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Clemson University



UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

GUIDELINE TRANSMITTAL SHEET

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Explanation of material transmitted:

This release of NPS-12, NEPA Compliance Guideline, explains requirements contained in the November 29, 1978, Council on Environmental Quality (CEQ) Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR 1500 et seq.), and in Part 516 of the Departmental Manual (516 DM).

These requirements apply to the majority of National Park Service (NPS) proposed actions and this guideline is intended to facilitate the NEPA process, reduce paperwork and minimize delays.

This guideline covers preparation of environmental documentation for proposed NPS actions and contains guidance for NPS involvement in the NEPA coordination and early review process for other agency actions which will or may affect areas of NPS jurisdiction or expertise.

This guideline replaces Release No. 1 of NPS-12, and NPS-13, Other Federal Agency EIS Review Guideline.

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ABBREVIATIONS USED IN THIS GUIDELINE

ACHP	Advisory Council on Historic Preservation
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
COE	Corps of Engineers
CEQ	Council on Environmental Quality
DEC	Division of Environmental Compliance
DSC	Denver Service Center
DOI	Department of the Interior
DOT	Department of Transportation
DEIS	Draft Environmental Impact Statement
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ER	Environmental Review
FWP	Assistant Secretary for Fish and Wildlife and Parks
FERC	Federal Energy Regulatory Commission
FEIS	Final Environmental Impact Statement
FONSI	Finding of No Significant Impact
GMP	General Management Plan
HCRS	Heritage Conservation and Recreation Service
LCD	Legislative Compliance Division (of Denver Service Center)
NEPA	National Environmental Policy Act of 1969
NPS	National Park Service
NOI	Notice of Intent
OEPR	Office of Environmental Project Review

Abbreviations used in This Guideline

PBA Assistant Secretary for Policy, Budget and Administration
REC Regional Environmental Coordinator (NPS)
REO Regional Environmental Officer (DOI)
ROD Record of Decision
516 DM Part 516 of the Department of the Interior Manual
WASO Washington Office of National Park Service

INTRODUCTION

1-1 BACKGROUND AND PURPOSE

The National Environmental Policy Act of 1969 (NEPA) requires consideration of the environmental effects of proposed Federal actions. NEPA procedures insure that environmental information is available to public officials and members of the public before decisions are made and before actions are taken. Regulations for implementing the procedural provisions of NEPA have been issued by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500-1508). Further compliance procedures to be followed by the National Park Service (NPS) are contained in Part 516 of the Department of the Interior Manual (516 DM).

These guidelines are published according to Section 1507.3 of the CEQ regulations and Section 6.4A of Part 516 of the Departmental Manual. They explain requirements contained in NEPA, the CEQ regulations and 516 DM. All proposed NPS actions should be considered in relation to the provisions of these guidelines.

While these guidelines constitute a permanent directive to NPS personnel, they are strictly advisory and do not create, add to, or otherwise modify any legal requirement. The procedures described in these guidelines were devised solely to aid NPS officials in the internal administration of the bureau, and are subject to reinterpretation, revision or suspension by NPS in its discretion at any time without notice. Users of these guidelines should resolve any conflict with its content in favor of the applicable legal requirements.

1-2 OVERVIEW OF THE NEPA PROCESS

The need for NEPA compliance must be considered whenever the NPS proposes an action. The initial step is identification of a proposed action, which must be analyzed to determine the need for and the type of NEPA compliance required. Once the proposed action is defined, existing environmental documents and the NPS "categorical exclusions" (516 DM 2, Appendix 1; 516 DM 6, Appendices 3 & 7) should be examined to see if the action (a) has already been adequately evaluated, or (b) is categorically excluded from the NEPA process.

If the proposed action is adequately evaluated in a previous environmental document, or is contained in the Departmental and/or NPS lists of categorical exclusions, and is not a Departmental exception (516 DM 2.3A(3)), further NEPA compliance is not required. If an action is not categorically excluded, an environmental assessment (EA) and/or environmental impact statement (EIS) must be prepared. EA's are prepared in order to determine whether an EIS is required. In addition, EA's can serve to assist NPS planning and decisionmaking. EIS's

are prepared on proposed actions which may or will have a significant impact on the quality of the human environment. Following preparation of an EA, responsible NPS officials will examine it to determine the significance of the environmental impacts of the proposed action. If they determine the impacts not to be significant, NPS prepares a finding of no significant impact (FONSI). If the impacts are significant, preparation of an EIS is initiated. If it is clear from the outset that an EIS is needed, no EA should be prepared.

The EIS process begins with a Federal Register Notice of Intent (NOI) announcing that the National Park Service will prepare an EIS. "Scoping" is a process to narrow and define the significant environmental effect issues and alternatives to be analyzed in the EIS. The EIS process proceeds to develop draft and final forms of a single document: a draft environmental impact statement (DEIS), which is normally circulated for 60 days (from the date of filing with EPA) for public and interagency review and comment; and a final environmental impact statement (FEIS), which includes (or summarizes) and responds to comments received on the draft EIS. The process normally is the same with supplements to an EIS. No sooner than 30 days following release of the FEIS, a Record of Decision (ROD) is prepared to document the NPS decision. The process described briefly above is presented in graphic form in Exhibit 1 of this chapter.

1-3 USE AND ORGANIZATION OF THIS GUIDELINE

A. Relation to Other Directives and Guidance

The Council on Environmental Quality (CEQ) published Regulations for Implementing the Procedural Provisions of NEPA on November 29, 1978 (40 CFR Parts 1500-1508). The Department of the Interior (DOI) has published Part 516 of the Departmental Manual (516 DM) to further facilitate NEPA compliance. In January 1981, DOI published Appendix 7 to 516 DM 6, containing NEPA procedures specific to NPS; and in March 1981, DOI published Appendix 3 to 516 DM 6 containing NEPA procedures specific to the Heritage Conservation and Recreation Service (HCRS), now merged with NPS. This guideline explains the above NEPA compliance procedures as they apply to proposed NPS actions. A copy of each of the above-mentioned documents is appended for easy reference. All previous versions of NPS-12, NPS-13, Special Directive 80-3, all guidance memoranda and other written NPS NEPA guidance preceding the effective date of these guidelines are superseded by the instructions contained herein.

These guidelines are organized to correspond chapter-by-chapter with 516 DM. They do not stand alone, but must be used in conjunction with 516 DM and the CEQ Regulations. Any apparent conflict between these guidelines and either the CEQ Regulations or 516 DM shall be resolved in favor of the CEQ Regulations and Departmental Manual. The CEQ Regulations and Departmental Manual are cross-referenced by identifying the appropriate sections in parentheses.

NPS compliance with NEPA should be integrated with other legislative and executive requirements and with NPS policies. Therefore, NPS-12 should be used in conjunction with instructions issued in such Service guidance as the Planning Process Guidelines (NPS-2), Guidelines for Public Participation (NPS-3), Guidelines for Cultural Resources Management (NPS-28), NPS Management Policies, current Staff and Special Directives, and relevant NPS and Departmental memoranda.

B. NPS Program-Specific NEPA Guidance

Three National Park Service grant programs have published further program-specific environmental compliance guidance which supplements information in this guideline:

1. Land and Water Conservation Fund Program, Catalog of Federal Domestic Assistance (CFDA) #15.400: Chapter 1, Part 650 of the Grants-in-Aid Manual.
2. Historic Preservation Grants Program, CFDA #15.411: Chapter 4 of the Grants Manual for the Historic Preservation Fund.
3. Urban Park and Recreation Recovery Program (UPARR), CFDA #15.919: Chapter 11 of the UPARR Grants Manual.

In cases where the above supplementary NEPA guidance appears to conflict with this guideline, the provisions of this guideline, 516 DM and the CEQ Regulations shall govern.

1-4 CHANGES TO THIS GUIDELINE

Recommendations for amendments to this guideline may be submitted for consideration to the Chief, Environmental Compliance Division (WASO-135), at any time. WASO-135 will clear proposed amendments with the Office of Environmental Project Review (OEPR), the Solicitor, and Assistant Secretary for Fish and Wildlife and Parks prior to their publication.

1-5 RESPONSIBILITIES AND AUTHORITIES
(516 DM 1.3, 1.6, 6.3, 6.4; Appendix 7.1 to 516 DM 6)

A. Assistant Secretary for Policy, Budget and Administration (PBA)

The Assistant Secretary, PBA, has approval authority for NPS EIS's which require Secretarial action, such as proposals for legislation. These EIS's include but are not limited to those covering: wilderness proposals, wild and scenic river proposals, trail proposals, and proposed major boundary adjustments.

B. Assistant Secretary for Fish and Wildlife and Parks (FWP)

The Assistant Secretary (FWP) is responsible for compliance with NEPA, the CEQ Regulations, and Executive Order 11514. The Assistant Secretary retains approval authority for EIS's prepared jointly by NPS and the U.S. Fish and Wildlife Service (Assistant Secretary FWP memorandum of September 19, 1979).

C. Director, NPS

The Director, NPS, must comply with NEPA and the CEQ Regulations, and is responsible for administering NPS compliance. The Director has been delegated authority to approve all NPS EIS's except those reserved for Secretarial approval (see above). The Director retains approval and signature authority for programmatic EIS's for proposals of nationwide application such as the promulgation of new Servicewide regulations. In order to comply with 520 DM 1.6C(6), the Director retains approval and signature authority for any environmental document which is combined with a single signature block with a statement of findings pertaining to floodplain and/or wetland involvements under Executive Orders 11988 and 11990. The Director also retains signature (as opposed to approval) authority for EIS's relating to legislative proposals, such as for wild and scenic rivers, trails and wilderness. While Regional Directors are delegated authority to approve and sign other site-specific EIS's, the Director may assume signature authority for any such EIS which is of an unusually controversial nature, or which involves major policy issues. The Director is also responsible for providing overall management and policy guidance for NPS involvement in NEPA early coordination and in review processes regarding non-NPS proposals, and for compliance with other authorities cited herein.

