess and address the following concerns: 1) the potential impact of current compliance agreements on the PEIS and vice versa, 2) the effect of the PEIS on negotiated schedules, and 3) the facilities needed to implement cleanup.
- Develop a long-term general land-use policy and fully integrate it into the PEIS.

ISSUE 2: IMPLEMENTATION OF FFAs/IAGs

Discussion

Interagency agreements are required under the Superfund Amendments and Reauthorization Act (SARA) for all federal facilities on the NPL. Most FFAs/IAGs to date have been entered into "voluntarily," because they were done so before the statutory deadline.

DOE and EPA negotiated model language in 1988 to be used to facilitate specific negotiations. The language has been used extensively to date. There is an ongoing effort to renegotiate parts of the model provisions, and a letter has been sent to EPA.

FFAs/IAGs are a method of integrating the requirements of CERCLA and RCRA and obtaining an agreement from DOE/EPA/states on schedules, roles, etc.

Schedules associated with FFAs/IAGs should specify the regulatory review periods for deliverables. The agreements should stipulate that if these periods are exceeded by the regulatory agencies the schedules may be revised to the extent that the periods were exceeded.

The group discussion delineated a number of subissues associated with the implementation of IAGs/FFAs. These included the following:

- The collective commitments of all agreements are unknown. A nationwide evaluation of all agreements has not been performed. Resources needed to implement the agreements have not been identified. A better understanding of the financial commitments being made is needed before entering into agreements.
- There is not enough clearly defined guidance on how to negotiate agreements. Model language, assorted correspondence, and negotiation strategies are not enough. What is needed is a strong, consistent knowledge base, made available to all negotiators. In addition, Field Offices need consistent guidance on how to deal with the States and a greater flexibility to renegotiate agreements.
- Currently, the Operations Office Manager signs the agreements, but the ultimate control is held by HQ. The operations office has all of the responsibility and none of the authority. There remains a question of how HQ comments must be addressed and who has the final say.

- There is a disconnect between the 2-year budget projections and the requirements within agreements.

Suggested Action Items

The following actions were suggested to facilitate the negotiation of agreements.

- Ensure that the correct individuals from Field Offices and HQ are included on the negotiation teams.
- Develop a consistent policy regarding how far a DOE negotiator can go when dealing with a state, particularly those states that are claiming RCRA authority at an NPL site.
- Update the model language to include the addition of the ability to renegotiate issues.

Related activities would include

- Analysis of the commitments made under agreements to date along with the development of a data base to track these and future commitments.
- Establishment of a training program on how to negotiate agreements (EH-23 is currently providing a training course on negotiation skills; therefore, it is recommended that individuals involved in negotiations be strongly encouraged to attend.)
- Development of guidance on the resources and infrastructures (e.g., manpower, etc.) needed to implement agreements.

The group recommended that a number of activities be initiated with EPA.

- Obtain EPA/state buy-in on the National Prioritization System being developed for ER activities. This endorsement will allow the use of the system to be fully incorporated into future agreements.
- Work with EPA to develop a better method of measuring success under agreements and within the remedial program in general. To date, success has been calculated by counting the number of documents completed rather than through substantive yardsticks such as total risk reduction.
- Urge EPA to make greater use of the Office of Management and Budget A-106 process to assist DOE in obtaining the funding needed to comply with the schedules contained within agreements.

Other suggested actions, more internal to DOE, included

- Expeditiously finalize the EM-1 and EM-40 Program Management Plans, as well as any corresponding plans at the field level.
- Quickly develop a policy on the resolution of comments on primary documents (HQ and Field Offices).

Supplemental Points

DOE negotiators should ensure that all parties fully understand the exact scope of the agreement before proceeding with its execution. The needs of agreements should drive the activities undertaken by EM-50 rather than "doing research for research's sake." External groups and individuals should be used to provide a peer review of documents. These reviews would also provide the regulators with an independent rationale for the remedy selection made by both agencies.

ISSUE 3: INTERAGENCY RELATIONS

Discussion

Other government branches such as DOD share very similar problems and may have already identified some potential solutions. In addition, these agencies may have already established precedents under which DOE must operate. Also, the combined efforts of multiple agencies on the resolution of an issue that affects them is clearly preferable to a more fragmented approach. Despite these advantages, very little interaction among the agencies has occurred to date. This lack of coordination has already led to difficulties at sites such as Weldon Spring. No common decision tools exist nor is there any interlinking of data bases.

Suggested Action Items

The group recommended a multistep approach to foster greater coordination among DOE and the other agencies.

1. Identify common issues and interests.
2. Establish one or more interagency working groups to address the issues. Where appropriate, the agencies should develop a common front to present to EPA and others.

3. Coordinate the combined commitments made by each agency (TSD needs, etc.).
4. Establish data links with EPA, DOD, and others, particularly in situations such as sites in proximity to one another.

Additional, related action items were:

- Hold planning and technical meetings with the regulators to provide coordinated direction to the ER program and to resolve issues before they become problems. Establish a technical review committee composed of DOE and regulatory personnel at each Field Office to receive comments on plans and studies before a primary or secondary document is drafted. Individual committee members should be responsible for ensuring their input reflects a total state, EPA, or DOE position.



CONCLUSIONS AND RECOMMENDATIONS

This report synthesizes information generated through four forums: 1) DOE Field Office conference calls, 2) DOE HQ interviews, 3) workshop group discussions, and 4) incorporation of review comments. Collectively, the opinions expressed indicate that DOE and M&O personnel are highly motivated in their efforts to implement DOE's environmental restoration program, yet they are greatly impeded by the types of issues discussed in this report.

Many of the issues or action steps described in this report have been discussed previously, particularly in EM's Five-Year Plan and draft Program Management Plans. However, many workshop participants indicated that the synergy generated by interacting directly with colleagues from across the DOE complex provided fresh perspectives and enthusiasm for addressing familiar problems. Site personnel learned that many of their concerns are, in fact, complex-wide concerns. The fundamental recommendation from this exercise is to maintain and capitalize on this enthusiasm. This point was made by one of the workshop participants in his review of this report:

"... the subject workshop was extremely useful as the first major step in identifying pressing regulatory and institutional concerns that impact the environmental restoration (ER) program. However, the enthusiasm presented by the participants at the workshop must be sustained in order to effectively follow up and resolve the ER issues identified."

During the planning stages of this exercise, concerns were voiced that the regulatory and institutional issues confronting EM were so extensive that it would be difficult to address even a subset of them meaningfully during a two-day workshop. This concern highlights a key point, namely that the exercise was not designed to resolve issues. Rather, the objective was to generate ideas on concrete steps that could be implemented toward resolving complex-wide issues. The value of this exercise will be realized incrementally, and in direct proportion to the degree that the suggested steps are evaluated, refined, and implemented. Indeed, if the suggested steps are followed and built on, the exercise itself can help address one of the key workshop issues; that is administrative requests that drain field resources without any apparent value added.

Rapid implementation of all of the proposed action steps is unrealistic. However, a deliberate, incremental approach could be devised that would demonstrate significant short-term progress and would also be conducive to creating long-term confidence in and enthusiasm for a complex-wide issue resolution process. Such an approach would entail the following steps:

1. Organize implementation and communication teams (these could also be called issue resolution teams) for each of the five issue groups discussed at the December workshop. Teams would operate in coordination with appropriate EM, EH, and Field Office staff in refining, prioritizing, sequencing, and implementing selected actions proposed at the workshop. A number of individuals or organizations have already expressed a willingness to serve on such teams (Appendix H).
2. Develop a fairly simple workshop recommendation tracking and reporting system. The primary function of this system would be to maintain the interest and enthusiasm that was in evidence at the workshop. Workshop participants, and others as appropriate, would receive periodic feedback on progress being made towards issue resolution, action steps that are being implemented, and other information of interest to those concerned with the resolution of ER's regulatory and institutional issues. Input to this system could be provided by the teams described above. This system should be designed and maintained expressly to provide the workshop network with concrete evidence of progress and upper management's commitment to continued progress.
3. At the workshop, only a subset of the issue groups identified during the conference calls and interviews was discussed. The remaining issues must also be addressed. Steps towards resolving them should also be identified and implemented. However, it is unlikely that a similar workshop to address the remaining issues would generate the same level of interest and energy, at least in the near term. These issues could, however, be addressed through white papers or by small working groups convened to brainstorm the issue in a manner similar to that done at the workshop. Moreover, if this were done, it would provide an interesting comparison of the relative merits, quality, and costs of parallel products generated by different mechanisms. This comparison could be of considerable interest to other DOE offices contemplating topical workshops.

