



NOAA Technical Memorandum OAR PPE-6

doi:10.7289/V50R9MCG

Developing a Systematic Approach for Implementing NEPA in OAR

T. C. Adams

November, 2015



FOR MORE INFORMATION:

For more information about this report or to request a copy, please contact NOAA's Office of Oceanic and Atmospheric Research, Office of Policy, Planning, and Evaluation: NOAA; R/PPE; 1315 East West Highway; Silver Spring, MD 20910 or visit www.research.noaa.gov.

DISCLAIMER:

Mention of trade names or commercial products does not constitute endorsement or recommendation for their use by the United States government. Vj g'uekpvle'tguwmu'cpf'eqpenwukpu."cu'y gni'cu'cp{"xkgy u"qt" qr kpkpu'gzi tguugf "j gtgkp."ctg"vj qug'qh'vj g'cwj qt"cpf'f q'pqv'pgeguuctkq' 'tghngev'vj g'xkgy u'qh'vj g'P cwkqpcn" Qegcple"cpf'Cvo qur j gtle'Cf o kpkutcvkqp"qt"vj g'F gr ctwo gpv'qh'Ego o gteg0

U.S. Department of Commerce

Penny Pritzker, Secretary

National Oceanic and Atmospheric Administration

Kathryn Sullivan, Under Secretary and Administrator

Oceanic and Atmospheric Research

Craig McLean, Assistant Administrator

Developing a Systematic Approach for Implementing NEPA in OAR

Tammy C. Adams, Ph.D.
NEPA Program Manager
Policy, Planning and Evaluation

Abstract

This technical memorandum summarizes OAR's actions from 2009 through 2014 to implement and document systematic compliance with the requirements of the National Environmental Policy Act, and NOAA's Administrative Order 216-6: Environmental Review Procedures for Implementing the National Environmental Policy Act (NAO 216-6; May 20, 1999). It also outlines OAR's plans for ensuring continued compliance and improved records management.

Introduction

The National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.) requires federal agencies to integrate environmental values into their decision-making by considering the potential environmental impacts of their proposed actions and of reasonable alternatives to those actions. It also established the Council on Environmental Quality (CEQ), which promulgated regulations implementing the provisions of the Act (40 CFR Parts 1500 - 1508).

NOAA developed its policy, requirements, and procedures for complying with NEPA and the CEQ regulations in Administrative Order 216-6, Environmental Review Procedures for Implementing the National Environmental Policy Act (NAO 216-6; May 20, 1999). NAO 216-6 also integrates requirements of Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and EO 12114, Environmental Effects Abroad of Major Federal Actions.

NAO 216-6 delegated responsibility for compliance with NEPA to Assistant Administrators and Staff Office and Program Office Directors.

Materials and Methods

OAR NEPA Task Force. In October 2009, OAR established a NEPA Task Force to identify a comprehensive approach to compliance. The Task Force was composed of representatives from each of OAR's Laboratories and Program Offices, and chaired by staff from the Chief Financial Officer's office and the National Sea Grant College Program. (*Appendix A. NEPA Implementation within OAR and The OAR NEPA Task Force*)

The Task Force was formed subsequent to an announcement from the NOAA Office of Program Planning and Integration (PPI) regarding revision of NAO 216-6. In 2009, PPI convened a NEPA Steering Committee to guide the revision of NAO 216-6, with representatives from each NOAA Line Office.

The task force reviewed the NEPA implementation procedures of other NOAA Line Offices, and surveyed the NEPA processes within OAR's Laboratories and Program Offices.

NEPA Training Needs Assessment. In April 2011, the Task Force conducted a training needs assessment to identify levels of NEPA competency among OAR staff. A total of 237 OAR staff, representing all job categories within OAR, responded. (*Appendix C: Oceanic and Atmospheric Research NEPA Training Needs Assessment Summary Results*) This study was the start of an OAR-wide NEPA training plan.

NEPA Impact Analysis. In the fall of 2011, the Task Force conducted a "NEPA Impact Analysis" for OAR's research projects. The purpose of this analysis was not to evaluate the environmental impacts of OAR's research projects themselves. Rather, the survey of OAR's research projects was designed to identify environmental liability and human capital needs of complying with NEPA. (See "OAR NEPA Study Worksheet," which is incorporated into *Appendix D: Report on National Environmental Policy Act Compliance Impact Study*)

OAR Environmental Compliance Officer and NEPA Compliance Team. In April 2013, OAR's Deputy Assistant Administrator moved OAR's NEPA and environmental compliance functions into the Office of Policy, Planning and Evaluation (PPE). (*Appendix E. Memorandum from DAA to OAR Deputy Directors, et al., re: OAR Compliance with NEPA and NOAA's Environmental Statutes*) The Director of PPE became the Acting Environmental Compliance Officer.

The Task Force was replaced with a NEPA Compliance Team in 2013. The Compliance Team is composed of representative from each of the Laboratory and Program Offices, and is chaired by the Director of PPE as the Acting Environmental Compliance Officer. (*Appendix F. NEPA Roles and Responsibilities in OAR*) The Compliance Team is tasked with providing consistent guidance and oversight to OAR staff in implementing OAR Circular 216-2 and the recommendations of the study report, ensuring that NEPA is uniformly implemented within OAR and flagging possible cumulative impacts across OAR Program Offices and Laboratories.

Results

Table 1 summarizes actions implemented by OAR toward its systematic approach to compliance with NEPA between 2009 and 2014.

Table 1. Timeline of Actions Implemented

<i>Training</i>	
Fall 2013	NEPA 101 training for OAR NEPA Compliance Team (<i>Appendix I</i>)
Fall 2013	NEPA 101 briefing for OAR Senior Management (<i>Appendix J</i>)
November 13, 2013	Strategic NEPA briefing for the NOAA Research Council (<i>Appendix K</i>)
July 2014	OAR NEPA Training Plan finalized (<i>Appendix L</i>)
<i>Programmatic Analyses</i>	
January 2013	Initiated development of an analysis and documentation of applicability of a categorical exclusion for the Sea Grant Program
June 2014	Initiated development of analysis and documentation of applicability of a categorical exclusion for routine actions at OAR's Geophysical Fluid Dynamics Laboratory (GFDL)
November 2014	Completed memoranda documenting applicability of categorical exclusions in Section 6 of NAO 216-6 for GFDL's "facilities work" (<i>Appendix M</i>) and its "laboratory scientific, computational, management, planning, budgeting and administrative work" (<i>Appendix N</i>)
<i>Roles and Responsibilities</i>	
September 19, 2013	OAR's AA delegated signature authority for categorical exclusion memoranda to the OAR Laboratory and Program Office Directors per Section IV(A)(6) of OAR Circular 216-2. (<i>Appendix O. OAR Circular NEPA1</i>)
December 26, 2013	Directors of Laboratories and Programs are designated as "Responsible Program Managers" per section IV.C of OAR Circular 216-2; and each RPM designates a NEPA Staff Lead per section IV.D of OAR Circular 216-2 (<i>Appendix P. Memo from AA to DAA et al, re: Designating Responsible Program Managers and Staff Leads for OAR's compliance with National Environmental Policy Act</i>)
March 28, 2014	The AA designates the Director of the Ocean Acidification Program as a Responsible Program Manager (<i>Appendix Q. Memo from OAR AA to OA Director</i>)
August 2014	OAR National NEPA Coordinator is hired and assumes the responsibilities in Section IV.B of OAR Circular 216-2. (<i>Appendix R. Position Description</i>)
<i>Records Management</i>	
September 2014	OAR NEPA Compliance Team community page established on V-lab to house OAR's NEPA compliance records including all of the implementation documents mentioned here, copies of the memos establishing applicability of a CE for OAR's Laboratories and Program Offices, and other environmental compliance resources. (vlab.ncep.noaa.gov/group/oar-nepa-compliance/home)

OAR NEPA Task Force. An OAR NEPA policy statement (OAR Circular 216-2, Oceanic & Atmospheric (OAR) Implementation of National Environmental Policy Act (NEPA), March 8, 2011) was developed, which outlines roles and responsibilities for NEPA compliance within OAR. (*Appendix B. OAR Circular 216-6*) These are based primarily on definitions and delegations in NAO 216-6.

OAR Circular 216-2, signed by the OAR Assistant Administrator, formally acknowledged delegation of authority from NOAA to the AA for NEPA compliance within OAR, including signature authority for NEPA documents. OAR Circular 216-2 indicated the AA would delegate signature authority for categorical exclusions to Laboratory and Program Office Directors. In turn, the Directors would designate Responsible Program Managers (RPM) to be accountable for implementing NEPA procedures, identifying compliance issues, and supporting a budget adequate to implement the policy.

OAR Circular 216-2 also outlined responsibilities of an OAR NEPA Coordinator and NEPA staff leads to assist the AA, Directors, and RPMs in implementing NEPA within OAR.

NEPA Training Needs Assessment. The responses to the survey suggest that lack of familiarity with NEPA was widespread across NOAA. Fewer than 10 percent of respondents indicated an expert knowledge, and the majority indicated they had little or no knowledge of NEPA. Further, 60 percent of respondents indicated they were not conducting or documenting assessments of the impact their federal actions would have on the environment. Finally, more than 75% of the respondents indicated they did not know how to determine what level of NEPA was required for a research, grant, contract, or MOA/MOU action.

NEPA Impact Analysis. The impact study revealed that OAR's biggest liability was not in the nature or extent of environmental impacts, but in the lack of a consistent and robust administrative record documenting compliance with NEPA. The study report, issued in February 2012, included a set of five recommendations for improving implementation of NEPA in OAR. (*Appendix D*)

The recommendations, which were approved by the Assistant Administrator on February 17, 2012, were:

1. OAR will establish a systematic approach for NEPA compliance that will be implemented across OAR Laboratories and Program Offices.
2. OAR will develop and implement formalized records management guidance to facilitate tracking and substantiating NEPA compliance.
3. OAR will provide essential NEPA training for staff at levels commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance.
4. OAR will explore the options and establish NEPA coordination functions within OAR, to include a National NEPA Coordinator and Laboratory or Program Office level coordination roles as appropriate to workload and complexity of actions. It would be efficient to combine NEPA coordination roles with safety and environmental compliance functions at Headquarters and within the OAR Laboratories.
5. OAR will consider programmatic NEPA analysis documents and integrating NEPA into existing planning processes to streamline compliance and optimize resources.

NOTE: The Interagency and Special Agreements process uses the NEPA checklist that was developed for the impact analysis to identify and document the level of NEPA required for a project. Granting Programs and the Cooperative Institutes are including a required NEPA statement in the Grants-on-Line Process.

OAR Environmental Compliance Officer and NEPA Compliance Team. The Compliance Team developed a charter outlining their goals, purpose, organizational context, and project management. (*Appendix G. OAR's National Environmental Policy Act Compliance Team Charter*) The goal of the Compliance Team is to guide OAR in “developing (1) a culture that values NEPA as a decision-making tool and (2) a capacity for systematic and comprehensive compliance with the spirit and letter of NEPA.”

The Compliance Team also developed a logic model to depict the relationships among the resources, activities, outputs and outcomes of OAR's NEPA program. (*Appendix H: OAR NEPA Compliance Logic Model*)

Conclusion

OAR has made steady progress toward a systematic approach to implementing NEPA. The Compliance Team meets regularly and is working systematically to implement the recommendations of the Study Report and OAR Circular 216-2. This includes development of a training plan, delivery of training, programmatic analyses, development of standardized records management, and appointing, designating, or delegating staff to fill the NEPA compliance roles identified in OAR Circular 216-2.

APPENDICES

- Appendix A. NEPA Implementation within OAR and The OAR NEPA Task Force
- Appendix B. OAR Circular 216-6, Oceanic & Atmospheric (OAR) Implementation of National Environmental Policy Act (NEPA), March 8, 2011
- Appendix C. Oceanic and Atmospheric Research NEPA Training Needs Assessment Summary Results
- Appendix D. Report on National Environmental Policy Act Compliance Impact Study
- Appendix E. April 2013 Memorandum from DAA to OAR Deputy Directors, et al., re: OAR Compliance with NEPA and NOAA's Environmental Statutes (12 April 2013)
- Appendix F. NEPA Roles and Responsibilities in OAR
- Appendix G. OAR's National Environmental Policy Act Compliance Team Charter
- Appendix H. OAR NEPA Compliance Logic Model
- Appendix I. Intro to NEPA (NEPA 101 PowerPoint for training OAR NEPA Compliance Team)
- Appendix J. Intro to NEPA (NEPA 101 PowerPoint for briefing OAR Senior Management)
- Appendix K. Strategic vs. Tactical (PowerPoint for briefing the NOAA Research Council)
- Appendix L. NEPA Training Plan for OAR
- Appendix M. Memo from GFDL Director for The Record re: Applicability of a Categorical Exclusion to Geophysical Fluid Dynamics Laboratory Facilities Work (7 October 2014)
- Appendix N. Memo from GFDL Director for The Record re: Applicability of a Categorical Exclusion to Geophysical Fluid Dynamics Laboratory Scientific, Computational, Management, Planning, Budgeting, and Administrative Work (7 October 2014)
- Appendix O. Point Paper and OAR Circular NEPA1: Delegation of Signature Authority for Approving Relevant National Environmental Policy Act (NEPA) Documents in OAR. (September 2013)
- Appendix P. Memo from AA to DAA et al, re: Designating Responsible Program Managers and Staff Leads for OAR's compliance with National Environmental Policy Act (December 2013)
- Appendix Q. Memo from AA to Director, Ocean Acidification Program re: Designating Responsible Program Managers for OAR's compliance with the National Environmental Policy Act (March 2014)
- Appendix R. Position Description

Appendix A



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Silver Spring, MD 20910

OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

APR 12 2013

MEMORANDUM TO: OAR Deputy Directors
OAR Administrative Officers
OAR NEPA Task Force and Grants Online NEPA Officials
OAR Environmental Compliance Work Group members

FROM: 
Craig N. McLean
Deputy Assistant Administrator

SUBJECT: OAR Compliance with NEPA and NOAA's Environmental Statutes

Effective January 2013, the Office of Policy, Planning and Evaluation (PPE) has assumed responsibility for OAR's compliance with the National Environmental Policy Act (NEPA) and NOAA's environmental statutes.

OAR is overall environmentally in very good shape. However, we have more work to do. We need to have a focal point for our environmental compliance efforts. So, we will establish a new position of NEPA/Environmental Compliance Coordinator in OAR/PPE. This Coordinator will provide the necessary guidance to begin the vital NEPA and environmental compliance training for staff at levels commensurate with their roles and responsibilities. Also, it will allow OAR to establish a systematic approach for compliance that will be implemented across our Laboratories and Program Offices.

Thank you for your efforts that were critical in the development of an OAR policy statement, conduct of an impact analyses study, and contribution to the NOAA "Statutes Compliance Institutional Plan." These gave OAR's environmental compliance efforts a good start and solid foundation in order to allow for this functional transition. The efforts that began under the auspices of the Chief Financial Officer and Environmental Compliance Work Group will continue. Important steps have been achieved on the long compliance road ahead. Our refocused efforts highlight the need to have individuals in our Program Offices and Laboratories to assume the responsibility to include compliance with NEPA and NOAA environmental functions in their workload. The attached list identifies individuals already in place to assist in this effort.

We know that training is needed to provide a working knowledge of NEPA and other environmental statutes. At future Deputy Directors and Administrative Officers calls we will be outlining the next steps that NOAA and OAR are taking to implement full compliance with these statutes.

We thank you for your past support and participation in OAR's NEPA and environmental efforts.

CC: Attached list.



Printed on Recycled Paper



Laboratory or Program Office	Representative (s)
Air Resources Laboratory	Barbara Shifflett
Atlantic Oceanographic & Meteorological Laboratory	Hector Casanova Charles Featherstone
Chief Financial Officer& Chief Administrative Officer	Brenda Alford James Olander
Climate Program Office	Diane Brown David Legler Eric Locklear Diane Stanitski
Cooperative Institutes Program Office	Philip Hoffman Julien Lartigue
Earth System Research Laboratory Physical Sciences Division Global Systems Division Chemical Sciences Division Global Monitoring Division	Richard Lataitis William Neff Phyllis Gunn John Daniel Russell Schnell
Geophysical Fluid Dynamics Laboratory	Brian Gross
Great Lakes Environmental Research Laboratory	John Fenton Kim Kulpanowski Doran Mason
National Sea Grant College Program	Leon Cammen Dorn Carlson Jonathan Eigen Nikola Garber
National Severe Storms Laboratory	Kevin Kelleher
Office of Ocean Exploration & Research	Margot Bohan John McDonough Gene Smith
Office of Weather & Air Quality	Brian Orndorff John Cortinas
Pacific Marine Environmental Laboratory	Gayle Elkins Mark Koehn

CC: PPI: Steve Kokkinakis, Jay Nunenkamp

NOAA Environmental Compliance Work Group
Helen Golde, NMFS Protected Resources
Brandon Sousa

NMFS - NEPA Steve Leathery, National NEPA Coordinator

NOS - NEPA David B. Winandy

Point Paper

Responsibility for National Environmental Policy Act and Compliance in OAR

Originator: James F. Olander
Office: Office of Policy, Planning and Evaluation (R/PPE)
Date: February 21, 2013

Purpose

Approve and sign the attached memorandum

Background

In January 2013, the Office of Policy, Planning and Evaluation (PPE) has assumed responsibility for OAR's compliance with NOAA's environmental statutes and the National Environmental Policy Act (NEPA). This is the official notification of the change in responsibility.

Discussion

- The initial NEPA implementation efforts were started under the Office of OAR's Chief Financial Officer (CFO)
- That office developed an OAR policy statement, an impact analyses study, and contribution toward the NOAA Statutes Compliance Institutional Plan. These gave OAR's environmental compliance efforts a good start and solid foundation in order to allow for this functional transition.
- It was determined that the NEPA and all Environmental Compliance functions are better suited in OAR's Office of Policy, Planning and Evaluation, and in January a transfer of functions took place.
- The NEPA efforts that began under the auspices of the Chief Financial Officer and Environmental Compliance Work Group will continue.
- OAR's refocused efforts highlight the need to have individuals in our Program Offices and Laboratories to include NEPA and environmental compliance functions in their workload. The list attached to the memorandum identifies individuals already in place to assist in this effort.
- As OAR/PPE moves forward with NEPA compliance we are now in a position to implement the recommendations of the past NEPA study. OAR needs to have a focal point for our environmental compliance efforts. So, we will establish the position of NEPA/Environmental Compliance Coordinator in OAR/PPE. This Coordinator will provide the necessary guidance to begin the vital NEPA and environmental compliance training for staff at levels commensurate with their roles and responsibilities. Also it will allow OAR to establish a systematic approach for compliance that will be implemented across our Laboratories and Program Offices.

Recommendations

Approve the Attached memorandum to OAR announcing the responsibility change.

Approve:  Approved with comments/edits: _____ Disapprove: _____ Let's Discuss: _____

Appendix B

Oceanic & Atmospheric Research (OAR) Implementation of National Environmental Policy Act (NEPA)

March 8, 2011

I. INTRODUCTION NOAA Policy applies. OAR adds:

NEPA directs Federal agencies (1) to predict and assess the environmental effects of an action and its alternatives on the human environment, (2) to consider any mitigation options of their action, and (3) to involve and inform the public in the decision-making process. The essential purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision-making process undertaken by federal agencies.

II. PURPOSE NOAA Policy applies. OAR adds:

The purpose of this Directive is to establish the Oceanic and Atmospheric Research (OAR) requirements and procedures for complying with the National Oceanic and Atmospheric Administration (NOAA) implementation of National Environmental Policy Act (NEPA), Administrative Order 216-6 referenced at 42 U.S. Code § 4321 *et seq.*

III. OAR POLICY

A. In meeting NOAA requirements of NEPA, it is OAR's policy to:

1. Apply the policies and procedures of NEPA over which it has control and responsibility, to actively pursue one or more alternative means of accomplishing the objective, and to ensure the effects can be evaluated.
2. Initiate the NEPA process early in the planning process.
3. Use the best available scientific information and a systematic and interdisciplinary approach to fully consider the direct, indirect, and cumulative impacts of proposed actions on the quality of the human environment.
4. Consider the impacts of proposed actions on the human environment within the United States, its territories, and in the marine environment.
5. Communicate and coordinate with OAR Program Offices and Laboratories; Federal, State, and local agencies and individuals early in the planning and decision-making process.
6. Meaningfully involve the public in the NEPA process where appropriate

7. Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.
 8. Ensure decision-makers consider environmental analyses in their decision-making.
 9. Consider information related to climate change to the extent practical in the NEPA process both in the context of environmental effects of OAR action as well as the effect of the agency's action on the quality of the human environment.
- B. OAR will consider other environmental requirements concurrently with the NEPA process.
- C. OAR will serve as a cooperating agency upon request of the lead agency when NOAA has jurisdiction by law.
- D. OAR will provide timely and factual comments on other agencies' NEPA documents to positively influence other Federal agency plans and projects and to ensure consideration, protection, and mitigation of potential impacts to NOAA's trust resources upon request.
- E. OAR may use adaptive management principles (e. g., Environmental Management Systems) in its decision-making process including monitoring and mitigation measures. Environmental monitoring may be used in circumstances where long-term impacts may be certain and measures could be needed to ensure environmental consideration of subsequent actions.
- F. OAR will consider the impacts on the human environment of any proposed action conducted within or affecting a foreign nation's environment.
- G. OAR will assess proposed actions to determine whether they have a disproportionately high and adverse human health or environmental impact on minority or low-income populations.

IV. RESPONSIBILITIES

- A. OAR's Assistant Administrator accepts NOAA's NEPA delegation to ensure NOAA's NEPA compliance within OAR and will:
1. Assist the NOAA Administrator and the NOAA NEPA Coordinator to fulfill NOAA's compliance with NEPA.
 2. Appoint an OAR NEPA Coordinator to ensure compliance with NEPA.
 3. Ensure NEPA is included in the Science Advisory Board (SAB) and other research-related decision-making.
 4. Delegate NEPA compliance to the Program Office Director(s) and Laboratory Director(s).

5. Be the signature authority on OAR/NEPA documents unless delegated to other responsible individuals.
6. Delegate signature authority for categorical exclusions to Program Office and Laboratory Directors.
7. Ensure that OAR Responsible Program Managers (RPM) and NEPA Staff Leads are trained to conduct the NEPA process and appropriately implement this policy.
8. Develop and support budget requests to manage and implement the requirements of this policy.