D. Chief, Office of Park Planning and Environmental Quality (WASO-130)

The Chief, Office of Park Planning and Environmental Quality, develops and publishes NPS guidance for compliance with NEPA and related requirements. This office provides policy review of, and must clear, all proposed NPS EIS's

prior to signature by either the Director or a Regional Director, or before referral to the Office of Environmental Project Review (OEPR) for those reserved for Secretarial approval. WASO-130 also serves as the focal point for referral of all NPS environmental matters to the Department, CEQ, and other Federal agencies. The Chief, WASO-130, also has signature authority from the Director to sign or surname certain NEPA environmental review comments as outlined in Chapter 7 of this guideline.

E. Chief, Division of Environmental Compliance (WASO-135)

The Chief, Division of Environmental Compliance, oversees NPS compliance with the procedural requirements of NEPA, including preparation of NPS environmental documents; NPS involvement in other agencies' NEPA scoping and other early coordination activity; and the review of environmental documents from other agencies. This office reviews all proposed draft and final NPS EIS's and makes recommendations to the Chief, Office of Park Planning and Environmental Quality, regarding clearance for printing.

The Chief, WASO-135, is responsible to the Chief, WASO-130, for development and preparation of NPS guidelines for NPS NEPA compliance. The Chief, WASO-135, provides Servicewide technical and procedural assistance and training on NPS NEPA compliance. WASO-135 receives and controls the flow of other agencies' environmental and related documents referred to NPS for review purposes, and assigns participation roles (in NEPA and related early coordination and review processes) to regional and program offices as appropriate.

F. Regional Directors

Regional Directors are responsible for assuring the quality of NEPA document preparation and review carried on within their regions, parallel to authorities exercised nationally by the Director. Regional Directors should designate Regional Environmental Coordinators for their particular regions. Regional Directors are delegated authority to:

1. Approve and sign NPS site-specific EIS's prepared for actions proposed in their regions, after obtaining printing clearance from WASO-130 and the Office of the Solicitor. Where a proposed action involves two or more regions, all responsible Regional Directors will sign the document. This authority may not be redelegated.

Exceptions to this delegated authority occur for (a) legislative proposals (wilderness, wild and scenic rivers, trails, etc.) or other Secretarial actions, and (b) for documents, combined with a wetland-floodplain Statement of Findings (See 1-5(C)).

2. Approve environmental assessments (no signature needed), and approve and sign findings of no significant impact (FONSI's). The authority to approve environmental assessments may be redelegated to superintendents; however, authority to approve and sign FONSI's may not be redelegated beyond the Regional Office. An exception to the Regional Director's approval/signature authority occurs when an environmental assessment or FONSI is combined (with a single signature block) with a statement of findings pertaining to floodplains and/or wetlands. In these cases the Director, NPS, retains approval and signature authority, per 520 DM 1.6C(6).
3. Accept or decline requests for NPS participation as a cooperating or joint lead agency in the preparation of EIS's by other agencies. This authority may not be redelegated.
4. Provide technical assistance to other Federal agencies or other entities involved in preparation of an environmental document. This authority may be redelegated.
5. Review and comment directly on environmental assessments (but not EIS's) of other agencies. This authority may be redelegated. It is overridden if contrary instruction is received through the normal environmental review process from WASO-135 and/or OEPR. (Reviews of other agency EIS's must be coordinated through OEPR according to 516 DM 7.7 - no direct NPS response is allowed.)

G. Regional Environmental Coordinators (REC's)

Regional Environmental Coordinators are designated by the Regional Director within each region. Subject to the direction of the Regional Director, the REC's shall have oversight responsibility for all environmental compliance activities within the region. Regional Environmental Coordinators are responsible for knowing the status of NPS plans and other matters requiring supporting environmental documentation. The REC serves as the focal point for coordination of all regional environmental matters with the Washington Office, and provides professional advice and direction on environmental matters to other regional personnel. REC's provide, or arrange for provision of, appropriate regional review of environmental documents from other agencies and relate such review activities to all areas of NPS jurisdiction and expertise, including regional park planning and compliance work. Regional and park participation in NEPA-related early coordination/technical assistance activities should be coordinated by the REC, as should interrelationships (including time frames) with other compliance requirements such as for endangered species, cultural resources, wetlands-floodplains, coastal zone management, etc.

H. Denver Service Center (DSC) - Legislative Compliance Division (LCD)

The Legislative Compliance Division is responsible for procedural NEPA oversight on all DSC activities. The LCD, through early review and consultation, monitors procedural aspects of all DSC projects for compliance with legal and administrative requirements governing natural and cultural resources. This division also provides the environmental specialists on the various teams with current NEPA and other compliance guidance. The division delegates procedural monitoring functions to team members as appropriate.

I. Superintendents

Superintendents are responsible for assuring that all proposed park actions are in compliance with NEPA and other environmental requirements. They are to insure that such compliance needs are identified in Forms 10-238 or other instructions for programming and implementing park actions. The superintendent should consult regularly with the Regional Environmental Coordinator (REC) about compliance needs for specific projects and how they should be met; request assistance as necessary from the REC in preparing documentation; and keep the REC informed about ongoing park projects. The superintendent shall provide the Regional Director (attn: REC) with a copy of all environmental assessments prepared by the park and submit all proposed findings of no significant impact for signature by the Regional Director or designee.

J. Contracting Officers

Contracting Officers in park areas, in regions, and in the DSC are responsible for including in contract documents and specifications, all mitigating measures identified in an environmental assessment and necessary to support a FONSI for an action; or identified and committed to as part of the decision on an action in an EIS. Contracting Officers are also responsible for assuring that NEPA clearance and appropriate cultural resource clearances are obtained on all change orders.

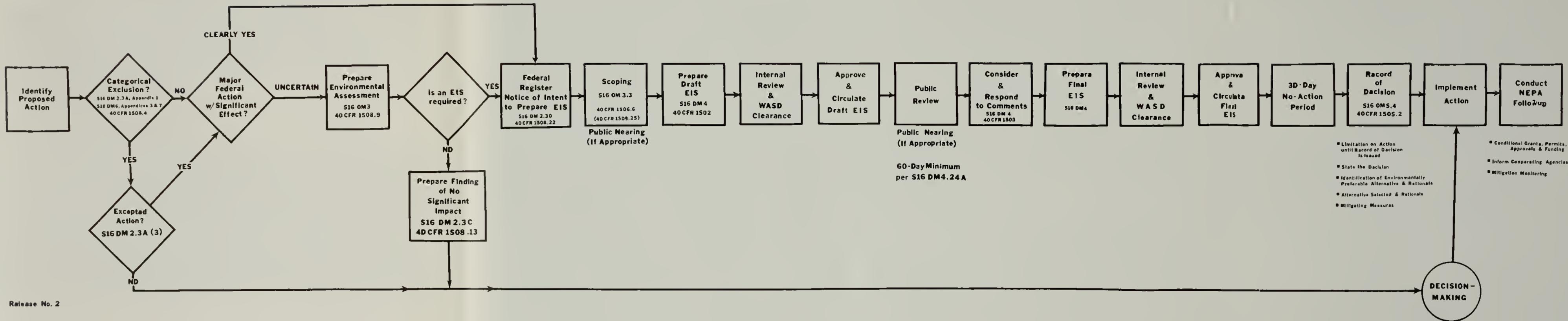
NEPA COMPLIANCE
NPS 12

**Identify
Proposed
Action**



Release No. 2

ENVIRONMENTAL IMPACT STATEMENT (EIS) PROCESS



INITIATING THE NEPA PROCESS

2-1 CATEGORICAL EXCLUSIONS
(516 DM 2.3A; 40 CFR 1508.4)

Proposed actions with no potential, either individually or cumulatively, for significant environmental impact may be categorically excluded from the NEPA process. Categorical exclusions for NPS actions are listed in 516 DM 2, Appendix 1; and in 516 DM 6, Appendices 3 and 7. NPS actions which appear to be excluded from the NEPA process must also be carefully checked against the list of "exceptions" to categorical exclusions in 516 DM 2.3A(3). If a proposed action is covered by one or more of the exceptions, an EA and/or EIS is required.

When a proposed NPS action is categorically excluded from the NEPA process, the responsible NPS official (Regional Director, WASO Program Manager, or their designee) may (but need not) prepare a brief (usually less than one page) memo to the file describing the nature of the proposal and its associated effects, citing the applicable categorical exclusion, and possibly even referring to the list of exceptions in 516 DM 2.3A(3) if such a reference is reasonable and useful. Normally, such information is contained in the NPS Form 10-238 or the task directive for NPS planning proposals.

2-2 NOTICE OF INTENT (NOI) TO PREPARE AN EIS
(516 DM 2.3D; 40 CFR 1508.22)

Regional Directors and/or responsible WASO program office chiefs should prepare (in consultation with any involved park) and submit the original and two copies of each NOI (and a memo indicating completion of the legal sufficiency review by the Solicitor) to the Chief, Administrative Services Division (WASO-230) with a request for publication in the Federal Register. Concurrently, copies of the NOI and request for publication should be provided through WASO-135 to the OEPR. The NOI may serve to initiate the scoping process by soliciting public comment on issues and concerns regarding the proposal. Information in the NOI should also be made available to appropriate State and local entities designated according to Executive Order 12372, and to known interested agencies, groups, individuals, and the general public through appropriate media. Where another Federal agency has jurisdiction by law over some aspect of the proposed action, transmit a copy of the NOI with a letter specifically asking that they become a cooperating agency (see next section.)

2-3 LEAD AND COOPERATING AGENCIES
(516 DM 2.4, 2.5; 40 CFR 1501.5, 1501.6)

A. NPS Areas of Jurisdiction by Law

When an EIS is to be prepared by another agency for a Federal proposal over which NPS has jurisdiction by law, the NPS is required to become a cooperating agency if so requested. Areas of NPS jurisdiction by law include (but are not limited to):

Mining operations and exercise of non-federal oil and gas rights within units of the National Park System;

Mineral leasing within units of the National Park System;

Grazing in NPS-administered areas;

Issuance of FERC licenses and permits in NPS-administered areas;

Issuance of special use permits and right-of-way easements for non-park uses in NPS-administered areas;

Other activities within units of the National Park System and affiliated areas; and

Protection of lands acquired, developed or conveyed through the Land and Water Conservation Fund, the Urban Park and Recreation Recovery Program, the Federal Surplus Property Program, and the Recreation Demonstration Projects Act.

