

AN EARLY WARNING SYSTEM FOR ENVIRONMENTAL COMPLIANCE

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ABSTRACT

The early warning system described in this paper is used to develop proactive responses to regulatory changes as they progress through the federal or state administrative process. The system includes methods used to identify, analyze, communicate, and act on regulations as well as procedures necessary to track information and relay it to applicable personnel. This paper also addresses the use of an environmental compliance manual and shows the relationship of the analysis of changing regulatory requirements to the revision process.

INTRODUCTION

The imposition of new environmental regulations affects all business and industry by dictating the standards that they must meet in order to operate. As requirements become more stringent and as the scope of accountability is broadened, compliance with these changing requirements is a concern and challenge to all employees from the janitor to the corporate president. This expansion of the population who can be held criminally liable raises the interest in ensuring compliance.

Westinghouse Hanford Company (Westinghouse Hanford) has developed and implemented an early warning system to minimize the danger of noncompliance. The purpose of the early warning system is threefold: (1) to monitor, track and document the state and federal rulemaking process; (2) to provide assessments of regulatory developments from the pre-proposal phase through final rule phase; and (3) to communicate an understanding of the effects of the final regulations on site operations. This system has evolved over the past 5 years and consists of the following parts:

- Monitoring state and federal registers to identify regulatory developments
- Tracking and documenting regulations selected for analysis
- Publishing a newsletter
- Distributing notices that describe new rules and their background, description, and impacts
- Developing a corporate policy manual that provides final regulatory guidance
- Issuing interim manual updates that provide interpretations and interim guidance on specific rules
- Establishing a training and outreach program.

MONITORING THE REGULATORY PROCESS

Following the passage of statutes at the state or federal level, the appropriate regulatory agency promulgates regulations to implement the new law. The first stage in this process is the development and publication of a proposed rule in the state register or *Federal Register*. This allows the public to comment on the proposed requirements. After allowing public input, the agency promulgates a final rule that addresses the comments received from the public. The results of the public review regarding the new regulation are then presented showing changes or deletions made in response to these comments, and the actual wording of the new or revised sections as it will appear in the administrative code of the state or the *Code of Federal Regulations* is shown.

Since the writers of the regulations are often limited in field experience, they rely upon input from the people who will be affected by the rule. A proactive approach that involves all phases of the regulatory process often makes compliance with the final regulation easier to achieve.

For example, the U.S. Department of Energy asked its field offices to develop data packets on mixed waste treatment standard development to support comments on the Environmental Protection Agency's (EPA) "contaminated debris" rulemaking. This input was used in the development of Advanced Notice of Proposed Rulemakings for the contaminated debris (1) and contaminated soil (2) pre-proposals. This kind of involvement with the regulatory process allows personnel to gain contacts with the regulators and often creates an opportunity to improve the proposal language.

TRACKING AND DOCUMENTING REGULATIONS

A timely tracking system is essential to involvement in the comment process because the time allowed to submit comments may be as short as 4 to 6 weeks. The organization responsible for regulatory analysis at Westinghouse Hanford subscribes to a computer-based online regulatory service that provides next-day access to the *Federal Register*. This expedites the internal commenting process by eliminating the normal 10-day to 2-week delay in receiving and reviewing hard copies of the *Federal Register*.

Deciding which federal agencies to monitor for regulatory developments requires careful consideration. The Hanford Site monitors 7 of the 813 agencies that publish regulations. All members of the regulated community need to decide which agencies to track because each will have unique involvements with specific federal agencies. If an agency that is not being tracked issues a ruling that needs to be reviewed, other newsletters and networking contacts may act as a backup when the monitoring system misses an item. This allows tracking of the rule within the system.

An internal procedure at Westinghouse Hanford establishes a method to document the process of monitoring and incorporating changed regulations into controlled manuals. The objective of the procedure is to outline roles and responsibilities to ensure that applicable environmental regulatory changes are identified, timely comments on proposed rules and draft DOE orders are provided, and final regulatory requirements are communicated to affected personnel for compliance.

The procedure also identifies points of contact who have expertise in the various environmental areas covered by new regulations. It is important to coordinate comments on proposed rules throughout the site so that affected personnel can

indicate logical additions or changes to be included in the comments that are prepared and submitted to the regulatory agency.

Figure 1 shows the actions taken at Westinghouse Hanford in response to a proposed regulation.