LIST OF ACRONYMS AND INITIALISMS

ARARs	applicable or relevant and appropriate requirements
BNL	Brookhaven National Laboratory
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CX	Categorical Exclusion
D&D	decontamination and decommissioning
DOE	U.S. Department of Energy
DOD	U.S. Department of Defense
DP	Defense Programs
DQO	data quality objectives
EA	Environmental Assessment
EH	Office of Environment, Safety and Health
EIS	Environmental Impact Statement
EM	Office of Environmental Restoration and Waste Management
EM-30	Office of Waste Operations
EM-40	Office of Environmental Restoration
EM-43	Program Support Division, EM-40
EM-50	Office of Technology Development
EPA	U.S. Environmental Protection Agency
FFA	Federal Facility Agreement
FS	Feasibility Study
FUSRAP	Formerly Utilized Sites Remedial Action Program
GC	Office of General Counsel
HQ	Headquarters

IAG Interagency Agreement
M&O management and operations
NE Office of Nuclear Energy
NEPA National Environmental Policy Act
NPL National Priorities List
NRC U.S. Nuclear Regulatory Commission
PEIS Programmatic Environmental Impact Statement
PNL Pacific Northwest Laboratory
RAAS Remedial Action Assessment System
RCRA Resource Conservation and Recovery Act
R&D research and development
RI Remedial Investigation
ROD Record of Decision
SARA Superfund Amendments and Reauthorization Act
SNM special nuclear materials
TRU transuranic
TSD treatment, storage, and disposal
UMTRAP Uranium Mill Tailings Reclamation Action Program

APPENDIX A

PRELIMINARY ISSUE IDENTIFICATION AND CHARACTERIZATION

APPENDIX A

PRELIMINARY ISSUE IDENTIFICATION AND CHARACTERIZATION

The immediate objective of the Field Office conference calls and HQ meetings was to generate a comprehensive list of issues or problems that posed impediments to progress in the eyes of responsible managers and support professionals, and thus the major issues confronting EM-40. The strategic objective was to generate a data base of site issues that could be clustered into complex-wide issue groups for discussion at a follow-up workshop. It was explicitly stated that information collected during the calls and meetings would remain anonymous in terms of the individuals and sites from which it originated.

FIELD OFFICE CONFERENCE CALLS

EM-40 provided PNL with a list of environmental restoration program contacts (Appendix C) at each of the following DOE field or operations offices: Albuquerque, Chicago, Idaho, Nevada, Oak Ridge, Richland, Rocky Flats, Livermore, and Savannah River.

The issues identification exercise was announced in a letter sent from the Associate Director, EM-40 (Appendix D) to each of the nine contacts. Subsequently, PNL staff telephoned each program contact to answer questions regarding the exercise, schedule the conference calls, and learn which DOE and Management and Operations (M&O) contractor personnel were nominated by the program contact to participate in the conference calls.

The conference calls were made between October 17 and 29. The number of participants ranged from 4 to 16. Conference call participants addressed the questions found in the attachment to Appendix D. During the calls, two to four PNL staff members transcribed the conversations. After the last call, a follow-up letter (Appendix D) was sent to each contact thanking them and requesting that they identify individuals who would be attending the December workshop.

Conference call participation met the objective of capturing complex-wide input. Approximately 70 individuals participated. Appendix D contains a list of the participants by Field Office affiliation.

HEADQUARTERS INTERVIEWS

To complement the Field Office input, interviews were conducted with selected HQ staff. The HQ staff were identified and notified of the exercise by internal memoranda. These interviews were conducted in Washington D.C., and Germantown, Maryland. The protocol for the interviews was similar to that used during the conference calls. Interviewees were asked to specify highest priority issues and their current coping mechanisms.

The combined transcribed notes from the calls and interviews amounted to about 60 pages. The PNL planning team analyzed and summarized these notes. Recorded comments were categorized as being either an issue, information that supports or otherwise characterizes an issue, or a suggested action that could address the issue. This process yielded 36 specific issues, which were clustered into 13 issue groups and organized into issue summary documents (Appendix E).

APPENDIX B

REGULATORY AND INSTITUTIONAL ISSUES WORKSHOP

APPENDIX B

REGULATORY AND INSTITUTIONAL ISSUES WORKSHOP

A workshop announcement and logistics package was prepared and sent to participants by the Associate Director, EM-40 (Appendix F). Logistics required that workshop attendance be limited. To ensure balanced participation, each Field Office was asked to send one DOE representative and one M&O contractor representative. Some Field Offices requested additional participation because of the number of geographically dispersed sites under their cognizance. Other Field Offices requested that representatives from their legal staff also attend. These requests were accommodated. The Office of General Counsel (GC) was also represented at the workshop.

Of 43 attendees, 25 were from Field Offices, and 18 were from HQ. Headquarters representation included 11 from EM, six from EH, and one from GC. Field representation included ten from DOE, nine M&O contractors, and six National Laboratory personnel.

Workshop activities are described in detail in Appendix A. Introductions, presentation of issues, voting, and formation of working groups were completed during the first half of the first day. Opening remarks were made by senior EM and EH representatives. An overview of the 13 issue groups was presented by the lead PNL facilitator. Participants suggested additional issues or revisions and were then asked to prioritize the 13 issue groups with the objective of selecting five for detailed discussion. Guidelines for voting on issue priority were:

- feasibility
- conduciveness to short-term progress
- primarily a DOE matter
- health and safety risk
- instincts.

The results of this voting were:

<u>Rank</u>	<u>Score</u>	<u>Title</u>
1	374	Regulatory Streamlining
2	329	General DOE Guidance and Administration
3	309	Cleanup Levels
4	299	Environmental Management Integration
5	292	Implementation of Agreements/Documentation
6	275	Regulatory Integration
7	271	Cleanup Authority and Consistency
8	229	DOE Infrastructure
9	202	Risk Management
10	181	Information Systems
11	177	U.S. Environmental Protection Agency (EPA) Issues
12	168	Future Land Use
13	121	Community Relations Programs

Formation of working groups was voluntary within suggested guidelines to ensure that groups were numerically balanced and that each included a mix of HQ, Field Office, and M&O contractor staff. Before convening into working groups, participants were given a demonstration on the use of storyboarding as a workshop tool. Storyboarding was used for this exercise because it offers an effective technique for brainstorming and for quickly capturing, assembling, prioritizing, reviewing, and revising ideas as they are being generated by a group. Each group was provided storyboards, pens, pins, and index cards.

WORKING GROUP DISCUSSIONS

Each group selected a leader to initiate discussion and present an oral report plenary group. Each group included a PNL facilitator whose primary role was to keep discussions moving and focused. Each group was given suggested procedures for approaching its task (Appendix G). The suggested approach was to

1. Prioritize the individual issues within the issue group.
2. Starting with the highest priority issue, elaborate on its history: e.g., cite specific examples of the problem, what has been or is being done towards resolving it; by whom, when, what results ensued; what problems were encountered; and what products are available.

3. Develop a list of sequential action items that could be implemented at HQ or in the field to begin to address and resolve the issue.
4. Select the next highest priority issue and proceed as before.

Group work continued through the end of the first day.

PRESENTATION OF WORKING GROUP REPORTS TO PLENARY SESSION

On the second day, group leaders reported on the results of their work to the plenary group. Feedback from the plenary group was recorded by facilitators for inclusion in the written report.

The storyboards generated by the working groups as well as notes taken during their presentation were the basis for this written report. Draft reports were circulated to all participants for final comments and ideas. All workshop participants (Appendix G) were thanked for their contributions in a letter from the Associate Director, EM-40 (Appendix G).