For NEPA purposes, "jurisdiction by law" means that an agency (NPS) has authority to approve, veto, or finance all or part of a proposal.

B. NPS Areas of Special Expertise

NPS also has "special expertise" with respect to several environmental concerns which often must be considered in EIS's; and NPS administers several statutory authorities not involving approval, veto, or financing of another agency's proposal. For other agency actions requiring an EIS and involving a proposal for which NPS possesses either special expertise or statutory authority not involving approval, veto, or financing of the other agency's proposal, NPS may become a cooperating agency if determined appropriate by the responsible NPS official. When the responsible NPS official finds it appropriate for NPS to become a cooperating agency, a written notification should be provided to the lead agency with a copy to WASO-135 and OEPR. Areas of NPS special expertise or statutory authority not involving approval, veto, or financing of another agency's proposal include but are not limited to:

Park and recreation planning and management;
Historic and archeological resource planning and management;
National Wild and Scenic Rivers and National Trails;
Dynamics and management of coastal barrier islands;
National Environmental Education Landmarks;
National Natural and Historic Landmarks;
World Heritage List areas;
Man and the Biosphere/Biosphere Reserves;
Section 6(f) of the Land and Water Conservation Fund Act of 1965;
Section 4(f) of the Department of Transportation Act of 1966;
Urban Mass Transportation Assistance Act;
Federal Power Act;
National Historic Preservation Act;
National Register of Historic Places;
Section 8 of the General Authorities Act;
Railroad Revitalization Act;
Economic Recovery Tax Act of 1981;
Urban Park and Recreation Recovery Act of 1978;
Historic Preservation Fund grants;
Antiquities Act;
Historic Sites Act;
Archeological and Historic Preservation Act;
Archeological Resources Protection Act;
Historic Sites Act;
Tax Reform Act; and

Proposals which may affect units of the National Park System; e.g., upstream water management practices or power plants near Class I air quality areas.

C. Requests for NPS to be a Cooperating Agency

A request for NPS to become a cooperating agency may involve only technical assistance or review of early planning efforts, such as is required in scoping. Or it might include a request to develop specific information and to prepare analyses, including writing portions of the requesting agency's EIS. The NPS level of commitment beyond that required by 40 CFR 1501.6 must be determined on a case-by-case basis. This may require deliberations between the lead agency and one or more NPS officials, including the Chief, WASO-135, the NPS Regional Director or Regional Environmental Coordinator, or park superintendent. When a major commitment of resources will be necessary, the responsible NPS official should negotiate with the requesting agency for a transfer of funds.

D. NPS Responsibilities as a Cooperating Agency

During negotiations with an agency that has requested NPS participation as a cooperating agency, NPS should be responsive and helpful to the extent that available personnel resources and funding allow. NPS can provide available information, professional judgements, and technical assistance. NPS should advise sponsoring agencies of resources available through State and local park, recreation, and historic preservation agencies and organizations. Negotiations for NPS participation should establish time limits within which NPS will provide studies and analyses. Services and data available from NPS cooperative research units at universities should be used as appropriate.

E. Cooperating Agency Agreements

Agencies with a continuing need for NPS cooperation should be encouraged to make formal long-term commitments (by agreement) for supplying needed funds and/or personnel. Such cooperating agency agreements should outline the scope of the work to be provided, including descriptions of the level of effort, the products to be delivered, deadlines for delivery, and the amount, if any, of funds to be transferred. Funding sought should pertain only to NPS participation as a cooperating agency. Costs of participating in normal scoping and of reviewing and commenting on environmental documents are to be borne by NPS.

F. Cooperation Regarding NPS Special Expertise

When areas of NPS special expertise are involved (as opposed to jurisdiction by law), NPS normally should agree to become a cooperating agency to the extent that personnel and funding allow. When cooperation beyond NPS fiscal capability is requested, reimbursement may be sought. The benefits of early participation in other agency planning which may affect NPS interests and concerns can be significant. Such cooperation can result in better agency relationships as well as in actions which are environmentally more acceptable to NPS. The Service should carefully assess, on a preliminary basis, resources to be impacted and the

magnitude and severity of potential effects before declining a request to cooperate. While input into the scoping process will satisfy some NPS concerns, the Service should formally become a cooperating agency if we may later find it necessary to object to the project.

G. Decisions Not to Become a Cooperating Agency

If NPS is precluded from cooperating because of other program commitments, or if a mutually satisfactory agreement as to the level of involvement (e.g., transfer of funds or personnel), cannot be reached, the responsible Washington or regional official should notify the requesting agency of the NPS decision in writing with copies to WASO-135 and the OEPR. This should be done as early as possible, but not later than 30 days from the date that the request to cooperate is received.

H. Decisions Regarding Cooperating Agency Status

When Regional Directors or WASO program managers act on requests to assume either joint lead or cooperating agency status on an EIS, a copy of the decision should be sent through WASO-135 to the OEPR.

I. Provision of Notice of Intent to Other Agencies

When NPS proposes an action requiring an EIS, provide copies of the NOI to those agencies with jurisdiction by law or special expertise and invite them to become cooperating agencies. Where an agency's jurisdiction is by law, transmit the NOI with a letter specifically asking that they become a cooperating (or joint lead) agency.

2-4 SCOPING

(516 DM 2.6; 40 CFR 1501.7)

A. Scoping and NPS Proposals

Scoping is an early and open process to determine the range of actions, alternatives and impacts to be addressed in an EIS. Scoping for all NPS proposals should also include a determination of permits and other entitlements which must be obtained from any Federal, State or local source prior to implementation of the NPS proposal. Scoping is a process and not simply a single event or meeting, although scoping meetings are sometimes held. Public participation may provide input to the scoping process, but is not the only element of it. The scoping process sifts all input for critical environmental/decision significance, decides upon the issues and alternatives to be documented in the EIS and provides the reasons for dropping lesser environmental issues and alternatives from further consideration.

The NPS has agreed to invite the participation of the Advisory Council on Historic Preservation when historic properties* are associated with alternatives under consideration in connection with an NPS proposal. In addition, all other known interested or affected parties (Federal, State, local and private) should be notified and invited to participate in the early consultation process for NPS EIS's. With the exceptions of the Advisory Council and the State Historic Preservation Officer, who should be formally invited by letter, this notification may be satisfied through the NOI provided it is sufficiently informative to set forth the proposed action under consideration, its alternatives, and principal impact issues identified at that stage in the process. Written notification should also be provided to appropriate State and local entities designated according to Executive Order 12372 and to agencies with statutory or regulatory involvement. Other known interested parties may be formally or informally contacted, as appropriate. The NPS official responsible for maintaining the administrative record should include a record of contacts made and responses received. The scoping process may also be applied to preparation of environmental assessments; and should preparation of an EIS be necessary, a more limited scoping process may then be adequate for that EIS.

Please refer to the detailed CEQ guidance on scoping in Appendix 3 to these guidelines.

B. Scoping and Other Agency Proposals

For the EIS's of other agencies, scoping provides an early opportunity to identify NPS interests and concerns, and to define the depth to which these concerns should be addressed in the EIS. When NPS learns through an NOI that another agency's proposal may affect NPS interests, it is not appropriate for NPS to simply advise the agency that it will become involved when a draft EIS becomes available. The intent of the CEQ regulations is to produce coordination as early and as fully as possible prior to production of a draft EIS. At a minimum, initial NPS input should indicate general concerns or a determination of no objection if there appears to be little or no potential effect on areas of NPS jurisdiction or expertise.

*Historic Property: Historic property, as referred to in programmatic memorandums of agreement with the Advisory Council on Historic Preservation, includes all property, historic and prehistoric, on the Cultural Sites Inventory, on the List of Classified Structures, included on or eligible for the National Register of Historic Places, or determined by Park Service regional office cultural resources specialists to meet the criteria for inclusion on the National Register. (The specific criteria that a given property has met will be identified and the evaluation documented.) Historic (and prehistoric) properties can include districts, objects, and historic documents, as well as structures and sites. All historic properties are managed in accordance with NPS-28 and NPS "Management Policies." Note that this definition is much broader than that contained in the National Historic Preservation Act, Section 301(5).

If the proposal appears to affect resources or matters for which NPS has jurisdiction by law, the responsible NPS official shall advise the sponsoring agency that NPS wishes to participate in the scoping process and become a cooperating agency; and a cooperative process should be established to resolve concerns and assure adequate compliance for any related action NPS would have to take.

If NPS was coordinating with the sponsoring agency prior to the NOI stage, a simple reply to that effect and an indication of continued NPS cooperation is a proper response.

NPS should coordinate its participation in scoping with appropriate State agencies. Reports and project recommendations should be forwarded to sponsoring agencies to allow sufficient time for their incorporation into project plans and draft decision documents, including the draft EIS. NPS responses to scoping should be documented in the draft EIS's for which they are submitted, and NPS comments on draft EIS's should indicate omissions or discrepancies in the use of NPS input.

2.5 WRITING STYLE (40 CFR 1502.8)

A. General

NPS environmental documents should be readable and communicate well. Bureaucratic jargon should be excluded. Where feasible, use the active voice in preference to the passive. Use "would" in lieu of "will" in descriptions of the effects which would result from implementation of the proposal and the alternatives. This usage indicates that final decisions have not yet been made regarding the proposal. Exceptions to this usage include FONSI's and records of decision, where the use of "will" is appropriate. Write NPS environmental documents for an educated lay public which is generally informed about the topics being discussed, rather than for an audience of scientific or professional peers.

B. Referenced Information

Pages of text from other documents should not be reproduced and incorporated verbatim into environmental documents unless they are absolutely essential for understanding the issues. Normally, information needed from other documents should be referenced and/or summarized in the NPS document. Place emphasis on producing analytic instead of encyclopedic documents. Long lists and tables (if necessary for the document) and other supportive material should normally be placed in an appendix.

