U.S. Department of Energy
Washington, D.C.

ORDER

DOE O 451.1B

Approved: 10-26-00
Review Date: 10-26-02
Chg1: 9-28-01
Chg 2: 6-25-10

SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE PROGRAM

1. OBJECTIVE. The purpose of this Order is to establish DOE internal requirements and responsibilities for implementing the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1508), and the DOE NEPA Implementing Procedures (10 CFR Part 1021). (Hereinafter, the latter two will be referred to as "the Regulations.") The goal of establishing the requirements and responsibilities presented here is to ensure efficient and effective implementation of DOE's NEPA responsibilities through teamwork. A key responsibility for all participants is to control the cost and time for the NEPA process while maintaining its quality.

2. CANCELLATION. DOE 451.1A, *National Environmental Policy Act Compliance Program*, dated 6-5-97.

3. APPLICABILITY. This Order applies to DOE Elements, including the National Nuclear Security Administration (NNSA). Although contractors may assist in the Department's NEPA implementation, the legal obligation to comply with NEPA belongs to DOE. In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 USC sections 2406 and 2511, and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate. Section 5.a (10), (12), and (14), Section 5.b, and Section 5.f do not apply to NNSA activities, except as provided in Section 6. Section 6 applies only to NNSA activities.

4. REQUIREMENTS.

   In addition to requirements established in NEPA and the Regulations, DOE's NEPA Compliance Program shall include:

   a. A system of DOE NEPA Compliance Officers.

   b. Internal scoping procedures for environmental assessments and environmental impact statements that include development of a schedule. For an environmental impact statement, the schedule, absent extraordinary circumstances, will provide for completion of a final environmental impact statement within 15 months of the issuance of the Notice of Intent.

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c. NEPA quality assurance plans and public participation plans.

d. Annual NEPA planning summaries. An annual NEPA planning summary will describe briefly: (1) the status of ongoing NEPA compliance activities, (2) any environmental assessments expected to be prepared in the next 12 months, (3) any environmental impact statements expected to be prepared in the next 24 months, and (4) the planned cost and schedule for completion of each NEPA review identified. Every three years starting with 1995, the annual NEPA planning summary for each Field Organization will include an evaluation of whether a site-wide environmental impact statement would facilitate future NEPA compliance efforts.

e. A DOE NEPA Document Manager for each environmental impact statement and environmental assessment.

f. A system for reporting lessons learned and encouraging continuous improvement.

g. Tracking and annually reporting progress in implementing a commitment for environmental impact mitigation that is essential to render the impacts of a proposed action not significant, or that is made in a record of decision.

5. RESPONSIBILITIES.

a. Each Secretarial Officer and Head of a Field Organization shall, for matters under the office's purview:

(1) Establish a NEPA compliance program and use the NEPA process early in project and program planning to consider environmental factors along with other relevant information.

(2) Maintain a DOE NEPA Compliance Officer for the office and designate a DOE NEPA Document Manager at the start of each environmental assessment and environmental impact statement.

(3) Ensure that internal scoping procedures, a quality assurance plan and a public participation plan are prepared for the office.

(4) Include in new contracts and grants a provision that the awardee may not undertake on DOE's behalf an action that is subject to NEPA until DOE has notified the awardee that DOE has satisfied applicable NEPA requirements.

(5) Incorporate NEPA milestones in project planning documents.

(6) Incorporate NEPA compliance status information in internal budget review documents.

(7) Submit an annual NEPA planning summary to the General Counsel by January 31 of each year and make it available to the public.

(8) Determine that an environmental assessment or an environmental impact statement is appropriate or required.

(9) After an environmental assessment determination, prepare and issue an environmental assessment. Responsibilities for approving and adopting environmental assessments and issuing findings of no significant impact may not be delegated except as provided in this Order. In addition to meeting requirements established in the Regulations, responsibilities include:

(a) When another agency is involved in preparation, determining whether DOE shall be a lead or cooperating agency.

(b) Obtaining concurrence of DOE counsel in the legal adequacy of an environmental assessment before it is approved and in any finding of no significant impact before it is issued.