B. The OAR NEPA Coordinator will:

1. Assist NOAA to ensure OAR compliance with NEPA.
2. Assist the OAR Assistant Administrator in ensuring that OAR's NEPA-related staffs are trained to conduct the NEPA processes.
3. Assist RPMs in ensuring that the appropriate NEPA process will be initiated early in the planning process, to be conducted concurrently and completed before an action is taken that irretrievably commits resources or limits the choices of alternatives to satisfy an objective, meet a goal, address a need, or develop a program.
4. Consult early and often with RPMs to assist in carrying out the NEPA process.
5. Review to ensure consistency of NEPA documents.
6. Provide signature on transmittal letters for NEPA documents.
7. Support early, proactive, and comprehensive coordination, communications, and outreach processes within OAR.
8. Submit NEPA compliance reports to NOAA.
9. Coordinate and cooperate with other Line and Staff Offices and agencies on NEPA-related actions.
10. Establish and formulate an OAR/ NEPA Compliance Team to ensure that NEPA is uniformly implemented within OAR and to flag possible cumulative impacts across OAR Program Offices and Laboratories.
11. The OAR NEPA Coordinator may:
 - a. Develop and /or provide OAR NEPA policy, procedures, coordination actions or measures, technical administration, and staff training to enable the reliable, timely, and cost effective compliance.
 - b. Consult with the NOAA and DOC Offices of the General Counsel as needed.
 - c. Submit proposals to the NOAA on the establishment of categorical exclusions, guidance on program-specific implementation of this policy, and program specific training materials.

C. OAR Program Office Director(s) and Laboratory Director(s) will:

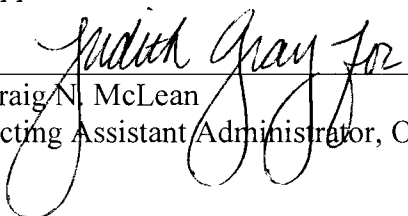
1. Assist OAR Assistant Administrator to ensure compliance with NEPA requirements.
2. Designate a Responsible Program Manager (RPM) within their organization to implement and comply with NEPA policy.
3. Ensure that RPMs and their NEPA Staff Leads are trained to conduct the NEPA process and appropriately implement this policy.
4. Develop and support budget requests to manage and implement the requirements of NEPA.

D. The Responsible Program Manager will:

1. Initiate NEPA early in the planning process, conduct NEPA concurrently and complete the process before an action is initiated.
2. Identify compliance issues, in consultation with the OAR NEPA Coordinator.
3. Designate a NEPA Staff Lead in consultation with the OAR NEPA Coordinator to assist in carrying out the NEPA process. If a NEPA Staff Lead is not designated, the RPM will serve as the NEPA Staff Lead.
4. Carry out the appropriate NEPA process on proposed actions in compliance with the NOAA policy.
5. Support a budget that is adequate to manage and implement the requirements of this policy.

E. The OAR NEPA Staff Lead assists the RPM in carrying out the NEPA process, including gathering information, preparing documents, and involving the public.

Approved:



Craig N. McLean
Acting Assistant Administrator, OAR

Date: 3/8/11

Appendix C

Oceanic & Atmospheric Research NEPA Training Needs Assessment

Summary Results

The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. OAR has established an internal NEPA policy to fully implement the federal, department and NOAA policies and procedures. Also OAR established the NEPA Task Force to look at current NEPA implementing practices across the organization and to present their recommendations for how to make NEPA implementation more effective, efficient and consistently compliant with the national policy.

One of the key ingredients for full implementation of the policy was to determine the level of NEPA knowledge among staff. Therefore an OAR- wide NEPA training needs assessment was conducted that will serve as a tool to identify competency gaps. Staff responses to the needs assessment were anonymously sent electronically through a link to Survey Monkey, a web-based survey tool. The results along with advice of the Task Force and other experts will guide the organization in the selec-

tion of educational and training courses or activities to meet our needs.

Two-hundred and thirty-seven staff members provided input for a response rate of 10 percent. Some staff indicated that certain questions were not completely understandable and that some questions were not applicable to them but had no response option for that circumstance.

All job categories across the organization were represented to include Administrative, Technical including information technology, Program, Scientific and Leadership. The largest category was scientist at 44 percent of staff followed by administrative at 24 percent. Staff reported on their familiarity with NEPA and NEPA requirements and their familiarity was cross-referenced with their job categories. Chart 2 on page 2 shows the proportion of staff

Chart 1

Please indicate your job category (Check only one)

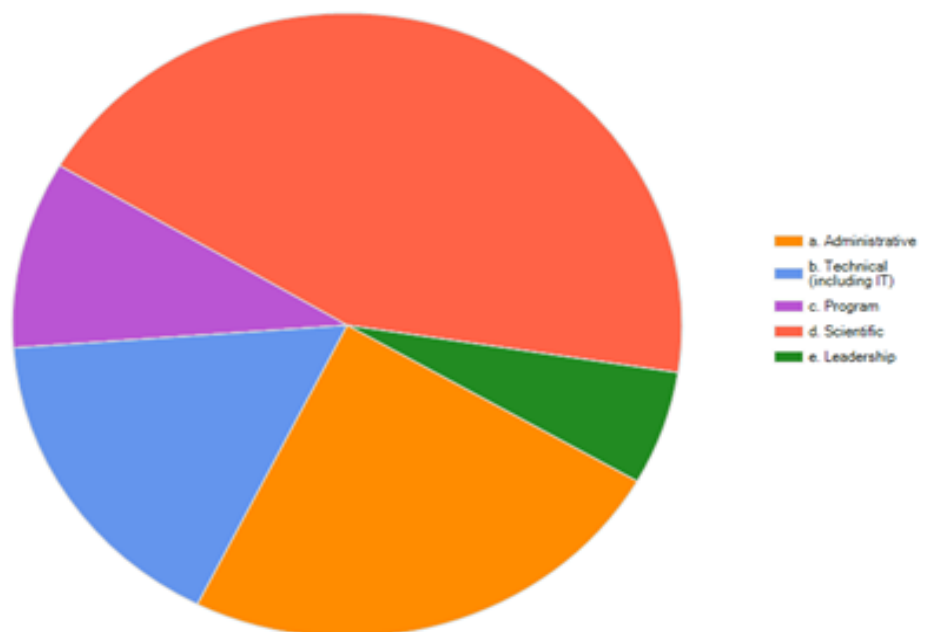


Chart 2

(familiarity with NEPA continued)

Among those with working knowledge, the administrative and program staff were more familiar than staff in other job categories. Chart 2 shows that equal numbers of administrative and program staff had working knowledge. However for program staff reviewed singularly, proportionally more had working rather than limited knowledge of NEPA. Also the majority of scientists indicated little or no NEPA knowledge.

How familiar are you with NEPA and NEPA requirements?

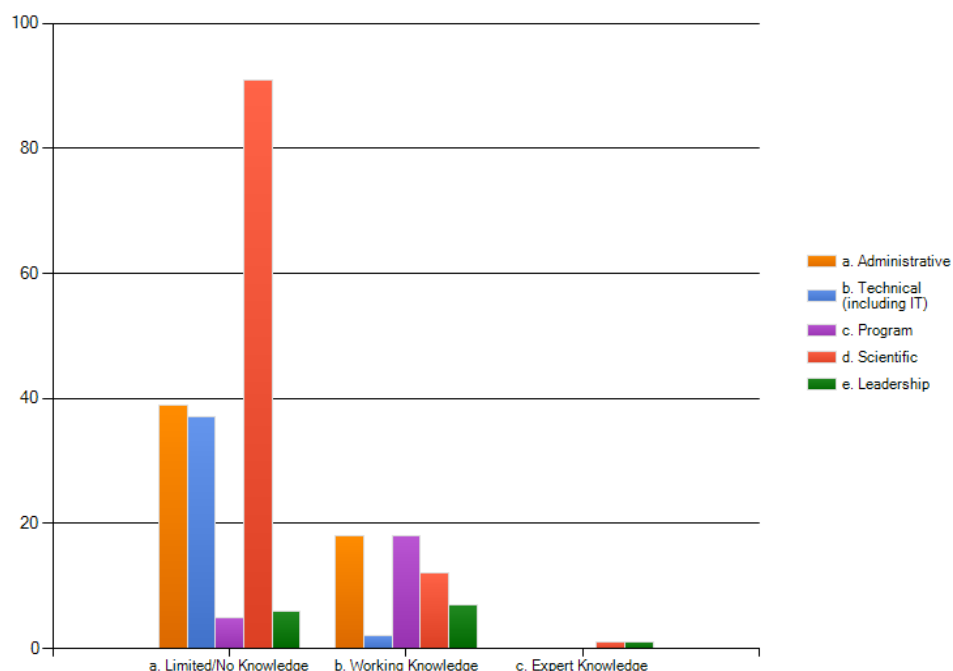
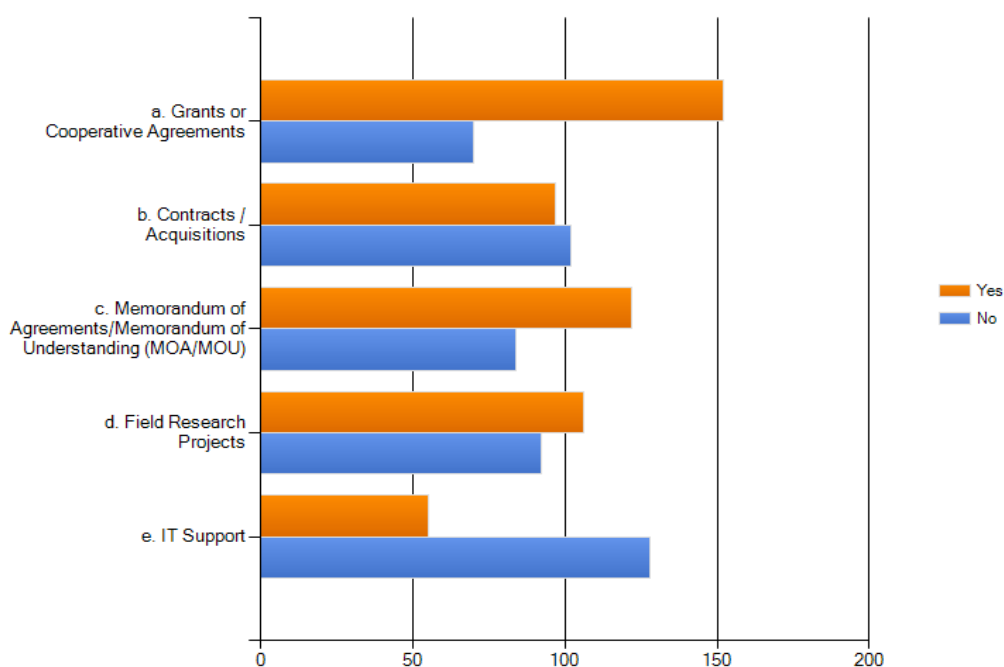


Chart 3

Are any of the research-related job responsibilities that you perform funded or conducted through the following methods (check all that apply)

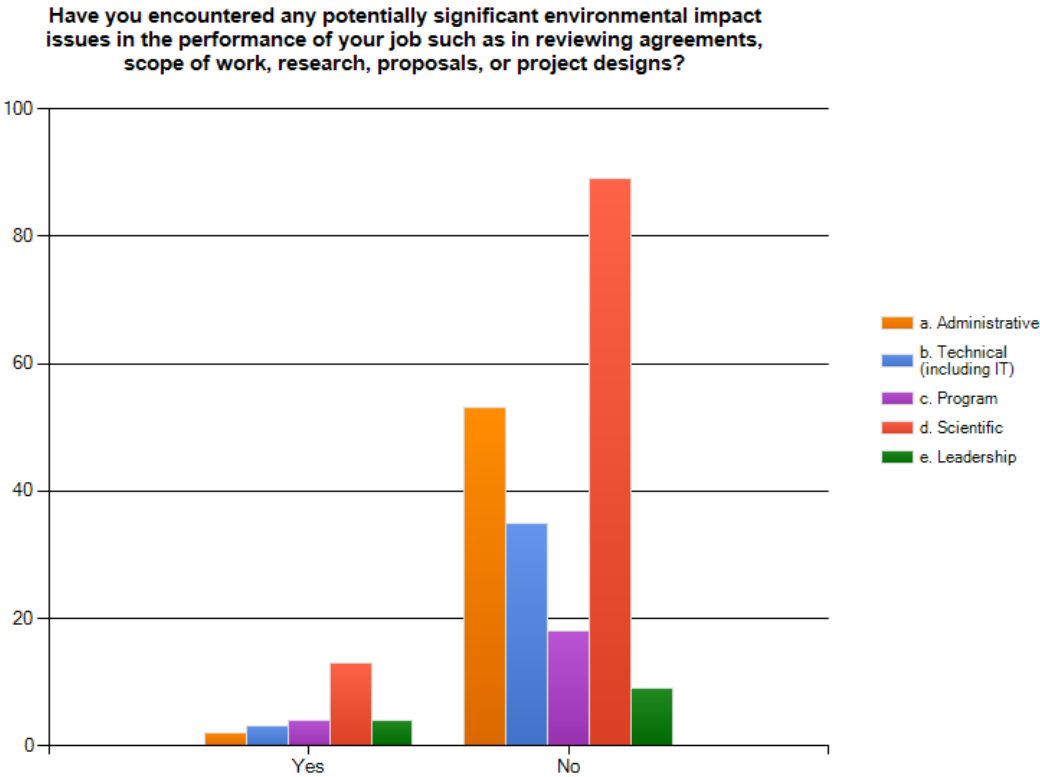


The intent of the question was to determine the extent to which staff are involved with grants, contracts, MOA/MOUs, field research and IT support. Based on the number of persons who responded, about 100 are engaged in each of each of the job-related activities except IT support. Due to the numbers, this could be interpreted as staff that have overlapping job responsibilities for more than one are of acquisitions, grants, MOUs and field research projects.



NEPA stipulates that potentially significant environmental impacts be reported for projects that an agency manages, endorses, funds, approves or coordinates. Of the staff who responded to the survey, eleven percent have encountered significant environmental issues. While the number is small, these persons are aware of NEPA-related issues while reviewing agreements, scope of work statements, research project reports, proposals or project design descriptions. Scientists were more likely to have knowledge of the existence of projects with environmental impact than other staffers.

Chart 4



The question was posed that queried about the knowledge of how NEPA affects the work conducted by OAR staff. Three-fourths of staff indicated that they lacked knowledge about how NEPA affects their work.

The response totals were nearly the same for all types of projects. Since OAR has an established procedure for NEPA consideration with grants-funded projects, one may have expected that significantly more staff would have answered this question in the affirmative for grants project.

Chart 5

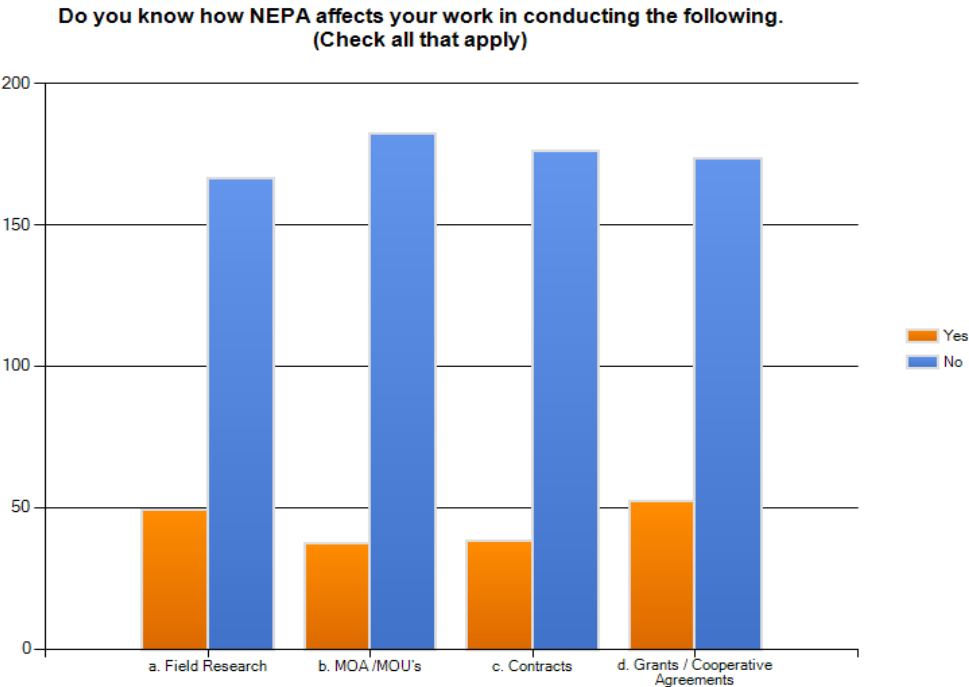
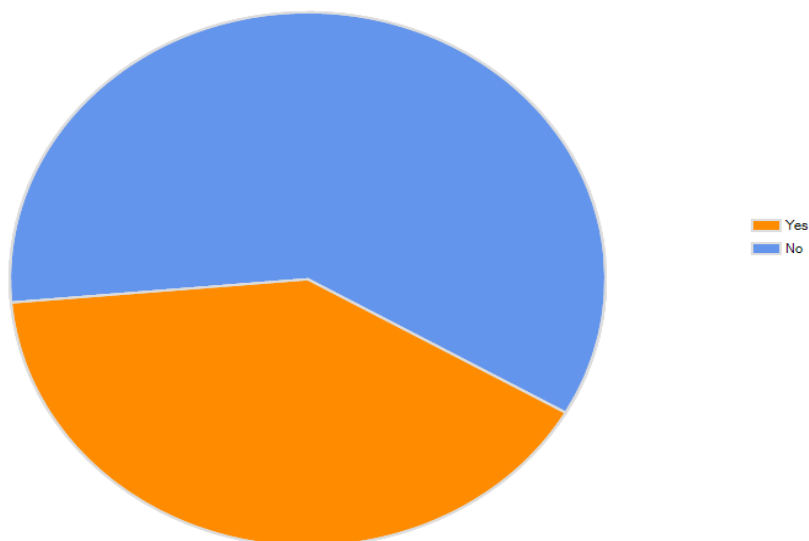


Chart 6

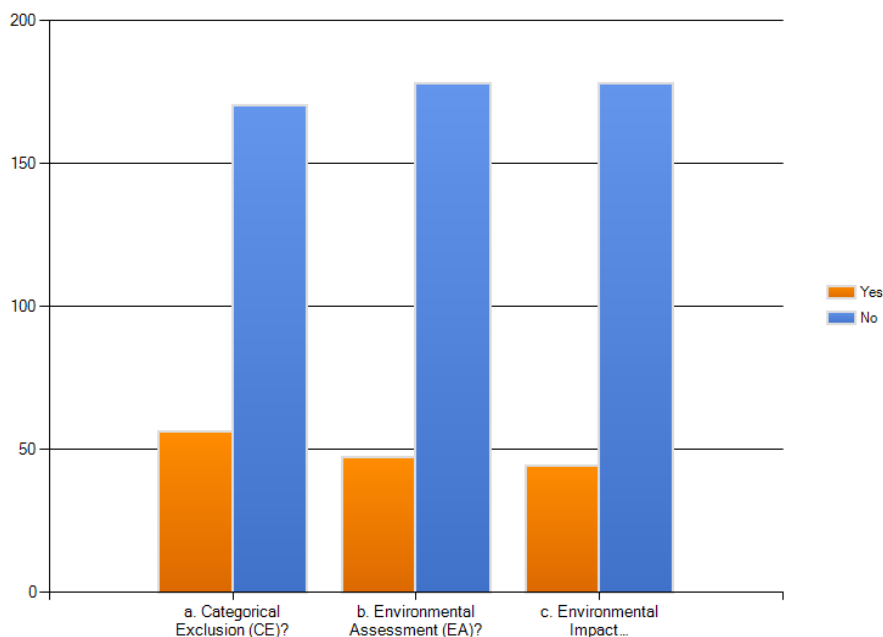
Routinely in developing a grant/cooperative, contract, MOA/MOU or field research do you or someone on your staff assess and formally document the impact that the project will have on the environment?



NEPA provisions indicate that potential environmental impacts be recorded and certain types of impacts be documented and reported. The question that was posed was whether staff assess and formally document NEPA impacts for proposed projects. Forty percent indicated that the assessment and documentation was being accomplished. However, sixty percent indicated that staff assessments and formal documentation was not being conducted. We did not provide for the option of not/applicable for individuals to respond.

Chart 7

Do you know when your research, grant, contract or MOA/MOU requires:



There are three levels of environmental analysis and documentation that may be undertaken to satisfy the NEPA process for a proposed project or action. These include:
Categorical Exclusion (CE)
Environmental Assessment (EA)
Environmental Impact Statement (EIS)

Staff were queried whether they knew when research, grants, contracts or MOUs required CE, EA or EIS. More than three-fourths of staff indicated that they lacked knowledge about when each category was required.

Appendix D

**APPROVAL OF RECOMMENDATIONS
FROM THE REPORT ON THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)
COMPLIANCE IMPACT STUDY
February 2012**

Recommendations

1. OAR will establish a systematic approach for NEPA compliance that will be implemented across OAR Laboratories and Program Offices.
2. OAR will develop and implement formalized records management guidance to facilitate tracking and substantiating NEPA compliance.
3. OAR will provide essential NEPA training for staff at levels commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance.
4. OAR will explore the options and establish NEPA coordination functions within OAR, to include a National NEPA Coordinator and Laboratory or Program Office level coordination roles as appropriate to workload and complexity of actions. It would be efficient to combine NEPA coordination roles with safety and environmental compliance functions at Headquarters and within the OAR Laboratories.
5. OAR will consider programmatic NEPA analysis documents and integrating NEPA into existing planning processes to streamline compliance and optimize resources.

Approve: RSI Approved with comments/edits: _____ Disapprove: _____ Let's Discuss: _____

Signed:



Robert Detrick, Ph.D., Assistant Administrator, OAR

2/17/12

Date

Report on National Environmental Policy Act Compliance Impact Study

**NOAA's Office of Oceanic and
Atmospheric Research**

February 2012

Report Prepared by: Brenda Alford (OAR), James Olander (OAR),
and Tammy C. Adams (National Marine Fisheries Service)

Executive Summary

Objectives

1. Assess levels of compliance with the National Environmental Policy Act (NEPA) across OAR Laboratories and Program Offices.
2. Evaluate training and resource needs for full compliance with NEPA, including NOAA's NEPA Administrative Order for environmental review procedures.
3. Recommend approaches to implementing NEPA compliance.

Findings

1. There is a general and wide-spread lack of formal NEPA compliance records and consistent records management procedures for NEPA documentation.
 - This can probably be remedied in a short timeframe and with little or no additional resources by implementing basic quality assurance procedures such as those developed by NOAA's National Marine Fisheries Service.
2. The absence of NEPA documentation in support of a majority of OAR's "major federal actions" represents a high level of legal vulnerability since there is an absence of administrative records to document NEPA compliance.
 - This is likely mitigated by the fact that these federal actions are not regulatory or otherwise likely to be highly controversial and therefore the subject of third party scrutiny and legal challenges.
3. Memoranda documenting applicability of categorical exclusions may be the appropriate level of NEPA analysis and decision documents for the majority of actions funded or undertaken by OAR.
 - For efficiency and strategic planning purposes, a more comprehensive or programmatic NEPA analysis in an environmental assessment may benefit some projects or programs.

