

Attachment J-5

ENVIRONMENTAL REGULATORY STRUCTURE AND INTERFACE PROTOCOL FOR THE ICP CONTRACTOR

June 2021

Purpose

The purpose of this protocol is to identify how the Department of Energy, Idaho Operations Office (DOE-ID), and the Idaho Cleanup Project (ICP) Contractor (the Contractor) will interface with environmental regulatory agencies (e.g., Idaho Department of Environmental Quality [DEQ], EPA Region 10, U.S. Fish and Wildlife Service) on issues covered by the ICP contract for the Idaho National Laboratory (INL) Site, contract No. TBD.

Overview

The Contractor is contractually obligated to manage and operate the Idaho Cleanup Project (ICP) in full compliance with applicable laws, regulations, and agreements. Further, in many cases, both the Contractor and DOE-ID are required to certify environmental documents that are submitted to regulators. Therefore, close coordination between the Contractor and DOE-ID prior to interfacing with regulators is essential for environmental compliance and to effectively meet milestones required by applicable agreements. Within DOE-ID, line-management is responsible for oversight of environmental compliance at the INL site with support from the DOE-ID Environmental and Sustainability Division (ESD). Within the Contractor's organization, such compliance is the responsibility of the Contractor's line management with support from the portions of its organization responsible for environmental and regulatory compliance and for environmental restoration under the Federal Facility Agreement/Consent Order (FFA/CO).

The majority of the interfaces with regulatory agencies occur on a day-to-day basis and this protocol addresses these interactions (excludes senior leadership and DOE policy discussions). ESD and the Contractor's environmental and regulatory compliance organization are the principal organizations responsible for these communications outlined in this Protocol, except for CERCLA and FFA/CO items where the DOE-ID Waste Disposition Program (WDP) CERCLA Lead is the principal DOE-ID interface.

Regulatory Interactions

The Contractor is the main contractor for the ICP at the INL site. Within the ICP, each distinct project will have a Contractor project environmental lead (PEL) who, together with the project director and the director of the Contractor's environmental and regulatory compliance organization is responsible for project-specific coordination with the environmental regulatory agencies. Day-to-day interactions with the regulatory agencies will occur as follows:

- **Oral/Informal Communication:** For oral or informal communications initiated by a regulator with the Contractor, the Contractor will attempt to involve DOE-ID before continuing with a discussion. Failing that, the Contractor will provide DOE-ID a synopsis of what was discussed within two working days. For oral or informal communications initiated by a regulator with DOE-ID, DOE-ID will attempt, as appropriate, to involve the Contractor before continuing with a discussion. Failing that, the Contractor will be notified of the conversation and provided a synopsis of what was discussed within two working days. For oral or informal communications initiated by the Contractor, the Contractor will notify DOE-ID of the upcoming communication and obtain agreement that the communication can occur without DOE-ID involvement or obtain DOE-ID participation. For oral or informal communications initiated by DOE-ID, DOE-ID will notify the Contractor of the upcoming communication and obtain agreement that the communication can occur without the Contractor's involvement or obtain the Contractor's participation.

Commitments for Contractor or DOE-ID deliverables/actions will be made by the performing organization. The Contractor may not agree to changes to ICP work scope or specific cleanup project baselines with the regulators without prior approval of the DOE-ID Contracting Officer or Contracting Officer Representative, as appropriate.