APPENDIX C

ENVIRONMENTAL RESTORATION PROGRAM OPERATIONS OFFICE
PRINCIPAL CONTACTS

APPENDIX C

ENVIRONMENTAL RESTORATION PROGRAM
OPERATIONS OFFICE PRINCIPAL CONTACTS

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APPENDIX D

CONFERENCE CALL/INTERVIEW INFORMATION

APPENDIX D

CONFERENCE CALL/INTERVIEW INFORMATION

This appendix contains information related to the first part of the issues exercise, conference calls to Field Offices and interviews with DOE Headquarters staff. It contains the following items:

Memo from EM-40 Introducing Exercise	D.2
Letter to Conference Call Participants	D.8
Field Office Conference Call and Headquarters Interview Participants	D.10

memorandum

DATE: OCT 03 1990
REPLY TO
ATTN OF: EM-43 (W. Wisenbaker 3-2950)
SUBJECT: Identification of Regulatory and Institutional Issues Impacting Conduct of Environmental Restoration Activities
TO: Distribution

Many regulatory and institutional issues have arisen because of the centralization of and increased emphasis on environmental restoration, waste management, and technology development activities at Department of Energy Headquarters (DOE-HQ). The Office of Environmental Restoration (ER) recognizes that to achieve its program goals, it will be necessary to identify and resolve those issues that impede progress.

As a first step, ER is sponsoring an exercise to identify major regulatory and institutional issues that are impeding or may impact the conduct of environmental restoration activities at both HQ and Field Office levels. It is my expectation that the exercise will also complement and support policy activities involving the Office of Environment, Safety, and Health (EH). The product of the exercise will be a report to my office listing all issues of concern and providing in-depth analysis of those regulatory and institutional issues of highest priority.

I have tasked the Pacific Northwest Laboratories to coordinate this effort as a continuation of policy work they have done for EH. To support this effort, I am requesting that you designate qualified DOE and Management and Operations (M&O) contractor representatives from your Field Office to participate in an issues identification exercise. The exercise will be conducted in two parts: a conference call to each site to gather preliminary data and a 2-day meeting in the Washington, D.C., area on December 5 and 6. Specific details about these events are found in the attachment. Within a week, you will be contacted by a member of the ER project team conducting the exercise and asked to identify the individuals you have designated to participate in the conference call.

This exercise will mark the beginning of an ongoing process of issue identification, tracking, and resolution. Results are intended to benefit environmental restoration work across the DOE complex. Although participation in this initial exercise will be limited to DOE and M&O contractor staff, it is expected that the results will serve as a basis for subsequent activities with broader representation.

I look forward to working with you and your staff on this important exercise. If you have questions, please contact William (Bill) Fallon, (202) 646-7787.


R. P. Whitfield
Associate Director
Office of Environmental Restoration

ATTACHMENT

GENERAL INFORMATION AND INITIAL INSTRUCTIONS FOR ISSUES EXERCISE

The Office of Environmental Restoration (ER) is sponsoring an exercise to identify and suggest solutions for high-priority regulatory and institutional issues that could impede onsite remediation activities. Regulatory and institutional issues commonly overlap. For clarification, the following definitions are suggested.

Regulatory Issue -- An impediment to progress arising from overlapping, conflicting, unclear, flawed, or missing regulatory statutes, directives, or guidance. These issues define the roadblocks arising from the regulatory framework in which the ER program functions.

Institutional Issue -- An impediment to progress based on the need for or weaknesses in 1) communication linkages or operational interfaces, 2) knowing the roles, responsibilities, and authorities of HQ, Field Offices, national laboratories, support contractors, states, etc., 3) policy and implementation guidance, or 4) technical quality of work.

In general, the purpose of this exercise is to:

1. Provide an open forum for identifying and broadly characterizing the regulatory and institutional issues that are or will likely be impacting progress in the ER program.
2. Address potential solutions to these issues.
3. Elevate the top issues/potential solutions to senior Department of Energy (DOE) management.
4. Initiate a process for tracking progress on solving these issues. Progress might be impacted at the HQ, Field Office, contractor, or the national laboratories level.

In similar exercises conducted for other Department of Energy (DOE) offices, a two-part approach has been found to offer the most effective use of time and resources. Part 1 will be a conference call to each Field Office during which selected staff will be asked to identify regulatory and institutional issues of concern, give specific examples, and discuss how they are currently coping with these issues. The appropriate DOE-HQ staff will also respond to a similar call. Part 2 will be a 2-day meeting during which participants from each site and DOE-HQ will work through the issues in more detail.

PART 1 - CONFERENCE CALL

The first part of this exercise is preliminary information gathering designed to identify existing and upcoming regulatory and institutional issues that the Field Offices are facing in conducting onsite remediation activities. Answers will be used to help structure the December meeting, develop presentation materials, and initiate meeting discussions. It is expected that many common issues exist across the DOE complex, and these will be discussed in the meeting.

As the principal ER Program contact for your Field Office, please select, as soon as possible, up to approximately five individuals from a representative sample of installations under your responsibility. These individuals should be well versed in issues at their installations. Emphasize that the information they provide during the conference call will not be attributed to a specific site or individual, but will be combined with other responses from across the DOE complex to develop clusters of trends or key issues for the subsequent meeting. The following questions will be asked during the conference call:

1. What issues have been encountered at your site that are impeding the progress of environmental restoration activities?
2. Give specific examples of these issues.
3. What new issues are you expecting over the next 2 to 3 years that are likely to be roadblocks to conducting environmental restoration activities?
4. How is your site currently coping with the above (existing and future) issues?

It is suggested that you and your designated respondents prepare for the call in advance by considering these questions. The conference call can include all five individuals you have designated from whom a consensus of the issues can be derived, or you can designate a representative of the group to present the group's views. Although the conference call may precipitate other discussions, the primary objective of the call is for the project team members to record the requested information.

You will soon be contacted by a member of the project staff to answer any questions you may have, record the addresses and phone numbers of individuals you have designated to participate in the conference call, and schedule a time and date for the conference call. The calls will be made during the third week of October.

PART 2 - MEETING

Part 2 of the exercise is a meeting to be held in the Washington, D.C., area on December 5 and 6. Please designate two attendees, preferably from among the participants in the conference call. Participation must be limited because of logistics and facilities. The two attendees might include one representative from DOE (preferably yourself) and one from an M&O contractor. Meeting participants should be well versed in your site's regulatory and institutional issues and be well qualified to diagnose and suggest remedies for these issues.

Based on the results of the conference calls, issues will be grouped in a preliminary manner, and any trends will be examined. During day 1 of the meeting, these issues and their groupings will be augmented and/or modified to reflect the consensus of the participants. Later that day, participants will be asked to select a given issue group and develop supporting

information with other group members. The information generated will be assembled onto storyboards for review by all meeting participants. (The technique of storyboarding will be used throughout the meeting and taught to participants for their use.) Day 2 will focus on issue solutions and resolutions. A preliminary list of the information to be developed in each group is outlined here.

Tasks

1. Issue Identification

This task is designed for each working group to settle on a final list of issues they will scope out for tasks 2 through 5.

****Do the following for each issue developed from Task 1****

2. Issue Characteristics

Issues are important because they impact work progress. Task 2 gives specific examples of situations where work is being impacted. Who is being impacted by the issue?

3. Why Does Each Issue Exist?

The group is asked to address the primary and perhaps secondary reasons (causes) why each issue exists.

4. Issues' Impact on ER Program

Issues can have many different impacts on the ER Program (e.g., schedules or costs). What do you think the top 1 or 2 impacts are? Roughly quantify if possible.

5. Issue Prioritization

With the information gained from tasks 1 through 4, the group should rank or prioritize all issues.

****Do the following for the top-ranked or highest-priority issues****

6. Potential Solutions

For the top-ranked issues, the group should assess if known solutions exist, what some short- or long-term solutions might be, recommend first steps in working toward a solution, and identify activities that HQ and or the Field Offices should take to resolve each issue.

7. Time Frame for Resolution

How quickly can measurable progress on these issues be shown?

OTHER INFORMATION

Participation at the meeting will be limited to DOE-HQ and Field Office staff and M&O contractors. Headquarters participants will be selected from ER and EH. Other attendees will include a limited number of technical and administrative support staff. Despite the limited participation in this initial exercise, it is envisioned that the participants and proceedings would serve as a core for expanded dialogue that could include regulatory agencies, States, regions, tribes, and other concerned parties and organizations.