Recommendations

1. Establish a systematic approach for NEPA compliance that will be implemented across OAR Laboratories and Program Offices.
2. Implement formalized records management guidance to facilitate tracking and substantiating NEPA compliance.
3. Provide NEPA training for staff at levels of detail commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance.
4. Establish formal NEPA coordination functions within OAR, to include a National NEPA Coordinator and Laboratory or Program Office level coordination roles as appropriate to workload and complexity of actions. It would be efficient to combine NEPA coordination roles with safety and environmental compliance functions at OAR Headquarters and within the Laboratories.
5. Consider programmatic NEPA analysis documents and integrating NEPA into existing planning processes to streamline compliance and optimize resources.

Contents

Executive Summary	i
Introduction.....	1
Methods.....	2
Results.....	4
Recommendations.....	7
Appendix A: OAR NEPA Study Worksheet	11
Appendix B: Follow-up Assessment Questionnaire	15
Appendix C: NEPA Implementation within OAR and the OAR NEPA Task Force	16
Appendix D: Categorical Exclusions Identified in the OAR NEPA Impact Study	22

Introduction

Purpose of Study

The purpose of this study was to evaluate OAR's liabilities and resource needs for compliance with the National Environmental Policy Act (NEPA). This study does not represent a comprehensive assessment of the actual environmental impacts of actions funded or undertaken by OAR.

Background

The National Environmental Policy Act is the foundation of modern American environmental protection. NEPA was the first law to focus environmental concerns within a comprehensive national policy, and is a policy and procedural statute that makes environmental protection a part of the mandate of every federal agency. NEPA sets forth clear goals for agencies to foster productive harmony between man and nature, so as to fulfill the social, economic, and other requirements of present and future generations of Americans. It provides an interdisciplinary framework for environmental planning and contains action-forcing procedures requiring federal decision-makers to consider environmental factors in such planning.

The Council on Environmental Quality established regulations implementing NEPA that are applicable to all federal agencies (40 CFR 1500-1508). Under these regulations, each agency is required to develop NEPA procedures to meet its specific decision-making requirements. The Department of Commerce's (DOC) NEPA procedures are found in Department Administrative Order 216-6. NOAA's NEPA procedures are found in NOAA Administrative Order 216-6 at www.nepa.noaa.gov/NAO216_6.pdf.

NOAA staffs are required to follow these regulations and procedures when conducting the NEPA process. When planning Federal programs or project decisions, NOAA must predict and assess the impacts of a decision or any alternatives on the quality of the human environment. The Assistant Administrator's (AAs) or Staff Office (SO) Directors are responsible for determining whether NEPA applies to a Federal action, or whether the action is excluded from the NEPA process. The AAs or SO Directors will designate a Responsible Program Manager (RPM)¹ to the NEPA process for each proposed action within their functional area. The RPM determines the appropriate type of environmental review needed and submits all NEPA documents, associated letters, and memoranda to the AA or delegate for transmittal to NOAA/Program Planning & Integration (PPI).

NOAA developed an Administrative Order (NAO 216-6) establishing procedures for implementing NEPA, including establishing classes of agency actions that may be categorically excluded (CE) from the need to prepare environmental assessments (EA) or environmental

¹ The RPM is the individual designated by the AA or SO/PO Director to carry out specific proposed actions in the NEPA process within an assigned function area. The RPM may be a Regional Administrator, a Science Center Director, a Laboratory Director, or a program director within a Line, or Staff, or Program Office.

impact statements (EIS), and classes of actions that require an EA or EIS. NOAA is revising NAO 216-6, including modifying the list of CE classes and procedures for compliance. The revised NAO is planned to be finalized and effective in 2012, and will contain revised procedures with which OAR must comply.

Methods

As a part of NEPA implementation process in OAR, the acting Deputy Assistant Administrator for Programs and Administration (DAA) requested that an impact study be conducted to identify NEPA liability throughout the organization. As a result, CFO/OPAD staff began discussions about a study design, which was coordinated through the OAR NEPA Task Force, to determine how to assess OAR's NEPA issues related to research projects. The OAR NEPA Task Force decided on the database that was developed by OAR's Office of Policy, Planning, and Evaluation (PPE) as a consistent data source for each PO and Laboratory.

The (OAR) Project Database (OPD) was established to develop the framework for a research and development (R&D) project-level database and an implementation plan for OAR. This database was designed to assist in the development of Annual Operating Plans for Laboratories and Program Offices and to track executed research expenditures/performance metrics, provide annual trends, and characterize /evaluate OAR's research portfolio. The OPD provides an annual 'snapshot' of the state of R&D projects conducted in or supported by OAR's seven Laboratories and five Program Offices. The study team was advised to utilize the FY2009 data that was complete for all PO & Laboratories. These Projects are temporary endeavors that may result in the enhancement of scientific understanding and the creation or improvement of one or more activities, may last more than one year, but are not indefinite.

Also, the OAR NEPA Task Force reached agreement during a meeting about the methodology for conducting an OAR-Wide Impact Study and that each Laboratory and Program Office should conduct their own study with facilitation from the CFO's office. The major task was to address the NEPA issues that our leadership had brought forth:

- Potential undefined environmental liabilities
- Human capital needs for full NEPA implementation

To strengthen our expertise for the study, OAR sought Dr. Tammy Adams to join CFO/OPAD team on a four-month detail as a NEPA Advisor. Tammy is a biologist with the National Marine Fisheries Service's Office of Protected Resources. She is a NEPA and environmental compliance policy expert, having previously served in an acting capacity as the NMFS National NEPA Coordinator and the NMFS Headquarters NEPA Coordinator.

For this Impact Study, we surveyed seven Laboratories (Labs) and four Program Offices (PO) to evaluate levels of NEPA compliance and needs for records management and training. For expediency, a single representative was selected to participate on behalf of each Laboratory and Program Office.

Laboratory or Program Office	Representative
Air Resources Laboratory	Barbara Shifflett
Atlantic Oceanographic & Meteorological Laboratory	Hector Casanova
Earth System Research Laboratory	
Physical Sciences Division	Richard Lataitis
Global Systems Division	Phyllis Gunn
Chemical Sciences Division	James Meagher
Global Monitoring Division	Russell Schnell
Geophysical Fluid Dynamics Laboratory	Brian Gross
Great Lakes Environmental Research Laboratory	Kim Kulpanowski
National Severe Storms Laboratory	Kevin Kelleher
Pacific Marine Environmental Laboratory	Mark Koehn
Climate Program Office	No representative
National Sea Grant College Program	Dorn Carlson
Office of Ocean Exploration & Research	Margot Bohan
Office of Weather & Air Quality	Brian Orndorff
Cooperative Institutes Program Office	Philip Hoffman

For the most thorough and accurate assessment of CE applicability, environmental impacts, records management, and training needs, we could have conducted extensive interviews with the Principal Investigators for each project at the various Laboratories. However, that level of detail was not necessary for the purposes of this initial compliance needs assessment.

We used two survey tools for the evaluation.

1. NEPA Study Worksheet

The Worksheet (see Appendix A) consisted of 15 multi-part questions designed to identify which natural resources and other components of the “human environment” may be affected by OAR actions.

The worksheet was distributed to each of the Laboratories and Program Offices with instructions for using it to review projects listed in the OAR R&D Project Database.

Responses were recorded and reported by each Laboratory and Program Office representative on the Project Database Excel spreadsheet. Note that we used the 2009 data, which provided a retrospective assessment, primarily to avoid interfering with completion of FY11 data.

These responses do not necessarily reflect the true scope of environmental impacts due to a variety of factors including:

- Lack of familiarity with implementing and documenting NEPA compliance; and
- Insufficient information or knowledge about project details.

Nevertheless, the responses do represent a general overview of the scope of impacts and provide sufficient information to identify which classes of categorical exclusion in the NAO that may apply.

2. Assessment Interviews

An assessment questionnaire (see Appendix B) was used to further validate the Worksheet responses.

We conducted short interviews with the Laboratory and Program Office representatives to:

- Confirm the accuracy of how the Worksheet was interpreted
- Obtain details about the scope of the program and nature and magnitude of impacts
- Obtain information about types of documentation and records management practices
- Inform respondents about the next steps in the process
- Identify reasonably foreseeable future actions not captured by the retrospective review of 2009 data

Although not part of the questionnaire, we also asked the representatives for their informal impressions of their program's resource needs for generating NEPA compliance records and coordinating NEPA compliance in general.

Results

The preliminary assessment of OAR Laboratory and Program Office actions suggests a high legal vulnerability due to the absence of records documenting compliance with NEPA. There is a lack of systematic compliance records across OAR, with the exceptions of a few EAs or EISs for a handful of projects and the grant-funded projects using Grants Online documentation, which requires users to make note of the level of NEPA analysis associated with a funding decision.

The absence of an administrative record documenting an assessment of environmental impacts consistent with the requirements of NEPA and NOAA's Administrative Order represents a procedural shortcoming but does not necessarily imply that OAR's programs represent significant adverse environmental impact, individually or cumulatively. That kind of assessment cannot be confirmed with the type of survey data that we collected.

Types of NEPA analysis documents

There are three types of NEPA analysis documents that can be prepared depending on whether the impacts of the federal action are significant.

- 1) Categorical Exclusions: used for major federal actions which individually or cumulatively do not impact the environment.
- 2) Environmental Assessments: used for major federal actions that may impact the environment, but the impacts are either not significant, or are not known to be significant.

3) Environmental Impact Statements: used for major federal actions where there are known significant environmental impacts or significant controversy surrounding the action such as:

- Adoption of new programs or regulations
- Adoption of formal plans
- Approval of specific projects, such as construction or management activities

The three types of NEPA analysis can vary significantly in scope and timeframe. In order to determine which analysis is appropriate for the proposed action, one must consider the context and intensity (i.e. the significance) of the action.

Preliminary Assessment of CE Applicability

Based on responses to the survey tools, actions funded and undertaken by OAR Laboratories and Program Offices can be separated into five categories for assessing impacts:

- Facilities maintenance and routine administrative functions
- Data analysis and information synthesis, including computer modeling
- Field research in water
- Field research in air
- Field research on land

These types of actions broadly fall within one or more classes of actions for which NOAA has established categorical exclusions in its NAO. The specific texts for these four (4) CE's are in Appendix D. The abbreviated titles and NAO section numbers for these classes of CE are:

- Research Programs [of limited size and magnitude] (6.03c.3(a))
- Financial and Planning Grants [established programs only] (6.03c.3(b))
- Minor Project Activities [for amelioration or improvements] (6.03c.3(c))
- Administrative or Routine Program Functions (6.03c.3(d))

It is important to note that a CE cannot be applied to an action without verifying that the action meets the general requirements in Section 5.05 of NAO 216-6.

There is effectively a three-step process for invoking a CE:

1. Determine that the action is consistent with the description for the class of CE.
 - You cannot claim an action is categorically excluded if it is not part of an established class in the NAO even if you believe there will be no significant adverse impacts
2. Evaluate whether the action would result in an exception to the class determination of “no potential for significant impacts.”
 - Exceptions include actions that may affect geographic areas with unique characteristics (e.g., National Parks, Sanctuaries, critical habitat designated under the Endangered Species Act); have uncertain impacts or unique or unknown risks; or establish a precedent for future proposals.
3. Document the evaluation of appropriateness for the administrative record.

- | |
|---|
| <ul style="list-style-type: none">– This documentation can be a separate memorandum or incorporated into existing records generated for the type of action. |
|---|

The study team did not identify any classes of OAR actions that could not generally fit within existing CE classes or that would otherwise require establishing new classes of CE. However, we note that the NAO also establishes classes of agency actions that cannot be categorically excluded and which require preparation of an EA or EIS.

- *EA required*
 - Financial Assistance for land acquisition, construction, vessel capacity reduction (6.03c.1(b)(1))
 - New financial support services (including new grant programs) (6.03c.1(b)(2))
- *EIS required*
 - Research in the natural environment (6.03c.2(c)(1))
 - Research intended to form the major basis for future projects (6.03c.2(c)(3))
 - Research involving use of highly toxic agents, pathogens, or non-native species in open environment (6.03c.2(c)(4))
 - Plans, studies, or reports that could determine nature of future federal actions (6.03c.2(d))

Our survey of the Laboratories and Program Offices did not identify projects that obviously require immediate preparation of an EA or EIS for compliance. However, we note that we did not ask respondents to conduct an actual analysis of CE applicability, nor did we collect and review the type of detailed information on the activities funded and undertaken that would enable such a determination. Some current or future OAR actions may fall into these categories and require a more detailed NEPA analysis than a CE applicability test.

Further, OAR may choose to prepare an EA or EIS for specific existing or future programs or projects for reasons of efficiency and streamlining or to enhance and support their program planning and budget processes. For example, a single programmatic EA may be more efficient and less labor-intensive than dozens of individual CE memoranda prepared annually for the Sea Grant and Cooperative Institutes Programs.

Records Management

When we asked the Laboratory and Program Office representatives what type of NEPA documents were on record for their actions, their responses generally fell into one of three categories:

- CE documented in Grants Online or in a memorandum for the file
- An EA or EIS for a multi-disciplinary project, usually when the action is led by or conducted jointly with another federal agency such as National Weather Service, National Marine Fisheries Service, Department of the Interior/Bureau of Ocean Energy Management, etc.
- No NEPA compliance documents, or uncertain whether or where NEPA documents exist

We also asked the OAR representatives what type of records were associated with their programs in general, and in particular whether any of those records could be adapted or form the basis of NEPA compliance records. We were especially looking for records that describe the purpose and need of the action, geographic and temporal scope of the action, and manner in which it might affect the environment.

Most Laboratories and Program Offices responded that they have project or grant proposals, technical reports, published journal articles, and websites that describe their activities at varying levels of detail. We did not review these documents to determine whether they contain sufficient levels of detail on potential environmental impacts to satisfy the requirements of NEPA.

We did not investigate the specific records management associated with each Laboratory or Program Office. However, our survey suggests there is no consistent formalized administrative record process that would demonstrate NEPA compliance across OAR.

NEPA Expertise/Training Needs

As a part of this study we did not conduct an audit of NEPA expertise within OAR's Laboratories and Program Offices. However, the responses to our survey suggest a widespread need for at least a basic level of training to familiarize program staff with general requirements.

Our survey suggests that the project or program managers (e.g., principal investigators) are the people most knowledgeable about whether or how their actions interact with and affect the environment. However, these individuals may not have expertise in conducting and documenting NEPA assessments and/or be sufficiently familiar with the Administrative Procedure Act and requirements for an administrative record in support of NEPA compliance.

Recommendations

The results of our survey suggest OAR can most easily achieve full compliance with NEPA by implementing a formalized process that addresses five key elements.

1. Consistency

We recommend that OAR establish a systematic approach to quality assurance for compliance with NEPA, to be implemented across OAR Laboratories and Program Offices.

NEPA dictates procedures federal decision-makers must adhere to for any "major federal action" the agency funds or undertakes but does not specify quality assurance (QA) and quality control (QC) details for implementation by any specific agencies. NOAA's Administrative Order provides some high level guidance for ensuring a consistent approach across NOAA, but also does not dictate QA plans or QC activities for OAR or other line offices within NOAA.

Full compliance with NEPA across OAR implies a consistent approach to things like documenting applicability of categorical exclusions, records management, and training.

A QA/QC plan would assist OAR in documenting the resources and prioritizing the steps needed to implement full compliance. It could also establish procedures for streamlining compliance for the specific types of activities common to its Laboratories and Program Offices compared to the general classes of actions identified in NOAA's Administrative Order.

As an example, an OAR QA/QC plan for NEPA compliance could include guidance on development and use of templates to screen for and document applicability of Categorical Exclusions. Templates provide a degree of consistency in the evaluation of impacts and establish a common format for records management. Templates also facilitate compliance across a wide range of NEPA expertise and training.

The Worksheet in Appendix A could easily be adapted to serve as documentation of a CE applicability test and a record of NEPA compliance for individual actions.

2. Records Management

We recommend OAR implement formalized records management guidance to facilitate tracking and substantiating its NEPA compliance.

We did not undertake to evaluate whether specific OAR projects are having a significant impact on the environment or would otherwise exceed the thresholds for applicability of categorical exclusions. While our survey did not identify liabilities based on levels of environmental impacts, we did identify a systematic liability in the absence of documentation that demonstrates compliance with NEPA.

We suggest consulting a records manager or an attorney knowledgeable about NEPA, the Administrative Procedure Act (APA), and the Freedom of Information Act to assist in an audit of OAR's records and identifying records management guidance for the QA/QC plan.

It is important to identify the types of records that are already associated with the Laboratory and Program Office actions and then establish what additional records might need to be kept (and by whom) for documenting NEPA compliance. The purpose of NEPA is not to generate paperwork, but to foster good decisions. Thus, to the extent NEPA compliance can be addressed by or incorporated into existing types of records, it should be.

NOAA's NEPA coordinator collects information quarterly and annually on the numbers and types of NEPA analysis and decision documents initiated and completed by the NOAA Line Offices. Ideally, each Laboratory and Program Office would have points of contact for tracking and reporting to NOAA on the levels of NEPA initiated and completed during each cycle, which includes use of CEs and preparing EAs and EISs.

3. Training

We recommend OAR provide NEPA training for staff at levels of detail commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance.

At a minimum, a “NEPA 101” primer should be offered that

- Introduces staff to the basic policies and legal requirements of NEPA and APA,
- Explains the three levels of NEPA analysis (CE, EA, EIS), and
- Promotes familiarity with OAR’s internal policies for consistency and records management.

For staff with NEPA decision-making responsibilities and a more substantive NEPA role within OAR, such as managing preparation of EAs and EISs, we suggest more in-depth or specialized trainings as applicable to cover topics such as conducting cumulative effects analysis, developing tiers, and addressing effects of climate change.

We note that many NEPA training courses offered do not translate well for application to non-consumptive resource uses such as surveying and sampling air and water quality or developing predictive models for severe weather. It may be appropriate to have training more customized to the types of activities commonly funded and undertaken by OAR. It may be possible to partner with other parts of NOAA that would also benefit from such customized training, such as the National Marine Sanctuaries Program or the National Marine Fisheries Service (NMFS).

4. Coordination and oversight

We recommend OAR establish formal NEPA coordination functions, to include regional or program level NEPA coordination roles as appropriate to workload and complexity of actions.

One model we reviewed within NOAA establishes a National NEPA Coordinator for all of the National Marine Fisheries Service, and Regional NEPA Coordinators for each of the six NMFS regional financial management centers plus one for headquarters offices. These are full-time positions that report to the Assistant Administrator or Regional Administrators.

We do not suggest that OAR requires this level of staff resource commitment. NMFS is a regulatory agency that is required to generate a correspondingly substantial number of EAs and EISs. OAR does not have equivalent liabilities with regard to litigation, controversy, or public scrutiny.

We suggest the general model of placing staff with NEPA coordination and oversight responsibilities within each Laboratory and in the headquarters of Program Offices would work well for OAR. However, it may not be necessary to have full-time positions for each facility. That determination depends on the volume and nature of NEPA analyses generated.

It may be more appropriate to incorporate NEPA coordinator duties into existing FTE positions, as it may only require a small percentage of an individual staff person’s time to fulfill NEPA oversight and coordination obligations as outlined in a QA/QC plan.

It may also be practical and efficient to combine NEPA coordination roles with safety and environmental compliance functions at OAR Headquarters and within Laboratories. There is a logical connection between those functions, and often an overlap between compliance with

NEPA and other laws for environmental protection that may apply to activities conducted at or by OAR Laboratories, such as the Clean Water Act and Clean Air Act.

The study identified human capital needs for full NEPA implementation by reviewing the volume of NEPA work that already exists within the Program Offices and Research Laboratories. The exact volume is not clear but it is felt that the starting point of the NEPA process within OAR needs to be in the Program Offices and Research Laboratories when research projects are identified and initiated. When OAR moves further along with its phased NEPA implementation we expect that staffing and functional requirements will be made clearer and ultimately addressed.

5 Streamlining

As the final recommendation, we suggest three ways that OAR can further streamline NEPA compliance to minimize time and resources involved.

Consider programmatic NEPA analysis documents to enhance efficiency and facilitate strategic planning and budgeting processes. For example, those programs that routinely and predictably generate large volumes of individual CE determinations for the same classes of actions on an annual cycle may benefit from a programmatic EA that provides NEPA compliance for a period of several years and requires only minimal documentation for each decision-making cycle.

Integrate NEPA compliance procedures with the OAR strategic planning and budget processes. This is often the earliest stage at which NEPA can be applied. It is also a logical stage for programmatic analysis and decision documents. The alternatives framework of a NEPA analysis can often strengthen justifications for agency decisions and budget needs by clearly demonstrating the benefits of a chosen path relative to the disadvantages of status quo, inaction, or pursuing other courses of action.

Use a phased approach to achieving full compliance. It is not necessary or practical to immediately or simultaneously address every NEPA compliance deficiency across OAR. For example, it is not necessary to provide NEPA training to all staff before beginning the development of a QA/QC plan.

Neither is it necessary for staff to be trained prior to OAR distributing a simple CE applicability determination template that can be completed and serve as a record of compliance for those actions that qualify. If, as our survey suggests, the majority of actions funded and undertaken by OAR are consistent with classes of CE in the NAO, the simple step of formally documenting this determination for the record goes a long way toward bringing OAR into full compliance.

Appendix A

OAR NEPA STUDY WORKSHEET

This worksheet was developed to assist you in determining the appropriate level of NEPA review for your research projects.

Use the worksheet to review the projects listed on the extract of the OAR R&D Project Database for which you have responsibility. Complete a separate worksheet for each project (project = row on Project Database spreadsheet).

For each question, choose “yes” or “no” on the worksheet. If you are unsure how to respond to a particular question, contact an OAR facilitator for resolution.

Use the “comments” lines of this worksheet to note pertinent information about your “yes” responses for transfer to the spreadsheet, and possible subsequent discussions with an OAR facilitator.

Report your responses in the Project Database spreadsheet as directed below.

Keep the worksheet for reference in the next phase of the study. Return the completed Project Database spreadsheet to OAR.