ENVIRONMENTAL ASSESSMENTS AND
FINDINGS OF NO SIGNIFICANT IMPACT

3-1 WHEN TO PREPARE AN ENVIRONMENTAL ASSESSMENT

A. Applicability to NPS Projects

An Environmental Assessment (EA) shall be prepared for all proposed NPS actions which are not categorically excluded from the NEPA process or adequately covered in a previous NEPA document, unless a decision has been made to prepare an EIS (see 516 DM, Appendix 7.3A for NPS actions normally requiring an EIS). The purpose of an EA is to determine whether a proposed action may or will have a significant impact on the quality of the human environment and require the preparation of an EIS. In addition, an EA may be prepared on any action at any time in order to assist in planning and decisionmaking.

The Environmental Assessment process is displayed graphically in Exhibit 1 of this chapter.

B. Identifying the Need for an Assessment

The need for an EA should be identified in any Forms 10-238, Task Directives, instructional memoranda, or similar documents outlining the proposal or task to be done. EA preparation should begin at the earliest reasonable time prior to decisionmaking.

C. Exceptions to Categorical Exclusions

Although a proposed action may normally be categorically excluded from the NEPA process, it will still require an EA and/or an EIS if it is covered by the list of exceptions to categorical exclusions which appear in 516 DM 2.3A(3).

3-2 PREPARING AN ENVIRONMENTAL ASSESSMENT
(516 DM 3.4; 40 CFR 1508.9)

A. Purpose of an Environmental Assessment

An EA should briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

B. Length of an Environmental Assessment

The length of an EA will depend on the complexity of issues being addressed and consequences being analyzed. The document length should normally vary from a few pages on a simple project, to no more than 50 pages on complex projects. The use of graphics, tables, incorporation by reference and tiering on other documents, when appropriate, should substantially reduce the need for lengthy descriptions.

C. Format and Content of NPS Environmental Assessments

There is no required format for an EA, except when EA's are combined with certain planning or study documents (see Section 4 and Appendix 5 of this guideline). An EA may also be combined with any other NPS document. Whether combined or standing alone, however, that part of the EA detailing environmental impacts of the proposal and alternatives must be clearly separable and identifiable. All EA's (whether combined or standing alone) must contain the following information:

1. Need for the proposal: This section briefly outlines the issues or problems requiring action and/or what the proposed action is intended to accomplish. Solutions should not be proposed here, but rather in the following section. The length of this section need not exceed one or two pages, and in many instances, it can probably be concluded in one or two paragraphs.
2. Alternatives: As is indicated in 40 CFR 1508.9(b), an EA should evaluate alternatives as required by Section 102(2)(E) of NEPA. This section of NEPA requires agencies to study, develop and describe alternatives to recommended courses of action "in any proposal which involves unresolved conflicts concerning alternative uses of available resources." It is thus possible to have an EA which evaluates only the proposed action, if it meets the criterion of having no unresolved conflicts concerning alternative uses of available resources. Other EA's may evaluate a number of alternative ways of accomplishing a proposed action. Although a preferred alternative need not be identified in an EA with more than one alternative, a preferred alternative may be necessary in assessments where compliance with the Endangered Species Act or Executive Orders 11988 or 11990 (wetlands/floodplains) is also required. A no-action alternative may be useful in certain EA's in order to provide a comparative analysis of existing conditions. "No-action" means the continuation of present trends and conditions, rather than taking action to discontinue a present practice or remove existing development. Park plans and the related EA may have several series of alternatives relating to management of various natural and cultural resources, visitor use activities, etc. Mitigating measures should be incorporated into the alternatives. Alternatives considered should be distinctly different, rather than minor variations of each other; and should be reasonable in terms of such things as cost and time required for implementation.
3. Environmental Impacts of the Alternatives: Impacts discussed should indicate some understanding of the degree of environmental effects expected and may include beneficial and adverse effects, direct and indirect effects, short or long term effects, and cumulative effects. Suitable methods such as text, charts, tables, matrices, or other graphic displays should be used to present the information concisely. Categories of important impacts often encountered in NPS planning include ecological, aesthetic, historic/cultural, economic, social and health. However, analyses should focus on specific issues and not generalize. For EA's with three or

more alternatives, the use of comparative charts for summary and overview purposes is recommended. Written text should also be provided where the comparative extent of impacts is not immediately obvious from a matrix presentation. The impact analyses should specifically indicate whether endangered species, floodplains, wetlands, historic properties as defined in NPS-28 (see footnote, Chapter 2, Page 6) or other unique resources will be affected. Where historic properties are affected, the process set forth in 36 CFR 800 should be initiated and the resulting determinations should be included in the EA.

4. List of Persons and Agencies Consulted: Persons, organizations and agencies contacted for information, or that assisted in identifying important issues, developing alternatives, or analyzing impacts should be listed.

No separate description of the environment is required in an EA, as this information can be woven into the text of the sections on need for the proposal, discussion of alternatives and impact. For large or complex projects, a more extensive format similar to that of an EIS may be used; but the text should still concentrate primarily on the major consequences which may be significant enough to require EIS preparation.

D. Other Guidance

To reduce paperwork and duplication, an EA may be combined with any other NPS document as a dual-titled document. However, the portion of an EA which contains the analysis of environmental impacts should be clearly separated and identified. Where there is a need to present non-environmental considerations to the decision-maker, such information may be attached as appendices or woven into the description of the alternatives. EA's and FONSI's do not normally require WASO involvement except in cases where they are combined with a park plan, a wetland/floodplain statement of findings or other document requiring WASO action. Although EA's need not be signed, any FONSI or Notice of Intent following completion of an EA must be signed and dated. Authority to approve EA's may either be retained by the Regional Director, or redelegated to superintendents.

3-3 PUBLIC INVOLVEMENT IN THE EA PROCESS (516 DM 3.3; 40 CFR 1506.6)

A. Public Notification

Public notice of EA availability should be provided, although public review of EA's for actions not normally requiring an EIS is at the discretion of the decision-maker. Where appropriate, environmental agencies, applicants and the public should be involved in the EA process. Any appropriate method of notice including mailings, a Federal Register notice, a news release, or a meeting with concerned agencies and individuals may be used. The preparing office should determine the best method to reach the affected public, with emphasis placed on interested

groups and individuals, including those likely to be opposed to one or more alternatives. EA availability should be announced in the Federal Register for an NPS action likely to be of national interest.

Public notice of availability should indicate the subject of the EA; the location(s) where a copy of the document can be obtained or inspected; the closing date for any comment period; the time and places of public meetings (if any); and the name(s), address(es) and telephone number(s) of the individual(s) from whom further information may be obtained, and to whom comments on the EA should be submitted.

B. Public Reviews

On EA's for which a public review period is planned, a 30-day review period is customary. Longer or shorter review periods may be designated, depending on the anticipated level of interest or controversy, or to meet other requirements. If public meetings are held, the review period should extend from at least 15 days prior to the first meeting to at least 15 days after the last meeting. This type of review can also be used to fulfill at least a portion of the requirements for scoping should it be determined that an EIS will be prepared for the proposal.

3-4 FINDING OF NO SIGNIFICANT IMPACT (FONSI) (516 DM 2.3C; 40 CFR 1508.13)

A. Description and Content; Signature Authority

If, based on an analysis of an EA and any public comments, the responsible NPS official determines that the proposed action will not significantly affect the quality of the human environment, a Finding of No Significant Impact (FONSI) will be prepared. There is no set format for a FONSI; however, it must meet the content requirements of 40 CFR 1508.13. Additionally, if the proposed action requires compliance with other legislation (such as the Endangered Species Act or the National Historic Preservation Act) or Executive requirements, evidence of such compliance should be completed and documented prior to the approval and signing of the FONSI. The FONSI should conclude with a statement that the project does not constitute a major Federal action significantly affecting the quality of the human environment, and that an EIS will thus not be prepared. A FONSI should be brief, generally less than two pages, and must be a separate document rather than part of the EA. Although EA's may be prepared by park superintendents, FONSI's for such EA's must be signed in the regional office.

B. Public Review

Comments generally are not solicited on a FONSI; however, the FONSI should be available on request from the originator's file. A copy of the EA and FONSI should be sent to those who have requested it. In addition, the preparing office should as a matter of course send copies of the FONSI to persons who commented on the EA.

For projects which normally require an EIS, and for proposed actions without precedent, proposed FONSI's should be circulated for a minimum of 30 days' public review, as required by 40 CFR 1501.4(e).

C. Distribution

A copy of the FONSI should be attached to its EA as directed by 516 DM 2.3C. If a person or agency was sent the EA at the time of its release, and if you wish to send them the FONSI, a second copy of the EA need not be sent. A cover letter can simply suggest that the FONSI be attached to the previously-received EA.