The agenda and logistics arrangements for the meeting are being prepared. A complete package will be sent to you and to designated meeting attendees. The project team member who contacts you will answer any questions you have about the meeting or the exercise in general. In addition, you can contact one of the following project staff members to answer questions.

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November 5, 1990

Rich Schassburger
Deputy Director
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Dear Rich:

I would like to thank you for your assistance in coordinating the recent conference call on regulatory and institutional issues impacting ER Program activities. The responses from each of the nine field offices were excellent and collectively they are a graphic delineation of high priority issues from across the complex. The input is now being consolidated into a single list which will be distributed to all conference call participants in the near future. It will also serve as the point of departure for the meeting in Washington D.C. on December 18-19.

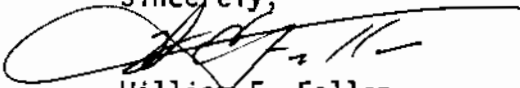
To ensure that both the field and headquarters derive the maximum benefit from this exercise it is important that highly qualified and motivated personnel attend the follow-up meeting. For logistical reasons we are requesting that participation be generally limited to two representatives from each field office. Ideally these two would include one DOE representative and one M&O contractor, both of whom should be well versed in the regulatory and institutional issues of concern to your facility.

May I ask for your further assistance in completing two tasks relative to the meeting participants. First, to the extent possible, finalize the list of DOE and contractor personnel who will be attending the meeting from your field office and fax to me the following information on each of them: name, title, affiliation, mailing address, phone, and fax. My fax number is (202) 646-7838.

Second, given the meeting's proximity to the holidays, urge the attendees to complete their travel reservations immediately. Participants should plan on arriving in Washington on the evening of Monday, December 17th and departing after 5 pm on Wednesday the 19th. A block of rooms has been reserved at the Holiday Inn in Gaithersburg, Maryland. We will be sending materials describing the meeting and logistics to the participants in the near future.

Thank you again for your assistance in this exercise. I am increasingly confident that your investment and involvement will bear long-term benefits both for your facilities and for the DOE complex nationwide. Do not hesitate to call me at (202) 646-7787 should you or the meeting participants have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. E. Fallon', with a large, sweeping flourish extending to the left.

William E. Fallon
Task Manager

FIELD OFFICE CONFERENCE CALL AND HEADQUARTERS INTERVIEW PARTICIPANTS

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APPENDIX E

LIST OF ISSUE GROUPS, SUPPORTING
INFORMATION, AND NEEDED ACTION ITEMS

APPENDIX E

LIST OF ISSUE GROUPS, SUPPORTING INFORMATION, AND NEEDED ACTION ITEMS

The following table lists the 13 issue groups, issues within each group, supporting information, and needed actions compiled from the conference calls and interviews with Field Office and DOE HQ personnel. This table was presented at the December workshop.

ISSUE GROUP I: REGULATORY INTEGRATION

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
RCRA/CERCLA FUNCTIONAL EQUIVALENCY	Competing regulatory agencies (funds, schedules, priorities) Competing activity requirements Built into FFAs but execution relatively untested	Compare Activity Requirements Develop Guidance Issue Example Document(s)
NEPA/CERCLA INTEGRATION	DOE wants both, EPA only CERCLA CEQ wants both, DOJ wants resolution EPA expects no impacts (funds, schedules) Increased chance for suits under NEPA	Compare Activity Requirements Develop Guidance Issue Example Document(s) Facilitate Coordination among DOE, CEQ, DOJ, EPA
OTHER REGULATORY INTEGRATION CONCERNS	National Resource Damage Assessment Use of LDRs in Superfund cleanup Use of RCRA as CERCLA ARAR D&D coordination with CERCLA and NCP	

E.2

ISSUE GROUP II: REGULATORY STREAMLINING

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
PERMITTING PROCESS	<p>Massive TSD infrastructure buildup ahead</p> <p>Permitting is multi-year process</p> <p>Regulators limited by qualifications of permit reviewers</p> <p>Regulators limited by volume of permit applications</p>	<p>Identify and communicate upcoming bottlenecks</p> <p>Develop streamlining approaches with regulators</p> <p>Stress use of CERCLA on-site exemptions</p>
DOCUMENT REVIEW AND APPROVAL TIMES	<p>Uncertain DOE review and approval process</p> <p>State and EPA delays</p> <p>Lack of standardized formats</p> <p>Coordination of reviews with EPA</p>	<p>Identify key reports or report categories</p> <p>Establish standardized DOE review and approval process/times</p> <p>Develop tracking/priority system</p> <p>Standardize document formats whenever possible</p> <p>Negotiate realistic review times</p>

E.3

ISSUE GROUP II: REGULATORY STREAMLINING (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
EXTENT OF SITE CHARACTERIZATION	<p>Technology driven characterization</p> <p>Characterization has low decision risk</p> <p>DOE and regulators focus on characterization</p> <p>Most FFAs focus on characterization</p>	<p>Define characterization drivers</p> <p>Refine data quality objectives (DQOs)</p> <p>Develop DQO and (observational) approach guidance</p>
TECHNOLOGY BASELINE	<p>Need to assess cleanup capability of present technology</p> <p>Need to project technology requirements</p> <p>How to anticipate treatability data needs</p>	<p>Define cleanup requirements</p> <p>Define role/capability of present technology</p> <p>Assess technology development needs</p>
LIMITED OR EXPEDITED CLEANUPS	<p>How to stabilize waste and minimize its spread</p> <p>Appropriate focus on cleanup actions</p> <p>How to measure cleanup progress</p> <p>Limited success in Superfund</p>	<p>Assess use and requirements</p> <p>Develop guidance</p>

E.4

ISSUE GROUP II: REGULATORY STREAMLINING (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
NPL VERSUS NON-NPL SITE CLEANUPS	DOE Order 5400.4 Low regulatory priority for some non-NPL sites	Define cleanup priorities Redraft DOE Order 5400.4

ISSUE GROUP III: CLEANUP AUTHORITY AND CONSISTENCY

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
CLEANUP OF SITES NOT UNDER DOE'S CONTROL	Land privately owned Access limitations DOE legal responsibility Community knowledge of sites FUSRAP	Assess private versus government rights Define DOE responsibility Inform communities/owners
STATE VERSUS FEDERAL AUTHORITY	Variable State cleanup and risk reduction levels DOE agreements (non-attainable cleanup/risk reduction targets) Uncertain State authority over radioactive waste Meeting State requirements for requirements' sake High characterization costs	Work with EPA/States to develop consistent/flexible national cleanup standards
REQUIREMENTS FOR DOE VERSUS PRIVATE INDUSTRY	DOE addressing RCRA/CERCLA/NEPA Is characterization more stringent for DOE? Are cleanup levels more restrictive for DOE?	Perform comparison of federal versus private cleanup agreements

E.6

ISSUE GROUP III: CLEANUP AUTHORITY AND CONSISTENCY (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
<p>CONSISTENCY AMONG EPA REGIONS AND STATES</p>	<p>Inconsistencies limit DOE knowledge transfer between sites</p> <p>Essentially dealing with multiple regulators/regulations</p> <p>Limits effectiveness of centralized DOE-HQ control</p>	<p>EPA develop centralized guidance</p> <p>EPA and DOE work toward joint cleanup approaches</p> <p>DOE develop consistent cleanup approaches</p> <p>DOE/States/EPA develop regional cleanup approaches</p> <p>Develop common decision tools/information systems</p>

E.7

ISSUE GROUP IV: ENVIRONMENTAL MANAGEMENT INTEGRATION (WO and ER)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
TSD OF WASTE GENERATED FROM ER ACTIVITIES	<p>Uncertain roles during characterization</p> <p>Uncertain roles during cleanup</p> <p>Uncertain interim roles as TSDs built</p> <p>Need to define roles at ER Site versus WO/ER Site</p> <p>Uncertain TSD permitting status and requirements</p> <p>Resource allocations for TSDs versus site cleanups</p>	<p>Define present and interim WO and ER roles</p> <p>Define permitting strategies</p> <p>Develop basis for funding allocations (facilities versus cleanup)</p> <p>ER must provide better waste generation estimates to WO</p>
WASTE MINIMIZATION	<p>Waste generation versus waste minimization</p> <p>Huge volumes of low-level waste</p> <p>Limited end-use (e.g. recycling) discussions</p> <p>Economic value of separated materials</p>	<p>Factor recycling into cleanup strategy</p> <p>Survey/communicate inventory of strategic materials</p> <p>Assess value of recovered or recoverable materials</p>