Project Title: _____

1. Does your project involve only data analysis and information synthesis, including computer modeling and database management or creation? ☐yes ☐no
If “yes”, **STOP** here and put “no” in the “NEPA” column of the spreadsheet and “#1” in the “Checklist Question for Discussion” column.
2. Does any part of your project take place in international waters, the upper atmosphere, or the Antarctic? ☐yes ☐no
Comments:
3. Does the work require siting, construction, or major expansion of waste treatment, storage, or disposal facilities? ☐yes ☐no
Comments:
4. Does the work result in disturbance of pre-existing contaminants? ☐yes ☐no
Comments:
5. Are “sensitive” resources affected by the project or present in the project area:
 - a. Threatened or endangered species or designated critical habitat? ☐yes ☐no
Comments:
 - b. Marine mammals? ☐yes ☐no
Comments:
 - c. Other protected species (migratory birds, etc.)? ☐yes ☐no

- Comments:
- d. Coral reefs? ☐yes ☐no
Comments:
- e. Tundra? ☐yes ☐no
Comments:
- f. Rainforests? ☐yes ☐no
Comments:
- g. Essential Fish Habitat designated under Magnuson-Stevens Act? ☐yes ☐no
Comments:
- h. Archeological or historical resources? ☐yes ☐no
Comments:
- i. Prime or important farmland? ☐yes ☐no
Comments:
- j. Non-attainment Areas for Ambient Air Quality Standards? ☐yes ☐no
Comments:
- k. Class I Air Quality Control Region? ☐yes ☐no
Comments:
- l. Navigable waters or air space? ☐yes ☐no
Comments:
- m. Coastal zones? ☐yes ☐no
Comments:
- n. Areas with special national designations (National Parks, Forests, Marine Refuges, Trails, etc.)? ☐yes ☐no
Comments:
- o. Floodplains or wetlands? ☐yes ☐no
Comments:
- p. Wild and Scenic Rivers? ☐yes ☐no
Comments:
6. Does the project involve any of these regulated substances or activities?
- a. Invasive species? ☐yes ☐no
Comments:
- b. Noxious weeds? ☐yes ☐no
Comments:
- c. Clean Water Act section 404 permits for dredge or fill? ☐yes ☐no
Comments:
- d. Noise generation in excess of regulations? ☐yes ☐no
Comments:
- e. Use of pesticides or PCBs? ☐yes ☐no
Comments:
- f. Storage or use of hazardous chemicals? ☐yes ☐no
Comments:
- g. Generation of Criteria Air Pollutants or radioactive air pollutants? ☐yes ☐no
Comments:
- h. Generation or release of liquid effluents? ☐yes ☐no
Comments:
- i. Underground waste injection, or storage tank installation or removal? ☐yes ☐no

- Comments:
- j. Generation or management of hazardous waste, radioactive or mixed waste? ☐yes ☐no
Comments:
- k. Generation of light or lasers? ☐yes ☐no
Comments:
- l. Generation of ionizing or non-ionizing radiation or EMF? ☐yes ☐no
Comments:
- m. Management or use of toxic substances? ☐yes ☐no
Comments:
- n. Alteration of landscape or water courses? ☐yes ☐no
Comments:
7. Does your project result in depletion of non-renewable resources? ☐yes ☐no
Comments:
8. Does your project result in low magnitude impacts across a large spatial or temporal scale (e.g., nationwide, ocean basin, range of species, year-round)? ☐yes ☐no
Comments:
9. Does your project result in significant deterioration, including substantial degradation even if it would not breach a significant threshold? ☐yes ☐no
Comments:
10. Does your project degrade visual resources, including esthetics? ☐yes ☐no
Comments:
11. Does your project use new, innovative, controversial, or experimental techniques? ☐yes ☐no
Comments:
12. Does your project involve construction or alteration of platforms to deploy or anchor equipment? ☐yes ☐no
Comments:
13. Does your project involve construction or alteration of facilities to house research equipment? ☐yes ☐no
Comments:
14. Is your project the subject of public controversy? ☐yes ☐no
Comments:
15. Is the project connected to other existing or proposed projects for which the answer to questions 2 - 15 might be "yes?" ☐yes ☐no
Comments:

If you answered "no" to Questions 2 – 15, put "no" in the "NEPA" column of the spreadsheet and leave the "Checklist Question for Discussion" column blank.

If you answered "yes" to any of Questions 2 – 15, put "yes" in the "NEPA" column of the spreadsheet. In the "Checklist Question for Discussion" column, list the question numbers (e.g., 6m, 12, 13) to which you responded yes and briefly explain.

If you answered "Yes" for Question 1, or "No" for all other questions in the list, your project probably qualifies for a categorical exclusion from the need to prepare an environmental assessment or environmental impact statement. An OAR facilitator will assist in determining

whether your project is consistent with a class of actions defined in NOAA's Administrative Order 216-6, and may ask follow-up questions to determine which class is applicable.

If you answered "Yes" for any other questions (nos. 2 – 15), your project may still qualify for a categorical exclusion. An OAR facilitator will follow-up to help you evaluate the degree to which resources are affected and the appropriate level of NEPA documentation for your project.

Appendix B: FOLLOW-UP ASSESSMENT QUESTIONNAIRE

1. Does your program or project have any NEPA documents on record already?
E.g., CE memos, EA/FONSI, EIS/ROD (document titles and dates)
2. What kinds of records are currently associated with your program or project?
3. For “yes” to Q.1, briefly explain the nature of the work, e.g., computer modeling using data from [where did the data originate? Another project? Another agency? Historical?]
4. For field work and other projects in the natural environment, briefly describe the temporal and geographic scale.
5. What federal, state or local permits are associated with your program or project?
6. What federal or state consultations are associated with your program or project?
7. For Q.11, are the likely effects of the “new, innovative, experimental” techniques predictable or entirely unknown? If they are controversial, is it mere opposition or are the effects on the environment disputable?
8. For Q.12, does adding your equipment to existing platforms alter the way the platform does or may affect the environment?
9. For Q.13, how large are the new facilities or by how much does the alteration expand the footprint or change the use?
10. For Q. 14, is the public controversy mere opposition in principle, or are the environmental effects disputable?
11. For Q.15, do the other projects have their own NEPA reviews (that OAR could reference or incorporate into our record as needed)? Is your project the triggering action? Can the project proceed without your component (independent utility test)?
12. What projects are on the horizons that were not captured in this retrospective review and would your responses to the worksheet differ?

Appendix C:

NEPA Implementation within OAR and the OAR NEPA Task Force

OAR NEPA Implementation Activities:

- NOAA announces a major initiative of revising the NOAA NEPA Policy during December 2008; OAR staff have served on the NOAA Steering Committee established to revise the NOAA Administrative Order (NAO)
- OAR Management Conference speaker was AA of NOAAs Program Planning & Integration, Laura Furgione, indicated the importance of NEPA for OAR
- NOAA PPI briefing for OAR managers on July 9, 2009 putting OAR's NEPA role in perspective
- Briefing for Laboratories and Deputies October 14, 2009 to cover OAR's NEPA options, suggested NEPA structure based on other LO and formulating an OAR NEPA Task Force
- OAR established the NEPA Task Force with representatives AOML, ARL, ESRL/ PSD & GSD, CI, OER, SG, CFO; Co-Chairs of Task Force Brenda Alford, CFO, and Dorn Carlson, SG. Kick-off meeting Task Force on October 28, 2009 in Boulder (Brenda) and Silver Spring (Dorn) to address three questions:
 - How should OAR's NEPA review process for research be conducted?
 - What are the NEPA compliance roles of OAR staff?
 - Should OAR or PPI have oversight for all OAR NEPA activity?
- Task Force members reviewed several updates to the NOAA NAO for feedback related to potential implementation within OAR
- Subsequent meetings of the Task Force resulted in the recommended role for OAR and the development of the policy statement:
 - OAR AA accepts the delegation from NOAA PPI to conduct the NEPA reviews
 - OAR AA delegates responsibility for NEPA reviews to PO & Lab. Directors
 - Research activities will be reviewed for environmental impact for grants, contracts, MOUs, independent studies and other projects
 - OAR compliance team will provide oversight
 - Establish new FTE position as OAR NEPA Coordinator similar to other LOs
- Deputies, AOs and the grants staff reviewed the OAR NEPA Policy
- OPAD conducted a DAA NEPA briefing in August 2010
- CFO/OPAD proceeded with several steps to address Judy Gray's concerns during briefing about OAR's undefined environmental liability. Conducted several staff discussions to review environmental liability issues potentially associated with headquarters and laboratory projects.
- Engaged the Project Manager responsible for the NOAA NEPA NAO revisions to serve as a speaker for the Management Conference November 2010.
- Formulated an initial study design to assess NEPA vulnerabilities related to research projects being conducted and the impact of future directions within each program office and laboratory. The design was considered to establish a "base line" for the OAR NEPA Impact Study.

- The Impact Study would benefit the Climate Service since the design would cover the current Climate Office and ESRL as the two major components of the new LO. Consideration was given for the OAR NEPA Coordinator position potentially as a cross-service function with the new Climate Service
- Consulted with OAR staffs who have established an inventory of NOAA LO activities that may have an impact on the environment to utilize for the impact study. Conducting additional inquiries to ensure that the inventory is as complete as possible to serve as a tool for the impact study.
- Formulated a resource list of NEPA training providers to facilitate staff knowledge and skills to a similar operational level
- NEPA Task Force developed and reviewed draft copies of the OAR NEPA Policy that was approved by Assistant Administrator on March 8, 2011 (see attached)
- The NEPA Task Force approved the study design for the Impact Study and remained involved through the project

The members of the OAR NEPA Task Force:

AOML

Charles (Chuck) Featherstone
LT Hector Casanova

ARL/ATDD

Barbara Shifflett

ESRL/GSD

Phyllis Gunn

ESRL/PSD

Richard Lataitis

OWAQ

John Cortinas

OER

Margot Bohan

PMEL

Mark Koehn

Sea Grant

Jonathan Eigen
Dorn Carlson

CFO

Brenda Alford
Sharon Schroeder
Sharon Berner
James Olander

Oceanic & Atmospheric Research (OAR) Implementation of National Environmental Policy Act (NEPA)

March 8, 2011

I. INTRODUCTION NOAA Policy applies. OAR adds:

NEPA directs Federal agencies (1) to predict and assess the environmental effects of an action and its alternatives on the human environment, (2) to consider any mitigation options of their action, and (3) to involve and inform the public in the decision-making process. The essential purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision-making process undertaken by federal agencies.

II. PURPOSE NOAA Policy applies. OAR adds:

The purpose of this Directive is to establish the Oceanic and Atmospheric Research (OAR) requirements and procedures for complying with the National Oceanic and Atmospheric Administration (NOAA) implementation of National Environmental Policy Act (NEPA), Administrative Order 216-6 referenced at 42 U.S. Code § 4321 *et seq.*

III. OAR POLICY

A. In meeting NOAA requirements of NEPA, it is OAR's policy to:

1. Apply the policies and procedures of NEPA over which it has control and responsibility, to actively pursue one or more alternative means of accomplishing the objective, and to ensure the effects can be evaluated.
2. Initiate the NEPA process early in the planning process.
3. Use the best available scientific information and a systematic and interdisciplinary approach to fully consider the direct, indirect, and cumulative impacts of proposed actions on the quality of the human environment.
4. Consider the impacts of proposed actions on the human environment within the United States, its territories, and in the marine environment.

5. Communicate and coordinate with OAR Program Offices and Laboratories; Federal, State, and local agencies and individuals early in the planning and decision-making process.
 6. Meaningfully involve the public in the NEPA process where appropriate
 7. Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.
 8. Ensure decision-makers consider environmental analyses in their decision-making.
 9. Consider information related to climate change to the extent practical in the NEPA process both in the context of environmental effects of OAR action as well as the effect of the agency's action on the quality of the human environment.
- B. OAR will consider other environmental requirements concurrently with the NEPA process.
- C. OAR will serve as a cooperating agency upon request of the lead agency when NOAA has jurisdiction by law.
- D. OAR will provide timely and factual comments on other agencies' NEPA documents to positively influence other Federal agency plans and projects and to ensure consideration, protection, and mitigation of potential impacts to NOAA's trust resources upon request.
- E. OAR may use adaptive management principles (e. g., Environmental Management Systems) in its decision-making process including monitoring and mitigation measures. Environmental monitoring may be used in circumstances where long-term impacts may be certain and measures could be needed to ensure environmental consideration of subsequent actions.
- F. OAR will consider the impacts on the human environment of any proposed action conducted within or affecting a foreign nation's environment.
- G. OAR will assess proposed actions to determine whether they have a disproportionately high and adverse human health or environmental impact on minority or low-income populations.

IV. RESPONSIBILITIES

- A. OAR's Assistant Administrator accepts NOAA's NEPA delegation to ensure NOAA's NEPA compliance within OAR and will:
1. Assist the NOAA Administrator and the NOAA NEPA Coordinator to fulfill NOAA's compliance with NEPA.
 2. Appoint an OAR NEPA Coordinator to ensure compliance with NEPA.

3. Ensure NEPA is included in the Science Advisory Board (SAB) and other research-related decision-making.
4. Delegate NEPA compliance to the Program Office Director(s) and Laboratory Director(s).
5. Be the signature authority on OAR/NEPA documents unless delegated to other responsible individuals.
6. Delegate signature authority for categorical exclusions to Program Office and Laboratory Directors.
7. Ensure that OAR Responsible Program Managers (RPM) and NEPA Staff Leads are trained to conduct the NEPA process and appropriately implement this policy.
8. Develop and support budget requests to manage and implement the requirements of this policy.

B. The OAR NEPA Coordinator will:

1. Assist NOAA to ensure OAR compliance with NEPA.
2. Assist the OAR Assistant Administrator in ensuring that OAR's NEPA-related staffs are trained to conduct the NEPA processes.
3. Assist RPMs in ensuring that the appropriate NEPA process will be initiated early in the planning process, to be conducted concurrently and completed before an action is taken that irretrievably commits resources or limits the choices of alternatives to satisfy an objective, meet a goal, address a need, or develop a program.
4. Consult early and often with RPMs to assist in carrying out the NEPA process.
5. Review to ensure consistency of NEPA documents.
6. Provide signature on transmittal letters for NEPA documents.
7. Support early, proactive, and comprehensive coordination, communications, and outreach processes within OAR.
8. Submit NEPA compliance reports to NOAA.
9. Coordinate and cooperate with other Line and Staff Offices and agencies on NEPA-related actions.
10. Establish and formulate an OAR/ NEPA Compliance Team to ensure that NEPA is uniformly implemented within OAR and to flag possible cumulative impacts across OAR Program Offices and Laboratories.
11. The OAR NEPA Coordinator may:
 - a. Develop and /or provide OAR NEPA policy, procedures, coordination actions or measures, technical administration, and staff training to enable the reliable, timely, and cost effective compliance.
 - b. Consult with the NOAA and DOC Offices of the General Counsel as needed.
 - c. Submit proposals to the NOAA on the establishment of categorical exclusions, guidance on program-specific implementation of this policy, and program specific training materials.

C. OAR Program Office Director(s) and Laboratory Director(s) will:

1. Assist OAR Assistant Administrator to ensure compliance with NEPA requirements.
2. Designate a Responsible Program Manager (RPM) within their organization to implement and comply with NEPA policy.
3. Ensure that RPMs and their NEPA Staff Leads are trained to conduct the NEPA process and appropriately implement this policy.
4. Develop and support budget requests to manage and implement the requirements of NEPA.

D. The Responsible Program Manager will:

1. Initiate NEPA early in the planning process, conduct NEPA concurrently and complete the process before an action is initiated.
2. Identify compliance issues, in consultation with the OAR NEPA Coordinator.
3. Designate a NEPA Staff Lead in consultation with the OAR NEPA Coordinator to assist in carrying out the NEPA process. If a NEPA Staff Lead is not designated, the RPM will serve as the NEPA Staff Lead.
4. Carry out the appropriate NEPA process on proposed actions in compliance with the NOAA policy.
5. Support a budget that is adequate to manage and implement the requirements of this policy.

E. The OAR NEPA Staff Lead assists the RPM in carrying out the NEPA process, including gathering information, preparing documents, and involving the public.

Approved:

Signed by Judith Gray for Craig N. McLean Date: March 8, 2011

Craig N. McLean
Acting Assistant Administrator, OAR

Appendix E



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Silver Spring, MD 20910

OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

APR 12 2013

MEMORANDUM TO: OAR Deputy Directors
OAR Administrative Officers
OAR NEPA Task Force and Grants Online NEPA Officials
OAR Environmental Compliance Work Group members

FROM: 
Craig N. McLean
Deputy Assistant Administrator

SUBJECT: OAR Compliance with NEPA and NOAA's Environmental Statutes

Effective January 2013, the Office of Policy, Planning and Evaluation (PPE) has assumed responsibility for OAR's compliance with the National Environmental Policy Act (NEPA) and NOAA's environmental statutes.

OAR is overall environmentally in very good shape. However, we have more work to do. We need to have a focal point for our environmental compliance efforts. So, we will establish a new position of NEPA/Environmental Compliance Coordinator in OAR/PPE. This Coordinator will provide the necessary guidance to begin the vital NEPA and environmental compliance training for staff at levels commensurate with their roles and responsibilities. Also, it will allow OAR to establish a systematic approach for compliance that will be implemented across our Laboratories and Program Offices.

Thank you for your efforts that were critical in the development of an OAR policy statement, conduct of an impact analyses study, and contribution to the NOAA "Statutes Compliance Institutional Plan." These gave OAR's environmental compliance efforts a good start and solid foundation in order to allow for this functional transition. The efforts that began under the auspices of the Chief Financial Officer and Environmental Compliance Work Group will continue. Important steps have been achieved on the long compliance road ahead. Our refocused efforts highlight the need to have individuals in our Program Offices and Laboratories to assume the responsibility to include compliance with NEPA and NOAA environmental functions in their workload. The attached list identifies individuals already in place to assist in this effort.

We know that training is needed to provide a working knowledge of NEPA and other environmental statutes. At future Deputy Directors and Administrative Officers calls we will be outlining the next steps that NOAA and OAR are taking to implement full compliance with these statutes.

We thank you for your past support and participation in OAR's NEPA and environmental efforts.

CC: Attached list.



Printed on Recycled Paper



Laboratory or Program Office	Representative (s)
Air Resources Laboratory	Barbara Shifflett
Atlantic Oceanographic & Meteorological Laboratory	Hector Casanova Charles Featherstone
Chief Financial Officer& Chief Administrative Officer	Brenda Alford James Olander
Climate Program Office	Diane Brown David Legler Eric Locklear Diane Stanitski
Cooperative Institutes Program Office	Philip Hoffman Julien Lartigue
Earth System Research Laboratory Physical Sciences Division Global Systems Division Chemical Sciences Division Global Monitoring Division	Richard Lataitis William Neff Phyllis Gunn John Daniel Russell Schnell
Geophysical Fluid Dynamics Laboratory	Brian Gross
Great Lakes Environmental Research Laboratory	John Fenton Kim Kulpanowski Doran Mason
National Sea Grant College Program	Leon Cammen Dorn Carlson Jonathan Eigen Nikola Garber
National Severe Storms Laboratory	Kevin Kelleher
Office of Ocean Exploration & Research	Margot Bohan John McDonough Gene Smith
Office of Weather & Air Quality	Brian Orndorff John Cortinas
Pacific Marine Environmental Laboratory	Gayle Elkins Mark Koehn

CC: PPI: Steve Kokkinakis, Jay Nunenkamp

NOAA Environmental Compliance Work Group
Helen Golde, NMFS Protected Resources
Brandon Sousa

NMFS - NEPA Steve Leathery, National NEPA Coordinator

NOS - NEPA David B. Winandy

Point Paper

Responsibility for National Environmental Policy Act and Compliance in OAR

Originator: James F. Olander
Office: Office of Policy, Planning and Evaluation (R/PPE)
Date: February 21, 2013

Purpose

Approve and sign the attached memorandum

Background

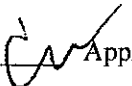
In January 2013, the Office of Policy, Planning and Evaluation (PPE) has assumed responsibility for OAR's compliance with NOAA's environmental statutes and the National Environmental Policy Act (NEPA). This is the official notification of the change in responsibility.

Discussion

- The initial NEPA implementation efforts were started under the Office of OAR's Chief Financial Officer (CFO)
- That office developed an OAR policy statement, an impact analyses study, and contribution toward the NOAA Statutes Compliance Institutional Plan. These gave OAR's environmental compliance efforts a good start and solid foundation in order to allow for this functional transition.
- It was determined that the NEPA and all Environmental Compliance functions are better suited in OAR's Office of Policy, Planning and Evaluation, and in January a transfer of functions took place.
- The NEPA efforts that began under the auspices of the Chief Financial Officer and Environmental Compliance Work Group will continue.
- OAR's refocused efforts highlight the need to have individuals in our Program Offices and Laboratories to include NEPA and environmental compliance functions in their workload. The list attached to the memorandum identifies individuals already in place to assist in this effort.
- As OAR/PPE moves forward with NEPA compliance we are now in a position to implement the recommendations of the past NEPA study. OAR needs to have a focal point for our environmental compliance efforts. So, we will establish the position of NEPA/Environmental Compliance Coordinator in OAR/PPE. This Coordinator will provide the necessary guidance to begin the vital NEPA and environmental compliance training for staff at levels commensurate with their roles and responsibilities. Also it will allow OAR to establish a systematic approach for compliance that will be implemented across our Laboratories and Program Offices.