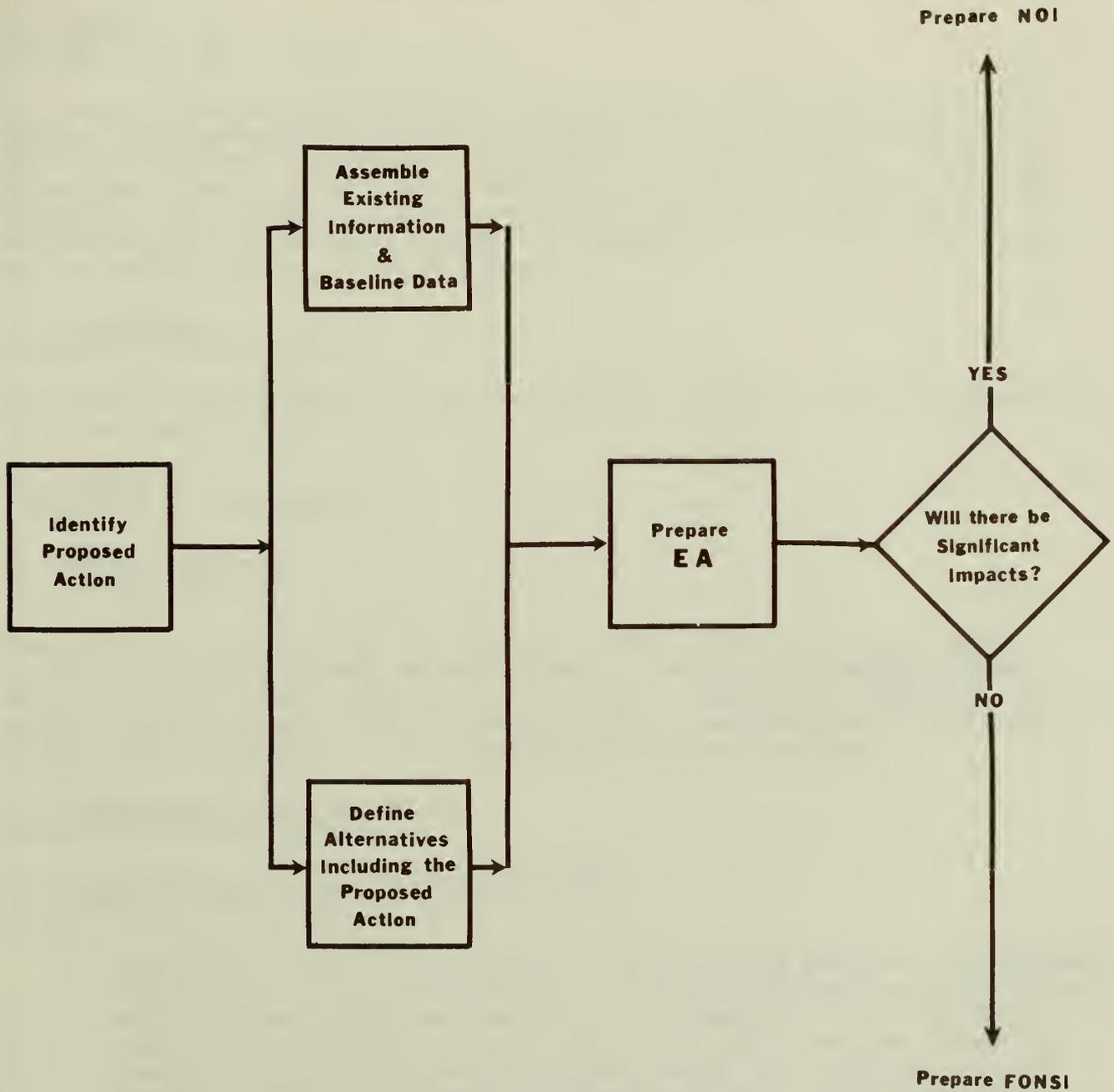
D. Combining With Wetland/Floodplain Statement of Findings

If the proposed action would be located in a floodplain or wetland, and if an analysis of the EA by the Regional Director results in a FONSI, a wetland/floodplain Statement of Findings may be combined with the FONSI as a separately identifiable document and the entire package forwarded to WASO for the Director's approval and signature.

E. Timing of Preparation

For simple projects not involving a public review, the FONSI may be prepared immediately following NPS consideration of the EA. On more complex projects, the FONSI should be prepared following the close of the EA public comment period.

ENVIRONMENTAL ASSESSMENT (EA)



ENVIRONMENTAL IMPACT STATEMENTS

4-1 FORMAT

(516 DM 4; 40 CFR 1502.10)

The format prescribed in 40 CFR 1502.10 must be used unless WASO-135 and the Office of Environmental Project Review (OEPR) approve a format variation. Approved variations are published in Appendix 5 to this guideline. At the time of original printing (1982), three variations were approved - for NPS General Management Plans, Wild and Scenic River Studies, and Trail Studies. Other variations may be approved by amendment to Appendix 5. All other EIS's should use the standard format explained below.

A. Cover Sheet

(516 DM 4.7; 40 CFR 1502.11)

The format of 40 CFR 1502.11 should be used except for EIS's for grant proposals, which may use SF-424.

B. Summary

(516 DM 4.8; 40 CFR 1502.12)

C. Table of Contents

(40 CFR 1502.10)

The table of contents should be sufficiently detailed to allow the reader to quickly locate major subject matter in the EIS, particularly specific impact topics and alternatives analyzed by the document. The format elements in this section should be used as first-order headings, and supplemented by subordinate-order headings appropriate to the type of action being evaluated.

D. Purpose of and Need for Action

(516 DM 4.9; 40 CFR 1502.13)

E. Alternatives Including the Proposed Action

(516 DM 4.10; 40 CFR 1502.14)

1. The introduction to this section of the EIS should describe all compliance requirements pertinent to the proposal and the alternatives being evaluated under applicable environmental, historic preservation and other laws, regulations and Executive Orders. The introduction section should also describe those elements of the proposed action and alternatives which stem from legislative direction or prior actions on which compliance has already been completed.
2. The introduction is followed by a full range of reasonable alternatives designed to resolve pertinent issues and reach the objective of the proposed action. These may include alternatives requiring legislation or actions beyond the ability of the National Park Service to accomplish.

EIS's should include alternatives identified as the proposed action and as the preferred alternative, according to the guidance in 516 DM 4.10A.

3. The alternative of no-action, or continuing the status quo, must always be evaluated in the EIS. For park planning and management activities, the no-action alternative does not involve dropping present activity, but assumes that the NPS will respond to future needs and problems without major actions or changes in course.
4. The no-action alternative provides a basis for comparing the impacts of other "action" alternatives. Because the involved issues and objectives may be complex and sometimes competing, a particular alternative may not be able to address or resolve all of them. Each alternative should be a distinctly different approach to addressing important issues, and may thus emphasize the achievement of some objectives at the expense of others. Minor variations on each alternative should be considered sub-alternatives rather than alternatives in and of themselves. For clarity, each major alternative should be given a descriptive name and a number or letter. Any reasonable alternative with anticipated environmental consequences that differ significantly from those of the proposed action, should be considered a major alternative and analyzed fully.
5. The no-action alternative and the proposed action (and if applicable, the preferred alternative per 516 DM 4.10A) should normally be presented first. All alternatives not eliminated from detailed study should receive equal analysis, although the text allotted to subsequent alternatives can often be reduced by reference to the descriptions of the proposed action and the no-action alternatives. Mitigating measures to reduce or eliminate adverse environmental consequences should be integrated into the proposed action and alternatives. (516 DM 4.10B)
6. A summary display, normally in matrix form, of the proposal and alternatives, their significant environmental impacts, and other consequences as appropriate, should be used at the end of this section to bring issues, alternatives, and consequences into clear comparative focus, thereby promoting effective communication with other agencies and the public, and facilitating executive decisionmaking. Where impacts are displayed in a matrix, a narrative comparison should also be provided where the comparative significance of the impacts is not immediately obvious.

An exception to this practice occurs in EIS's which are combined with a General Management Plan, Wild and Scenic River Study or Trail Study, in which case the summary of impacts is presented in the consequences section (see Appendix 5).

F. Affected Environment
(40 CFR 1502.15)

1. This section of the EIS should describe the environmental values that may or will be affected by the proposed action and alternatives. It should also describe or highlight those values or areas where the consequences of the proposed action or alternatives are potentially controversial or sensitive.
2. Sufficient information should be presented to give the reader a general understanding of the environment affected, but the length of this section should normally not exceed 20 percent of the total statement. Specific environmental information essential for developing the impact analysis (consequences section) should be incorporated into that section. Descriptive and background material helpful, but not essential, to the evaluation of impacts may be placed in an appendix. Other background and supporting material should simply be incorporated by reference in a standard bibliographic format. Typical material that should be incorporated by reference includes other NEPA documents, lists of common plants and animals, historic resource studies, detailed air and water quality data and standards, separate scientific studies, compilations of demographic and socioeconomic data, published works, and other references reasonably available for public inspection. When material is incorporated by reference, its applicable content should be very briefly summarized in the EIS and the material should be reasonably available to the public throughout the comment period on the EIS.
3. Descriptive information about a National Park System unit is usually drawn from the unit's existing information base, although additional information may occasionally be needed to provide an adequate basis for impact evaluation and decisionmaking. Descriptions of physical remains should be limited to those that may or will be affected, and National Register properties should be described only with respect to those qualities which make them eligible for the National Register. This section also typically describes such environmental factors as air and water quality, soil suitability for construction and plant growth, geologic conditions, topography, vegetation, climate, wildlife, and socioeconomic resources. The existing public use of the park, the socioeconomic environment of the region, park visitors, employees, inholders, and other park users are also described if affected by the proposal, as are ecological, jurisdictional, legislative, and other constraints on management, development, interpretation, energy use, and other uses of park lands or resources. The degree of detail for each value should be commensurate with the significance of the anticipated impact upon it.

4. The description of the affected environment should also contain, or reference, a descriptive inventory of historic properties as defined in NPS-28 (see footnote, Chapter 2, Page 6) within the potential impact area as well as a description of all affected historic properties, modern developments, and other existing manmade facilities. Specific locations need not, and in most cases should not, be given for archeological sites, but such information should be available for examination by the State Historic Preservation Officer and recognized professional institutions and individuals. When specific locations are intentionally omitted, the reason for the omission should be explained in the text. Locations should occasionally be included or made available to allow proper planning and/or understanding by reviewers. (See Chapter 3, NPS-28, "Cultural Resources Management," for detailed guidance.)
5. Prime and unique agricultural lands and known endangered or threatened species of plants and animals and their critical habitats should be listed in this section. Specific locations of occurrence as well as descriptions of specific habitats of endangered species should at times, however, be omitted; and such omission is often requested by the U.S. Fish and Wildlife Service (FWS). Where locations are intentionally omitted, the reason should be explained and such information made available separately to FWS and other appropriate reviewers. One-hundred-year (100-year) floodplains (and 500-year floodplains, where critical actions are involved). flash flood areas, and possible effects of dam failure or misoperation should be delineated on appropriate maps if they occur in areas impacted by the range of alternative actions, as should areas of known geologic or other natural hazards. Affected wetlands and other areas of sensitive or significant resource value should also be located on area topographic maps. Where potential exists for impacts upon the global environment or upon the territory or resources of other nations, this broader environment should be described and evaluated in the same manner as domestic resources. (Forthcoming Departmental guidelines (516 DM 8) will establish procedures for compliance with E.O. 12114, "Environmental Effects Abroad of Major Federal Actions.")