- **Submission of Environmental Documents:** DOE-ID wishes to streamline the submittal of documents to regulatory agencies as much as possible while fulfilling its responsibilities. In general, documents are expected to be submitted by the Contractor with a few exceptions noted in Table 1. The exceptions include primary/decision documents for the Federal Facility Agreement/Consent Order and the Site Treatment Plan, and some communications with EPA and the U.S. Fish and Wildlife Service that will be submitted to the agencies by DOE-ID. Primary documents are those documents addressing major, discrete portions of required activities. Secondary documents include those documents that are discrete portions of primary documents. Prior to the Contractor's submittal of environmental documents to a regulatory agency, the Contractor will first submit them to DOE-ID for review and comment or certification as appropriate. Documents shall be provided to DOE-ID a minimum of 30 days prior to submittal to the agency to allow for substantive review and comment. These time frames can be modified on a case-by-case basis with prior agreement between DOE-ID and the Contractor. Documents submitted to the agencies by the Contractor shall contain the following statement in the transmittal letter: "This document is submitted by *Idaho Environmental Coalition*, as authorized by, the U.S. Department of Energy." When DOE-ID is responsible for transmitting a document to the regulatory agency, DOE-ID will give the Contractor an adequate opportunity to review and comment on those documents or changes made to documents drafted by the Contractor, before they are submitted. Regulatory agencies have requested early notification of when documents will be provided for review. Other documents will be submitted to the agencies directly by the Contractor. In all cases, copies of submissions to regulatory agencies will be provided to relevant DOE-ID organizations. A matrix identifying the specific document transmittal responsibilities is shown in Table 1.
- **Inspections by Regulatory Authorities:** Once regulatory agency inspectors are on-site, the Contractor's environmental and regulatory compliance organization is responsible for

overall coordination activities, including coordination with other site contractors, for RCRA and CERCLA inspections, as the lead contractor for those areas. For regulatory inspections involving environmental areas other than RCRA and CERCLA, the INL contractor is responsible for overall coordination. Any site contractor first contacted by inspectors is required to notify the others and DOE when inspectors first arrive onsite for an inspection. The PEL(s) (or designee(s)) will accompany regulators during inspections of the ICP facilities. Area project personnel may also accompany the inspectors at their specific areas. DOE-ID participation shall be DOE-ID's option in coordination with regulatory agency expectations. The Contractor will inform DOE-ID ESD (DOE-ID FFA/CO Project Manager for FFA/CO related inspections) and affected DOE facility/program personnel of inspections immediately upon regulator arrival and will provide DOE-ID with an assessment of each day's activities normally by the end of the inspection day but always by the close of the next business day.

Technical Meetings/Enforcement Conferences: The Contractor's environmental and regulatory compliance organization, and environmental restoration organization, in conjunction with the applicable PELs and DOE-ID, will prepare for and run technical meetings held with regulatory authorities. Representatives from both the Contractor and DOE-ID will attend technical meetings unless they elect not to and may work together to develop presentations, strategy, etc. The Contractor and DOE-ID shall reasonably cooperate, coordinate, and provide each other relevant information related to any enforcement action which could affect their respective interests. For those enforcement actions for which allowable costs will be incurred by the Contractor, at DOE's request the Contractor will lead development and preparation of the response to the enforcement action. For technical meetings and enforcement actions for which unallowable costs will be incurred by the Contractor, written information will be presented to the responsible DOE-ID subject matter expert a minimum of five days (unless prior agreement is reached) prior to submittal to or meeting with the agency.

Federal Facility Agreement/Consent Order (FFA/CO) Specific Protocol:

The Contractor's organization responsible for environmental restoration under the FFA/CO will take the lead on FFA/CO issues by facilitating implementation of the FFA/CO and Action Plan in conjunction with DOE-ID. Typically, the Contractor will prepare meeting agendas and provide them to EPA, IDEQ, and DOE-ID. To the extent requested by DOE-ID, the Contractor will assist DOE-ID in negotiations or discussions related to FFA/CO compliance issues. DOE-ID personnel participate in all interactions with the regulatory agencies, unless they are unavailable and have authorized the Contractor to proceed. Written memorandums are provided to DOE-ID personnel when they cannot participate in regulator interactions. Formal document transmittals are conducted per the protocol as depicted in Table 1.