PUBLISHING A NEWSLETTER

A newsletter is issued by Westinghouse Hanford to provide up-to-date regulatory information across the site. Most issues contain three or four articles about regulatory developments of significant concern to the Hanford Site and an abbreviated review of the federal and state registers that provide an early alert of newly published regulations. Notices of meetings with regulators and the business community, as well as reviews of publications dealing with environmental issues, are sometimes included. The Westinghouse Hanford newsletter has been published for nearly 5 years and is distributed to an expanding audience.

DISTRIBUTING RULEMAKING NOTICES

When a final rule is determined to affect site operations, a brief regulatory analysis is written. This communicates a summary of the intent and main points of the rule in a defined format. The analyses are then distributed to designated environmental points of contact sitewide.

Over the last year, these analyses and a weekly review of the *Federal Register* notices have been supplied to the Westinghouse Electric Corporation Environmental Affairs group in response to the "Savings Through Sharing" program. This information is distributed to other Westinghouse DOE complex sites to increase communication between the Westinghouse sites and to heighten awareness of the developing

regulations so that better comments and compliance strategies can be developed.

DEVELOPING A CORPORATE POLICY MANUAL

The Westinghouse Hanford environmental compliance manual requirements apply to all Westinghouse Hanford organizations, facilities, projects and contractors that involve or support the generation, handling, treatment, processing, possession, transfer, storage, disposal, or release of gaseous, liquid, or solid radioactive, dangerous, or regulated substances.

A sitewide environmental compliance manual provides a major tool in establishing a uniform compliance strategy. The manual establishes the guidelines to be used in conjunction with applicable DOE orders and other pertinent federal, state, and local laws, rules, and regulations. The following steps are necessary in the development of an environmental compliance manual:

- Identifying all statutes, regulations and orders applicable to the organization
- Choosing the content structure for each section
- Determining the required depth of interpretation needed for each regulation in each section
- Designating subject matter experts to oversee the technical content of the manual as it pertains to their areas of expertise
- Assigning an individual, preferably an editor, to coordinate the effort
- Instituting a peer review process