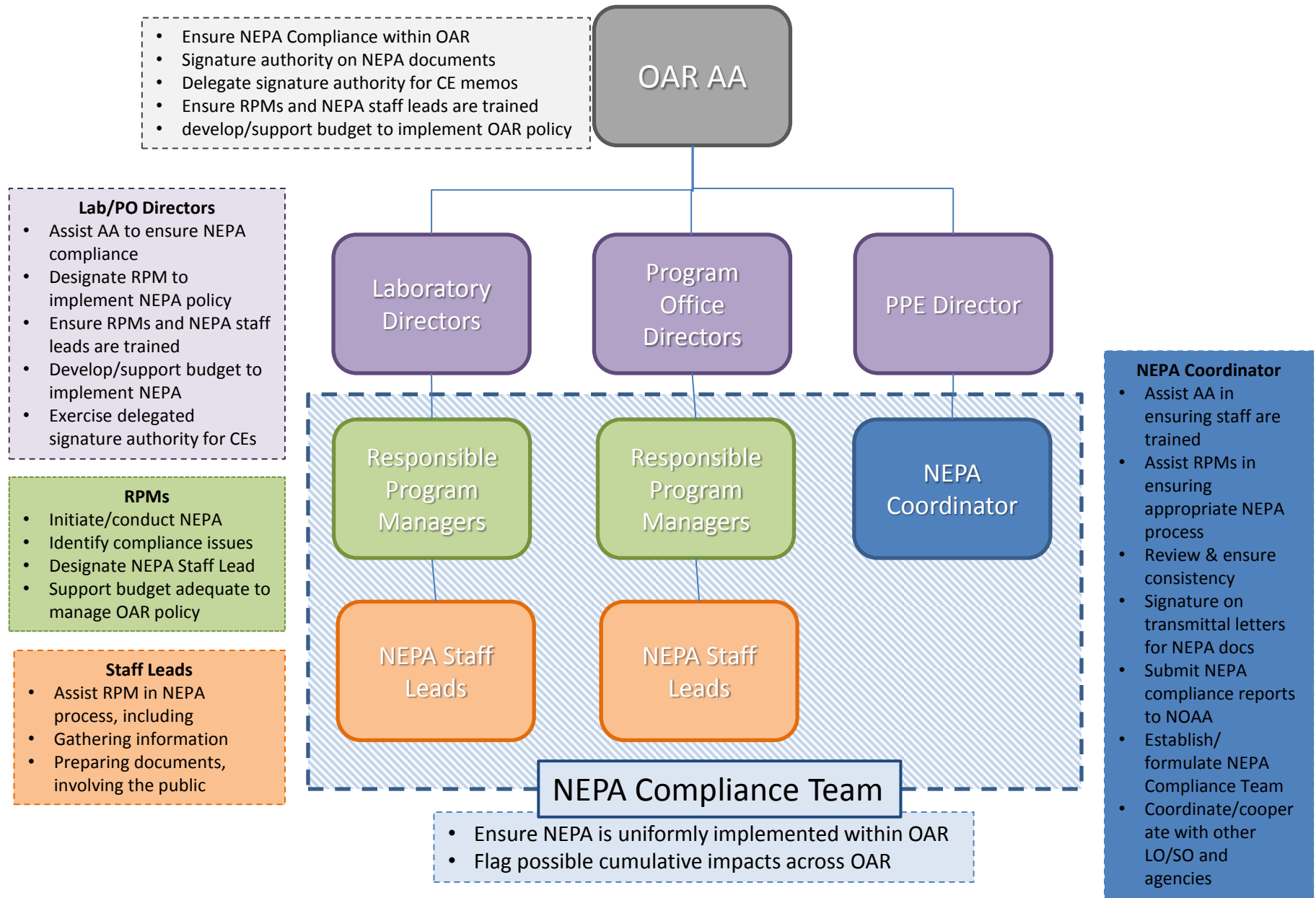
Recommendations

Approve the Attached memorandum to OAR announcing the responsibility change.

Approve:  Approved with comments/edits: _____ Disapprove: _____ Let's Discuss: _____

Appendix F

NEPA Roles and Responsibilities in OAR



Appendix G

OAR's National Environmental Policy Act Compliance Team Charter

revised July 2014

Goal:	The goal of the National Environmental Policy Act (NEPA) Compliance Team is to guide NOAA's Office of Oceanic and Atmospheric Research (OAR) in developing (1) a culture that values NEPA as a decision-making tool and (2) a capacity for systematic and comprehensive compliance with the spirit and letter of NEPA.
Organizational Context	OAR has an obligation to comply with the requirements of NEPA, including other laws for environmental protection, by preparing appropriate environmental impact analysis and decision documents for its "major federal actions" that may or will affect the human environment. NOAA's Administrative Order 216-6 specifies implementing procedures for compliance with NEPA, including delegation of signature authority for NEPA documents to the AA. OAR will use the NEPA process in its planning and decision-making to foster "excellent actions" that give appropriate consideration to the environment and furthers OAR's mission to "understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social and environmental needs."
Project Management:	OAR established a NEPA Compliance Team composed of a Responsible Program Manager (RPM) and NEPA Staff Lead from each OAR Lab and Program. The Team is chaired by the Director of the Office of Policy, Planning, and Evaluation ¹ . The Team provides guidance and oversight to OAR staff with: NEPA signature authority; authority to approve programs, projects and activities; and responsibility for developing, implementing, and evaluating programs, projects, and activities. If a RPM or NEPA Staff Lead are unable to participate in a meeting, the RPM may designate a representative from their Lab or Program to participate in their place.
Team Purpose:	The Team will ensure that NEPA is uniformly implemented within OAR and flag possible cumulative impacts across OAR Program Offices and Laboratories. ²
Duration:	The Team was established on April 12, 2013, ¹ and will continue indefinitely as compliance with NEPA is a standing mandate.

¹ Attachment 1. Memo from Craig McLean, Deputy Assistant Administrator to OAR Deputy Directors, Administrative Officers, NEPA Task Force and Grants Online Officials, and Environmental Compliance Working Group members, dated April 12, 2013, re: OAR Compliance with NEPA and NOAA's Environmental Statutes.

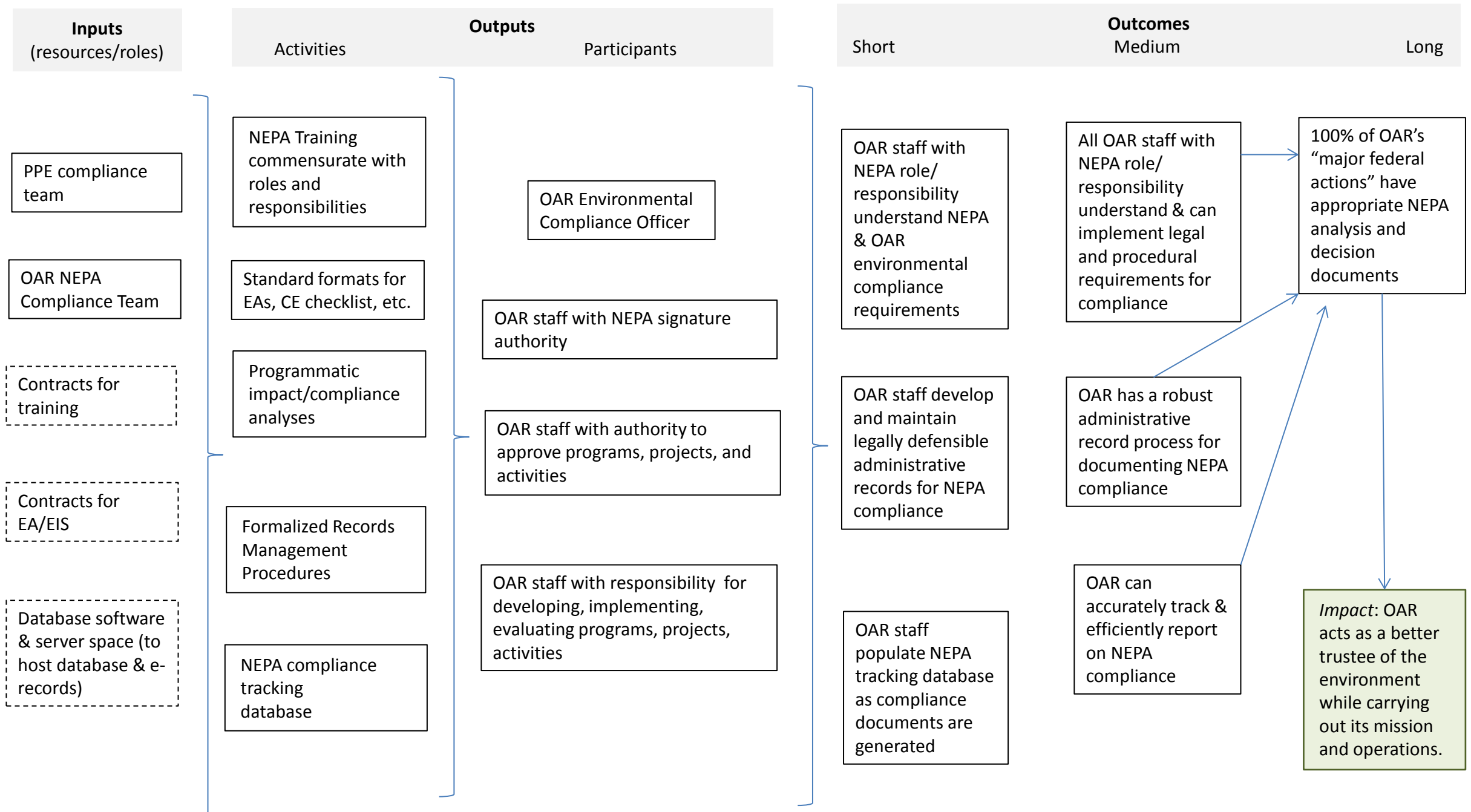
² As stated in OAR policy for Implementation of National Environmental Policy Act, signed March 8, 2011, by Judith Gray for Craig McLean.

Appendix H

OAR NEPA compliance Logic Model (August 2013)

Situation: OAR does not have a consistent or well-documented approach to NEPA compliance.

GOAL: OAR has a culture that values NEPA as a decision-making tool and a capacity for systematic and comprehensive compliance with NEPA.



Assumptions:

OAR has NEPA expertise in PPE to guide and oversee implementation ; resources for training, database development and maintenance, impact analyses; approved recommendations in OAR NEPA Compliance Impact Study Report (2011)

External Factors:

NEPA statute, CEQ regulations, NAO 216-6, NOAA Statutes Compliance Report, other agency policies re: environmental compliance; NOAA-PPI reporting requirements; other laws for protection of environment (e.g., ESA, MMPA)

Impact: OAR acts as a better trustee of the environment while carrying out its mission and operations.

Appendix I

Intro to NEPA

NEPA 101 course content

- What is NEPA?
 - CEQ regulations, NAO 216-6
- When does NEPA apply?
 - significance criteria, timing, scope
- What is required for compliance?
 - Levels of NEPA analysis documents, APA
- When to use programmatic
- How to apply a CE
- Other applicable laws (e.g., MMPA, ESA) & record keeping

2

How well do you know NEPA?

1. What does “NEPA” stand for?

- a) National Environmental Protection Act
- b) National Environmental Policy Act
- c) Nobody Ever Produces Anything
- d) Truth, Justice, and the American Way

4

2. What is the Purpose and Need of an EA/EIS?

- a) To comply with the requirements of NEPA
- b) To generate excellent paperwork to foster better decisions
- c) A statement of the underlying purpose and need to which the agency is responding in proposing alternatives
- d) A statement of the federal action the agency wishes to approve, undertake, or fund

5

3. Which of these are “major federal actions” under NEPA?

- a) Awarding \$250k toward construction of a \$3.1m publically operated facility
- b) Purchasing \$250k in office supplies annually
- c) Purchasing a \$250k research vessel
- d) Transferring \$250k to another NOAA line office
- e) Approving revised procedures for conduct of a \$250k federal research project
- f) Adopting a \$250k annual operating plan for a federal research program

6

4. NEPA compliance is not required when a categorical exclusion applies.

- a) True
- b) False

7

5. Which of these actions automatically qualifies for a CE?

- a) Funding a field research project affecting only 33% of a National Marine Sanctuary
- b) Funding a field research project covering less than 75% of the open ocean
- c) Conducting a field research project just outside the boundary of a National Forest
- d) Building a research facility within 10 miles of a National Historic Monument

8

What is NEPA?

9

National Environmental Policy Act (42 U.S.C. §4321 *et seq.*)

- Enacted in 1969
- Established national policy **promoting enhancement of the environment**
- Established the President's Council on Environmental Quality (CEQ)
- Procedural requirements apply to all federal agencies in the executive branch
 - NEPA does not apply to the President, Congress, or the federal courts.

10

National Environmental Policy Act

- Requires federal agencies to **use all feasible means** to create and maintain conditions under which man and nature can exist in **productive harmony** and to fulfill the social, economic, and other requirements of present and future generations
- Federal agencies must consider and **publicly disclose** the predicted environmental impacts of federal actions and the **rationale for the decision**

11

CEQ Regulations (40 CFR Part 1500)

- Specify requirements for federal agencies re:
 - Applicability to agency actions
 - Timing of NEPA relative to agency actions
 - Public involvement
 - Document format and content

CEQ website at <http://ceq.hss.doe.gov/index.html>

12

NOAA's Administrative Order NAO 216-6

- Establishes for all NOAA line offices
 - NEPA procedures, including coordination with other federal laws and executive orders
 - Categories of actions requiring EA or EIS
 - Classes of action “categorically excluded”
 - Document review and clearance requirements
- Delegates signature authority to AAs

See also: NOAA's NEPA Handbook for guidance on NEPA compliance

13

When does NEPA apply?

NEPA applies to “major federal actions” affecting the human environment

“Federal” = *jurisdiction, money, employees*

“Action” = *approving, undertaking, or funding in whole or in part*

14

What's a “Major Federal Action?”

- Adoption of **policy**, rules, regulations, treaties
- Adoption of **formal plans** for future actions
- Adoption of **programs** to implement policy, statutory requirements, or executive directives
- Approval by permit, regulation, or **federal assistance**

40 CFR 1508.18 definition

15

What's an “effect?”

- Beneficial or adverse
- Direct or indirect
- Cumulative – incremental impact of past, present, and reasonably foreseeable future actions, *regardless of who undertakes them*
- Ecological, aesthetic, historic, cultural, economic, social, health

16

What is the “human environment?”

- Interpreted “comprehensively” to include the natural and physical environment and the *relationship* of people with that environment

Social and economic effects that are not *interrelated* with effects on the natural and physical environment do not require preparation of an EIS.

17

Affected Resources

Component	Examples to consider
Biological	Species & populations, biodiversity, ecosystem function, target & non-target
Physical	habitat, national parks, wildlife refuges, “ecologically critical” and unique areas, historic sites
Social & Economic	public health & safety (hazardous materials, risk from natural disasters, disease), disproportionate adverse impacts (esp. to minority and low income communities)

18

What is "Significantly?"

- Context = where and what resources affected
- Intensity = severity of impacts (short and long term, inter-related and inter-dependent, cumulative)



19

NEPA Measures of Intensity

1. Beneficial or adverse
2. Public health and safety
3. Unique geographic and ecologically critical areas
4. Highly controversial impacts
5. Uncertain impacts
6. Precedent-setting actions
7. Cumulative actions and impacts
8. National Register of Historic Places
9. Endangered or threatened species or habitats
10. Violation of federal, state, or local law

40 CFR 1508.27 definition of "significantly"

20

Other Federal* Laws (for protection of environment)

- Endangered Species Act
- Marine Mammal Protection Act
- National Marine Sanctuary Act
- EFH provisions of Magnuson-Stevens Act
- Clean Water Act
- Clean Air Act
- Coastal Zone Management Act

*State and local laws and ordinances may also apply

21

What is required for NEPA compliance?



22

NEPA Analysis Documents

Categorical Exclusion [Applicability] Memo	<ul style="list-style-type: none"> Evaluates whether action is in a class identified as having no potential for significant environmental impacts No public scoping of memo (scoping to establish class)
Environmental Assessment	<ul style="list-style-type: none"> Evaluates whether environmental impacts have potential to be significant and if an EIS is needed Public scoping optional
Environmental Impact Statement	<ul style="list-style-type: none"> Evaluates potential environmental impacts of various alternative actions Requires public scoping

23

NEPA Decision Documents

Finding of No Significant Impact (FONSI)

Based on EA

Documents that funding, approving, or undertaking will not have significant environmental impacts (with or without mitigation)

Record of Decision (ROD)

Based on EIS

Documents which action alternative was chosen and why
*Impacts can be significant

24

How to Screen for CEs

Two (3) Step Process

1. Is it a class of action listed in Section 6 of NAO 216-6?
2. Does it trigger an exception to use of a CE?
3. Would it comply with other applicable laws?

25

Exceptions to using a CE (NAO 216-6 Section 5.05b)

- involve a geographic area with unique characteristics
- are subject of public controversy based on potential environmental consequences
- have uncertain environmental impacts or unique or unknown risks
- establish a precedent or decision in principle about future proposals
- **may** result in cumulatively significant impacts
- **may** have any adverse effects upon endangered or threatened species or their habitats.

The CE Applicability Memo

26

Programmatic Analysis

CEQ regulations §1500.4

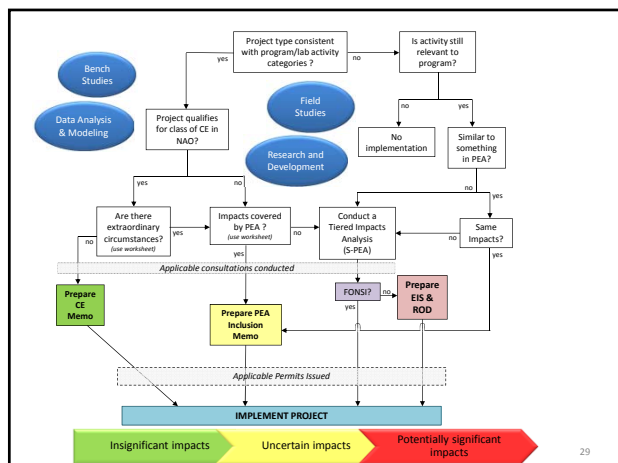
Agencies shall reduce excessive paperwork by: using **program, policy, or plan** environmental impact statements [or environmental assessments] and tiering from statements of broad scope to those of narrower scope, to **eliminate repetitive discussions of the same issues**

27

When to use a Programmatic

- For “broad” federal actions so they are relevant to policy and coincide with meaningful points in planning and decisionmaking (1502.4)
 - Geographically (body of water, region)
 - Generically (common timing, impacts, alternatives, methods, subject matter)
 - Stage of technological development (including federal or federally assisted research, development or demonstration programs for new technologies)

28



29

PEA Inclusion Memos

1. Review action relative to PEA to determine:
 - Consistent with Proposed Action
 - Techniques are the same (or similar)
 - Affected resources adequately discussed
 - Potential impacts adequately considered (including cumulative)
2. Find that there are:
 - No substantial changes in the proposed action that are relevant to environmental concerns
 - and
 - No significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

What about permits and consultations?

30

Supplemental or New NEPA

1. New information suggests the way the action may affect environment is significantly different → Supplement effects analysis
2. Status of resources in AA changed & so would how action impacts them → Supplement description of resource and effects analysis
3. New category of actions proposed or new technique considered → Supplement description of PA and, if necessary, AA, resources, effects considered

Requires a **new FONSI** each time

31

Mitigating to No Significance

CEQ regulations (40 CFR 1508.20) define **mitigation measures** as:

- a) **avoiding** the impact altogether by not taking a certain action or parts of an action
- b) **minimizing** impacts by limiting the degree or magnitude of the action and its implementation
- c) **rectifying** the impact by repairing, rehabilitating, or restoring the affected environment
- d) **reducing or eliminating** the impact over time by preservation and maintenance operations during the life of the action
- e) **compensating** for the impact by replacing or providing substitute resources or environments

32

Monitoring after Signing

1. Review of periodic reports from funded entities
2. Direct (real-time) observations by NOAA staff when undertaking projects

What if impacts are not consistent with those predicted and evaluated?

- Consider **modifications** to the project to bring impacts to the lowest practical level
- If modifications not practical & level of *adverse* impact exceeds what is evaluated,
 - **discontinue** activity permanently – or –
 - prepare **additional NEPA analysis** & decision documents prior to further implementation

33

A Note on Scope

How do you decide what you're responsible for analyzing when *funding* part of a project:



- when there is subsequent federal involvement prior to implementation (e.g., permits, sub-awards)?
- when the action is part of a larger project (and depends on the larger project for its justification)?

34

"Connected Actions"

- *automatically* trigger other actions which may require environmental impact statements
- cannot or will not proceed unless other actions are taken previously or simultaneously
- are *interdependent* parts of a larger action and depend on the larger action for their justification



35

What happens when we don't comply?

- Action (or failure to act) may be subject to judicial review
- Action may be delayed or permanently enjoined



36

Administrative Procedure Act (5 U.S.C. §500 *et seq.*)

- NOAA must maintain a thorough written, publicly available record demonstrating that the agency:
 - Acted within the scope of its authority
 - *Adequately explained* its decision
 - Based its decision on **facts in the administrative record**
 - Considered the **relevant factors**
- Otherwise, undertaking or approval of an action could be considered “arbitrary and capricious”

See also: **Freedom of Information Act** requirements to disclose records

37

What kinds of things are “records”?

Actions Undertaken

- Requests for consultations
- Results of consultations (formal & informal)
- Permit applications & issued permits
- Correspondence w/federal, state, local gov’t re: compliance with applicable laws
- Strategic plans, operating manuals, technical reports
- Meeting notes/summaries

Actions funded/approved

- RFP
- Proposal
- Internal comments/scoring of proposals
- Progress reports
- Correspondence providing technical assistance to applicant

Not all records are available to the public – some can be withheld under FOIA

38

What to keep and where to keep it

Information relied upon by the decision maker

- Includes final documents such as:
 - Grant proposals
 - Research plans
 - CE memo, EA/FONSI
- May include:
 - drafts
 - meeting notes
 - formal & informal correspondence
- Records retention schedule specifies:
 - how long a type of record must be kept by the agency
 - what can be archived & when
- Hard copies (with original signatures) vs. **electronic files**
 - FOIA responses

When in doubt, do not throw it out.

39

What is OAR doing to comply?

1. Establish **systematic approach for NEPA compliance** to be implemented across OAR Laboratories and Program Offices
2. Develop & implement **formalized records management guidance** to facilitate tracking & substantiating NEPA compliance
3. Provide **NEPA training for staff** at levels commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance
4. Establish **NEPA coordination functions within OAR**, to include a National NEPA Coordinator and Laboratory or Program Office level coordination roles as appropriate to workload and complexity of actions
5. Consider **programmatic NEPA analysis documents** and integrating NEPA into existing planning processes to streamline compliance and optimize resources

Approved Recommendations from NEPA Compliance Impact Study Report

40



How to reach me:

Email: Tammy.Adams@noaa.gov
Phone: 301-427-8401
Office: SSMC III, room 13.824

41

Appendix J

Intro to NEPA

1

Overview of Content

- Objective of this presentation
- What is NEPA?
- When does NEPA apply?
- What is required for NEPA compliance?
- What is OAR doing to comply?

2

1. What does "NEPA" stand for?

- a) National Environmental Protection Act
- b) National Environmental Policy Act
- c) Nobody Ever Produces Anything
- d) Truth, Justice, and the American Way

3

Today's Objective

1. Make you aware of the 1st tier training we will be presenting to your staff
2. Explain how OAR is responding to the NOAA environmental statutes compliance report
3. Provide an opportunity for you to ask questions about our plans

4

What is NEPA?

5

National Environmental Policy Act (42 U.S.C. §4321 *et seq.*)

- Enacted in 1972
- Established national policy **promoting enhancement of the environment**
- Established the President's Council on Environmental Quality (CEQ)
- Procedural requirements apply to all federal agencies in the executive branch
 - NEPA does not apply to the President, Congress, or the federal courts.

