

## § 6.606

(4) The environmental impact of the issuance of a new source NPDES permit will have significant direct and adverse effect on a property listed in or eligible for listing in the National Register of Historic Places.

(5) Any major part of the source will have significant adverse effects on parklands, wetlands, wild and scenic rivers, reservoirs or other important bodies of water, navigation projects, or agricultural lands.

### § 6.606 Record of decision.

(a) *General.* At the time of permit award, the responsible official shall prepare a record of decision in those cases where a final EIS was issued in accordance with 40 CFR 1505.2 and pursuant to the provisions of the permit regulations under 40 CFR 124.15 and 124.18(b)(5). The record of decision shall list any mitigation measures necessary to make the recommended alternative environmentally acceptable.

(b) *Mitigation measures.* The mitigation measures derived from the EIS process shall be incorporated as conditions of the permit; ancillary agreements shall not be used to require mitigation.

[44 FR 64177, Nov. 6, 1979, as amended at 47 FR 9831, Mar. 8, 1982]

### § 6.607 Monitoring.

In accordance with 40 CFR 1505.3 and pursuant to 40 CFR 122.66(c) and 122.10 the responsible official shall ensure that there is adequate monitoring of compliance with all NEPA related requirements contained in the permit.

[47 FR 9831, Mar. 8, 1982]

## Subpart G—Environmental Review Procedures for Office of Research and Development Projects

SOURCE: 56 FR 20543, May 6, 1991, unless otherwise noted.

### § 6.700 Purpose.

(a) This subpart amplifies the requirements described in subparts A through D by providing specific environmental review procedures for activities undertaken or funded by the

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Office of Research and Development (ORD).

(b) The ORD Program provides scientific support for setting environmental standards as well as the technology needed to prevent, monitor and control pollution. Intramural research is conducted at EPA laboratories and field stations throughout the United States. Extramural research is implemented through grants, cooperative agreements, and contracts. The majority of ORD's research is conducted within the confines of laboratories. Outdoor research includes monitoring, sampling, and environmental stress and ecological effects studies.

### § 6.701 Definition.

The term *appropriate program official* means the official at each decision level within ORD to whom the Assistant Administrator has delegated responsibility for carrying out the environmental review process.

### § 6.702 Applicability.

The requirements of this subpart apply to administrative actions undertaken to approve intramural and extramural projects under the purview of ORD.

### § 6.703 General.

(a) *Environmental information.* (1) For intramural research projects, information necessary to perform the environmental review shall be obtained by the appropriate program official.

(2) For extramural research projects, environmental information documents shall be submitted to EPA by applicants to facilitate the Agency's environmental review process. Guidance on environmental information documents shall be included in all assistance application kits and in contract proposal instructions. If there is a question concerning the preparation of an environmental information document, the applicant should consult with the project officer or contract officer for guidance.

(b) *Environmental review.* The diagram in figure 1 represents the various stages of the environmental review process to be undertaken for ORD projects.

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(1) For intramural research projects, an environmental review will be performed for each laboratory's projects at the start of the planning year. The review will be conducted before projects are incorporated into the ORD program planning system. Projects added at a later date and, therefore, not identified at the start of the planning year, or any redirection of a project that could have significant environmental effects, also will be subjected to an environmental review. This review will be performed in accordance with the process set forth in this subpart and depicted in figure 1.

(2) For extramural research projects, the environmental review shall be conducted before an initial or continuing award is made. The appropriate program official will perform the environmental review in accordance with the process set forth in this subpart and depicted in figure 1. EPA form 5300-23 will be used to document categorical exclusion determinations or, with appropriate supporting analysis, as the environmental assessment (EA). The completed form 5300-23 and any finding of no significant impact (FNSI) or environmental impact statement (EIS) will be submitted with the proposal package to the appropriate EPA assistance or contract office.

(c) *Agency coordination.* In order to avoid duplication of effort and ensure consistency throughout the Agency, environmental reviews of ORD projects will be coordinated, as appropriate and feasible, with reviews performed by other program offices. Technical support documents prepared for reviews in other EPA programs may be adopted for use in ORD's environmental reviews and supplemented, as appropriate.