(c) Determining, based on an environmental assessment, that the impacts of a proposed action are significant and that an environmental impact statement is required, or issuing a finding of no significant impact when appropriate.

(d) Adopting another agency's environmental assessment.

(e) When a commitment to mitigation is essential to render the impacts of a proposed action not significant, preparing a mitigation action plan for any such commitment before issuing the finding of no significant impact.

(f) Tracking and annually reporting progress made in implementing, and the effectiveness of, any commitment for environmental impact mitigation that is essential to render the impacts of a proposed action not significant.

(10) Request from the General Counsel delegation of approval or adoption authority for a specific environmental impact statement when appropriate to expedite the review and approval process.

(11) When required by the Regulations, prepare a supplement analysis and with the concurrence of DOE counsel, determine whether a supplemental or a new environmental impact statement is required for a proposed action, or whether no further documentation is required.

Vertical line denotes change.

(12) Determine that a proposed action that may be an interim action is clearly allowable under the Regulations. For a proposed action that may be an interim action not clearly allowable under the Regulations, provide the General Counsel with a recommendation for a determination whether the proposed action may proceed.

(13) Incorporate NEPA values, such as analysis of cumulative, off-site, ecological, and socioeconomic impacts, to the extent practicable, in DOE documents prepared under the Comprehensive Environmental Response, Compensation, and Liability Act.

(14) When appropriate, request from the General Counsel a variance from the DOE NEPA Regulations or from this Order.

b. In addition to provisions in paragraph 5.a above, for a proposed action under the office's purview, after an environmental impact statement determination, each Secretarial Officer shall prepare an environmental impact statement and forward it to the General Counsel for approval. Responsibilities for issuing records of decision may not be delegated except as provided in this Order. In addition to meeting requirements established in the Regulations, responsibilities include:

(1) Submitting a notice of intent to prepare an environmental impact statement to the General Counsel for issuance.

(2) [Removed and reserved]

(3) Issuing a record of decision for an environmental impact statement, after obtaining the concurrence of the General Counsel in its environmental content and legal adequacy.

(4) Preparing any mitigation action plan required under the DOE Regulations before taking an action that is the subject of a mitigation commitment made in a record of decision.

(5) Tracking and annually reporting progress made in implementing, and the effectiveness of, any mitigation commitment made in a record of decision.

c. A Head of a Field Organization may delegate environmental assessment responsibilities to a Head of a subsidiary Field Organization (Area or Project Office) after confirming that the subsidiary organization has prepared adequate internal scoping procedures, a quality assurance plan and a public participation plan; has designated a NEPA Compliance Officer; and has adequate DOE legal resources available. (By such delegation, the authority to make categorical exclusion determinations would transfer to the NEPA Compliance Officer of the subsidiary Field Organization.) A Head of a subsidiary Field Organization may not redelegate responsibilities for approving and adopting environmental

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assessments and issuing findings of no significant impact except as provided in this Order.

d. A NEPA Compliance Officer shall:

(1) Develop office NEPA procedures and information management requirements, and document the office's compliance with those procedures and requirements.

(2) For actions specifically listed in Appendix A or B to Subpart D of the DOE Regulations, make categorical exclusion determinations and approve and issue any required associated floodplain and wetland documents. These responsibilities may not be delegated except as provided in this Order. Categorical exclusion determinations for actions listed in Appendix B shall be documented and made available to the public by posting online, generally within two weeks of the determination unless additional time is needed in order to review and protect classified information, "confidential business information" (such as information protected by the Trade Secrets Act or which is otherwise privileged commercial or financial information), or other information that DOE would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. Section 552). Posted categorical exclusion determinations shall not disclose classified information, "confidential business information," or other information that DOE would not disclose pursuant to FOIA.

(3) Report to the Office of NEPA Policy and Compliance on lessons learned after completing each environmental impact statement and environmental assessment.

(4) Coordinate NEPA compliance strategies for matters within the office's purview.

(5) Advise on NEPA-related matters, including the provisions of the Regulations, the DOE NEPA Compliance Guide, this Order, and any other related requirements and guidance.