6

National Environmental Policy Act

- Requires federal agencies to **use all feasible means** to create and maintain conditions under which man and nature can exist in **productive harmony** and to fulfill the social, economic, and other requirements of present and future generations
- Federal agencies must consider and **publicly disclose** the predicted environmental impacts of federal actions and the **rationale for the decision**

7

CEQ Regulations

(40 CFR Part 1500)

- Specify requirements for federal agencies re:
 - Applicability to agency actions
 - Timing of NEPA relative to agency actions
 - Public involvement
 - Document format and content

CEQ website at <http://ceq.hss.doe.gov/index.html>

8

NOAA's Administrative Order NAO 216-6

- Establishes for all NOAA line offices
 - NEPA procedures, including coordination with other federal laws and executive orders
 - Categories of actions requiring EA or EIS
 - Classes of action "categorically excluded"
 - Document review and clearance requirements
- Delegates signature authority to AAs

See also: NOAA's NEPA Handbook for guidance on NEPA compliance

9

When does NEPA apply?

NEPA applies to "major federal actions" affecting the human environment

"Federal" = *jurisdiction, money, employees*

"Action" = *approving, undertaking, or funding in whole or in part*

10

What's a "Major Federal Action?"

- Adoption of **policy**, rules, regulations, treaties
- Adoption of **formal plans** for future actions
- Adoption of **programs** to implement policy, statutory requirements, or executive directives
- Approval by permit, regulation, or **federal assistance**

40 CFR 1508.18 definition

11

What's an "effect?"

- Beneficial or adverse
- Direct or indirect
- Cumulative – incremental impact of past, present, and reasonably foreseeable future actions, *regardless of who undertakes them*
- Ecological, aesthetic, historic, cultural, economic, social, health

12

What is the “human environment?”

- Interpreted “comprehensively” to include the natural and physical environment and the *relationship* of people with that environment

Social and economic effects that are not *interrelated* with effects on the natural and physical environment do not require preparation of an EIS.

13

What is “Significantly?”

- Context = where and what resources affected
- Intensity = severity of impacts (short and long term, inter-related and inter-dependent, cumulative)



14

NEPA Measures of Intensity

1. Beneficial or adverse
2. Public health and safety
3. Unique geographic and ecologically critical areas
4. Highly controversial impacts
5. Uncertain impacts
6. Precedent-setting actions
7. Cumulative actions and impacts
8. National Register of Historic Places
9. Endangered or threatened species or habitats
10. Violation of federal, state, or local law

40 CFR 1508.27 definition of “significantly”

15

Other Federal* Laws (for protection of environment)

- Endangered Species Act
- Marine Mammal Protection Act
- National Marine Sanctuary Act
- EFH provisions of Magnuson-Stevens Act
- Clean Water Act
- Clean Air Act
- Coastal Zone Management Act

*State and local laws and ordinances may also apply

16

What is required for NEPA compliance?



17

NEPA Analysis Documents

Categorical Exclusion [Applicability] Memo	<ul style="list-style-type: none"> •Evaluates whether action is in a class identified as having no potential for significant environmental impacts •No public scoping of memo (scoping to establish class)
Environmental Assessment	<ul style="list-style-type: none"> •Evaluates whether environmental impacts have potential to be significant and if an EIS is needed •Public scoping optional
Environmental Impact Statement	<ul style="list-style-type: none"> •Evaluates potential environmental impacts of various alternative actions •Requires public scoping

18

NEPA Decision Documents

Finding of No Significant Impact (FONSI)

Based on EA

Documents that funding, approving, or undertaking will not have significant environmental impacts (with or without mitigation)

Record of Decision (ROD)

Based on EIS

Documents which action alternative was chosen and why
*Impacts can be significant

19

Programmatic Analysis

CEQ regulations §1500.4

Agencies shall reduce excessive paperwork by: using **program, policy, or plan** environmental impact statements [or environmental assessments] and tiering from statements of broad scope to those of narrower scope, to **eliminate repetitive discussions of the same issues**

20

When to use a Programmatic

- For “broad” federal actions so they are relevant to policy and coincide with meaningful points in planning and decisionmaking (1502.4)
 - Geographically (body of water, region)
 - Generically (common timing, impacts, alternatives, methods, subject matter)
 - Stage of technological development (including federal or federally assisted research, development or demonstration programs for new technologies)

21

What happens when we don't comply?

- Action (or failure to act) may be subject to judicial review
- Action may be delayed or permanently enjoined



22

Administrative Procedure Act (5 U.S.C. §500 *et seq.*)

- NOAA must maintain a thorough written, publicly available record demonstrating that the agency:
 - Acted within the scope of its authority
 - Adequately explained* its decision
 - Based its decision on **facts in the administrative record**
 - Considered the **relevant factors**
- Otherwise, undertaking or approval of an action could be considered “arbitrary and capricious”

See also: **Freedom of Information Act** requirements to disclose records


23

What is OAR doing to comply?

- Establish **systematic approach for NEPA compliance** to be implemented across OAR Laboratories and Program Offices
- Develop & implement **formalized records management guidance** to facilitate tracking & substantiating NEPA compliance
- Provide **NEPA training for staff** at levels commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance
- Establish **NEPA coordination functions within OAR**, to include a National NEPA Coordinator and Laboratory or Program Office level coordination roles as appropriate to workload and complexity of actions
- Consider **programmatic NEPA analysis documents** and integrating NEPA into existing planning processes to streamline compliance and optimize resources

Approved Recommendations from NEPA Compliance Impact Study Report

24



How to reach me:
 Email: Tammy.Adams@noaa.gov
 Phone: 301-427-8401
 Office: SSMC III, room 13.824

25

The full presentation for OAR staff

26

Intro to NEPA

27

NEPA 101 course content

- What is NEPA?
 - CEQ regulations, NAO 216-6
- When does NEPA apply?
 - significance criteria, timing, scope
- What is required for compliance?
 - Levels of NEPA analysis documents, APA
- When to use programmatic
- How to apply a CE
- Other applicable laws (e.g., MMPA, ESA) & record keeping

1. What does “NEPA” stand for?

- a) National Environmental Protection Act
 - b) National Environmental Policy Act
 - c) Nobody Ever Produces Anything
 - d) Truth, Justice, and the American Way
- 29

2. What is the Purpose and Need of an EA/EIS?

- a) To comply with the requirements of NEPA
 - b) To generate excellent paperwork to foster better decisions
 - c) A statement of the underlying purpose and need to which the agency is responding in proposing alternatives
 - d) A statement of the federal action the agency wishes to approve, undertake, or fund
- 30

3. Which of these are “major federal actions” under NEPA?

- a) Awarding \$250k toward construction of a \$3.1m publically operated facility
- b) Purchasing \$250k in office supplies annually
- c) Purchasing a \$250k research vessel
- d) Transferring \$250k to another NOAA line office
- e) Approving revised procedures for conduct of a \$250k federal research project
- f) Adopting a \$250k annual operating plan for a federal research program

31

4. NEPA compliance is not required when a categorical exclusion applies.

- a) True
- b) False

32

5. Which of these actions automatically qualifies for a CE?

- a) Funding a field research project affecting only 33% of a National Marine Sanctuary
- b) Funding a field research project covering less than 75% of the open ocean
- c) Conducting a field research project just outside the boundary of a National Forest
- d) Building a research facility within 10 miles of a National Historic Monument

33

What is NEPA?

34

National Environmental Policy Act (42 U.S.C. §4321 *et seq.*)

- Enacted in 1972
- Established national policy **promoting enhancement of the environment**
- Established the President's Council on Environmental Quality (CEQ)
- Procedural requirements apply to all federal agencies in the executive branch
 - NEPA does not apply to the President, Congress, or the federal courts.

35

National Environmental Policy Act

- Requires federal agencies to **use all feasible means** to create and maintain conditions under which man and nature can exist in **productive harmony** and to fulfill the social, economic, and other requirements of present and future generations
- Federal agencies must consider and **publicly disclose** the predicted environmental impacts of federal actions and the **rationale for the decision**

36

CEQ Regulations (40 CFR Part 1500)

- Specify requirements for federal agencies re:
 - Applicability to agency actions
 - Timing of NEPA relative to agency actions
 - Public involvement
 - Document format and content

CEQ website at <http://ceq.hss.doe.gov/index.html>

37

NOAA's Administrative Order NAO 216-6

- Establishes for all NOAA line offices
 - NEPA procedures, including coordination with other federal laws and executive orders
 - Categories of actions requiring EA or EIS
 - Classes of action “categorically excluded”
 - Document review and clearance requirements
- Delegates signature authority to AAs

See also: NOAA's NEPA Handbook for guidance on NEPA compliance

38

When does NEPA apply?

NEPA applies to “major federal actions” affecting the human environment

“Federal” = *jurisdiction, money, employees*

“Action” = *approving, undertaking, or funding in whole or in part*

39

What's a “Major Federal Action?”

- Adoption of **policy**, rules, regulations, treaties
- Adoption of **formal plans** for future actions
- Adoption of **programs** to implement policy, statutory requirements, or executive directives
- Approval by permit, regulation, or **federal assistance**

40 CFR 1508.18 definition

40

What's an “effect?”

- Beneficial or adverse
- Direct or indirect
- Cumulative – incremental impact of past, present, and reasonably foreseeable future actions, *regardless of who undertakes them*
- Ecological, aesthetic, historic, cultural, economic, social, health

41

What is the “human environment?”

- Interpreted “comprehensively” to include the natural and physical environment and the *relationship* of people with that environment

Social and economic effects that are not *interrelated* with effects on the natural and physical environment do not require preparation of an EIS.

42

Affected Resources

Component	Examples to consider
Biological	Species & populations, biodiversity, ecosystem function, target & non-target
Physical	habitat, national parks, wildlife refuges, "ecologically critical" and unique areas, historic sites
Social & Economic	public health & safety (hazardous materials, risk from natural disasters, disease), disproportionate adverse impacts (esp. to minority and low income communities)

43

What is "Significantly?"

- Context = where and what resources affected
- Intensity = severity of impacts (short and long term, inter-related and inter-dependent, cumulative)



44

NEPA Measures of Intensity

1. Beneficial or adverse
2. Public health and safety
3. Unique geographic and ecologically critical areas
4. Highly controversial impacts
5. Uncertain impacts
6. Precedent-setting actions
7. Cumulative actions and impacts
8. National Register of Historic Places
9. Endangered or threatened species or habitats
10. Violation of federal, state, or local law

40 CFR 1508.27 definition of "significantly"

45

Other Federal* Laws (for protection of environment)

- Endangered Species Act
- Marine Mammal Protection Act
- National Marine Sanctuary Act
- EFH provisions of Magnuson-Stevens Act
- Clean Water Act
- Clean Air Act
- Coastal Zone Management Act

*State and local laws and ordinances may also apply

46

What is required for NEPA compliance?



47

NEPA Analysis Documents

Categorical Exclusion [Applicability] Memo	<ul style="list-style-type: none"> •Evaluates whether action is in a class identified as having no potential for significant environmental impacts •No public scoping of memo (scoping to establish class)
Environmental Assessment	<ul style="list-style-type: none"> •Evaluates whether environmental impacts have potential to be significant and if an EIS is needed •Public scoping optional
Environmental Impact Statement	<ul style="list-style-type: none"> •Evaluates potential environmental impacts of various alternative actions •Requires public scoping

48

NEPA Decision Documents

Finding of No Significant Impact (FONSI)

Based on EA

Documents that funding, approving, or undertaking will not have significant environmental impacts (with or without mitigation)

Record of Decision (ROD)

Based on EIS

Documents which action alternative was chosen and why
*Impacts can be significant

49

How to Screen for CEs

Two (3) Step Process

1. Is it a class of action listed in Section 6 of NAO 216-6?
2. Does it trigger an exception to use of a CE?
3. Would it comply with other applicable laws?

50

Exceptions to using a CE (NAO 216-6 Section 5.05b)

- involve a geographic area with unique characteristics
- are subject of public controversy based on potential environmental consequences
- have uncertain environmental impacts or unique or unknown risks
- establish a precedent or decision in principle about future proposals
- may** result in cumulatively significant impacts
- may** have any adverse effects upon endangered or threatened species or their habitats.

The CE Applicability Memo

51

Programmatic Analysis

CEQ regulations §1500.4

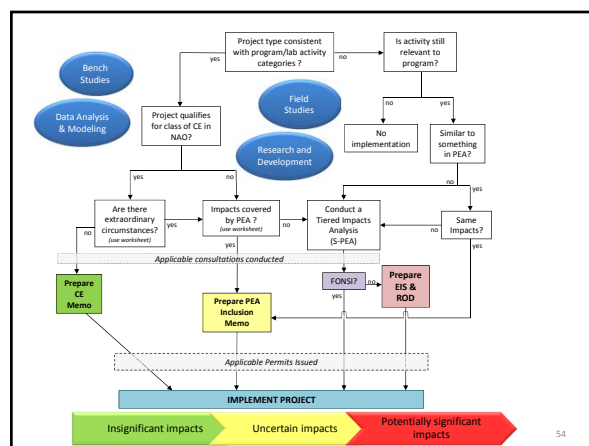
Agencies shall reduce excessive paperwork by: using **program, policy, or plan** environmental impact statements [or environmental assessments] and tiering from statements of broad scope to those of narrower scope, **to eliminate repetitive discussions of the same issues**

52

When to use a Programmatic

- For "broad" federal actions so they are relevant to policy and coincide with meaningful points in planning and decisionmaking (1502.4)
 - Geographically (body of water, region)
 - Generically (common timing, impacts, alternatives, methods, subject matter)
 - Stage of technological development (including federal or federally assisted research, development or demonstration programs for new technologies)

53



54

PEA Inclusion Memos

1. Review action relative to PEA to determine:
 - Consistent with Proposed Action
 - Techniques are the same (or similar)
 - Affected resources adequately discussed
 - Potential impacts adequately considered (including *cumulative*)
2. Find that there are:
 - No substantial changes in the proposed action that are relevant to environmental concerns
 - and
 - No significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

What about permits and consultations?

55

Supplemental or New NEPA

1. New information suggests the way the action may affect environment is significantly different → Supplement effects analysis
2. Status of resources in AA changed & so would how action impacts them → Supplement description of resource and effects analysis
3. New category of actions proposed or new technique considered → Supplement description of PA and, if necessary, AA, resources, effects considered

Requires a **new FONSI** each time

56

Mitigating to No Significance

CEQ regulations (40 CFR 1508.20) define **mitigation measures** as:

- a) **avoiding** the impact altogether by not taking a certain action or parts of an action
- b) **minimizing** impacts by limiting the degree or magnitude of the action and its implementation
- c) **rectifying** the impact by repairing, rehabilitating, or restoring the affected environment
- d) **reducing or eliminating** the impact over time by preservation and maintenance operations during the life of the action
- e) **compensating** for the impact by replacing or providing substitute resources or environments

57

Monitoring after Signing

1. Review of periodic reports from funded entities
2. Direct (real-time) observations by NOAA staff when undertaking projects

What if impacts are not consistent with those predicted and evaluated?

- Consider modifications to the project to bring impacts to the lowest practical level
- If modifications not practical & level of *adverse* impact exceeds what is evaluated,
 - discontinue activity permanently – or--
 - prepare additional NEPA analysis & decision documents prior to further implementation

58

A Note on Scope

How do you decide what you're responsible for analyzing when *funding* part of a project:



- when there is subsequent federal involvement prior to implementation (e.g., permits, sub-awards)?
- when the action is part of a larger project (and depends on the larger project for its justification)?

59

"Connected Actions"

- *automatically* trigger other actions which may require environmental impact statements
- cannot or will not proceed unless other actions are taken previously or simultaneously
- are *interdependent* parts of a larger action and depend on the larger action for their justification



60

What happens when we don't comply?

- Action (or failure to act) may be subject to judicial review
- Action may be delayed or permanently enjoined



61

Administrative Procedure Act

(5 U.S.C. §500 *et seq.*)

- NOAA must maintain a thorough written, publicly available record demonstrating that the agency:
 - Acted within the scope of its authority
 - *Adequately explained* its decision
 - Based its decision on [facts in the administrative record](#)
 - Considered the [relevant factors](#)
- Otherwise, undertaking or approval of an action could be considered “arbitrary and capricious”

See also: [Freedom of Information Act](#) requirements to disclose records

62

What is OAR doing to comply?

1. Establish [systematic approach for NEPA compliance](#) to be implemented across OAR Laboratories and Program Offices
2. Develop & implement [formalized records management guidance](#) to facilitate tracking & substantiating NEPA compliance
3. Provide [NEPA training for staff](#) at levels commensurate with their roles and responsibilities relative to evaluating and documenting NEPA compliance
4. Establish [NEPA coordination functions within OAR](#), to include a National NEPA Coordinator and Laboratory or Program Office level coordination roles as appropriate to workload and complexity of actions
5. Consider [programmatic NEPA analysis documents](#) and integrating NEPA into existing planning processes to streamline compliance and optimize resources

Approved Recommendations from NEPA Compliance Impact Study Report

63



How to reach me:

Email: Tammy.Adams@noaa.gov
 Phone: 301-427-8401
 Office: SSMC III, room 13.824

64

Appendix K

Strategic vs. Tactical NEPA

NOAA Research Council Meeting
November 13, 2013

Tammy C. Adams, Ph.D.

NMFS Office of Protected Resources
On detail to OAR Office of Policy, Planning, and Evaluation

Outline

- Why is NEPA compliance important in policy development and planning?
- When is a policy/plan/program/project a “major federal action” subject to NEPA?
- How can we use NEPA to enhance NOAA’s science, service, and stewardship mission goals?

National Environmental Policy Act

- Requires federal agencies to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony and **to fulfill the social, economic, and other requirements of present and future generations.** (42 U.S.C. 4331)
- The NEPA process is intended to **help public officials make decisions** that are based on understanding of environmental consequences, **and take actions** that protect, restore, and enhance the environment. (40 CFR 1500.1)
- **Accurate scientific analysis**, expert agency comments, and public scrutiny are essential to implementing NEPA. (40 CFR 1500.1)

3

Your Mission Statement

The mission of the NOAA Research Council is to ensure all NOAA research and development (R&D) activities are **strategically managed** across NOAA to fulfill the Agency’s science mission and improve its service and stewardship missions in accordance with NOAA’s corporate vision, goals, objectives, and priorities. The purview of the NOAA Research Council is the conduct and management of R&D (both **conducted and funded**), as defined in NOAA Administrative Order (NAO) 216-115. This includes issues of oversight and **policy** to ensure that NOAA R&D activities are of the highest scientific quality, meet near- to **long-term NOAA mission requirements and societal needs**, take advantage of **emerging** scientific and technological opportunities, shape a **forward-looking** research agenda, and are accomplished in an **efficient and cost-effective manner**.

All agencies of the Federal Government **shall**

Recognize the **worldwide** and long-range character of environmental problems and **...lend appropriate support to initiatives, resolutions, and programs** designed to maximize **international cooperation** in anticipating and preventing a decline in the quality of mankind’s **world environment**.

42 U.S.C. 4332(2(F))

What’s a “Major Federal Action?”

- Adoption of official **policy** (e.g. rules, regulations, interpretations); treaties, international conventions or agreements; formal documents establishing agency policy resulting in or substantially altering agency programs
- Adoption of **formal plans** upon which future agency actions will be based
- Adoption of **programs** (e.g., group or concerted actions) to implement policy/plan; systematic and **connected agency decisions** allocating resources to implement statutory program or executive directive
- Approval [of **projects**] by permit, regulation, or federal assistance

40 CFR 1508.18 definition of

NEPA and Agency Planning

Integrate NEPA process into **early** planning to ensure appropriate consideration of NEPA's policies (including agency procedures for compliance with NEPA)

NOAA's Administrative Order 216-6 (procedures for implementing NEPA)

- requires an **EIS** for **federal plans**, studies, reports prepared by NOAA that could **determine the nature of future major actions** to be undertaken by NOAA or other Federal agencies that would significantly affect the quality of the human environment. (Section 6.03c.2)

40 CFR 1501.3

Connected Actions should be considered together

- Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action, shall be evaluated in a single impact statement
- Agencies shall prepare statements on broad actions so that they are **relevant to policy** and are **timed to coincide with meaningful points** in agency **planning** and **decision making**.
- Statements shall be prepared **before** the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives

40 CFR 1502.4

What actions (decisions) can be lumped for analysis?

- Geographically – occurring in same general body of water, region, etc.
- Generically – common timing, impacts, alternatives, methods of implementation, media, subject matter
- Stage of technological development – including **federal or federally assisted research**, development or demonstration programs for new technologies which if applied could significantly affect the quality of the human environment

40 CFR 1502.4

Strategic vs. Tactical Approach

Strategic	Tactical
<i>of or relating to a general plan that is created to achieve a goal in war, politics, etc., usually over a long period of time</i>	<i>of or relating to small-scale actions serving a larger purpose; made or carried out with only a limited or immediate end in view</i>
High level "programmatic" analysis for overarching policy <ul style="list-style-type: none"> tiered to lower level analyses for implementation plans, development of programs & conducting specific projects 	No overarching analysis framework <ul style="list-style-type: none"> each policy, program, plan, and project decision is analyzed separately as it comes to different decision makers
Comprehensive, systematic, coordinated approach across Line Offices and programs	Fragmented, possibly conflicting approaches within and among line offices and programs; unintended precedents

Why a Strategic NEPA Analysis?



High Level Scoping

- What are the legal, technological, financial, logistical, ethical, etc. **issues and constraints**?
 - An alternative can be "reasonable" even if not within our jurisdiction to carry out (identify who's jurisdiction it is)
- Where are the **limits of our knowledge** of or ability to predict effects? (40 CFR 1502.22 re: incomplete or unavailable information)
 - what research is needed to inform our analysis of effects prior to implementation of programs and projects?

Reducing Paperwork

- Using the scoping process, not only to identify significant environmental issues deserving study, but also to **deemphasize insignificant issues** (40 CFR 1500.4(g))
- Using program, policy, or plan EIS and **tiering** from statements of broad scope to those of narrower scope, to **eliminate repetitive discussions** of the same issues (40 CFR 1500.4(i))
 - Employ scoping, tiering, and other methods to relate broad and narrow actions and **avoid duplication and delay** (1502.4 (d)re: connected actions)

Integrating NEPA with Strategic Planning

Ultimately a more transparent, robust and streamlined decision-making process

- Better chance of influencing what kinds of projects get funded/undertaken
- Improved assessment of and mitigation for cumulative and synergistic impacts
- More alternatives are available for consideration
- Enhanced ability to consider impacts alongside financial, technical, social, etc. concerns

Where is Strategic NEPA being used?

Other federal agencies

- 1) "Integrating NEPA into Long Term Planning at DOE" (2009)
- 2) "Integrating Environmental Impact Assessment with Master Planning at Army Installations"(2002)
- 3) Final Programmatic Environmental Impact Statement (PEIS) for land management planning on the National Forest System (2012)

Strategic Environmental Assessment in the European Union

European SEA Directive (2001)

- mandatory for plans/programmes which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use and which **set the framework for future development**

United Nations Economic Commission for Europe (UNECE) Protocol on SEA

- (SEA) is undertaken much earlier in the decision-making process than project environmental impact assessment (EIA), and it is therefore seen as a key tool for sustainable development. The Protocol also provides for extensive public participation in government decision-making in numerous development sectors.