### § 6.704 Categorical exclusions.

(a) At the beginning of the environmental review process (see Figure 1), the appropriate program official shall determine whether an ORD project can be categorically excluded from the substantive requirements of a NEPA review. This determination shall be based on general criteria in § 6.107(d) and specialized categories of ORD actions eligible for exclusion in § 6.704(b). If the appropriate program official determines that an ORD project is con-

sistent with the general criteria and any of the specialized categories of eligible activities, and does not satisfy the criteria in § 6.107(e) for not granting a categorical exclusion, then this finding shall be documented and no further action shall be required. A categorical exclusion shall be revoked by the appropriate program official if it is determined that the project meets the criteria for revocation in § 6.107(c). Projects that fail to qualify for categorical exclusion or for which categorical exclusion has been revoked must undergo full environmental review in accordance with § 6.705 and § 6.706.

(b) The following specialized categories of ORD actions are eligible for categorical exclusion from a detailed NEPA review:

(1) Library or literature searches and studies;

(2) Computer studies and activities;

(3) Monitoring and sample collection wherein no significant alteration of existing ambient conditions occurs;

(4) Projects conducted completely within a contained facility, such as a laboratory or other enclosed building, where methods are employed for appropriate disposal of laboratory wastes and safeguards exist against hazardous, toxic, and radioactive materials entering the environment. Laboratory directors or other appropriate officials must certify and provide documentation that the laboratory follows good laboratory practices and adheres to applicable Federal statutes, regulations and guidelines.

### § 6.705 Environmental assessment and finding of no significant impact.

(a) When a project does not meet any of the criteria for categorical exclusion, the appropriate program official shall undertake an environmental assessment in accordance with 40 CFR 1508.9 in order to determine whether an EIS is required or if a FNSI can be made. ORD projects which normally result in the preparation of an EA include the following:

(1) Initial field demonstration of a new technology;

(2) Field trials of a new product or new uses of an existing technology;

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(3) Alteration of a local habitat by physical or chemical means.

(b) If the environmental assessment reveals that the research is not anticipated to have a significant impact on the environment, the appropriate program official shall prepare a FNSI in accordance with §6.105(f). Pursuant to §6.400(d), no administrative action will be taken on a project until the prescribed 30-day comment period for a FNSI has elapsed and the Agency has fully considered all comments.

(c) On actions involving potentially significant impacts on the environment, a FNSI may be prepared if changes have been made in the proposed action to eliminate any significant impacts. These changes must be documented in the proposal and in the FNSI.

(d) If the environmental assessment reveals that the research may have a significant impact on the environment, an EIS must be prepared. The appropriate program official may make a determination that an EIS is necessary without preparing a formal environmental assessment. This determination may be made by applying the criteria for preparation of an EIS in §6.706.

**§6.706 Environmental impact statement.**

(a) *Criteria for preparation.* In performing the environmental review, the appropriate program official shall assure that an EIS is prepared when any of the conditions under §6.108 (a) through (g) exist or when:

(1) The proposed action may significantly affect the environment through the release of radioactive, hazardous or toxic substances;

(2) The proposed action, through the release of an organism or organisms, may involve environmental effects which are significant;

(3) The proposed action involves effects upon the environment which are likely to be highly controversial;

(4) The proposed action involves environmental effects which may accumulate over time or combine with effects of other actions to create impacts which are significant;

(5) The proposed action involves uncertain environmental effects or highly unique environmental risks which may be significant.

(b) *ORD actions which may require preparation of an EIS.* There are no ORD actions which normally require the preparation of an EIS. However, each ORD project will be evaluated using the EIS criteria as stated in §6.706(a) to determine whether an EIS must be prepared.

(c) *Notice of intent.* (1) If the environmental review reveals that a proposed action may have a significant effect on the environment and this effect cannot be eliminated by redirection of the research or other means, the appropriate program official shall issue a notice of intent to prepare an EIS pursuant to §6.400(b).

(2) As soon as possible after release of the notice of intent, the appropriate program official shall ensure that a draft EIS is prepared in accordance with subpart B and that the public is involved in accordance with subpart D.

(3) Draft and final EISs shall be sent to the Assistant Administrator for ORD for approval.

(4) Pursuant to §6.401(b), a decision on whether to undertake or fund a project must be made in conformance with the time frames indicated.

(d) *Record of decision.* Before the project is undertaken or funded, the appropriate program official shall prepare, in accordance with §6.105 (g) and (h), a record of decision in any case where a final EIS has been issued.

Figure 1. Environmental review process for ORD projects.