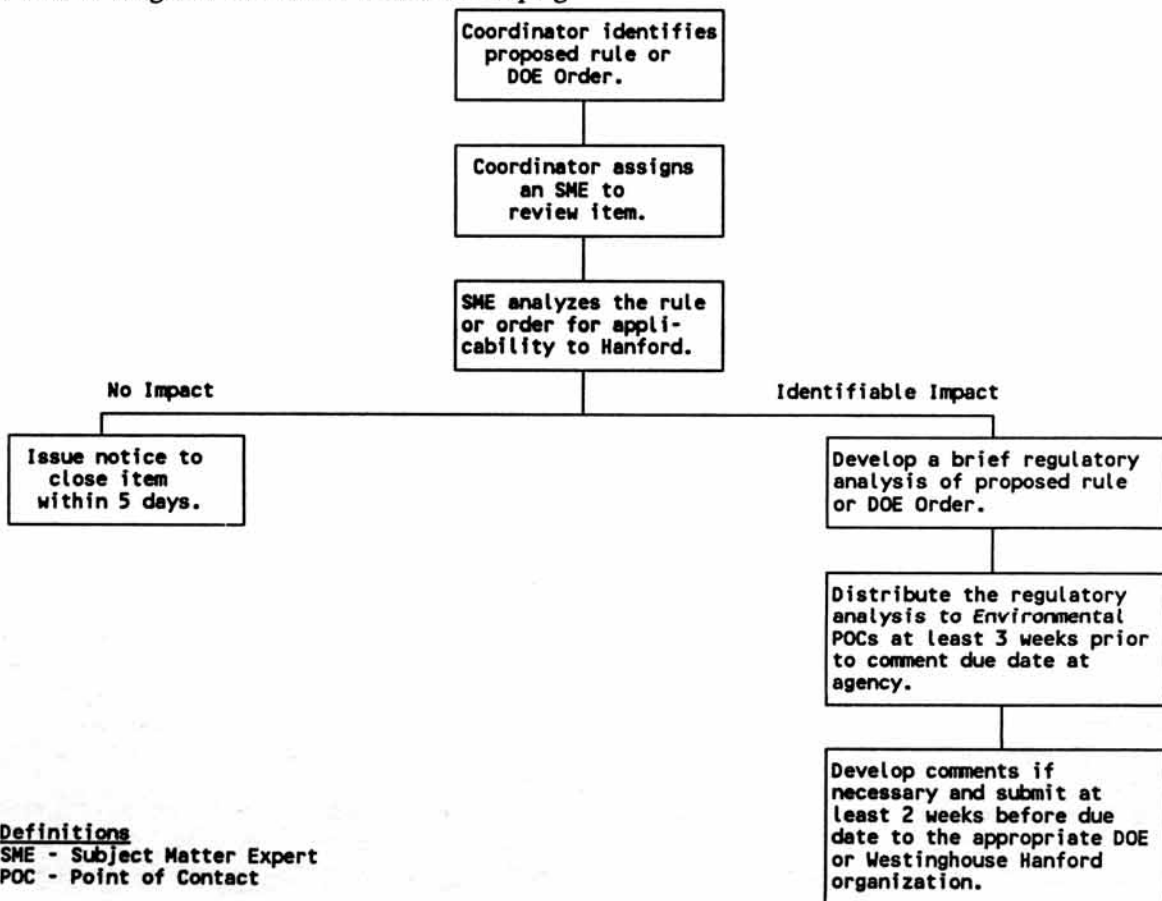


Fig. 1. An early warning system for environmental compliance proposed rules and DOE orders.

- Initiating work with a management standards organization to ensure content follows corporate manual guidelines.

When a new environmental rule becomes final and is applicable to site operations, the environmental compliance manual is changed to reflect the new requirements. Revising the manual involves establishing a point of contact list for affected organizations and involving these organizations in a review cycle. This process allows for gathering comments and feedback in the same manner as the comment and review process for the development of federal or state rules. Issues raised by the comment process are resolved before submitting changes to the compliance manual. Incorporating these comments ensures a quality document that is more acceptable to the organizations using the manual in daily work.

Figure 2 shows the actions taken at Westinghouse Hanford in response to a final regulation.

Westinghouse Hanford has utilized the environmental compliance manual concept for nearly 5 years and recently embarked on the task of revising the format of the manual. The new format focuses on air, water, and land-based requirements. This new arrangement of sections makes the manual easier to use. The contents include the following:

- Introduction
- Air Quality
- Hazardous Material Management
- NEPA/SEPA Requirements
- Records, Reporting, and Response Activities

- Restoration and Remediation
- Solid Waste Management
- Water Quality
- New and Modified Facilities
- Regulatory Permitting
- Environmental Training and Compliance Verification
- Preservation of Cultural and Natural Resources

ISSUING INTERIM MANUAL UPDATES

Specific problems are addressed in an interim manual update that is distributed throughout the site to designated environmental points of contact. This document is used between revisions to the environmental compliance manual to inform users of changes in requirements due to regulatory developments. In other instances, the updates can be used to provide answers to questions about interpretations of the regulations, guidance regarding problems encountered at specific facilities, and responses to audits or compliance agreements. When specific site situations occur that lead to a written response, the resulting documentation can be distributed via the update system. The update process allows for the distribution of memos and responses to facility environmental points of contact so that information can be shared in a short period of time. This short turn-around time is beneficial because new and changed requirements can be implemented quickly and interim policy can be instituted while the formal revision process takes place.