See also : E.O. 12114 "Environmental effects abroad of major Federal actions"



How to reach me:

Email: Tammy.Adams@noaa.gov
Phone: 301-427-8401
Office: SSMC III, room 13.824

Appendix L

National Environmental Policy Act Training Plan for NOAA's Office of Oceanic and Atmospheric Research

SUMMARY: The NOAA Office of Oceanic and Atmospheric Research (OAR) has developed this National Environmental Policy Act (NEPA) training plan for OAR staff.

The purpose of developing a NEPA training plan for OAR is to outline steps for implementation of and compliance with the March 2011 document "Oceanic and Atmospheric Research (OAR) Implementation of National Environmental Policy Act (NEPA)."

A training plan is needed to outline a systematic approach to ensuring OAR staffs receive training that is commensurate with their roles and responsibilities relative to NEPA compliance within OAR.

From the OAR "Implementation of NEPA" circular (March 2011):

Section IV.A. OAR's Assistant Administrator will: ... (7) ensure that OAR Responsible Program Managers (RPM) and NEPA Staff Leads are trained to conduct the NEPA process and appropriately implement this policy."

Section IV.C. OAR Program Office Director(s) and Laboratory Director(s) will: ... (3) ensure that RPMs and their NEPA Staff Leads are trained to conduct the NEPA process and appropriately implement this policy

Section IV.D. The Responsible Program Manager will: ... (4) carry out the appropriate NEPA process on proposed actions in compliance with the NOAA policy.

OBJECTIVE: The objective of the training plan derives from the goal statement in the OAR NEPA Compliance Team Charter (August 2013):

The goal of the National Environmental Policy Act (NEPA) Compliance Team is to guide NOAA's Office of Oceanic and Atmospheric Research (OAR) in developing (1) a culture that values NEPA as a decision-making tool and (2) a capacity for systematic and comprehensive compliance with the spirit and letter of NEPA.

To achieve this goal, OAR staffs need NEPA training commensurate with their roles and responsibilities relative to NEPA compliance. The long-term goal for OAR's compliance with NEPA is for all of OARs "major federal actions" to have appropriate NEPA analysis and decision document so that OAR acts as a better trustee of the environment while carrying out its mission and operations.

Short-term goals of training, as a way to achieving the long-term outcome, include ensuring OAR staff:

- (1) understand NEPA and OAR's environmental compliance requirements;
- (2) develop and maintain legally defensible administrative records for NEPA compliance;
and
- (3) populate a NEPA tracking database as compliance documents are generated.

With those short- and long-term goals in mind, core outcomes of an OAR training plan are for staff to know:

- (1) how to identify major federal actions subject to NEPA;
- (2) which level of NEPA analysis is appropriate for a specific agency action;
- (3) when to initiate and conclude NEPA relative to agency actions;
- (4) how to integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice ;
- (5) when and how to “meaningfully” involve the public in the NEPA process;
- (6) the internal OAR and NOAA policies and process for drafting, review, and clearance of NEPA documents;
- (7) what records to keep, and where, regarding NEPA compliance;
- (8) what content and format is required for a categorical exclusion (CE) applicability memo, environmental assessment (EA), Finding of No Significant Impact (FONSI), environmental impact statement (EIS), and Record of Decision (ROD).

OAR will use a phased and tiered approach to implementing this training plan. An initial phase is to provide a basic “introduction to NEPA” seminar to OAR staff to familiarize them with the statute and OAR’s policy for NEPA compliance. More detailed training, including how to prepare or review NEPA analysis and decision documents, will be required depending on staffs roles and responsibilities for implementing NEPA.

For example, staff with delegated signature and decision-making authority for CE applicability memos will receive training in identifying extraordinary circumstances that preclude use of a CE and require preparation of an EA or EIS. Staff responsible for drafting NEPA analysis documents will receive training in document preparation and records management.

Given the wide geographical distribution of OAR staff, the training plan will give consideration to the best mechanisms for delivering training, including options for traditional and virtual classrooms, and self-guided approaches.

The training plan includes a schedule for delivering training or a frequency for when certain training is required, to ensure new staff coming into OAR receive appropriate introductory training, and other staff receive “continuing education” including updates to OAR’s or NOAA’s NEPA policies and procedures.

A. Training topics commensurate with NEPA roles and responsibilities

1. OAR Executive Leadership Team

A. “NEPA Updates” briefing (annually)

- Updates on NOAA and OAR procedures for implementing NEPA

B. “Strategic NEPA” (annually)

- Identify when and how to integrate NEPA with strategic planning and budget processes

C. NOAA’s Safety, Environmental, and Sustainability Awareness Online Training (annually)

2. Laboratory and Program Office Directors

A.. “Introduction to NEPA” Brief overview of NEPA, Council on Environmental Quality regulations, NOAA’s Administrative Order 216-6 for implementing NEPA, and OAR’s NEPA policies (schedule to ensure new staff in these positions receive training within first 6 months in the position)

- Describe the purpose and policy of NEPA
- Identify a major federal action subject to NEPA
- Define the three levels of environmental analysis (CE, EA, EIS)
- Identify the steps in the NEPA environmental review process, including NOAA’s NEPA procedures
- Describe the process for delegation of authority for NEPA determinations within OAR

B. “Using a Categorical Exclusion” (annually, for new staff in these positions)

- Determine whether a federal action is consistent with a class of actions in NAO 216-6 that qualify for a CE
- Screen for “extraordinary circumstances” that preclude use of a CE
- Document and report a CE applicability determination consistent with Administrative Procedure Act (APA), NOAA and OAR procedures

C. “Managing Development of an Environmental Assessment” (as needed where programs or projects are not likely to qualify for a CE)

- Describe the processes for developing an EA
- List components of an EA
- List components of a Finding of No Significant Impact
- Identify when an Environmental Impact Statement is required
- Describe when and how to involve the public in the EA process
- Describe records management procedures and requirements for compliance with the APA

D. Special Topics (as needed and where applicable)

- Examples: Guidance on cumulative impacts analyses in EA/EIS; Guidance on consideration of effects of climate change

- E. NOAA's Safety, Environmental, and Sustainability Awareness Online Training (annually)
3. OAR Compliance Team Members (Responsible Program Managers & NEPA Staff Leads)
 - A. Introduction to NEPA
 - B. NEPA Updates
 - C. NOAA's Safety, Environmental, and Sustainability Awareness Online Training (annually)
 4. General OAR Population
 - A. NEPA Overview (annually, similar to IT Security and Safety Awareness training)
 - Describe the purpose and policy of NEPA
 - Identify a major federal action subject to NEPA
 - Identify OAR NEPA Compliance Team and other sources of assistance with NEPA compliance questions
 - B. NOAA's Safety, Environmental, and Sustainability Awareness Online Training (annually)
 5. OAR's non-federal partners and stakeholders (e.g., Sea Grant Program Directors, Cooperative Institutes Directors)
 - A. "NEPA Awareness" presentation (given periodically, concurrent with regularly scheduled meetings with these groups)
 - Describe the purpose and policy of NEPA
 - Describe how OAR's involvement in their project is a major federal action subject to NEPA
 - Define the three levels of environmental analysis (CE, EA, EIS)
 - Describe how information they are required to provide to OAR is used in OAR's NEPA process

B. Tracking Training

Compliance Team members will

- Coordinate with the managers in their respective Lab or Program area of representation to ensure staff attendance at the appropriate sessions.
- Provide records of training attendance within their Lab or Program areas to the OAR Environmental Compliance Officer
- Identify additional training needs within their Lab or Program area and across OAR


Appendix M



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration/OAR
GEOPHYSICAL FLUID DYNAMICS LABORATORY
Princeton University Forrestal Campus
201 Forrestal Road
Princeton, New Jersey 08540

October 7, 2014

Memorandum for: The Record

From: Venkatachalam Ramaswamy
GFDL Director 

Subject: Applicability of a Categorical Exclusion to Geophysical Fluid Dynamics Laboratory Facilities Work

This memorandum documents circumstances where a categorical exclusion (CE) is the appropriate level of National Environmental Policy Act (NEPA) analysis for certain facilities routine maintenance and upgrade work at the Geophysical Fluid Dynamics Laboratory.

Program description

The Geophysical Fluid Dynamics Laboratory (GFDL) is located in a two-building complex on 6.25 acres on the B-Site of Princeton University's James Forrestal Campus in Plainsboro Township, Middlesex County, New Jersey. GFDL moved into its present location in 1968 and in 1980 it built an adjacent data center and moved its computing operations from the ground floor of the original building into the data center. The original building is now known as the "Main Building" and it is a 55,000 square foot 3-story steel and glass structure. The data center is known as the "Computer Building" and it is a 13,000 square foot slab on grade structure. The two buildings are connected by two connecting corridors, or links. Additionally, there are two subterranean mechanical rooms, a mechanical courtyard, and two mechanical penthouses in which much of the mechanical and electrical support infrastructure for the complex are located.

In general, all maintenance, repairs, renovations, and improvements, as well as structural expansions not to exceed 10% of the existing 74,000 gross square footage within and around the two-building complex, its parking lot and walkways, exterior lighting, and exterior electrical equipment, have been considered under the Environmental Review Procedures of NAO 216-6 with respect to environmental consequences on the human environment and other relevant potential consequences and are determined to qualify for one or more classes of Categorical Exclusion.

Maintenance, repairs, renovation and improvement work will consist of maintenance of or removal and replacement of either partial or whole components of existing mechanical, electrical, and architectural features. Expansion work will consist of construction of foundation(s), either slab on grade or otherwise, steel and glass or brick super structure, roofing system(s), and build out of interior components, including mechanical and electrical infrastructure. Improvements may include removal and replacement or simply addition of pavement as well as electrical and mechanical infrastructure components, including transformers, primary disconnects, secondary distribution, motor control centers, electrical panels, and other electrical components and chillers, cooling towers, pumps, and other mechanical components



either within the existing structure or on the surrounding grounds. Included within this consideration are both the work itself, plus all planning and design work necessary to accomplish the work, including financial planning, project planning, architectural design, engineering design (i.e., mechanical, electrical, plumbing, HVAC, structural, etc.), specification documentation, contract or supplemental lease agreement award and administration, construction project planning, permitting, construction administration, and other work administrative necessary to accomplish the repair, renovation, improvement, or expansion.

In Fiscal Year 2014, GFDL expended on the order of \$1 million on maintenance and routine repairs and on the order of \$1.1 million for “major” repairs, renovations, and improvements. “Major” repairs, renovations, and improvements are those costing \$150,000 or more to complete and those costing less than that are considered “routine.” While expenditures during Fiscal Year 2014 were typical with respect to maintenance and routine repairs, major repairs, renovations, and improvements are less predictable as it depends on the combination of need and availability of funds.

Expansion and renovation involves funding projects as well as furnishing materials, tools, equipment, supervision, and incidentals by the Federal Government, GFDL’s landlord Princeton University, or contractors or subcontractors of either of these entities. All work will be conducted by employees of the Federal Government or Princeton University or licensed contractors in conformance with applicable conventional engineering and construction practices. Work will be performed on site, at the GFDL demised premises at Plainsboro, New Jersey.

These proposed projects represent maintenance, repair, renovation, and expansion activities to an existing Federally leased facility. Potential future expansion of the facility of not more than 10% of its gross square footage, or 7,400 square feet, are included in this Categorical Exclusion determination. Appropriate Local, State and Federal agencies with jurisdictions shall be advised of proposed project(s) as applicable and as they are planned.

Attached to this memorandum are two maps created using the New Jersey Department of Environmental Protection GeoWeb that depict environmental and historic features, one is of the immediate demised premise and the other from a wider view that includes the surrounding area. Note that neither shows any relevant environmental concerns as they relate to the types of projects considered within this Categorical Exclusion.

General CE Applicability Analysis

The types of projects within the scope of this Categorical Exclusion applicability determination would not result in any significant impacts on the human environment. As defined in Sections 5.05 and 6.03c.3(d), 6.03c.3(e), 6.03c.3(f), and 6.03c.3(g) of NAO 216-6, these are actions of limited size or magnitude. As such, they are categorically excluded from the need to prepare an Environmental Assessment.

The NOAA NEPA Handbook outlines a two-step process for determining whether a categorical exclusion (CE) is the appropriate level of NEPA documentation for an agency’s “major federal action.” One step is to determine which class of major federal actions in Section 6 of NOAA

Administrative Order Series 216-6, May 20, 1999 (NAO) describes the category of proposed action.

The classes of CE that are applicable are 6.03c.3(c) Minor Project Activities, 6.03c.3(d) Administrative or Routine Program Functions, 6.03c.3(e) Real Estate Actions, 6.03c.3(f) Construction Activities, and 6.03c.3(g) Facility Improvement or Addition.

The NAO identifies as types of federal action that are categorically excluded from preparation of an environmental assessment or environmental impact statement: “minor projects activities” (including minor improvements to an existing site (e.g., fences, roads, picnic facilities, etc.), “administrative or routine program functions” (including program planning and budgeting including strategic and operational planning, basic and applied research and research grants, except as provided in Section 6.03b, executive direction, administrative services, and administrative support); “real estate actions” (including repair, or replacement in kind, of equipment and components of NOAA owned facilities; weatherization of NOAA facilities; environmental monitoring; architectural and engineering studies and supplies; routine facility maintenance and repair and grounds-keeping activities; acquisition of less than 5,000 square feet of occupiable space by means of Federal construction, lease construction, or a new lease for a structure substantially completed prior to solicitation for offers not previously occupied; lease extensions, renewals, or succeeding leases); “construction activities” (including minor construction conducted in accordance with approved facility master plans and construction projects on the interiors of non-historic NOAA-owned and lease buildings, including safety and fire deficiencies, air quality, interior renovations, expansion or improvement of an existing facility where the gross square footage is not increased by more than 10 percent, and the site size is not increased substantially); and “facility improvement or addition” (including minor facility improvement or addition where ground disturbance is limited to previously disturbed areas (i.e., previously paved or cleared areas)). GFDL facility maintenance, repair, renovation, improvement, and limited expansions are consistent with these category descriptions in general for which the potential environmental effects are minor or negligible.

The other step in determining appropriateness of a CE is to determine whether exceptions to the use of a CE are triggered by the action. In determining whether a CE is appropriate for a given facilities project at GFDL, OAR must consider whether the extraordinary circumstances listed in Section 5.05c of the NAO are applicable. Those circumstances are when the action:

- Involves a geographic area with unique characteristics, such as historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- Is the subject of controversy based on potential environmental consequences.
- Has uncertain environmental impacts or unique or unknown risks.
- Establishes a precedent or decision in principle about future proposals.
- May result in cumulatively significant impacts.
- May have any adverse effects upon endangered or threatened species or their habitats.

Maintenance, repair, renovation, improvement, and limited expansion do not trigger any of these exceptions. As indicated in the attached maps, there are no geographic areas with unique

characteristics in the immediate vicinity. Neither are there threatened or endangered species or designated critical habitat in or near the area. The potential impacts of the types of facilities maintenance and upgrade projects proposed are not uncertain as they are routine and their effects have been monitored for similar types of actions. There are no unknown risks as the area is well-established, mapped, and appropriately permitted. The types of actions proposed do not establish a precedent or decision in principle nor have actions of this nature been the subject of controversy based on potential environmental consequences. None of the individual projects are interdependent on or interrelated with other projects that could have significant impacts individually or cumulatively.

If, however, excavation deeper than 10 feet were required to complete a facilities project, then it could potentially intersect with a known contamination area that is being managed by the Department of Energy. For such projects, a pre-construction review is required to determine what if any potential impact there will be and to prescribe mitigating requirements necessary to complete the project safely.

It is GFDL's practice generally to take out local construction permits for work that would typically require such, though it should be noted that this is not a requirement since the work would be at a federally controlled facility and as such is exempt from local interference. Also, for proposed work that would alter the exterior appearance of the facility, GFDL's lease with Princeton University requires that it shall first undergo review and approval of both the Princeton University Design and Development Criteria, as prescribed in the lease, and also the Plainsboro Township Planner/Zoning Officer.

GFDL intends to use this memo for both the recurring actions of building maintenance, as well as general program and overarching project types such as repairs, improvements, and limited construction as described above. The screening by GFDL's Administrative Officer of all specific projects that involve the construction of an addition greater than 7,400 gross square feet, or require excavation deeper than 10 feet will take place prior to project initiation, at the earliest practicable planning stages, to determine the necessities for any additional reviews and or approvals. The processes used to document such reviews are the completion by the Administrative Officer of the attached Categorical Exclusion (CE) Applicability Worksheet and Guidance and the signing by him or her of the requisition authorizing the work to proceed. In the event that the Administrative Officer determines that a proposed action may trigger an exception to the CE, the GFDL Director and Deputy Director shall be notified and the proposed action shall be placed on hold until a final determination is rendered and, if necessary, the project is further evaluated under the NEPA.

Attachments: New Jersey Department of Environmental Protection GeoWeb demised premise
New Jersey Department of Environmental Protection GeoWeb surrounding area
Categorical Exclusion (CE) Applicability Worksheet and Guidance

NJDEP GIS Map of GFDL Demised Premise

Produced from <http://njwebmap.state.nj.us/NJGeoWeb/>



Environmental Data Critical Environmental an Historic Sites

- Environmental/Historic Site
- Environmental Site
- Historic Site
- Inholding

★ Known Contaminated Sites List

Natural Heritage Priority Sites

Historic Archaeological Site Grid

Historic Properties

- Listed (Indv.)
- Listed (HD)
- Eligible (Indv.)
- Eligible (HD)
- Identified (Indv.)
- Identified (HD)

Watershed Management Areas

Wetlands (2007)

- WETLANDS
- Water Bodies
- Natural2007

NJDEP GIS Map of GFDL

Produced from <http://njwebmap.state.nj.us/NJGeoWeb/>



Environmental Data

- Environmental/Historic Site
- Environmental Site
- Historic Site
- Inholding

★ Known Contaminated Sites List

□ Natural Heritage Priority Sites

□ Historic Archaeological Site Grid

Historic Properties

- Listed (Indv.)
- Listed (HD)
- Eligible (Indv.)
- Eligible (HD)
- Identified (Indv.)
- Identified (HD)

□ Watershed Management Areas

Wetlands (2007)

- WETLANDS
- Water Bodies
- Natural2007

© NJDEP

Map Printed On {2013-08-12 12:59}

0 0.058mi

Attachment: Example

Categorical Exclusion (CE) Applicability Worksheet and Guidance

Screening for “extraordinary circumstances” as listed in section 5.05c of NAO 216-6

Date completed:	
Project Description/ Title:	
Location:	
Timing:	

Step 1. Review for consistency with scope of program

1. Is the proposed project consistent with the program’s/project’s overarching categories of activities?

Step 2. NEPA – Categorical Exclusion Screening

Based on review of the proposal and relevant information about the action area, do any of the following exceptions (from NAO 216-6 § 5.05c) to use of a categorical exclusion apply and require further analysis (e.g., an Environmental Assessment)? Explain your answers, with reference to the proposal or other documents/sources as applicable.

NOTE: *If a sensitive resource or special area is merely present in or near the action area but will not be affected by the project, briefly describe the mitigation measures that would be required to avoid impacts.*

1. Would the activities adversely impact geographic areas with unique characteristics?

For example:

- park lands
- prime farmlands
- wetlands
- coral reefs
- wild and scenic rivers
- MSFCMA Essential Fish Habitat
- National Marine Sanctuaries
- State or National Parks and Wildlife Refuges
- archeological or historical resources listed in or eligible for listing in the National Register of Historic Places

• other “ecologically critical” areas

Response:	
------------------	--

2. Are the potential environmental effects the subject of controversy?

For example, is there a substantive dispute about the manner in which the action would affect the environment, the geographic or temporal scope of the impacts, or which resources could be impacted?

Response:	
------------------	--

3. Are the effects uncertain or are there unique or unknown risks associated with the project?

For example, is the technique new? If so, is it analogous to something for which we have information about effects from published literature, tech memos, monitoring reports, etc., such that we are reasonable certain about the effects and risks?

Response:	
------------------	--

4. Does this decision establish a precedent or decision in principle about (define the parameters of) future proposals with a potential for significant adverse impacts?

Response:	
------------------	--

5. Could the action result in cumulatively significant impacts when combined with past, present, and reasonably foreseeable future impacts, regardless of what entity (federal, non-federal, or private) is taking the actions?

Response:	
------------------	--

6. Are endangered or threatened species or their habitats within or near the action area?

- *If so, what measures will be taken to avoid taking or adverse modification?*
- *If take is unavoidable, would the action qualify for an ESA Section 10 permit?*
 - *If a permit is already issued, provide permit number, name of permit holder, and permit expiration date.*

Response:	
------------------	--

Other Applicable Laws

- 7. Are federal, state, and local permits and consultations necessary to implementation of the action? Did the applicant provide copies of those that are their responsibility with their proposal or otherwise indicate which are being sought and anticipated completion dates?**

Examples: MMPA 101(a)(5) authorization for incidental disturbance of marine mammals(applicant responsibility); ESA section 7 consultation for incidental take of listed species (NOS consultation); NMS, National Wildlife Refuge or state park special use permits (applicant responsibility); CZMA consistency determination (NOS consultation).

Response:	
------------------	--

Appendix N.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration/OAR
GEOPHYSICAL FLUID DYNAMICS LABORATORY
Princeton University Forrestal Campus
201 Forrestal Road
Princeton, New Jersey 08540

October 7, 2014

Memorandum for: The Record

From: Venkatachalam Ramaswamy
GFDL Director

Subject: Applicability of a Categorical Exclusion to Geophysical Fluid Dynamics Laboratory Scientific, Computational, Management, Planning, Budgeting and Administrative Work

This memorandum documents circumstances where a categorical exclusion (CE) is the appropriate level of National Environmental Policy Act (NEPA) analysis for the scientific, computational, management, planning, budgeting and administrative work at the Geophysical Fluid Dynamics Laboratory, as well for grants to Princeton University under the Cooperative Institute for Climate Science and to the University Corporation for Atmospheric Research for related research.

Program description

The Geophysical Fluid Dynamics Laboratory (GFDL) is engaged in comprehensive long lead-time research fundamental to NOAA's mission. Scientists at GFDL develop and use mathematical models and computer simulations to improve our understanding and prediction of the behavior of the atmosphere, the oceans, and climate. GFDL scientists focus on model-building relevant for society, such as hurricane research, prediction, and seasonal forecasting, and understanding global and regional climate change.

Since 1955, GFDL has set the agenda for much of the world's research on the modeling of global climate change and has played a significant role in the World Meteorological Organization, the Intergovernmental Panel on Climate Change assessments, and the U.S. Global Change Research Program. GFDL's mission is to be a world leader in the development of earth system models, and the production of timely and reliable knowledge and assessments on natural climate variability and anthropogenic changes.