Recommend to the Head of the Office served (i.e., Secretarial Officer, Head of a Field Organization, or Head of a subsidiary Field Organization), whether an environmental assessment or environmental impact statement is appropriate or required.

(6) Assist with the NEPA process and document preparation.

(7) Advise on the adequacy of NEPA documents and other related documents.

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(8) Participate in periodic NEPA meetings and workshops conducted by the Office of NEPA Policy and Compliance; provide NEPA training and disseminate NEPA guidance materials and related information.

(9) Notify the Office of NEPA Policy and Compliance promptly—generally, within two weeks of:

(a) The designation of a NEPA Document Manager.

(b) A determination to prepare an environmental assessment.

(c) A transmittal of an environmental assessment to States, Tribes and, when applicable, members of the public, other Federal agencies, and local governments for preapproval review.

(d) A determination to prepare an environmental impact statement.

(10) Provide the Office of NEPA Policy and Compliance promptly—generally, within two weeks of their availability—two copies and one electronic file of:

(a) An approved environmental assessment and any finding of no significant impact.

(b) A proposed finding of no significant impact required under the Council on Environmental Quality Regulations.

(c) [Removed and reserved]

(d) An approved draft or final environmental impact statement.

(e) A record of decision for an environmental impact statement.

(f) A mitigation action plan and corresponding annual mitigation report. The mitigation report may be submitted on the anniversary of a mitigation action plan or in a combined report (for example, as part of the annual NEPA planning summary) for multiple plans until mitigation is completed.

(g) An environmental impact statement supplement analysis and any determination based on it.

e. A NEPA Document Manager shall, for the environmental impact statement or environmental assessment being prepared:

(1) Establish a team, representing all necessary DOE Elements to plan, assist in preparing, and concurrently review documents.

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(2) Conduct an early internal scoping process.

(3) Maintain tracking systems to monitor costs of and adherence to the schedule for the NEPA process.

(4) Manage the document preparation process, including reviewing internal drafts for technical adequacy, controlling cost, and maintaining schedule.

(5) Encourage and facilitate public participation through the NEPA process.

(6) [Removed and reserved]

(7) Evaluate, upon completion of the environmental impact statement or environmental assessment, any support contractor's performance for timeliness, quality, cost-effectiveness, responsiveness, and application of requirements and guidance.

(8) Report to the Office of NEPA Policy and Compliance on lessons learned after completing the environmental impact statement or environmental assessment.

f. The General Counsel shall:

(1) Provide DOE policy, guidance, and oversight to ensure adequate and consistent application of NEPA.

(2) For an environmental impact statement:

(a) Issue a notice of intent.

(b) When another agency is involved in preparation, determine whether DOE shall be a lead or cooperating agency.

(c) Evaluate proposed and alternative actions, including alternative mitigation measures, and make any appropriate recommendations to mitigate environmental impacts.

(d) (i) Approve an environmental impact statement, (ii) identify whether it warrants approval by the Secretary of Energy, or (iii) determine that it may be approved by a Secretarial Officer or Head of a Field Organization.

(e) Adopt another agency's environmental impact statement.

(f) Concur in the environmental content and legal adequacy of a record of decision.

Vertical line denotes change.

(3) For a proposed action that may be an interim action not clearly allowable under the Regulations, determine whether the proposed action may proceed.

(4) When a required NEPA document is not being prepared, direct a Secretarial Officer or Head of a Field Organization to prepare an environmental assessment or environmental impact statement.

(5) Advise the responsible Secretarial Officer and, if appropriate, the Secretary, of a proposed action believed not to conform with DOE policies or applicable environmental laws and regulations.

(6) Resolve disagreements among multiple involved offices concerning the assignment of responsibility for conducting the NEPA process for a proposed action.

(7) Grant appropriate variances from the DOE NEPA Regulations or from this Order.

(8) Coordinate DOE assistance to other Federal agencies throughout their NEPA processes, including DOE's review of documents and submission of comments.