G. Environmental Consequences
(40 CFR 1502.16)

1. This section provides analytic scientific evaluation of the adverse and/or beneficial environmental consequences which may or would follow implementation of the proposed action or any of its reasonable alternatives. The evaluation should include direct, indirect, and cumulative environmental effects; and should provide conclusions on impacts and the basis for those conclusions. Site-specific environmental data or descriptive information should be integrated into the analysis, to support impact conclusions. The effects of any mitigating measures included in the earlier descriptions of the proposed action and alternatives should also be evaluated.

2. The evaluation of impacts on various environmental values should include (a) any beneficial and/or adverse impact remaining after mitigation, (b) the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (c) any irreversible or irretrievable commitments of resources which would occur if the alternative is implemented. These considerations can be woven into the analysis, rather than listed separately. The analysis of each alternative should conclude with a summarization of the impacts previously analyzed in detail, without drawing any conclusion about the desirability of a particular alternative.
3. Discussions of environmental consequences on cultural resources should be done in a manner similar to that for natural resources. In addition, if the resource is a historic property as defined in NPS-28 (see footnote, Chapter 2, Page 6), a determination of effect should be made in consultation with the appropriate State Historic Preservation Officer using the criteria of effect as defined in 36 CFR 800.3, and should be documented in an appendix. It should be clearly stated that the criteria for determination of effect are a classification of the Advisory Council on Historic Preservation, and thus may not equate directly with the level of apparent physical effect. Documentation of actions taken to comply with 36 CFR 800, along with final determinations made regarding historic properties and any comments from the Advisory Council, should be included in the final EIS.
4. The evaluation and analysis of environmental consequences for each alternative should include a discussion of any substantial conflicts with existing laws, and the objectives of Federal, regional, State, Indian tribe, or local land use plans, policies, and controls for the affected area. The analysis should also include, as appropriate, energy requirements, effects on urban quality and the design of the built environment, as well as the reuse, recycling, and conservation potentials of each alternative. Particular concern should be given to the effects of the alternative upon natural or depletable resources. Information on cost, technical feasibility, park management and operations, and other non-environmental factors relevant to the evaluation of alternatives should be included in the alternatives section rather than in the environmental consequences section. Means to mitigate adverse environmental impacts should be included if they were not described in the alternatives section.

H. List of Preparers
(516 DM 4.6B; 40 CFR 1502.17)

I. Consultation and Coordination in the Development of the Proposal and in the Preparation of the Environmental Impact Statement

This section should briefly discuss the important consultations during the evolution of the proposal, the alternatives and the EIS (including scoping); and should include all Federal, State, and local agencies, and major organizations and experts consulted. Brief summaries of public involvement should also be included. Important environmental issues discussed during consultation should be described whenever conflicts are apparent or whenever issues remain unresolved. If the consultations resulted in formal agreements, the agreements or their substance should be appended to the EIS. A description of any pertinent existing and proposed coordinating mechanisms should also be included. Consultations undertaken in compliance with other legislative and executive requirements should be discussed in the draft EIS rather than in an appendix; but a memorandum of agreement, etc. would be appendix material. Appendices to the final EIS should contain major cooperative agreements, memoranda of agreement or understanding, and agency documentation indicating final compliance with applicable executive and legislative requirements, such as the comments of the Advisory Council on Historic Preservation in the form of a memorandum of agreement or a comment issued after a Council meeting.

This section should also include two major subsections as follows:

1. List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent (516 IM 4.6C; 40 CFR 1502.10) - In a draft EIS this list includes those to whom initial distribution of the draft EIS will be made. The final EIS includes the draft EIS list plus any additions as a result of requests for copies of the draft EIS made through the end of the public review period. List sections should be alphabetical with Federal agencies listed as the first section, followed by State and local agencies, Indian tribes, organizations, and individuals. When the listing of individuals is longer than 3 pages, it may be deleted entirely and a note made that a complete list is available from the issuing office. In final EIS's, asterisk (*) notation should be used to identify respondents to the draft EIS.
2. A Public and Other Agency Comment and Response subsection should normally form the last major part of a final EIS. All written comments on the draft EIS from Federal, State and local agencies and Indian tribes should be printed in full and not summarized, even if voluminous. All other substantive written comments should either be printed in the final EIS or summarized if exceptionally voluminous. Comments are considered to be substantive when they: (a) question, with reasonable basis, the accuracy of information in the EIS; (b) question, with reasonable basis, the adequacy of environmental analysis; (c) present reasonable alternatives other than those presented in the EIS; or (d) cause changes or revisions in the proposal. Substantive comments should be responded to in this comment/response section, using

a bracket and number in the commenting document keyed to either a response column printed alongside or following the document. Comments may also be characterized by issue, numerically keyed to the commenting document, and addressed in unified NPS responses. Comments from Federal, State and local agencies and Indian Tribes should still be addressed individually and cross-referenced to any summary responses.

The NPS will print enough draft and final EIS copies to distribute to interested parties. Ordinarily no more than 500 copies of an EIS need be printed. Copies of the EIS should be available for public inspection at the NPS WASO and Regional Offices, any involved parks(s), and at appropriate government offices and local libraries. Multiple copies need not normally be sent to individuals and organizations unless they pay the cost of extra reproduction.

J. Index
(40 CFR 1502.10)

The index should contain (in alphabetical sequence) enough key words from the EIS to allow easy location of information. The entries should relate to the subject matter of the text and should not repeat the general topical headings of the Table of Contents.

K. Appendices
(516 DM 4.11; 40 CFR 1502.18)

Appendices are for amplification or support of critical analyses in the EIS, rather than being a data bank and library for its total reference support. They should contain only major substantiating data, essential relevant descriptions of environmental components, important professional reports, copies of major legislative and executive documents, and other information necessary for a complete use of the EIS for analytical/decision purposes; but not necessarily all material essential to comprehend the analysis and conclusions reached, or support every statement in the document. Negotiated agreements regarding various compliance requirements (endangered species, cultural resources, etc.) are also appendix material.

4-2 SUPPLEMENTAL AND REVISED STATEMENTS
(516 DM 4.5; 40 CFR 1502.9)

A. Outdated Draft Statements

When a draft EIS becomes seriously outdated, a revised or supplemental draft EIS should be prepared and issued before the final EIS is prepared. It should be termed a "revised draft" if it is a complete rewrite of the previous draft, and

a "supplemental draft" if it simply updates or adds to the information and analysis of the initial draft. A draft EIS is considered outdated and should normally be cancelled by WASO-135 (in consultation with the originating office) three years after its issuance, if no final EIS has been published.

B. Content

When it is reasonable to assume that reviewers still have available copies of the draft EIS being supplemented, the material in the new document can be limited to that necessary to identify and discuss significant changes or additions. When this assumption cannot reasonably be made, the document should include a duplicate or a detailed summary of the initial draft.

C. Responses to Comments on the Draft Statement

Comments received on the initial draft should be responded to in the revised or supplemental draft EIS. Comments on the revised or supplemental draft EIS are responded to in the final EIS.

D. Revisions and Supplements to Multiple Related Statements

When it is necessary to revise or supplement two or more closely related draft EIS's, this should be done in a single document if possible.

E. Consultations with OEPR and SOL

Consultations with OEPR and the Solicitor concerning the preparation of final EIS supplements or revisions should be coordinated through WASO-135. Supplements to final EIS's normally will be prepared in draft and final form (516 DM 4.5B; 40 CFR 1502.9(c)).

4-3 PROCESSING ENVIRONMENTAL IMPACT STATEMENTS

NPS EIS's fall into two categories which determine procedures for review and approval:

1. EIS's on proposed actions for which approval authority rests with NPS; and
2. EIS's which involve a Secretarial decision or recommendation or for which approval authority has otherwise been retained at the Departmental level.

The second category includes but is not limited to legislative proposals (such as those for wilderness, wild and scenic rivers, national trails) and other EIS's encompassing the jurisdictional involvement of two or more Assistant Secretaries.

The procedures for internal processing of NPS EIS's are included in Appendix 4.

4-4 TERMINATION OF THE EIS PROCESS

As used in this section, termination of the EIS process means to discontinue preparation of a draft or final EIS; and if appropriate, prepare and issue an environmental assessment and FONSI to satisfy NEPA requirements. This may be done without consultation outside NPS following publication of the NOI and before public distribution of the draft EIS. After the draft EIS is distributed and comments received, however, NPS should normally respond to the comments received, and complete the EIS unless the proposal is abandoned. In general, the EIS process should be terminated due to lack of significant environmental effects ONLY prior to public distribution of the draft EIS. WASO-135 should consult with OEPR before terminating an EIS which has gone out for public review.

If an EIS is terminated, the Regional Director or other responsible NPS official should prepare a Federal Register notice announcing the termination. The notice should include a brief description of the proposal, a reference to the earlier Federal Register Notice of Intent, NEPA compliance completed to date, and the reason(s) for terminating the EIS.

If the reason for termination is abandonment of the proposal, the Federal Register notice should indicate that the NEPA process will be reinitiated if the proposal is revived at a future date.

The original and three copies of the proposed Federal Register notice should be transmitted, with the appropriate Solicitor's approval, to the Administrative Services Division (WASO-230) with a request for publication. Concurrently, a copy of the notice should be provided through WASO-135 to the Office of Environmental Project Review (OEPR).

If an EA and FONSI are subsequently prepared and substituted for what was originally envisioned to be a draft EIS, the FONSI must be made available for 30 days' public review according to procedures in 40 CFR 1501.4(e)(2).

WASO-135 normally should take action to cancel an EIS after the draft EIS has been out for three years without being published in final form. See discussion in Section 4-2, Supplemental and Revised Statements.

4-5 ABBREVIATED FINAL EIS'S (516 DM 4.17C; 40 CFR 1503.4(c))

For EIS's requiring the approval of the Assistant Secretary for Policy, Budget and Administration according to 516 DM 6.3 and Chapter 1 of these guidelines, consultation should be undertaken with OEPR through WASO-135 when preparation of an abbreviated final EIS is proposed.