GFDL research encompasses the predictability and sensitivity of global and regional climate; the structure, variability, dynamics and interaction of the atmosphere and the ocean; and the ways that the atmosphere and oceans influence, and are influenced by various trace constituents. The scientific work of the Laboratory incorporates a variety of disciplines including meteorology, oceanography, hydrology, classical physics, fluid dynamics, chemistry, applied mathematics, and numerical analysis.

Research is also facilitated by the Atmospheric and Oceanic Sciences Program (AOS), which is a collaborative program at GFDL with Princeton University, and with the University Corporation for Atmospheric Research (UCAR). Under these programs, Princeton and UCAR faculty, research scientists, and graduate students participate in theoretical studies, both analytical and



numerical, and in observational experiments in the laboratory and in the field. The program is supported in part by NOAA funding. AOS and UCAR scientists may also be involved in GFDL research through institutional or international agreements.

All of the computational, management, planning, budgeting and administrative work performed by the staff of the Geophysical Fluid Dynamics Laboratory is conducted in the office, both at the facility in Plainsboro/Princeton, New Jersey, at home offices by those staff who telework, and at workshops, conference, and other research institutions, from time to time. And nearly all of the scientific work conducted by the staff is performed in an office setting and not “field work” with the limited exception of when GFDL scientists are asked to accompany field research missions to help guide the sample or measurement collection of real world data to optimize its usefulness in GFDL research models. For example, in the recent past a GFDL scientist was asked to fly in a hurricane hunter aircraft, and another scientist was asked to accompany an oceangoing research cruise to advise the optimal location to collect data related to ocean currents.

In general, all scientific, computational, management, planning, budgeting and administrative work of GFDL, have been considered under the Environmental Review Procedures of NAO 216-6 with respect to environmental consequences on the human environment and other relevant potential consequences and are determined to qualify for one or more classes of Categorical Exclusion.

In Fiscal Year 2014, GFDL’s total budget was on the order of \$50 million, which was used to support, in one way or another, the scientific and computing activities of the Lab. Of this amount, on the order of \$9.3 million and \$2.4 million were transferred to Princeton University and UCAR respectively to support of collaborative and independent research. Fiscal Year 2014 was typical with respect to the computing portion of the budget, and it was higher than usual for the scientific portion of the budget due to the appropriation of funds under the Disaster Relief Act and research projects that have been planned for many years. A more typical annual GFDL budget is on the order of \$40 million and the amount of it that is transferred to Princeton University and UCAR is on the order of \$3.5-\$5 million and \$1.8 million, respectively.

All of the scientific, computational, planning, budgeting, and administrative work will be conducted by employees of the Federal Government, Princeton University, UCAR, or contractors or subcontractors of these entities. Work will almost always be performed on site, at the GFDL demised premises at Plainsboro, New Jersey, with the limited exception noted above. All of these proposed activities are included in this Categorical Exclusion determination.

General CE Applicability Analysis

The types of projects within the scope of this Categorical Exclusion determination would not result in any changes to the human environment. As defined in Sections 5.05 and 6.03c.3(a), 6.03c.3(b), and 6.03c.3(d) of NAO 216-6, these are actions of limited size or magnitude. As such, they are categorically excluded from the need to prepare an Environmental Assessment.

The NOAA NEPA Handbook outlines a two-step process for determining whether a categorical exclusion (CE) is the appropriate level of NEPA documentation for an agency's "major federal action." One step is to determine which class of major federal actions in Section 6 of NOAA Administrative Order Series 216-6, May 20, 1999 (NAO) describes the category of proposed action.

The classes of CE that are applicable are 6.03c.3(a) Research Programs, 6.03.c.3(b) Financial and Planning Grants, 6.03c.3(d) Administrative or Routine Program Functions.

The NAO identifies as types of federal action that are categorically excluded from preparation of an environmental assessment or environmental impact statement: "research programs" (including programs or projects of limited size and magnitude or with only short-term effects on the environment and for which any cumulative effects are negligible), "financial and planning grants" (including transferring federal funds to non-federal partners to support cooperative research activities), and "administrative or routine program functions" (including program planning and budgeting including strategic and operational planning, basic and applied research and research grants, except as provided in Section 6.03b, executive direction, administrative services, and administrative support). GFDL's research, computing, planning, budgeting, and administration are consistent with these category descriptions in general for which the potential environmental effects are minor or negligible.

The other step in determining appropriateness of a CE is to determine whether exceptions to the use of a CE are triggered by the action. In determining whether a CE is appropriate for these activities at GFDL, OAR must consider whether the extraordinary circumstances listed in Section 5.05c of the NAO are applicable. Those circumstances are when the action:

- Involves a geographic area with unique characteristics, such as historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- Is the subject of controversy based on potential environmental consequences.
- Has uncertain environmental impacts or unique or unknown risks.
- Establishes a precedent or decision in principle about future proposals.
- May result in cumulatively significant impacts.
- May have any adverse effects upon endangered or threatened species or their habitats.

GFDL's research, computing, planning, budgeting, and administrative work do not trigger any of these exceptions. With the exception of occasional field work, the action area is contained within the facility at GFDL and associated offices. As indicated in the attached maps, there are no geographic areas with unique characteristics in the immediate vicinity of the facilities where these actions take place. Neither are there threatened or endangered species or designated critical habitat in or near the area. The potential impacts of the types of activities proposed are not uncertain as they are routine and their effects have been monitored for similar types of actions. There are no unknown risks as the area is well-established, mapped, and appropriately permitted. The types of actions proposed do not establish a precedent or decision in principle nor have actions of this nature been the subject of controversy based on potential environmental

consequences. None of individual projects are interdependent on or interrelated with other projects that could have significant impacts individually or cumulatively.

Regarding occasional field research as discussed, the exact location and timing is too variable and unpredictable to fully describe for the purpose of this memo. When such field research projects are proposed, GFDL will evaluate them to ensure they are consistent with the limits of the class of CE for research programs of limited scope, and to determine whether extraordinary circumstances exist that may preclude applicability of a CE.

GFDL intends to use this memo for its scientific, computational, management, planning, budgeting, and administrative work, as described above. The screening by GFDL's Administrative Officer for all projects that go beyond this will take place prior to project initiation to determine the necessities for any additional reviews and or approvals. The process used to document such reviews is the completion by the Administrative Officer of the attached Categorical Exclusion (CE) Applicability Worksheet and Guidance before the work may proceed. In the event that the Administrative Officer determines that a proposed activity may trigger an exception to the CE, the GFDL Director and Deputy Director shall be notified and the proposed action shall be placed on hold until a final determination is rendered and, if necessary, the project is further evaluated under the NEPA.

Attachments: New Jersey Department of Environmental Protection GeoWeb demised premise
New Jersey Department of Environmental Protection GeoWeb surrounding area
Categorical Exclusion (CE) Applicability Worksheet and Guidance

NJDEP GIS Map of GFDL Demised Premise

Produced from <http://njwebmap.state.nj.us/NJGeoWeb/>



Environmental Data
Critical
Environmental an
Historic Sites

- Environmental/Historic Site
- Environmental Site
- Historic Site
- Inholding

★ Known Contaminated Sites List

Natural Heritage Priority Sites

Historic Archaeological Site Grid

Historic Properties

- Listed (Indv.)
- Listed (HD)
- Eligible (Indv.)
- Eligible (HD)
- Identified (Indv.)
- Identified (HD)

Watershed Management Areas

Wetlands (2007)

- WETLANDS
- Water Bodies
- Natural2007

NJDEP GIS Map of GFDL

Produced from <http://njwebmap.state.nj.us/NJGeoWeb/>



Environmental Data
Critical
Environmental an
Historic Sites

- Environmental/Historic Site
- Environmental Site
- Historic Site
- Inholding

★ Known Contaminated Sites List

Natural Heritage Priority Sites

Historic Archaeological Site Grid

Historic Properties

- Listed (Indv.)
- Listed (HD)
- Eligible (Indv.)
- Eligible (HD)
- Identified (Indv.)
- Identified (HD)

Watershed Management Areas

Wetlands (2007)

- WETLANDS
- Water Bodies
- Natural2007

© NJDEP

Map Printed On {2013-08-12 12:59}

0 0.058mi

Attachment: Example

Categorical Exclusion (CE) Applicability Worksheet and Guidance

Screening for “extraordinary circumstances” as listed in section 5.05c of NAO 216-6

Date completed:	
Project Description/ Title:	
Location:	
Timing:	

Step 1. Review for consistency with scope of program

1. Is the proposed project consistent with the program’s/project’s overarching categories of activities?

Step 2. NEPA – Categorical Exclusion Screening

Based on review of the proposal and relevant information about the action area, do any of the following exceptions (from NAO 216-6 § 5.05c) to use of a categorical exclusion apply and require further analysis (e.g., an Environmental Assessment)? Explain your answers, with reference to the proposal or other documents/sources as applicable.

NOTE: *If a sensitive resource or special area is merely present in or near the action area but will not be affected by the project, briefly describe the mitigation measures that would be required to avoid impacts.*

1. Would the activities adversely impact geographic areas with unique characteristics?

For example:

- park lands
- prime farmlands
- wetlands
- coral reefs
- wild and scenic rivers
- MSFCMA Essential Fish Habitat
- National Marine Sanctuaries
- State or National Parks and Wildlife Refuges
- archeological or historical resources listed in or eligible for listing in the National Register of Historic Places

• other “ecologically critical” areas

Response:	
------------------	--

2. Are the potential environmental effects the subject of controversy?

For example, is there a substantive dispute about the manner in which the action would affect the environment, the geographic or temporal scope of the impacts, or which resources could be impacted?

Response:	
------------------	--

3. Are the effects uncertain or are there unique or unknown risks associated with the project?

For example, is the technique new? If so, is it analogous to something for which we have information about effects from published literature, tech memos, monitoring reports, etc., such that we are reasonable certain about the effects and risks?

Response:	
------------------	--

4. Does this decision establish a precedent or decision in principle about (define the parameters of) future proposals with a potential for significant adverse impacts?

Response:	
------------------	--

5. Could the action result in cumulatively significant impacts when combined with past, present, and reasonably foreseeable future impacts, regardless of what entity (federal, non-federal, or private) is taking the actions?

Response:	
------------------	--

6. Are endangered or threatened species or their habitats within or near the action area?

- *If so, what measures will be taken to avoid taking or adverse modification?*
- *If take is unavoidable, would the action qualify for an ESA Section 10 permit?*
 - *If a permit is already issued, provide permit number, name of permit holder, and permit expiration date.*

Response:	
------------------	--

Other Applicable Laws

- 7. Are federal, state, and local permits and consultations necessary to implementation of the action? Did the applicant provide copies of those that are their responsibility with their proposal or otherwise indicate which are being sought and anticipated completion dates?**

Examples: MMPA 101(a)(5) authorization for incidental disturbance of marine mammals(applicant responsibility); ESA section 7 consultation for incidental take of listed species (NOS consultation); NMS, National Wildlife Refuge or state park special use permits (applicant responsibility); CZMA consistency determination (NOS consultation).

Response:	
------------------	--

Appendix O

Point Paper

Delegation of National Environmental Policy Act (NEPA) Signature Authority

Originator: Gary C. Matlock 

Office: Office of Policy, Planning, and Evaluation (R/PPE)

Date: August 15, 2013

Purpose

To complete the process of delegating signature authority for memoranda documenting applicability of a categorical exclusion from the need to prepare an EA or EIS under NEPA from the OAR Assistant Administrator to OAR Laboratory and Program Directors to comply with OAR's NEPA Policy dated March 8, 2011.

Background

On March 8, 2011, the OAR Acting Assistant Administrator approved the OAR NEPA Policy for implementing NEPA consistently across OAR. The responsibility for overseeing the implementation of the policy was assigned to the Office of Policy, Planning, and Evaluation (PPE) on April 12, 2013 by the OAR Deputy Assistant Administrator for Programs. As such, the Director of PPE has determined that implementation of Section IV(A)(6) of OAR's NEPA Policy, delegating signature authority for CE's from the AA to Lab and Program Directors, has not yet occurred. Formal action by the AA is needed to effectuate that portion of the policy and ensure the orderly flow of NEPA documents throughout OAR and to NOAA.

Discussion

1. Section 2.02 b2 of the NOAA Administrative Order 216-6 (Entitled Environmental Review Procedures for Implementing the National Environmental Policy Act -- *available at http://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_216/216-6.html*) authorizes AA's to delegate signature authority for NEPA documents below their level.
2. OAR adopted a policy on March 8, 2011, that states: "OAR's Assistant Administrator accepts NOAA's NEPA delegation to ensure NOAA's NEPA compliance within OAR and will ... [d]elegate signature authority for categorical exclusions to Program Office and Laboratory Directors."
3. Formal action is needed to accomplish the policy's direction and comply with NEPA records management requirements.
4. Several documents need approval and transmittal to complete the intended signature authority delegation, including: signature of attached OAR Circular, notification of individual Lab and Program Directors and notification to PPI of the name(s), titles, and phone numbers of the individuals receiving the delegation.

Recommendations

Approve the attached NEPA Signature Authority Delegation.

Approve: PSI Approved with comments/edits: _____ Disapprove: _____ Let's Discuss: _____



Office of Oceanic & Atmospheric Research Delegations & Directives

NUMBER: NEPA1

EFFECTIVE: (Date Signed)

Subject: Delegation of Signature Authority for Approving Relevant National Environmental Policy Act (NEPA) Documents in OAR.

Purpose: To delegate from the Assistant Administrator, OAR, NEPA signature authority for memoranda documenting applicability of a categorical exclusion from the need to prepare an EA or EIS under NEPA.

Background: The National Oceanic and Atmospheric Administration (NOAA) has the ultimate responsibility to fulfill compliance with NEPA. Department Organization Order 10-15, Section 3.05, provides for the re-delegations of authority of the Under Secretary/Administrator to any employee of NOAA, subject to such conditions in the exercise of that authority as the Under Secretary/Administrator may prescribe. The NOAA Administrator delegates the responsibility to conduct NEPA and integrate the process into NOAA's decision-making processes to Line Office Assistant Administrators and Staff Office Directors.

The March 8, 2011 document titled, *Oceanic & Atmospheric Research (OAR) Implementation of National Environmental Policy Act (NEPA)*, (hereinafter "OAR's NEPA Policy"), establishes the requirements and procedures for complying with the NOAA implementation of NEPA, Administrative Order 216-6 referenced at 42 U.S.C. § 4321 *et seq.* Section 2.02b.2 of the NOAA Administrative Order 216-6 authorizes an Assistant Administrator (AA) to delegate signature authority for "approving and transmitting relevant materials to the NOAA NEPA Coordinator on behalf of the AA."

Section IV(A)(6) of OAR's NEPA Policy states that the OAR Assistant Administrator will "[d]elegate signature authority for categorical exclusions to Program Office and Laboratory Directors." To date, signature authority for categorical exclusions has not been delegated within OAR beyond the level of Assistant Administrator.

Directive: The Assistant Administrator of the Office of Oceanic and Atmospheric Research hereby re-delegates the signature authority granted by the NOAA Administrator for memoranda documenting applicability of a categorical exclusion from the need to prepare an EA or EIS under NEPA to OAR Program Office Directors and Laboratory Directors.

Note: The OAR AA is required to provide the NOAA NEPA Coordinator with the name, title and telephone number of all individual(s) who have been delegated NEPA signature authority.



Assistant Administrator, OAR
Robert S. Detrick, Ph.D.

Date: 9/9/13


Appendix P



DEC 26 2013

MEMORANDUM FOR: OAR Laboratory and Program Office Directors

FROM:

for 
Robert S. Detrick, Ph.D.
Assistant Administrator

SUBJECT: Designating Responsible Program Managers and Staff Leads for
OAR's compliance with National Environmental Policy Act

As we continue to move forward with improving National Environmental Policy Act (NEPA) compliance within OAR, we need to ensure we are carrying out actions from OAR's "Implementation of National Environmental Policy Act" policy document, signed on March 8, 2011, by Judith Gray for Craig N. McLean, Acting Assistant Administrator, OAR.

Consistent with Sections C and D of that policy document, each Laboratory and Program Office within OAR needs to designate a Responsible Program Manager (RPM), and those RPMs need to designate NEPA staff leads.

As stated in the policy document, the role of an RPM is to implement and comply with NEPA policy, including identifying compliance issues, supporting a budget adequate to manage and implement OAR's NEPA policy, and carrying out the appropriate NEPA process on proposed actions. The role of the NEPA staff leads is to assist RPMs in carrying out the NEPA process, including gathering information, preparing documents, and involving the public.

Given these definitions of roles, the individuals identified as RPMs and NEPA staff leads would comprise the OAR NEPA Compliance Team, which is established and formulated by the OAR NEPA Coordinator to ensure NEPA is uniformly implemented across OAR, and to flag possible cumulative impacts (per Section B of the circular). The attached chart outlines roles and responsibilities for NEPA compliance within OAR.

In deciding who to designate as an RPM, please note the definition from NOAA's Administrative Order 216-6:

"the individual designated by the AA or SO/PO Director to carry out specific proposed actions in the NEPA process within an assigned functional area. The RPM may be a Regional Administrator, a Science Center Director, a Laboratory Director, or a program director within a Line, or Staff, or Program Office. The designated RPM, subject to approval of the AA or SO/PO Director or delegate, and subject to concurrence by the NEPA coordinator shall: (1) determine whether Federal actions undertake, including those undertaken by Federal, state, local or tribal governments in conjunction with the agency, are assessed in accordance with the NEPA process or are excluded from that process; and (2) determine the appropriate type of environmental review needed and submit all NEPA



documents and associated letters and memoranda to the appropriate AA or SO/PO Director or delegate for transmittal to the [NOAA] NEPA Coordinator in compliance with this Order and other related authority.”

The NAO further defines the responsibility of the RPM as “the person with primary responsibility to determine the need for and ensure the preparation of any NEPA documents.”

Please provide the names of your RPMs and NEPA staff leads to Gary Matlock, who is acting as the OAR NEPA Coordinator, by January 15, 2014. Please copy Jim Olander on your responses.

Attachment

Appendix Q



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Silver Spring, MD 20910

OFFICE OF OCEANIC AND ATMOSPHERIC RESEARCH

MAR 28 2014

MEMORANDUM FOR: Libby Jewett, Ph.D.
Director, Ocean Acidification Program

FROM:  Robert S. Detrick, Ph.D.
Assistant Administrator

SUBJECT: Designating Responsible Program Managers for OAR's compliance
with the National Environmental Policy Act

As OAR continues to implement the National Environmental Policy Act (NEPA), we need to designate Responsible Program Managers (RPM). I am naming you as the RPM for OAR's Ocean Acidification (OA) Program.

The role of an RPM is to implement and comply with NEPA policy, including identifying compliance issues, supporting a budget adequate to manage and implement OAR's NEPA policy, and carrying out the appropriate NEPA process on proposed actions. In designating you as an RPM, please note the definition from NOAA's Administrative Order 216-6, Section 2.02c:

"the individual designated by the AA ... to carry out specific proposed actions in the NEPA process within an assigned functional area. The RPM may be a Regional Administrator, a Science Center Director, a Laboratory Director, or a program director within a Line, or Staff, or Program Office. The designated RPM, subject to approval of the AA ... and subject to concurrence by the NEPA coordinator shall: (1) determine whether Federal actions undertake, including those undertaken by Federal, state, local or tribal governments in conjunction with the agency, are assessed in accordance with the NEPA process or are excluded from that process; and (2) determine the appropriate type of environmental review needed and submit all NEPA documents and associated letters and memoranda to the appropriate AA or SO/PO Director or delegate for transmittal to the [NOAA] NEPA Coordinator in compliance with this Order and other related authority."

The NAO further defines the responsibility of the RPM as "the person with primary responsibility to determine the need for and ensure the preparation of any NEPA documents."

cc: Gary Matlock, Ph.D.
Director, Office of Policy, Planning and Evaluation



Printed on Recycled Paper



Appendix R

Position Description

AC# 545020140395

Preparation date: 3/27/2014

Validate: YES

Org: NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Div: Office of Oceanic and Atmospheric Research

Incumbent Name: VACANCY

Career Path: ZA Series: 0340 Band: 4

Title: Program Manager

Function:

No specific function defined for this position.

Principal Objective:

Serves as OAR's NEPA National Coordinator and environmental compliance representative in providing leadership and guidance in environmental policy and ensuring that policies, programs, projects, and plans are in compliance with National and NOAA environmental statutes.

Series Definition:

Manages, directs, or assists in a line capacity in managing or directing one or more programs, including appropriate supporting service organizations. Requires management and executive knowledge and ability rather than competence in a specialized subject-matter or functional area.

General Duties and Responsibilities:

Serves as the policy & planning auth. & the expert advisor to top managers and outside officials on a mgmt. function or major extramural program for a bureau or major line component; develops recommends, and implements policies that lead directly to the accomplish. of major programs; or serves as the principle admin. advisor to the head of a major line component with operational respons. for budget, proc., personnel, &/or other admin. functions; or spends at least 25% of time supervising a signif. workload of admin. work, at least 25% of which has career ladder to PB III.

Knowledge, Skills, and Abilities:

Authoritative mastery of all aspects of a major management function, incl. concepts, laws, & public policy issues; ability to assess the political & institutional environment; ability to analyze & relate complex variables to a specific policy issue and frame feasible options; and ability to represent the organization and present controversial issues and recommendations orally and in writing; or ability to perform the full range of supervisory functions, including planning/assigning/reviewing work; providing or arranging training & development; and evaluating performance.

Incumbent's Worker Lead Responsibilities:

Employee performs full range of supervision at least 25% of the time.

Specialty Description:**Position-Specific Key Phrases:**

Serves as OAR's NEPA National Compliance Coordinator and environmental compliance representative in providing leadership and guidance in environmental policy and ensuring that policies, programs, projects, and plans are in compliance with National and NOAA environmental statutes. Develop and implement formalized NEPA records management (documentation and storage), including the use of OAR Environmental Compliance Assessment Worksheets. Develop and implement NEPA training for OAR. Determine appropriate signature authority for NEPA documents. Assess which Programmatic EAs should be categorically excluded from NEPA. Develop a unified approach to the development and format of EAs. Assess grants process and ensure that NEPA compliance is being accurately implemented. Contribute to PPE's mission to "Promote an impactful OAR and NOAA research, development, and transition portfolio through planning, analysis, evaluation, policy development, and specialized support.

Position Requirements:

There are no special requirements for this position.

Position Sensitivity:

This is a Moderate risk position.

FLSA Criteria:

5 CFR 551.206 - Administrative Exemption Criteria

FLSA Basis:

Incumbent's primary duty is the performance of office or non-manual work directly related to the management or general business operations.