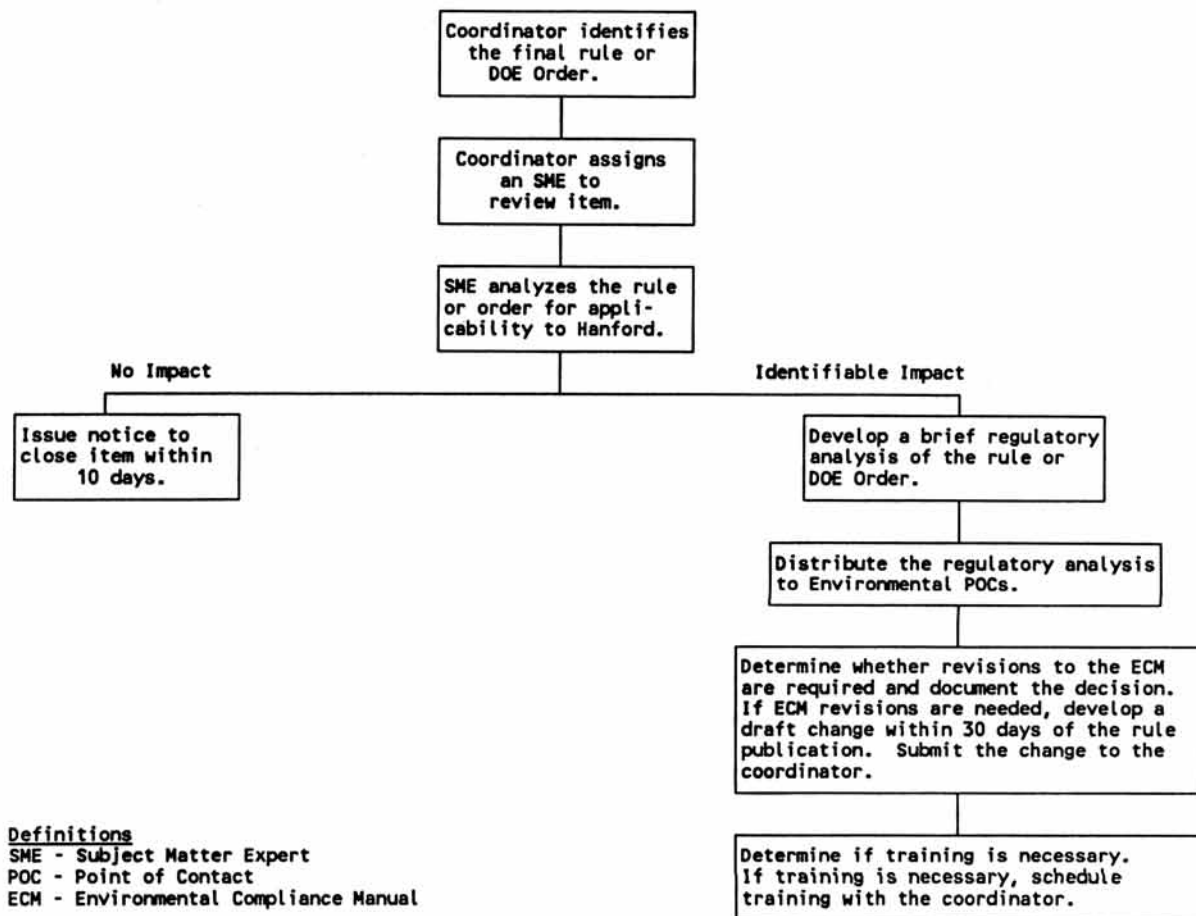


Fig. 2. An early warning system for environmental compliance final rules and DOE orders.

ESTABLISHING TRAINING AND OUTREACH

The final stage in the early warning system is the outreach and training program. Required training programs are identified in the environmental compliance manual by job-related responsibilities from numerous regulations involving hazardous materials and dangerous waste. Further training beyond the statutory requirements is recommended, and the first step can be accomplished as soon as the environmental compliance manual is issued with the establishment of an environmental compliance manual training program. This is an effective method to heighten the awareness of those employees who must deal with compliance issues in their daily work. No matter what the approach, proper training in regulatory requirements must be accomplished.

Another method of outreach is the establishment of a central environmental committee composed of members from each division or facility. Regular meetings open avenues of communication, allow a coordinated effort in developing compliance plans, and provide another opportunity for environmental education. Complex sites with many facilities can appoint environmental compliance officers whose duties include training and outreach for their facilities as well as membership on the central environmental committee.

CONCLUSION

Participation in the rulemaking process and incorporation of the changes into the site compliance strategy require impeccable administrative and documentation systems. A comment submittal deadline is one end point in a process that starts after the regulation has been identified and a schedule for involvement has been established. This involvement often includes approval by many affected groups within the man-

agement structure, so time is a primary consideration. Communication requirements, changes in environmental compliance documents, and training schedules all require documentation and coordination. Record keeping and tracking mechanisms must be in place to keep the entire process moving. At Westinghouse Hanford, the Regulatory Analysis Function, through the use of the early warning system, identifies applicable regulatory issues, coordinates the comment process, disseminates information, and manages environmental compliance manual updates using the above methods.

Rather than being overwhelmed with the rapidly changing environmental regulatory climate, a regulated community can establish a proactive program to involve itself in the development and implementation of new regulations and laws. The opportunity to be a part of regulation development is available to everyone and should be pursued. When rules are finalized, it is the regulated community's responsibility to comply, and systems need to be in place to communicate and implement these new regulations. Experience has shown that a workable system can be established to monitor developments and communicate pending changes, thereby ensuring a successful program for environmental compliance.

REFERENCES

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