



Many Voices Working for the Community

Oak Ridge Site Specific Advisory Board

July 6, 2000

Mr. Rod Nelson
Assistant Manager for Environmental Management
DOE-ORO
P.O. Box 2001, EM-90
Oak Ridge, TN 37831

Dear Mr. Nelson:

Recommendations for Revisions to the *Federal Facility Agreement for the Oak Ridge Reservation* (DOE/OR-1014) regarding Five Year Reviews

At our July 5, 2000, Board meeting, the Oak Ridge Site Specific Advisory Board reviewed and approved the enclosed recommendations and comments.

The Board asserts that as presently written the subject document fails to include provisions for public involvement in the five-year review process. The Board finds this unacceptable and recommends specific actions DOE should take to remedy the situation. This is consistent with the Board's interest in long-term stewardship information and documentation.

We look forward to receiving your written response to our recommendations and comments.

Sincerely,

A handwritten signature in black ink that reads "Steven H. Kopp".

Steven H. Kopp, Chair

Enclosure

SHK/dah

cc: Dave Adler, DOE-ORO
John Hankinson, EPA
Earl Leming, TDEC
Julie Pfeffer, Bechtel Jacobs Company
Ralph Skinner, DOE-ORO
Pat Halsey, DOE-ORO



Oak Ridge Site Specific Advisory Board
Recommendation for Revisions
to the *Federal Facility Agreement*
for the *Oak Ridge Reservation (DOE/OR-1014)*
regarding Five Year Reviews

ISSUE:

As presently written, the Federal Facility Agreement (FFA) for the Oak Ridge Reservation does not include provisions for public involvement in the five-year review process.

Discussion

The five-year review provision is included in Section 121 (c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). It requires that remedial actions resulting in any hazardous substances, pollutants, or contaminants remaining at a site above levels that allow for unlimited use and unrestricted exposure be reviewed every five years to assure protection of human health and the environment. For sites where remedial actions are still under construction, a five-year review should confirm that immediate threats have been addressed and the remedy is expected to be protective when all remedial actions are complete.

Requirements for implementing this provision of the Act are found in the Code of Federal Regulations (CFR). The requirement that reviews are to be conducted every five years after the initiation of the selected remedial action is listed in 40 CFR 300.430(f)(4)(ii).

Guidance for conducting five-year reviews is issued by the Environmental Protection Agency (EPA). A revised draft of the EPA Comprehensive Five-Year Review Guidance was issued in October 1999 (EPA 540R-98-080, OSWER Directive 9355.7-0313-P, PB 99-963214). The Department of Energy (DOE) as lead agency for the Oak Ridge Reservation must conduct five-year reviews in a manner consistent with this guidance [CERCLA §120 (a)(2)].

DOE five-year review reports for the Reservation are submitted to EPA Region 4 where they are reviewed for technical adequacy, accuracy, and consistency with the EPA Comprehensive Five-Year Review Guidance. The EPA Regional Administrator issues a memorandum either concurring with report findings or documenting reasons for nonconcurrency. The memorandum and a copy of the report are forwarded to the EPA Headquarters Five-Year Review Coordinator.

The EPA considers five-year reviews to be primary documents requiring enforceable schedules within the framework of a Federal Facility Agreement (FFA). As described in Exhibit 2-4: Federal Facility Agreements of the draft Comprehensive Five-Year Review Guidance (p. 2-9), the FFA “. . . should include all site-specific five-year review requirements, such as provisions for reviews, public participation, and correcting deficiencies.”

RECOMMENDATION:

The Oak Ridge Site Specific Advisory Board recommends that Section XXXI. FIVE YEAR REVIEW of the Federal Facility Agreement for the Oak Ridge Reservation be revised to include community involvement during five-year reviews. At a minimum, Section XXXI should include the following public involvement provisions:

- public notice of forthcoming five-year reviews and invitations to participate extended to interested citizens, community groups, and local government;
- public meetings to provide stakeholders with information about remedial activities subject to the five-year reviews, to explain the five-year review process, and to gather community issues and concerns related to forthcoming five-year reviews;
- site visits;
- public review and comment periods for draft five-year review reports;
- public notice of final five year review reports and the location of their availability;
- distribution of summary fact sheets to all individuals and groups who participate in the five-year review process.