When preparation of an abbreviated final EIS is proposed for initiatives whose EIS's require only NPS approval, the following format should normally be used:

1. Cover Sheet prepared according to 40 CFR 1502.11
2. Foreword Sheet which carefully explains that this document is an abbreviated FEIS and the contents of it must be integrated with the DEIS (giving name and date of issuance) to be considered a complete document reflecting the full proposal, its alternatives and all significant environmental impacts.
3. Errata Sheets prepared according to 40 CFR 1503.4(c)
4. Comments and responses prepared according to 40 CFR 1503.4 and 516 DM 4.17, and organized according to Section 4-1(I) of this guideline.

RELATIONSHIP TO DECISIONMAKING

5-1 PREDECISION REFERRALS TO CEQ
(516 DM 5.1; 40 CFR 1504.3)

In cases of both referral (by another Federal agency) of an NPS matter to CEQ, and referral by NPS of other agency matters to CEQ, WASO-135 is the focal point for NPS contact with other agencies, the Department and CEQ. WASO-135 shall fully coordinate with the appropriate Regional and Washington program office(s). Any reviewing office contemplating a referral by NPS should contact WASO-135 as early as possible. The scoping process for non-NPS projects provides an early opportunity for NPS to become aware of potential referrals and alert WASO-135 to the need to track them continually through the NEPA process so that if referral becomes necessary, NPS can prepare the requisite documentation in a timely manner. Ideally, such projects should be brought to the attention of WASO-135 before the final EIS stage. In all cases with the potential for referral, the administrative record for the proposal should provide a well-documented "trail" indicating attempted coordination by NPS with the involved agency prior to the final EIS stage.

5-2 RECORD OF DECISION
(516 DM 5.4; 40 CFR 1505.2)

Records of Decision should normally be signed by the same official signing the EIS. They need not be cleared by WASO-130 prior to signature. Copies of each completed Record of Decision shall be provided through WASO-135 to the Office of Environmental Project Review (OEPR).

NPS officials need not, but may, publish any Record of Decision in the Federal Register. Public notice of Records of Decision may also be provided through other appropriate means to ensure widespread notification to involved agencies, organizations and communities. Copies of Records of Decision usually should be provided to substantive commenters on the draft EIS and to others known to have a strong interest in the proposal. A Record of Decision may not be issued until the 30-day no-action period has elapsed following the filing of the final EIS. Record of Decision requirements are contained in 40 CFR 1505.2.

MANAGING THE NEPA PROCESS

6-1 ORGANIZATION FOR ENVIRONMENTAL QUALITY

Interested persons can obtain information on the NPS NEPA process by contacting:

Chief, Office of Park Planning and Environmental Quality
National Park Service (WASO-130)
U.S. Department of the Interior
18th and C Streets, N.W.
Washington, D.C. 20240
Phone: 202-343-6741

Similar information and copies of NPS NEPA documents can be obtained from the appropriate National Park Service Regional Director.

REVIEW OF NON-NPS DOCUMENTS

7-1 DUTY TO COMMENT
(516 DM 7.1, 7.2)

A. Policies

This chapter implements the policies and directives of CEQ and the Department of the Interior relating to National Park Service review and comment on non-NPS NEPA and related documents. The objectives of this review function are to aid other agencies in making the best possible decisions based on quality environmental analyses; to maintain the integrity of the National Park System; and to espouse the full range of other recreation, natural and cultural resource stewardship roles of the National Park Service.

B. Comment Requirements

NPS comments on other agencies' NEPA and related documents should:

1. Encourage those agencies to contribute to the protection, preservation, maintenance, safety, and enhancement of existing and potential units of the National Park System; other significant park and recreation values; historic, archeological, and architectural properties including those listed on the National Register of Historic Places; and unique natural resource values, including those areas listed in the National Registry of Natural Landmarks;
2. Assure that the sponsoring agency recognizes benefits and adverse effects relating to our areas of jurisdiction and expertise, and that those effects are presented in an understandable form to the general public and to decisionmakers;
3. Adequately describe practicable alternatives which are less damaging to NPS interests and concerns, and see that these are evaluated realistically and adopted where feasible;
4. Discuss mitigation measures to offset unavoidable adverse effects, and propose them as an integral part of the proposed action.

C. Early Involvement

The Service's ability to influence the proposals of other agencies is greatest at the early stages, before they invest in extensive planning and become committed to a specific alternative means of accomplishing an objective. For this reason, emphasis should be placed on early involvement and technical assistance, including inputs to other agencies' EIS scoping processes. If NPS has responded to an earlier notice or request for input, the credibility of our comments on the draft EIS or other later document is enhanced. See Section 2-4(B) for guidance regarding participation in other agencies' scoping processes.

7-2 ADMINISTRATIVE PROCEDURES

A. Office of Environmental Project Review (OEPR) Responsibilities

The Department of the Interior's Office of Environmental Project Review (OEPR), which administratively is under the Assistant Secretary for Policy, Budget, and Administration (AS/PBA), is responsible for managing and coordinating Departmental reviews of other agency environmental documents. One of OEPR's principal responsibilities is to ensure that consolidated, consistent Departmental review responses are prepared for Department-level signature in accordance with 516 DM 7.

B. OEPR Regional Environmental Officers (REO's)

In addition to its Washington staff, OEPR includes Regional Environmental Officers (REO's). They are stationed in eight locations nationwide. They handle many regional problems, serve on interagency task forces and regional commissions, and are authorized to sign Departmental review comment letters to other agencies on items of regional concern.

C. OEPR Assignments to Interior Bureaus

OEPR receives all draft and final EIS's from non-Interior sources, and assigns them for review to Interior bureaus having jurisdiction or expertise regarding the proposed actions and their impacts. OEPR also receives and distributes for review various other documents such as DOT Section 4(f) statement requests for comments, license and permit applications for water projects, and proposed rulemaking and regulations.

D. OEPR "Lead Bureau" Assignments

OEPR gives other agency documents a preliminary screening to determine which Interior bureau, by virtue of jurisdiction or expertise, will be assigned lead responsibility for consolidating all Interior comments on the document into a single response for signature of the REO, the Director of OEPR, the AS/PBA, or the Secretary. In some cases this "lead bureau" role is retained by OEPR.

E. WASO-135 Review Assignments to NPS Offices

The National Park Service Division of Environmental Compliance (WASO-135) receives all documents which OEPR assigns to NPS for review, and in turn assigns responsibility within Washington and Regional NPS offices for review and comment.

F. Shifts in NPS Assignments

If an NPS office receives a review assignment which is in error, or if another NPS office is considered to have superior expertise in the subject under review, the document should be forwarded to the proper office. WASO-135 should be notified immediately so that necessary changes in records can be made.

7-3 PROCESSING FLOW

A. Documents of Non-Interior Origin

For EIS's and other documents received by OEPR from non-Interior agencies:

1. OEPR assigns an Environmental Review (ER) control number;
2. OEPR routes the document to appropriate Interior bureaus via memorandum;
3. In NPS, WASO-135 receives the document, prepares an instruction form, and routes the form and incoming document to reviewer(s);
4. Designated NPS reviewing office(s) reviews document;
5. Designated NPS office prepares comments for signature as directed in WASO-135 form and routes them as directed, with appropriate surnaming;
6. Authorized NPS signer reviews comments and signs;
7. Signer forwards comment letter as instructed in WASO-135 instructions, with copy to WASO-135;
8. Interior bureau assigned lead responsibility for consolidating Department's comments prepares Departmental review letter for REO, OEPR, AS/PBA, or Secretary, as instructed, and forwards letter through channels to designated Departmental signer;
9. Designated Departmental signer reviews letter, signs, and forwards it to agency evaluating the proposed undertaking.

B. Documents Originating in Interior or Documents Not Controlled Through OEPR

For Interior bureau EIS's and other documents received by WASO-135 which are not controlled through OEPR:

1. WASO-135 receives document and assigns an NPS control number (DEC #) (Division of Environmental Compliance);
2. WASO-135 prepares instruction form and routes to reviewing office(s);
3. Designated NPS office consolidates and prepares comments for signature as indicated in WASO-135 instruction form;
4. Reviewing office forwards comments to authorized NPS signer;
5. Authorized NPS signer reviews comments and signs;
6. Authorized NPS signer forwards comments according to WASO-135 transmittal instructions, with copy to WASO-135.

7-4 DEFINITIONS AND RELATED PROCEDURES

A. ER Numbers

Environmental documents forwarded by OEPR to NPS and other Interior bureaus for review and comment are assigned an Environmental Review (ER) number by OEPR. These controlled documents are numbered sequentially; with the number before the slash representing the year and the number after the slash representing the sequential order within the year (e.g., ER 82/167). OEPR memoranda generally cross-reference earlier related ER-numbered documents.

B. DEC Numbers

WASO-135 assigns sequential "DEC" (Division of Environmental Compliance) numbers to review documents which are not under OEPR control. These DEC-controlled documents are reviewed in a manner similar to ER-numbered documents. Most documents under "DEC" control numbers originate in other Interior bureaus.

C. OEPR Distribution Memorandum

This is the cover document used to transmit controlled review documents from OEPR to Interior bureaus. It contains specific review instructions, such as requirements for interrelated reviews, assignment of an Interior bureau to serve as lead in consolidating comments of bureaus of the Department, and comment deadlines.

D. WASO-135 Instruction Form

A WASO-135 instruction form (Exhibit 1 of this chapter), is used for distributing and controlling documents, whether OEPR-controlled or not. It contains instructions on deadlines, routing, and guidance to reviewers as appropriate. Questions about WASO-135 instructions should reference the appropriate control number.

E. Lead Agency/Lead Bureau

These terms are used for two different purposes, and are easily confused. In the CEQ Regulations (40 CFR 1508.16), "Lead Agency" means a Federal agency which has primary responsibility for preparing an EIS. When OEPR refers to a "Lead Bureau," it means the Interior bureau which has been assigned lead responsibility for consolidating the review comments of all Interior bureaus involved in a review. In the latter case, comments provided by the U.S. Fish and Wildlife Service pursuant to the Fish and Wildlife Coordination Act are typical of those which NPS incorporates into proposed Departmental responses when we are assigned as lead bureau.