Contractor Internal Coordination for Environmental Matters: The Contractor's environmental and regulatory compliance organization coordinates with the ICP area projects on cross-cutting interpretations and decisions, cross-cutting resource needs, and specialized expert support. The PELs are the conduit for these interactions. The PELs take day-to-day direction from their respective area project manager, routinely communicate with the Contractor's environmental and regulatory compliance organization management and the Contractor's legal

counsel for environmental matters, and attend the Contractor's environmental and regulatory compliance organization staff meetings to ensure that environmental issues are solved in a timely manner to support project needs. Issues, interpretations, and decisions that cross-cut other INL contractors and DOE must be coordinated with DOE-ID and the other affected site contractors.

Stakeholder Communications: Stakeholder and public communications are maintained by the DOE-ID Stakeholder Communications Lead in the DOE Office of Public Affairs. A master schedule for each program is kept and updated monthly by this Lead. The master schedule is shared with the public and interested stakeholders and is placed monthly on the internet to inform stakeholders when public input and comment periods will be held. The Contractor environmental and regulatory compliance organization will ensure their Communications Organization is informed of all communications managed by the Contractor that are planned with the public and stakeholders related to regulatory actions.

Table 1. Regulatory Document Transmittals

Document Type	Document Preparer	DOE-ID Review Required Prior to Transmittal?	Document Transmitter
FFA/CO Primary/Primary Type/Decision	Contractor	Yes	DOE-ID
FFA/CO Secondary/Secondary Type	Contractor	Yes	Contractor
CERCLA Removal Actions	Contractor	Yes	DOE-ID (Contractor may transmit with prior DOE-ID approval)
Other FFA/CO or CERCLA Related	Contractor	Yes	Contractor
STP Primary	Contractor	Yes	DOE-ID
STP Requests for Information	Contractor	Yes	Contractor
RCRA Permit Applications and Class 3 Permit Modification Requests	Contractor	Yes	Contractor
RCRA Closure Plans	Contractor	Yes	Contractor
Asbestos Demolition or Renovation Notices	Contractor	No	Contractor
Drinking Water System Construction or Modification Plan	Contractor	Yes	Contractor
Drinking Water System As-built Plan/Specification & PE ~ Certification	Contractor	No	Contractor
Septic Tank Permit Applications	Contractor	Yes	Contractor
Septic Tank Permit Application a Modification	Contractor	No	Contractor
New UST Notification	Contractor	Yes	Contractor
UST Change-of-Use Notification	Contractor	Yes	Contractor
UST Permanent/Temporary Closure Notification	Contractor	Yes	Contractor
Permit Application to Land Farm Petroleum Cont. Soil	Contractor	Yes	Contractor
RCRA Permit Condition Reports and Class 1, 1 *, and 2 Permit Modification Requests	Contractor	Yes	Contractor
RCRA Part A Closure Plan/Modification	Contractor	Yes	Contractor

RCRA Annual Treatability Study Report	Contractor	Yes	Contractor
Sewage or Wastewater Disposal/Treatment Project As-built PE Certification	Contractor	Yes	Contractor
Wastewater Reuse Permit Site Performance Annual Reports	Contractor	Yes	Contractor
Wastewater Reuse Permit Compliance Action Submittals	Contractor	Yes	Contractor
Annual Well Construction Permit Application	Contractor	Yes	Contractor
Well Abandonment Applications	Contractor	Yes	Contractor
Injection Well Closure Applications	Contractor	Yes	Contractor
Stormwater for Construction Activities Notices of Intent	Contractor	Yes	Contractor
Stormwater for Construction Activities Notices of Termination	Contractor	Yes	Contractor
Environmental Non-compliance Self-disclosure Reports	Contractor	Yes	Contractor
Routine Correspondence with ICP Regulatory Agencies (IDEQ, EPA)	Contractor	Yes	Contractor
CAA Permit Applications/Modifications/Reports	Contractor	Yes	Contractor
Migratory Bird Treaty Act Special Use Permit Annual Report or Letters	Contractor	Yes	DOE-ID
TSCA submittals (EPA)	Contractor	Yes	DOE-ID
CAA NESHAPS Subpart H Applications and associated reports (EPA)	Contractor	Yes	DOE-ID
EPCRA 313 Reporting (EPA)	Contractor	Yes	DOE-ID