(9) Advise the Secretary of Energy on DOE's NEPA compliance program.

g. The Director, Office of NEPA Policy and Compliance, shall:

(1) Develop policy and guidance documents on NEPA and related environmental review requirements.

(2) Provide NEPA-related technical advice and assistance, on request, to Field and Program organizations.

(3) Perform independent review of proposed actions as appropriate to ensure that NEPA requirements are being met.

(4) Provide workshops and information on NEPA and related requirements and policies.

(5) Provide leadership for continuous improvement of DOE's implementation of NEPA.

Solicit comments from NEPA Compliance Officers, NEPA Document Managers, and other involved persons on lessons learned for each completed environmental assessment and environmental impact statement and prepare and disseminate a quarterly summary.

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(6) File approved draft, final, and supplemental environmental impact statements with the Environmental Protection Agency, pursuant to the Regulations.

(7) Coordinate consultation with the Council on Environmental Quality and the Environmental Protection Agency on matters relating to NEPA.

(8) Maintain DOE's NEPA information resources.

6. NNSA PROCEDURES.

a. NNSA shall follow all the applicable procedures set forth in this Order. The Administrator shall ensure that all functions assigned to Secretarial Officers and their subordinates in Section 5 are performed.

b. The Administrator shall approve or adopt environmental impact statements and EIS-related documents for specific NNSA proposals that the Administrator determines, after consultation with the General Counsel, do not warrant Secretarial attention. This authority may not be delegated. In performing these duties, NNSA will consult with the General Counsel to ensure that all NEPA requirements are satisfied. If an unresolvable difference of opinion develops between the offices regarding an EIS or EIS-related matter, the Administrator shall bring the issue to the Secretary [Deputy Secretary] for resolution or direction.

c. For EISs and EIS-related documents for proposals not covered by Section 6.b and for matters described in Section 5.a(14), the Administrator shall submit requests for action or approval to the Secretary (Deputy Secretary). The General Counsel shall provide recommendations to the Secretary (Deputy Secretary) on such requests.

7. CONTACT. Questions regarding this Order and requests for guidance should be addressed to Office of the General Counsel, Office of NEPA Policy and Compliance, at 202-586-4600.

BY ORDER OF THE SECRETARY OF ENERGY:

FRANCIS S. BLAKE
Deputy Secretary

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U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 451.1B Chg 1

Approved: 10-26-00
Chg 1: 9-28-01

SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE PROGRAM

1. PURPOSE. To transmit revised pages to DOE O 451.1B, *National Environmental Policy Act Compliance Program,* dated 10-26-00.

2. EXPLANATION OF CHANGES. To allow the Under Secretary/Administrator of the National Nuclear Security Administration (NNSA) to approve certain NNSA environmental impact statements.

3. FILING INSTRUCTIONS.

Remove	Dated	Insert	Dated
Page 1	10-26-00	Page 1	9-28-01
Pages 9 and 10	10-26-00	Pages 9 and 10	9-28-01

After filing the attached pages, this transmittal may be discarded.

BY ORDER OF THE SECRETARY OF ENERGY:

FRANCIS S. BLAKE
Deputy Secretary

DISTRIBUTION:
All Departmental Elements

INITIATED BY:
Office of Management, Budget and Evaluation/CFO

U.S. Department of Energy
Washington, D.C.

PAGE CHANGE

DOE O 451.1B Chg 2

Approved: 10-26-00
Chg 2: 6-25-10

SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE PROGRAM

1. PURPOSE. To transmit revised pages to DOE O 451.1B, *National Environmental Policy Act Compliance Program,* dated 10-26-00.

2. EXPLANATION OF CHANGES. The page change reflects changes to Deputy Secretary Policy and DOE organization.

3. LOCATION OF CHANGE.

Pages	Paragraphs
1	3.
3	5.a.(7) and 5.a.(10)
4	5.a.(12) and (14); 5.b.; and 5.b.(1) and (3)
5	5.d.(2)
7	5.f. and 5.f.(2)(d) and (f)
9	6; 6.b.; 6.c.; and 7.

BY ORDER OF THE SECRETARY OF ENERGY:

DANIEL B. PONEMAN
Deputy Secretary