E.8

ISSUE GROUP IV: ENVIRONMENTAL MANAGEMENT INTEGRATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
WASTE TRANSPORTATION	Waste transport key to many site cleanups Interstate transport restrictions Classification of transported waste Role of LDRs on waste movement/disposal outside areas of contamination	Define role of sample/waste transport in cleanup strategy <ul style="list-style-type: none"> - Interstate - Intra-site

E.9

ISSUE GROUP V: IMPLEMENTATION OF AGREEMENTS/DOCUMENTATION

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT	<p>Timeliness/integrated role of NEPA reports</p> <p>Concern over redoing interim actions</p> <p>Involve total systems approach (exhuming to disposal)</p> <p>Viewed as establishing key DOE cleanup strategy</p> <p>Inadequate emphasis on PEIS</p> <p>Some States may not be willing to sign permits without PEIS</p>	<p>Define integrated roles of PEIS, Site EISs, and site NEPA documents</p> <p>Assess scheduling impacts from dependent roles</p> <p>Report routine PEIS status</p> <p>Communicate issues, schedules, management, etc.</p>

E.10

ISSUE GROUP V: IMPLEMENTATION OF AGREEMENTS/DOCUMENTATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
<p>FEDERAL FACILITY AND INTERAGENCY AGREEMENTS (FFAs/IAGs)</p>	<p>Agreements individually developed</p> <p>Collective commitments unknown, need to track</p> <p>Division/level of commitment tracking unknown</p> <p>Agreements assume funds and technologies will exist</p> <p>Need to build in flexibility</p> <ul style="list-style-type: none"> - Milestones - Dollars - Schedules <p>Inconsistency between agreements</p> <p>Activity transition between agreements</p> <p>How is cleanup success measured?</p> <p>Renegotiation</p>	<p>Assess DOE;s total commitments</p> <p>Define tracking needs and responsibilities</p> <p>Establish lead management organization</p> <p>Develop transition guidance (pre/post agreement)</p> <p>Develop measurement of agreement success</p>

E.11

ISSUE GROUP V: IMPLEMENTATION OF AGREEMENTS/DOCUMENTATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
INTERAGENCY RELATIONS	<p>Need to pool common tools, experiences, and knowledge</p> <p>Application of OSHA requirements to D&D facilities</p> <p>No common decision tools, databases</p>	<p>Develop interagency (DOE, DOD, DOT) working groups</p> <p>Assess OSHA applicability to D&D facilities</p> <p>Develop/link decision tools with EPA</p>

E.12

ISSUE GROUP VI: EPA ISSUES

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
ENVIRONMENTAL POLICY	Fragmented environmental policies Lack of inter-office coordination Limited understanding of DOE's issues Limited experience with rad or mixed waste	Work with EPA on coordinated environmental policy Communicate DOE's environmental issues
STAFF	Lack of experienced staff Limited staff numbers Lack of technical/managerial counterparts with DOE Staff turnaround	Support EPA in increasing staff committed to DOE Emphasize need to commit experienced staff Support EPA in developing DOE counterparts
REGIONAL AUTONOMY AND INCONSISTENCY	Inconsistent cleanup approaches/requirements Reworking documents Inconsistent contractor reviews of reports Need consistent EPA guidance	Develop common decision tools/data bases

E.13

ISSUES GROUP VII: GENERAL DOE GUIDANCE AND ADMINISTRATION

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
<p>DELEGATION OF AUTHORITY AND RESPONSIBILITY</p>	<p>HQ Micromanagement</p> <p>Confusing division of DOE authority and responsibility</p> <p>HQ develop guidance and performance goals</p> <p>FOs responsible for following guidance and meeting goals</p> <p>Delegate authority to FOs to maximum extent possible</p> <ul style="list-style-type: none"> - Categorical exclusions for NEPA/document approval <p>Centralization of decisions and streamlining are mutually inconsistent approaches</p> <p>Popular versus technically defensible decisions</p> <ul style="list-style-type: none"> - Appointed DOE officials (Schedule C) often lack technical perspective 	<p>Clarify HQ and FO authority/responsibility</p>

E.14

ISSUE GROUP VII: GENERAL DOE GUIDANCE AND ADMINISTRATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
ADMINISTRATIVE REQUESTS	<p>Poorly coordinated and redundant requests/requirements</p> <ul style="list-style-type: none"> - Issue exercises - Tiger Teams, budget requests, guidance reviews, ADSs - Roadmaps <p>Massive FO/subcontractor resource drain</p> <p>Little value added</p> <p>Lack of ER and EH coordination and communication</p> <ul style="list-style-type: none"> - Need single contact on FFAs, IAG, LDRs, NEPA, etc. <p>Lack of timely response to information requests from FO</p>	<p>Develop and follow guidance for requests</p> <p>Maintain single, informed contact for requests</p> <p>Assess the impact of requests on staff and morale</p>

E.15

ISSUE GROUP VII: GENERAL DOE GUIDANCE AND ADMINISTRATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
BUDGET AND FUNDING	<p>Inability to financially comply with regulations/agreements</p> <p>Unobligated contingency funds (budget for unknowns)</p> <p>Planning for FY94 when FY92 needs unknown</p> <p>Liability concerns contribute to budget shortfall</p> <p>OMB restrictions</p> <p>Compliance requires long-term budget commitments</p> <p>Limited resources always reality</p> <p>No quid pro quo with Congress</p>	<p>Develop decision basis for budget allocations</p> <p>Build closer tie between Agreements and budget</p>
CLEANUP SUBCONTRACTORS	<p>Little word on 5400.4 conflict of interest provision</p> <p>New contracting schedule will require "growing pains"</p> <p>Local and EPA acceptance of regional contractors questioned</p>	<p>Clarify status and intent of 5400.4</p>

E.16

ISSUE GROUP VII: GENERAL DOE GUIDANCE AND ADMINISTRATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
<p>LIABILITY PROTECTION FOR STAFF AND CONTRACTORS</p>	<p>Compliance with State laws rather than HQ guidance</p> <p>Lack of indemnification for actions over which one has no control</p> <p>Contributes to unrestrained budget requests</p>	<p>Develop liability and indemnification policies</p>
<p>USE OF EXISTING ENVIRONMENTAL DATA</p>	<p>Acceptance of existing data</p> <p>Declassification of existing data</p>	<p>Assess use of existing data</p> <p>Define data classification/declassification needs</p>
<p>QUALITY ASSURANCE/QUALITY CONTROL STANDARDS</p>	<p>NQA-1 standards do not function</p> <p>Need to coordinate standards with EPA</p> <p>Need reasonable analytical data quality approach</p> <p>Impacts spectrum of data collection -- more than characterization</p> <p>State/EPA certification of labs</p>	<p>Develop QA/QC guidance for data/tools/technologies</p> <p>Correlate cleanup decisions with data quality needs</p> <p>Clarify use of CLP protocols</p> <p>Develop policy on analytical need hierarchy</p>

E.17

ISSUE GROUP VII: GENERAL DOE GUIDANCE AND ADMINISTRATION (Cont'd)

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
PROTRACTED PROCUREMENT CYCLE	Existing procurement cycle is long Cleanup actions require extended contractual commitments	Develop mechanism for testing new/innovative technologies Assess streamlined procurement approaches

E.18

ISSUE GROUP VIII: RISK MANAGEMENT

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
<p>SYSTEMS APPROACH TO ENVIRONMENTAL MANAGEMENT</p>	<p>Decision framework for comparing/minimizing risks</p> <p>Economic, political, technical, schedule, health, etc. tradeoffs</p> <p>Need acceptance (public, decision makers) of risk tradeoffs</p> <p>Concerns over worker/public exposure during cleanup</p> <p>Concerns over true risk reductions from cleanups</p> <p>Natural system controls</p> <p>Technology limitations</p> <p>Need broad based input</p> <p>Need tools</p>	<p>Develop risk management approach to decision making</p>

