

ENVIRONMENTAL COMPLIANCE MANAGEMENT

1. REASON FOR ISSUE: This directive prescribes the goals, policies, roles, and responsibilities and major requirements for Administration and staff office environmental compliance management and reporting within the Department.

2. SUMMARY OF CONTENTS: This directive outlines the principles, utilization criteria, and other key elements necessary to facilitate VA's continual improvement of management and performance with respect to environmental compliance and reporting.

3. RESPONSIBLE OFFICE: Assistant Secretary for Management (004), Office of Asset Enterprise Management (044), and Green Management Program Service (044E).

4. RELATED DIRECTIVE: VA Directive 0057, Environmental Management Program.

5. RELATED HANDBOOK: VA Handbook 0062, Environmental Compliance Management Handbook.

6. RESCISSIONS: None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Roger W. Baker
Assistant Secretary for
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/s/
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Executive in Charge, Office of Management,
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ENVIRONMENTAL COMPLIANCE MANAGEMENT PROGRAM

1. PURPOSE

a. The mission of the Department of Veterans Affairs (VA) is to fulfill President Lincoln's promise, "To care for him who shall have borne the battle and for his widow and his orphan," by serving and honoring the men and women who are America's Veterans. The goal of the Green Management Program Service within VA's Office of Asset Enterprise Management (OAEM) is to lead the Department in becoming sustainable. This supports the mission by making more resources available for Veterans' care and optimizing VA stewardship of public resources. The purpose of this directive is to support and expand the programmatic policies of VA Directive 0057, VA Environmental Management Program; VA Directive 0064, Environmental Management Systems; and VA Handbook 0064, Environmental Management Systems Procedures. This directive establishes VA policy and roles and responsibilities, with respect to environmental compliance in support of the mission and goal.

b. VA will make every effort to ensure environmental compliance is optimized through robust environmental management systems (EMS), with the ultimate goal of becoming a fully sustainable organization. All facilities and appropriate organizations are required to be covered by an EMS. Each EMS shall reflect the elements and framework found in ISO 14001 and be in accordance with VA Directive 0057, VA Directive 0064, and VA Handbook 0064.

c. This directive establishes policies for Administrations and staff offices for implementing the environmental compliance requirements of VA Directive 0057. This directive is also designed to facilitate the development of uniform internal procedures across the Administrations and staff organizations. Specific procedures may be found in VA Handbook 0062, Environmental Compliance Management Handbook.

2. SCOPE

The provisions of this directive apply to all Administrations and staff offices, including those located in leased space. Each Administration and staff office shall ensure that all subordinate organizations are aware of and comply with this directive.

3. POLICY

VA will ensure that it meets or exceeds the requirements of all applicable executive orders and Federal, state, and local environmental laws and regulations.

4. RESPONSIBILITIES

VA recognizes that achieving successful environmental compliance lies with every VA employee. VA is actively working to ensure that every person is aware of his or her role in the

success of this effort. This section outlines the responsibilities and business processes for specific key offices/officials.

a. **Assistant Secretary for Management.** The Assistant Secretary for Management establishes the overall policy and guidelines to implement environmental programs within the Department, and is specifically responsible for:

- (1) Establishing a strong expectation of environmental compliance and timely transparent responses to mitigate and correct compliance deficiencies and enforcement matters; and
- (2) Ensuring that formal business practices are implemented and maintained to achieve environmental compliance and meet Departmental goals.

b. **Director, Office of Asset Enterprise Management (OAEM).** The OAEM Director is responsible for:

- (1) Serving as the VA Senior Sustainability Officer;
- (2) Overseeing the development and implementation of procedures and processes related to environmental compliance and reporting;
- (3) Working with counterparts in other VA organizations to ensure environmental compliance issues are addressed in all programs;
- (4) Resolving policy differences among organizations regarding environmental compliance issues, strategies, or procedures;
- (5) Developing and issuing guidance to ensure Department-wide compliance with environmental policies and procedures;
- (6) Preparing Departmental compliance management reports in accordance with applicable Federal environmental laws, regulations, and executive orders, and VA directives;
- (7) Measuring and reporting Department-wide environmental compliance; and
- (8) Conducting oversight activities to ensure that VA implements an effective environmental compliance management program and makes continual improvements to address enforcement actions and audit findings.

c. **General Counsel.** The General Counsel performs the following roles:

- (1) Reviewing environmental compliance-related reports, responses, and other communications for legal sufficiency as appropriate or required; and
- (2) Providing counsel and advice on environmental compliance matters.

d. **Under Secretaries, Assistant Secretaries, and Other Key Officials.** Under Secretaries, Assistant Secretaries, and other key officials are responsible for the following:

- (1) Ensuring that Administrations, staff offices and all subordinate organizations meet or exceed environmental compliance requirements per applicable Federal, state and local laws and regulations as well as environmental executive orders and VA directives, through self-assessments and third-party audits;
- (2) Ensuring that Administrations and staff offices report all enforcement actions to the Office of General Counsel (OGC) and to the Director of OAEM, and take immediate appropriate action to resolve the problem(s);
- (3) Ensuring Administrations and staff offices plan, program, and budget with the goals of achieving, maintaining and monitoring compliance with applicable environmental requirements, as well as reporting environmental compliance matters within VA;
- (4) Ensuring Administrations and staff offices use supplemental environmental projects (SEPs) – preferably pollution prevention, waste minimization, and others – to offset fines and penalties when applicable and appropriate;
- (5) Informing the Director of OAEM of the status of their organization's environmental compliance programs as requested or required. Status reports shall at a minimum include a summary of audit reports, significant findings, multi-year trend analyses, and a summary of regulatory findings and enforcement actions with comparisons to previous years;
- (6) Advising the Director of OAEM of actions undertaken or anticipated with significant policy or budgetary implications to ensure compliance with Federal environmental laws, regulations, and executive orders, and VA directives;
- (7) Notifying OGC and the Director of OAEM immediately of any correspondence from Federal, state, or local agencies, or litigants, that potentially exposes any administrative level, facility, or personnel of VA to environmental-related litigation. Provide copies of all related correspondence including but not limited to criminal indictment or information, enforcement action, Environmental Protection Agency (EPA) notice of potential liability, request for information letter issued under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA), notice of intent to sue, summons, complaint, or any similar correspondence;
- (8) Alerting the Director of OAEM and OGC of any significant requests received from Federal, state, or local regulatory agencies, Freedom of Information Act (FOIA) requests, or press inquiries for documentation related to Departmental/Administration/staff office environmental compliance programs (e.g., inspections, enforcement actions, consent orders, or assessments). A significant request relates to an issue that has attracted, or may attract,

regional or national public interest, or an issue that would be classified as a “significant” finding under the U.S. Army Corps of Engineer’s The Environmental Assessment and Management (TEAM) Guide standards;

(9) Informing the Director of OAEM and OGC of any environmental occurrences, such as a criminal environmental enforcement action, a major oil and/or chemical emergency or spill, a major noncompliance with environmental statutes with potential for assessed fines and/or penalties, or major noncompliance that may attract regional or national public interest;

(10) Ensuring Administrations and staff offices provide training programs for personnel involved in environmental compliance and management, including environmental awareness training for all new personnel regarding their role in environmental compliance, EMS, and the structure of the organization’s environmental program;

(11) Establishing criteria for determining the applicability and appropriateness of SEPs for their organization;

(12) Ensuring triennial third-party audits are conducted and recorded for their organizations;

(13) Ensuring all enforcement actions are addressed and closed as soon as it is practical, considering the severity of the violation and the nature of the remedy;

(14) Ensuring appropriate funding and staffing to address corrective actions;

(15) Ensuring that all identified non-compliance issues (i.e., from general knowledge or internal audits) will be corrected or have a corrective action plan in place as soon as practical.

(16) Ensuring closure or closure plans are addressed for enforcement actions with the responsible regulatory agencies as soon as possible;

(17) Ensuring EMS coordinators are assigned in accordance with VA Handbook 0064;

(18) Ensuring that asset managers and staff involved in real property disposition (including, but not limited to, purchase, demolition, modification, significant maintenance, and renovation) review each action for potential environmental compliance implications including, but not limited to, the following:

- (a) National Environmental Policy Act process requirements;
- (b) The potential for and possible extent of environmental contamination;
- (c) Potential requirements for environmental permitting;
- (d) Potential construction and demolition waste issues; and
- (e) Any other potentially applicable environmental requirements; and

(19) Ensuring all employees are aware that environmental compliance is a core VA mission responsibility of each employee, and:

- (a) Are familiar with environmental compliance aspects of their jobs;
- (b) Complete environmental compliance training as directed;
- (c) Understand applicable Federal, state and local environmental laws and regulations, environmental executive orders, and agency directives as appropriate to their general roles and responsibilities; and
- (d) Report any observed environmental non-compliance issues to their supervisors.

5. REFERENCES

a. Environmental Laws and Regulations

There are a multitude of environmental regulations and requirements that apply to facilities, operations, and locations within VA. A complete listing of all applicable environmental regulations is too expansive to enumerate here. Federal laws and regulations are available through web-based resources such as Government Printing Office (GPO) Access, <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>. Most environmental-related regulations will be found in the Code of Federal Regulations, Title 29, Labor; Title 40, Protection of the Environment; and Title 49, Transportation. Hardcopy is available from the GPO. State and local regulations are typically available through state and local environmental agencies.

b. Executive Orders

The executive orders with significant implications to environmental management and compliance in effect (at the time this directive was drafted) are EO 13423 and 13524. A complete list of all environmental EO's is too expansive and fluid to be included herein. A complete listing of EO's can be found through the National Archives accessible at:

<http://www.archives.gov/federal-register/executive-orders/disposition.html>.

c. VA Environmental Directive

VA Directive 0057, Environmental Management Program, establishes VA environmental policies. Its purpose is to set forth a comprehensive Department-wide environmental management policy to comply with Federal mandates and achieve internal goals. It is intended to provide direction to Administrations and staff offices developing and administering their specific environmental programs. The directive establishes policy in the areas of environmental compliance, green purchasing, chemicals management and pollution prevention, electronics stewardship, waste prevention and recycling, and environmental management systems. It also includes reporting requirements and roles and responsibilities.

6. DEFINITIONS

a. **Enforcement Action.** An enforcement action is a formal written notification, issued by the EPA or other authorized Federal, state, or local environmental regulatory authority, of violation of any applicable statutory or regulatory requirement. Enforcement action does not include warning letters, informal notices of deficiencies, or notices of deficiencies to permit applications. All infractions of a separate statutory or regulatory requirement constitute a separate enforcement action, even if addressed in a single notice. Items found to be out of compliance during an internal audit are not included in this definition of enforcement action.

b. **Facility.** Any building, installation, structure, land, or real property that is owned or operated by, or constructed or manufactured and leased to, an Administration or staff office, as well as any fixtures. This term includes a group of facilities at a single or multiple location(s) managed as an integrated operation, as well as government-owned contractor-operated facilities.

c. **Third-party Audits.** For the purpose of environmental compliance auditing, third-party audits are those conducted by organizations and individuals outside of the Department of Veterans Affairs.