

# ES&H RESPONSIBILITIES

DATE: 11/14/2008

## **SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE PROGRAM**

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1. PURPOSE. This document addresses responsibility and accountability and provides administrative guidance to the Oak Ridge Office (ORO).
2. APPLICABILITY. The provisions of this document apply to ORO Principal Staff.
3. RESPONSIBILITIES.
  - a. Manager, ORO. The ORO Manager is responsible for and has authority over reservation wide National Environmental Policy Act (NEPA) actions.
    - (1) Performs those tasks identified in subparagraphs 5a and 5c for which he has been delegated authority per subparagraph 5b of DOE O 451.1B, Change 1.
    - (2) Maintains a staff of qualified and trained subject matter experts in all relevant environmental specialties to carry out the duties of the Office and to provide expert technical and regulatory support to Program Managers. These experts provide multidisciplinary review of NEPA documents, when needed, as determined by the NEPA Compliance Officer (NCO).
    - (3) Performs duties indicated by any other delegations of NEPA authority from DOE Headquarters.
    - (4) Delegates authority for some NEPA related responsibilities at ORO.
  - b. ORO Assistant Managers (e.g., Environmental Management, Oak Ridge National Laboratory) are responsible for and have authority over NEPA actions initiated by and limited to their program.
  - c. NEPA Compliance Officer.
    - (1) Develops ORO NEPA procedures and information management requirements, and documents the office's compliance with those procedures and requirements.
    - (2) For actions specifically listed in Appendix A or B to Subpart D of 10 CFR 1021, makes Categorical Exclusion (CX) determinations and approves and issues any required associated floodplain and wetland documents. These responsibilities may not be delegated except as provided for in DOE O 451.1B, Change 1.
    - (3) Reports to the Office of NEPA Policy and Compliance on lessons learned after completing each Environmental Impact Statement (EIS) and Environmental Assessment (EA).
    - (4) Coordinates NEPA compliance strategies for matters within ORO's purview.
    - (5) Consults with the HQ Office of General Counsel, NEPA Policy and Compliance and Secretarial Officers, as appropriate, concerning NEPA processes and determinations in accordance with subparagraph 5d of DOE O 451.1B, Change 1.

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- (6) Advises on NEPA related matters, including the provisions of the Regulations; the DOE NEPA Compliance Guide; DOE O 451.1B, Change 1; and any related requirements and guidance.
- (7) Supplies information to the NDM concerning changes in NEPA guidance that would affect the accuracy and objectivity of NEPA documents as identified in subparagraphs 5d(5) and (9) of DOE O 451.1B, Change 1.
- (8) Recommends to the ORO Manager whether an EA or EIS is appropriate or required.
- (9) Assists with the NEPA process and document preparation.
- (10) Advises on the adequacy of NEPA documents and other related documents.
- (11) Participates in periodic NEPA meetings and workshops conducted by the Office of NEPA Policy and Compliance, provides NEPA training, and disseminates NEPA guidance materials and related information.
- (12) Concurs with final NEPA documents prior to approval.
- (13) Notifies the Office of NEPA Policy and Compliance promptly – generally, within two weeks of:
  - (a) The designation of a NDM.
  - (b) A determination to prepare an EA.
  - (c) A transmittal of an EA to states, tribes and, when applicable, members of the public, other Federal agencies, and local governments for pre-approval review.
  - (d) A determination to prepare EIS.
- (14) Provides the Office of NEPA Policy and Compliance promptly – generally, within two weeks of their availability – five copies and one electronic file of:
  - (a) An approved EA and any Finding of No Significant Impact (FONSI).
  - (b) A proposed FONSI required under the Council on Environmental Quality (CEQ) Regulations.
  - (c) An approved draft or final EIS.
  - (d) A record of decision for an EIS.
  - (e) A Mitigation Action Plan (MAP) and corresponding annual mitigation report. The mitigation report May be submitted following the anniversary of a MAP.
  - (f) An EIS Supplement Analysis and any determination based on it.

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- d. Director, Procurement and Contracts Division, coordinates and supports those tasks identified in subparagraphs 5a(4) and 5e(3) of DOE O 451.1B, Change 1.
- e. Director, Planning and Budget Division, incorporates a NEPA Status Report on existing or planned NEPA compliance activities into internal budget review documents prepared pursuant to DOE O 130.1, BUDGET FORMULATION, as identified in subparagraph 5a(5) of DOE O 451.1B, Change 1.
- f. Office of Chief Counsel (OCC) reviews and concurs on NEPA and NEPA related documents in accordance with DOE O 451.1B, Change 1.
- g. NEPA Document Managers.
  - (1) Perform those tasks identified in subparagraph 5e of DOE O 451.1B, Change 1. If technical assistance is needed by the NDMs organization, it should seek help from the NCO.
  - (2) Perform or manage those tasks identified in subparagraph 5d(7) of DOE O 451.1B, Change 1.
  - (3) Support those tasks identified in subparagraph 5a(5) of DOE O 451.1B, Change 1, concerning incorporating NEPA milestones into project planning documents and provide a monthly status update by the second Tuesday of each month to the NCO, to be included in the ORO NEPA Actions update.
  - (4) Supply information to the NCO concerning program considerations, new information, and changes that would bear on the accuracy and objectivity of NEPA documents as identified in 5d(6) and (8) of DOE O 451.1B, Change 1.
  - (5) Lead preparation of Environmental Assessment Determinations (EADs), Notices of Intent (NOIs), EAs, EISs, and other NEPA documentation with the assistance of the NCO and provide schedules to the NCO to support subparagraph 5d(6) of DOE O 451.1B, Change 1.
  - (6) Assemble NEPA Project Team.
  - (7) Provide a NEPA documentation mitigation activities list to the NCO when the FONSI is approved and signed.

## 4. REFERENCES.

- a. 10 CFR 1021, NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES.
- b. DOE O 130.1 BUDGET FORMULATION, dated September 29, 1995.
- c. DOE O 200.1, INFORMATION MANAGEMENT PROGRAM, dated September 30, 1996.

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- d. DOE G 1324.5B, IMPLEMENTATION GUIDE FOR 36 CFR CHAPTER XII – SUBCHAPTER B, RECORDS MANAGEMENT, dated July 19, 1996.

The references below relate directly to delegation of authorities for NEPA compliance within ORO.

- DOE Memorandum, Gerald G. Boyd, M-1, to Gary S. Hartman, SE-32, “*Designation of Oak Ridge Office National Environmental Policy Act Compliance Officer,*” dated April 21, 2005.
  - DOE Memorandum, James C. Hall, M-1, to David R. Allen, SE-32, “*Designation of Oak Ridge Operations National Environmental Policy Act Compliance Officer,*” dated February 9, 1998.
  - DOE Memorandum, Joe La Grone, M-1, to Patricia W. Phillips, “*Delegation of Authority to Designate National Environmental Policy Act Document Managers,*” dated August 29, 1994.
  - DOE Memorandum, Hazel O’Leary, Secretary U.S. Department of Energy, “*Secretarial Policy on the National Environmental Policy Act,*” dated June 13, 1994.
  - Memo for Alternate NCO (see Attachment 1).
5. DEFINITIONS. Refer to GLOSSARY OF TERMS USED IN DOE NEPA DOCUMENTS, dated September 1998, located at <http://www.eh.doe.gov/nepa/tools/guidance/glossary.pdf>.