E.19

ISSUE GROUP IX: FUTURE LAND USE

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
FUTURE LAND USE	Key to defining cleanup approaches/levels Policy integrated into PEIS National/regional/State natural resources Waste storage/disposal areas needed Institutional controls may exist	Develop land use policy

ISSUE GROUP X: CLEANUP LEVELS

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
LIMITED CLEANUP STANDARDS	No soil cleanup standards Isotope-specific standards missing (soil, groundwater) Cleanup levels for D&D facilities Tied to land use	Work with EPA and ATSDR
BASIS FOR CLEANUP LEVELS	Technology driven Regulation driven Health/risk driven How to measure/judge cleanup success	Clarify basis for cleanup levels Assess attainability of cleanup levels Assess risk-driven benefits
FLEXIBILITY OF REMEDIAL ACTION CLEANUPS	Following prescribed cleanup levels--conservative approach De minimis contaminant levels Cleanups based on letter of law rather than on risk	Promote risk-driven cleanups
COMMON TERMINOLOGY REQUIREMENTS	Definitions: Pristine; Background; BDAT; Below Regulatory Concern	Agree on common terminology with regulators Factor into Agreements

E.21

ISSUE GROUP XI: DOE INFRASTRUCTURE

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
DOE INFRASTRUCTURE	Staff Subcontractors TSD Facilities Laboratories Funding levels Master plan guiding strategic planning Decision aiding tools and data bases	

E.22

ISSUE GROUP XII: INFORMATION SYSTEMS

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
<p>INFORMATION SYSTEMS</p>	<p>Access (internal and external) to data</p> <p>Traceable linkage from collection to use</p> <p>Electronic systems</p> <p>Preserve knowledge base</p> <p>Common linkage across DOE</p> <p>Motivation to share information required</p> <p>Characterization, technology, and treatability data</p>	<p>Assess data/information generation</p> <p>Define access/storage/retrieval needs</p> <p>Develop guidance</p> <p>Evaluate existing systems/capabilities</p>

E.23

ISSUE GROUP XIII: COMMUNITY RELATIONS PROGRAM

ISSUES	SUPPORTING INFORMATION	NEEDED ACTION ITEMS
COMMUNITY RELATIONS PROGRAM	Organizational visibility Program reviews Guidance	Develop accountable organization Issue guidance

E.24

APPENDIX F

WORKSHOP INFORMATION PACKET

APPENDIX F

WORKSHOP INFORMATION PACKET

The following information was sent to workshop attendees to prepare them for what would occur at the December workshop and give them the chance to review the issues compiled from the conference calls and interviews.



Department of Energy
Washington, DC 20585

NOV 30 1990

Distribution

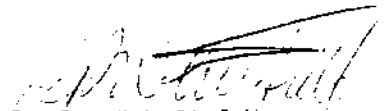
My memorandum of October 3, 1990, announced a two-part exercise as a first step in an ongoing process to identify, track, and resolve regulatory and institutional issues that are impeding the environmental cleanup process across the Department of Energy (DOE) complex. Pacific Northwest Laboratory (PNL), the exercise coordinator, has completed the first part of the exercise, a series of conference calls and meetings with DOE Field Office and Headquarters staff. I would like to thank all the participants of the calls and meetings for their responsiveness and input. Your responses have been consolidated and condensed into issue groups, issues, comments, and some suggested support activities (Attachment 1). This information will serve to initiate discussions during the follow-up workshop to be held at the Holiday Inn in Gaithersburg, Maryland, on December 17 and 18 (**NOTE DATE CHANGE**). You have been nominated to represent your office or organization at this meeting. Attachments 2 and 3 address the workshop agenda and general logistics information.

Not surprisingly, many of the identified issues have already been cited in the Five-Year Plan or other documents. However, issue identification is but the first step. What remains to be done is to implement a process to prioritize, track, and resolve the issues. The December workshop will focus on this process.

In preparation for the workshop, please review Attachment 1 and begin to formulate ideas on tasks, processes, or mechanisms that could be implemented by Field Office and/or Headquarters staff to address these issues. Also, as you formulate your ideas, please put a premium on Complex-wide applicability. The greatest benefit from this workshop will lie in the identification of steps towards the solution of common problems being faced across the Complex.

We all realize that none of the issues confronting us can be resolved in a 2-day meeting. Rather, the process I envision will require a coordinated, sustained effort by DOE staff from across the Complex. I believe that the perspectives, experience, and expertise of the workshop participants will serve as catalysts to initiate this process.

I look forward to meeting you in December and working with you and your staff on this exercise. If you have any questions, please contact William (Bill) Fallon at 202/646-7787.



R. P. Whitfield
Associate Director
Office of Environmental Restoration

3 Attachments:
Consolidated List of Issues
Workshop Agenda
Logistics Information

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CONSOLIDATED GROUPING OF ISSUES CITED
DURING FIELD OFFICE CONFERENCE CALLS AND HEADQUARTERS MEETINGS

INTRODUCTION

During October and November 1990, PNL coordinated a series of conference calls and meetings with DOE Field Office and Headquarters staff. The purpose of these discussions was to begin to identify those regulatory and institutional issues that are posing the greatest impediments to environmental restoration progress for DOE.

This document is a condensed compilation of the issues that were identified and organized into 13 major groups (I-XIII). Within each major group, 1-8 specific issues are listed, along with bulleted comments, observations or needs that were also cited during the calls and meetings. Finally, some specific support activities are indicated whose implementation would be appropriate first steps towards the ultimate resolution of the described issue.

At the upcoming December workshop, participants will have two main tasks:

- To further develop the list of issues and collectively choose about five key issue groups to focus on at the workshop; and
- To work independently in small, issue-specific groups to refine, expand or augment the suggested support activities by identifying tasks, processes and mechanisms that could be implemented.

Ideas developed by each group will be presented for discussion in a plenary session for further enhancement and to take advantage of the group's collective insight, perspective, and experience.

During the workshop, participants will select and focus on five or six major issue groups. However, it should be emphasized that all of the issues cited during the conference calls and meetings have been transmitted to DOE Headquarters (ER) for review and consideration.

I. REGULATORY INTEGRATION

1. RCRA/CERCLA FUNCTIONAL EQUIVALENCY

- Competing regulatory agencies (funds, schedules, priorities)
- Competing activity requirements
- Built into FFAs but execution relatively untested

Support Activities:

- A. Compare Activity Requirements
- B. Develop Guidance
- C. Issue Example Document(s)

2. NEPA/CERCLA INTEGRATION

- DOE wants both, EPA only CERCLA
- CEQ wants both, DOJ wants resolution
- EPA expects no impacts (funds, schedules)
- Increased chance for suits under NEPA

Support Activities:

- A. Compare Activity Requirements
- B. Develop Guidance
- C. Issue Example Document(s)
- D. Facilitate Coordination among DOE, CEQ, DOJ, EPA

3. OTHER REGULATORY INTEGRATION CONCERNS

- National Resource Damage Assessment
- Use of LDRs in Superfund cleanup
- Use of RCRA as CERCLA ARAR
- D&D coordination with CERCLA and NCP

II. REGULATORY STREAMLINING

1. PERMITTING PROCESS

- Massive TSD infrastructure buildup ahead
- Permitting is multi-year process
- Regulators limited by qualifications of permit reviewers
- Regulators limited by volume of permit applications

Support Activities:

- A. Identify and communicate upcoming bottlenecks
- B. Develop streamlining approaches with regulators
- C. Stress use of CERCLA on-site exemptions

2. DOCUMENT REVIEW AND APPROVAL TIMES

- Uncertain DOE review and approval process
- State and EPA delays
- Lack of standardized formats
- Coordination of reviews with EPA

Support Activities:

- A. Identify key reports or report categories
- B. Establish standardized DOE review and approval process/times
- C. Develop tracking/priority system
- D. Standardize document formats whenever possible
- E. Negotiate realistic review times

3. EXTENT OF SITE CHARACTERIZATION

- Technology driven characterization
- Characterization has low decision risk
- DOE and regulators focus on characterization
- Most FFAs focus on characterization

Support Activities:

- A. Define characterization drivers
- B. Refine data quality objectives (DQOs)
- C. Develop DQO and observational approach guidance

4. TECHNOLOGY BASELINE

- Need to assess cleanup capability of present technology
- Need to project technology requirements
- How to anticipate treatability data needs

