EXECUTIVE ORDER 12088

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

HISTORY: Oct. 13, 1978; 43 FR 47707, 3 CFR, 1978 Comp., p. 243; Amended by Executive Order 12580, Jan. 23, 1987, 52 FR 2923, 3 CFR, 1987 Comp., p. 193

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 22 of the Toxic Substances Control Act (15 USC 2621), Section 313 of the Federal Water Pollution Control Act, as amended (33 USC 1323), Section 1447 of the Public Health Service Act, as amended by the Safe Drinking Water Act (42 USC 300j-6), Section 118of the Clean Air Act, as amended (42 USC 7418(b)), Section 4 of the Noise Control Act of 1972 (42 USC 4903), Section 6001 of the Solid Waste Disposal Act, as amended (42 USC 6961), and Section 301 of Title 3 of the United States Code, and to ensure Federal compliance with applicable pollution control standards, it is hereby ordered as follows:

1-1. Applicability of Pollution Control Standards.

1-101. The head of each Executive agency is responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to Federal facilities and activities under the control of the agency.

1-102. The head of each Executive agency is responsible for compliance with applicable pollution control standards, including those established pursuant to, but not limited to, the following:

(a) Toxic Substances Control Act (15 USC 2601 et seq.).

(b) Federal Water Pollution Control Act, as amended (33 USC 1251 et seq.).

(c) Public Health Service Act, as amended by the Safe Drinking Water Act (42 USC 300f et seq.).

(d) Clean Air Act, as amended (42 USC 7401 et seq.).

(e) Noise Control Act of 1972 (42 USC 4901 et seq.).

(f) Solid Waste Disposal Act, as amended (42 USC 6901 et seq.).

(g) Radiation guidance pursuant to Section 274(h) of the Atomic Energy Act of 1954, as amended (42 USC 2021(h); see also, the Radiation Protection Guidance to Federal Agencies for Diagnostic X Rays approved by the President on January 26, 1978 and published at page 4377 of the FEDERAL REGISTER on February 1, 1978).

(h) Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 USC 1401, 1402, 1411-1421, 1441-1444 and 16 U.S.C. 1431-1434).

(i) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 USC 136 et seq.).

1-103. "Applicable pollution control standards" means the same substantive, procedural, and other requirements that would apply to a private person.

1-2. Agency Coordination.

1-201. Each Executive agency shall cooperate with the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator, and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution.

1-202. Each Executive agency shall consult with the Administrator and with State, interstate, and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1-3. Technical Advice and Oversight.

1-301. The Administrator shall provide technical advice and assistance to Executive agencies in order to ensure their cost effective and timely compliance with applicable pollution control standards.

1-302. The administrator shall conduct such reviews and inspections as may be necessary to monitor compliance with applicable pollution control standards by Federal facilities and activities.

1-4. Pollution Control Plan.

1-401. Each Executive agency shall submit to the Director of the Office of Management and Budget, through the Administrator, an annual plan for the control of environmental pollution. The plan shall provide for any necessary improvement in the design, construction, management, operation, and maintenance of Federal facilities and activities, and shall include annual cost estimates. The Administrator shall establish guidelines for developing such plans.

1-402. In preparing its plan, each Executive agency shall ensure that the plan provides for compliance with all applicable pollution control standards.

1-403. The plan shall be submitted in accordance with any other instructions that the Director of the Office of Management and Budget may issue.

1-5. Funding.

1-501. The head of each Executive agency shall ensure that sufficient funds for compliance with applicable pollution control standards are requested in the agency budget.

1-502. The head of each Executive agency shall ensure that funds appropriated and apportioned for the prevention, control and abatement of environmental pollution are not used for any other purpose unless permitted by law and specifically approved by the Office of Management and Budget.

1-6. Compliance With Pollution Controls.

1-601. Whenever the Administrator or the appropriate State, interstate, or local agency notifies an Executive agency that it is in violation of an applicable pollution control standard (see Section 1-102 of this Order), the Executive agency shall promptly consult with the notifying agency and provide for its approval a plan to achieve and maintain compliance with the applicable pollution control standard. This plan shall include an implementation schedule for coming into compliance as soon as practicable.

1-602. The Administrator shall make every effort to resolve conflicts regarding such violation between Executive agencies and, on request of any party, such conflicts between an Executive agency and a State, interstate, or a local agency. If the Administrator cannot resolve a conflict, the Administrator shall request the Director of the Office of Management and Budget to resolve the conflict.

1-603. The Director of the Office of Management and Budget shall consider unresolved conflicts at the request of the Administrator. The Director shall seek the Administrator's technological judgment and determination with regard to the applicability of statutes and regulations.

1-604. These conflict resolution procedures are in addition to, not in lieu of, other procedures, including sanctions, for the enforcement of applicable pollution control standards.

1-605. Except as expressly provided by a Presidential exemption under this Order, nothing in this Order, nor any action or inaction under this Order, shall be construed to revise or modify any applicable pollution control standard.

1-7. Limitation on Exemptions.

1-701. Exemptions from applicable pollution control standards may only be granted under statutes cited in Section 1-102(a) through 1-102(f) if the President makes the required appropriate statutory determination: that such exemption is necessary (a) in the interest of national security, or (b) in the paramount interest of the United States.

1-702. The head of an Executive agency may, from time to time, recommend to the President through the Director of the Office of Management and Budget, that an activity or facility, or uses thereof, be exempt from an applicable pollution control standard.

1-703. The Administrator shall advise the President, through the Director of the Office of Management and Budget, whether he agrees or disagrees with a recommendation for exemption and his reasons therefor.

1-704. The Director of the Office of Management and Budget must advise the President within sixty days of receipt of the Administrator's views.

1-8. General Provisions.

1-801. The head of each Executive agency that is responsible for the construction or operation of Federal facilities outside the United States shall ensure that such construction or operation complies with the environmental pollution control standards of general applicability in the host country or jurisdiction.

1-802. Nothing in this Order shall create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

[New 1-802 added by Executive Order 12580, 52 FR 2923]

1-803. Executive Order No. 11752 of December 17, 1973, is revoked.

[Former 1-802 redesignated as 1-803 by Executive Order 12580, 52 FR 2923]

/s/ Jimmy Carter
THE WHITE HOUSE
October 13, 1978.