Support Activities:

- A. Define cleanup requirements
- B. Define role/capability of present technology
- C. Assess technology development needs

5. LIMITED OR EXPEDITED CLEANUPS

- How to stabilize waste and minimize its spread
- Appropriate focus on cleanup actions
- How to measure cleanup progress
- Limited success in Superfund

Support Activities:

- A. Assess use and requirements
- B. Develop guidance

6. NPL VERSUS NON-NPL SITE CLEANUPS

- DOE Order 5400.4
- Low regulatory priority for some non-NPL sites

Support Activities:

- A. Define cleanup priorities
- B. Redraft DOE Order 5400.4

III. CLEANUP AUTHORITY AND CONSISTENCY

1. CLEANUP OF SITES NOT UNDER DOE'S CONTROL

- Land privately owned
- Access limitations
- DOE legal responsibility
- Community knowledge of sites
- FUSRAP

Support Activities:

- A. Assess private versus government rights
- B. Define DOE responsibility
- C. Inform communities/owners

2. STATE VERSUS FEDERAL AUTHORITY

- Variable State cleanup and risk reduction levels
- DOE agreements (non-attainable cleanup/risk reduction targets)
- Uncertain State authority over radioactive waste
- Meeting State requirements for requirements' sake
- High characterization costs

Support Activities:

- A. Work with EPA/States to develop consistent/flexible national cleanup standards

3. REQUIREMENTS FOR DOE VERSUS PRIVATE INDUSTRY

- DOE addressing RCRA/CERCLA/NEPA
- Is characterization more stringent for DOE?
- Are cleanup levels more restrictive for DOE?

Support Activities:

- A. Perform comparison of federal versus private cleanup agreements

4. CONSISTENCY AMONG EPA REGIONS AND STATES

- Inconsistencies limit DOE knowledge transfer between sites
- Essentially dealing with multiple regulators/regulations
- Limits effectiveness of centralized DOE-HQ control

Support Activities:

- A. EPA develop centralized guidance
- B. EPA and DOE work toward joint cleanup approaches
- C. DOE develop consistent cleanup approaches
- D. DOE/States/EPA develop regional cleanup approaches
- E. Develop common decision tools/information systems

IV. ENVIRONMENTAL MANAGEMENT INTEGRATION (WO and ER)

1. TSD OF WASTE GENERATED FROM ER ACTIVITIES

- Uncertain roles during characterization
- Uncertain roles during cleanup
- Uncertain interim roles as TSDs built
- Need to define roles at ER Site versus WO/ER Site
- Uncertain TSD permitting status and requirements
- Resource allocations for TSDs versus site cleanups

Support Activities:

- A. Define present and interim WO and ER roles
- B. Define permitting strategies
- C. Develop basis for funding allocations (facilities versus cleanup)
- D. ER must provide better waste generation estimates to WO

2. WASTE MINIMIZATION

- Waste generation versus waste minimization
- Huge volumes of low-level waste
- Limited end-use (e.g. recycling) discussions
- Economic value of separated materials

Support Activities:

- A. Factor recycling into cleanup strategy
- B. Survey/communicate inventory of strategic materials
- C. Assess value of recovered or recoverable materials

3. WASTE TRANSPORTATION

- Waste transport key to many site cleanups
- Interstate transport restrictions
- Classification of transported waste
- Role of LDRs on waste movement/disposal outside areas of contamination

Support Activities:

- A. Define role of sample/waste transport in cleanup strategy
 - Interstate
 - Intra-site

V. IMPLEMENTATION OF AGREEMENTS/DOCUMENTATION

1. PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT

- Timeliness/integrated role of NEPA reports
- Concern over redoing interim actions
- Involve total systems approach (exhuming to disposal)
- Viewed as establishing key DOE cleanup strategy
- Inadequate emphasis on PEIS
- Some States may not be willing to sign permits without PEIS

Support Activities:

- A. Define integrated roles of PEIS, Site EISs, and site NEPA documents
- B. Assess scheduling impacts from dependent roles
- C. Report routine PEIS status
- D. Communicate issues, schedules, management, etc.

2. FEDERAL FACILITY AND INTERAGENCY AGREEMENTS (FFAs/IAGs)

- Agreements individually developed
- Collective commitments unknown, need to track
- Division/level of commitment tracking unknown
- Agreements assume funds and technologies will exist

- Need to build in flexibility
 - Milestones
 - Dollars
 - Schedules
- Inconsistency between agreements
- Activity transition between agreements
- How is cleanup success measured?
- Renegotiation

Support Activities:

- A. Assess DOE;s total commitments
- B. Define tracking needs and responsibilities
- C. Establish lead management organization
- D. Develop transition guidance (pre/post agreement)
- E. Develop measurement of agreement success

3. INTERAGENCY RELATIONS

- Need to pool common tools, experiences, and knowledge
- Application of OSHA requirements to D&D facilities
- No common decision tools, databases

Support Activities:

- A. Develop interagency (DOE, DOD, DOT) working groups
- B. Assess OSHA applicability to D&D facilities
- C. Develop/link decision tools with EPA

VI. EPA ISSUES

1. ENVIRONMENTAL POLICY

- Fragmented environmental policies
- Lack of inter-office coordination
- Limited understanding of DOE's issues
- Limited experience with rad or mixed waste

Support Activities:

- A. Work with EPA on coordinated environmental policy
- B. Communicate DOE's environmental issues

2. STAFF

- Lack of experienced staff
- Limited staff numbers
- Lack of technical/managerial counterparts with DOE
- Staff turnaround

Support Activities:

- A. Support EPA in increasing staff committed to DOE
- B. Emphasize need to commit experienced staff
- C. Support EPA in developing DOE counterparts

3. REGIONAL AUTONOMY AND INCONSISTENCY

- Inconsistent cleanup approaches/requirements
- Reworking documents
- Inconsistent contractor reviews of reports
- Need consistent EPA guidance

Support Activities:

- A. Develop common decision tools/data bases

VII. GENERAL DOE GUIDANCE AND ADMINISTRATION

1. DELEGATION OF AUTHORITY AND RESPONSIBILITY

- HQ Micromanagement
- Confusing division of DOE authority and responsibility
- HQ develop guidance and performance goals
- FOs responsible for following guidance and meeting goals
- Delegate authority to FOs to maximum extent possible
 - Categorical exclusions for NEPA/document approval
- Centralization of decisions and streamlining are mutually inconsistent approaches
- Popular versus technically defensible decisions
 - Appointed DOE officials (Schedule C) often lack technical perspective

Support Activities:

- A. Clarify HQ and FO authority/responsibility

2. ADMINISTRATIVE REQUESTS

- Poorly coordinated and redundant requests/requirements
 - Issue exercises
 - Tiger Teams, budget requests, guidance reviews, ADSs
 - Roadmaps
- Massive FO/subcontractor resource drain
- Little value added
- Lack of ER and EH coordination and communication
 - Need single contact on FFAs, IAG, LDRs, NEPA, etc
- Lack of timely response to information requests from FO

Support Activities:

- A. Develop and follow guidance for requests
- B. Maintain single, informed contact for requests
- C. Assess the impact of requests on staff and morale

3. BUDGET AND FUNDING

- Inability to financially comply with regulations/agreements
- Unobligated contingency funds (budget for unknowns)
- Planning for FY94 when FY92 needs unknown
- Liability concerns contribute to budget shortfall
- OMB restrictions
- Compliance requires long-term budget commitments
- Limited resources always reality
- No quid pro quo with Congress

Support Activities:

- A. Develop decision basis for budget allocations
- B. Build closer tie between Agreements and budget

4. CLEANUP SUBCONTRACTORS

- Little word on 5400.4 conflict of interest provision
- New contracting schedule will require "growing pains"
- Local and EPA acceptance of regional contractors questioned

Support Activities:

- A. Clarify status and intent of 5400.4

5. LIABILITY PROTECTION FOR STAFF AND CONTRACTORS

- Compliance with State laws rather than HQ guidance
- Lack of indemnification for actions over which one has no control
- Contributes to unrestrained budget requests

Support Activities:

- A. Develop liability and indemnification policies

6. USE OF EXISTING ENVIRONMENTAL DATA

- Acceptance of existing data
- Declassification of existing data

Support Activities:

- A. Assess use of existing data
B. Define data classification/declassification needs

7. QUALITY ASSURANCE/QUALITY CONTROL STANDARDS

- NQA-1 standards do not function
- Need to coordinate standards with EPA
- Need reasonable analytical data quality approach
- Impacts spectrum of data collection--more than characterization
- State/EPA certification of labs

Support Activities:

- A. Develop QA/QC guidance for data/tools/technologies
B. Correlate cleanup decisions with data quality needs
C. Clarify use of CLP protocols
D. Develop policy on analytical need hierarchy

8. PROTRACTED PROCUREMENT CYCLE

- Existing procurement cycle is long
- Cleanup actions require extended contractual commitments

Support Activities:

- A. Develop mechanism for testing new/innovative technologies
- B. Assess streamlined procurement approaches

VIII. RISK MANAGEMENT

1. SYSTEMS APPROACH TO ENVIRONMENTAL MANAGEMENT

- Decision framework for comparing/minimizing risks
- Economic, political, technical, schedule, health, etc. tradeoffs
- Need acceptance (public, decision makers) of risk tradeoffs
- Concerns over worker/public exposure during cleanup
- Concerns over true risk reductions from cleanups
- Natural system controls
- Technology limitations
- Need broad based input
- Need tools

Support Activities:

- A. Develop risk management approach to decision making

IX. FUTURE LAND USE

- Key to defining cleanup approaches/levels
- Policy integrated into PEIS
- National/regional/State natural resources
- Waste storage/disposal areas needed
- Institutional controls may exist

Support Activities:

- A. Develop land use policy

X. CLEANUP LEVELS

1. LIMITED CLEANUP STANDARDS

- No soil cleanup standards
- Isotope-specific standards missing (soil, groundwater)
- Cleanup levels for D&D facilities
- Tied to land use

Support Activities:

- A. Work with EPA and ATSDR

2. BASIS FOR CLEANUP LEVELS

- Technology driven
- Regulation driven
- Health/risk driven
- How to measure/judge cleanup success

Support Activities:

- A. Clarify basis for cleanup levels
- B. Assess attainability of cleanup levels
- C. Assess risk-driven benefits

3. FLEXIBILITY OF REMEDIAL ACTION CLEANUPS

- Following prescribed cleanup levels--conservative approach
- De minimis contaminant levels
- Cleanups based on letter of law rather than on risk

Support Activities:

- A. Promote risk-driven cleanups

4. COMMON TERMINOLOGY REQUIREMENTS

- Definitions: Pristine; Background; BDAT; Below Regulatory Concern

Support Activities:

- A. Agree on common terminology with regulators
- B. Factor into Agreements

XI. DOE INFRASTRUCTURE

- Staff
- Subcontractors
- TSD Facilities
- Laboratories
- Funding levels
- Master plan guiding strategic planning
- Decision aiding tools and data bases

XII. INFORMATION SYSTEMS

- Access (internal and external) to data
- Traceable linkage from collection to use
- Electronic systems
- Preserve knowledge base
- Common linkage across DOE
- Motivation to share information required
- Characterization, technology, and treatability data

Support Activities:

- A. Assess data/information generation
- B. Define access/storage/retrieval needs
- C. Develop guidance
- D. Evaluate existing systems/capabilities

XIII. COMMUNITY RELATIONS PROGRAM

- Organizational visibility
- Program reviews
- Guidance

Support Activities:

- A. Develop accountable organization
- B. Issue guidance

APPENDIX G

GENERAL WORKSHOP INFORMATION

APPENDIX G

GENERAL WORKSHOP INFORMATION

The following items were part of the December workshop:

Workshop Agenda	G.2
Workshop Product Roadmap	G.4
Explanation of Small Group Process	G.5
Attendees List	G.6
Letter of Acknowledgment for Participation from EM-40	G.10

**ER REGULATORY AND INSTITUTIONAL ISSUES WORKSHOP
AGENDA**

Monday, December 17, 1990

- 8:00 Registration
- 8:15 Convene and Introductions (Bill Fallon)
- 8:30 ER/EH Welcome and Opening Remarks (Pat Whitfield and Ray Berube)
- Participant Questions or Feedback
- 9:00 Workshop Overview (Bill Fallon)
- 9:15 Presentation of Issues (Roy Gephart)
- 10:30 Break
- 10:45 Voting to Select Five Issue Groups for Detailed Small Group Discussion
(Roy Gephart)
- 11:45 Sign-up for Afternoon Small Group Sessions (Roy Gephart)
- 12:00 Lunch
- 1:00 Small Group Session (All)
- Break
- 5:00 Closing Comments (Facilitators)

ER REGULATORY AND INSTITUTIONAL ISSUES WORKSHOP
AGENDA

Tuesday, December 18, 1990

- 8:00 Check In
- 8:15 Reconvene (Bill Fallon)
- Recap
Preview
Business
- 8:30 Group Reports and Plenary Feedback (Roy Gephart)
- 10:45 Break
- 11:00 Remarks/Questions and Answers (Pat Whitfield)
- 11:30 Adjourn (Bill Fallon)
- 11:45 Lunch

WORKSHOP PRODUCT ROADMAP

ISSUE GROUP

ISSUE 1.

ISSUE 2

ISSUE (n)

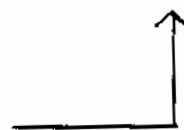
HISTORY

- WHAT'S BEEN DONE
- WHO
- WHEN
- RESULTS
- PROBLEMS
- PRODUCT

SEQUENTIAL ACTION ITEMS

- 1.
- 2.
- 3.
- 4.

PROCEED TO ISSUE 2



Explanation of Small Group Process

- 1) Review the list of issues in the issue group you are working on. Accept, modify or add to the issues until group is satisfied. Careful not to coopt another group's issue.
- 2) Arrange the issues into the order in which the group wishes to work them. (This may be important tomorrow since reporting out time is limited.)
- 3) Select first issue.
- 4) Develop a history/elaboration of steps, activities, or products that have been taken or attempted to resolve the issue. E.g., try to capture: what has been undertaken, by whom, where and when. Was the effort successful, why or why not, are products available? Capture on storyboard.
- 5) Develop an action item sequence, i.e. a sequential list of steps or activities which, if successfully implemented, would resolve the issue. Capture on storyboard.
- 6) Pick next issue - go to step four.
- 7) If your group gets through all the issues in your issue group and adequate time remains, select the runner-up issue group and continue process.
- 8) Close-out points at end of day 1
 - Be on time tomorrow, Whitfield's schedule is tight.
 - Evening work is OK but workshop team is unavailable
 - Next day activities:
 - Group Leader presents results to large group and Mr. Whitfield. Time will be limited to 20 minutes including audience feedback. Use either story boards or overheads. Groups should sit together.
 - Facilitators will capture audience feed back.

REGULATORY & INSTITUTIONAL ISSUES WORKSHOP, DECEMBER 17-18, 1990

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JAN 27 1991

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I would like to thank you again for your time and contributions to the Regulatory and Institutional Issues Workshop and the conference calls and meetings that preceded it. As I said at the workshop, the answers to the challenges we face will come primarily from the field. I was gratified by the interest, quality, and level of energy that was in evidence during the workshop. I am confident that the ideas you developed will facilitate the goal of issue resolution, and I reiterate my intention to implement them whenever possible.

At the close of the workshop, I expressed my personal belief that it is a privilege to serve on a program as important and significant as the Environment Restoration Program. Let me add that I am aware of the demands that the program places on each of you. Your dedication and commitment to the goal of environmental restoration are recognized and appreciated.

The workshop team is preparing a report which will be distributed through the field offices for comment and additional input this month. In commenting on the report, recall that the workshop was to mark the beginning of an ongoing process of issue identification, tracking, and resolution. Your comments on how to enhance, implement, or manage this process will be most valuable.

Thank you again for your participation.

A handwritten signature in black ink, appearing to read "R. P. Whitfield".

R. P. Whitfield
Associate Director
Office of Environmental Restoration

APPENDIX H

POTENTIAL RESOURCES FOR ADDRESSING WORKSHOP ISSUE GROUPS

APPENDIX H

POTENTIAL RESOURCES FOR ADDRESSING WORKSHOP ISSUE GROUPS

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