When it becomes apparent during a review of a proposal that two or more bureaus' positions conflict, Interior's lead bureau should consult with the Interior bureaus involved in an effort to resolve the disparate positions. If this proves unsuccessful, the lead bureau and other bureaus in dispute should consult with the REO in the field. If the REO cannot resolve the internal controversy, the REO and each involved bureau should refer the matter through its WASO office to OEPR. Conflicts among bureau WASO offices are taken directly to OEPR.

Any NPS office handling a lead bureau review assignment should attach the original of each Interior bureau's comments to the consolidated comments prepared for Departmental signature. This is so that the originals will be filed with OEPR, which maintains the Department's review archives. Notes of telephone "no comments" and "no comment" memoranda should be included.

F. 'Uncontrolled' Reviews

OEPR does not assign EIS's and other documents prepared by Interior bureaus to other Interior bureaus for review. Instead, these documents are sent directly among bureaus for review and comment. OEPR does require an Interior bureau preparing an EIS to obtain comments from all potentially affected Interior bureaus. EIS's, proposed rulemakings, and other documents which other Interior bureaus have prepared may be received by NPS Washington or field offices directly from the originating Interior bureau. When an NPS field office receives an EIS from another Interior bureau with no indication that it has been assigned a DEC control number, notice should be given to WASO-135 through the Regional Environmental Coordinator. A DEC control number and review instructions will be set up to assure a single coordinated NPS review.

G. Advance Copies

Washington and Regional NPS offices often receive courtesy or advance copies of official draft or final EIS's, project plans, Section 4(f) statements, or other documents which OEPR or WASO-135 will control and assign for formal review. Advance copies of such documents provide additional review time. NPS offices receiving advance copies should look for WASO-135 instruction memoranda within approximately one week. If WASO-135 instructions do not arrive within that time, or if there is reason to believe the originating agency has not supplied copies to OEPR or WASO-135, both the Departmental Regional Environmental Officer (REO) and WASO-135 should be notified through the appropriate NPS Regional Environmental Coordinator. Washington offices should notify WASO-135 directly.

H. Technical Assistance

NPS encourages other agencies and other bureaus to consult with its Washington and field offices during early planning for proposed undertakings. This can help ensure full consideration of NPS interests. Requests for technical assistance and documents received as part of scoping efforts should be reviewed by the NPS office receiving them and comments sent directly to the requesting agency. This includes review of "preliminary" or "working draft" license and permit applications for water projects, and EIS's which are not considered the formal draft EIS. The originating agency should be reminded that such informal consultation and coordination are technical assistance only, and do not necessarily represent the final position of NPS or the Department. The Regional Environmental Coordinator and WASO-135 should be advised of significant or controversial issues surfaced during such technical assistance efforts.

Some requests for technical assistance reach NPS through the Department and are distributed with ER control numbers. NPS offices receiving these should respond according to WASO-135 instructions.

I. Review Deadlines and Extension Requests

1. CEQ Requirements; Screening and Review Schedules

EIS's and some other environmental documents have periods for review and comment set by law or regulation. Section 1506.10 of the CEQ Regulations (Appendix 1) provides 45 days for review and comment on draft EIS's, and a 30-day no-action period following release of final EIS's. These times are calculated from the date that a Notice of Availability is published in the Federal Register by EPA. These notices normally appear in the Federal Register on Fridays and include the date when comments are due. Section 1501.9 of the CEQ Regulations requires that EIS's be filed with EPA no earlier than they are transmitted to agencies and the public for comment.

Review periods for revised and supplemental draft and final EIS's of other agencies are calculated like those for draft and final EIS's.

Since agencies which circulate draft EIS's are under no legal obligation to include in the final EIS comments received after the established deadline passes, NPS must comment within the set deadline if its concerns are to be given consideration.

When controlled documents arrive from WASO-135 for review, they should be screened quickly to determine deadlines and relative priority. Review preparation responsibility should be assigned immediately. If screening determines that the proposed undertaking is of no consequence to NPS areas of jurisdiction or expertise, and comments are to be routed to WASO-135, a simple "no comment" response may be made using the form shown in Exhibit 2 of this chapter.

Review schedules should provide intermediate offices such as WASO-135 and OEPR sufficient time to review and process proposed comments. The possibility of mail delays and holiday and weekend "down time" should be considered.

2. Extensions

Extensions of review deadlines occasionally are needed because of unusual routing or mail delays, required field studies, necessary coordination with other Federal, State, or local agencies, or the discovery of unforeseen problems with the proposed undertaking. The need for an extension should be determined early in the review process and the extension requested shortly after receipt of the controlled document. The closer the deadline, the more difficult it normally is to obtain an extension. Deadline extensions should be requested only when it is anticipated that reviewers will be making substantive comments, or when expected impacts require substantive field inspection or coordination. Procedures for obtaining extensions follow:

- (a) Extensions from agencies outside Interior will be negotiated by WASO-135 through OEPR for reviews returning through WASO; and by

the Department's Regional Environmental Officers (REO's) (located in Boston, Atlanta, Chicago, Albuquerque, Denver, San Francisco, Anchorage, and Portland, OR) for reviews which they are to sign at the regional level. Extensions of one or two weeks generally can be requested and confirmed verbally. An NPS office requiring a longer extension must prepare a written request with adequate justification for WASO-135 to forward to OEPR, which then requests the extension from the agency proposing the undertaking. Justification might include the need to attend public meetings which are scheduled after the comment due date, the need to obtain a Regional or Washington office Solicitor's opinion, or the need to coordinate with a State resource agency. WASO-135 or the REO will notify the requesting NPS office when the agency sponsoring the proposed undertaking acts on an extension request.

- (b) An NPS field office needing an extension of a date when NPS comments are due to an Interior lead bureau regional office should ask the NPS Regional Environmental Coordinator (REC) to obtain it. WASO-135 performs the same role in the Washington Office. Requesting offices should be notified immediately by phone of extensions obtained.
- (c) NPS REC's will negotiate for extensions from the Departmental Regional Environmental Officer (REO) when the NPS regional office is assigned lead in consolidating Interior comments for the REO's signature.
- (d) Deadline extensions from other Interior bureaus (for DEC reviews) should be requested directly by regional offices in cases where WASO-135 has instructed that comments be sent directly from the NPS regional office to the originating Interior bureau's regional or field office. The NPS REC should handle all regional extension requests.

J. Departmental Comment Letters

Comments of NPS and other Interior bureaus, when consolidated into a Departmental review letter by either a designated lead bureau or by OEPR, are signed either in Washington or by the designated Departmental REO. Copies of comment letters signed in WASO are provided through WASO-135 to appropriate regional and program offices. REO review distribution practices vary. If a copy of an REO's signed environmental review letter is sent only to the NPS region, the region should in turn send a copy to WASO-135. WASO-135 and REO's distribute copies of review letters so that NPS analysts and reviewers will know the Department's position and can compare it with the comments which they submitted. NPS reviewers should seek clarification from subsequent reviewers or processors, if substantial comment changes are made without consultation.

7-5 REVIEW GUIDELINES FOR EIS'S

A. Draft EIS's

Review comments on draft EIS's or other related documents should be confined to NPS areas of jurisdiction and expertise. They should be based on fact, published research, or professionally-supported opinion. NPS opinions as to the acceptability of project impacts on areas on NPS jurisdiction and expertise should consider both the severity of the impacts and the practicability of proposed mitigating measures. NPS should urge adoption of measures which are compatible with both NPS interests and project purposes.

1. Key Sections for Reviewers' Attention

EIS's are prepared in the format required by Section 1502.10 of the CEQ Regulations, or an approved variation. This format allows a realistic, adequate assessment of project impacts and provides for inclusion of measures to minimize adverse impacts. Sections 1502.11 through 1502.19 of the CEQ Regulations explain requirements for individual sections of an EIS. The EIS sections requiring particular NPS review attention include (a) Purpose and Need, (b) Alternatives Including the Proposed Action, (c) Affected Environment, and (d) Environmental Consequences.

2. Comment Requirements for Key Sections

Reviewers of EIS's should ensure that the above sections satisfactorily address:

- (a) NPS concerns previously expressed during scoping or when participating as a cooperating agency;
- (b) NPS positions outlined in providing planning aid and technical assistance, especially those related to alternatives preferred by NPS and to suggested mitigating and enhancement measures;
- (c) Evidence of coordination and consultation with NPS when proposed undertakings might affect NPS areas of jurisdiction or expertise, especially when NPS technical assistance or expertise might lead to enhancement or protection of park, recreation, historic, archeological, architectural, or significant natural area values within or associated with proposed undertakings, including World Heritage Sites and Biosphere Reserves;
- (d) Consultation with other appropriate groups, including the State Historic Preservation Officer, the Land and Water Conservation Fund State Liaison Officer, the Advisory Council on Historic Preservation, local historical societies, state heritage program officials, and local authorities, including those which have received grant assistance from NPS;

- (e) A "worst case" analysis of potentially significant adverse impacts on areas of NPS jurisdiction and expertise, when impacts are uncertain (Section 1502.22 of the CEQ Regulations);
- (f) A clearly-defined listing of impacts for each alternative, presented on a comparable basis to allow ready identification of the alternative promising the least damage to NPS interests;
- (g) Location of the proposed undertaking in relation to units of the National Park System and affiliated areas, or of designated National Wild and Scenic Rivers or National Trails under NPS management;
- (h) Measures which would mitigate, reduce, or eliminate adverse impacts or enhance beneficial impacts of the proposed undertaking on NPS areas of jurisdiction and expertise. Impacts may be direct, indirect, primary and secondary. They include, but are not limited to, changes in: air quality, including Class I area visibility; land uses impairing park, recreation, natural, and cultural resource values; water quality; noise levels; wildlife varieties, numbers, migration routes and habitats within and near areas administered by NPS; park access and regional transportation systems; natural and cultural resource visual settings; regional socio-economic conditions; and patterns of park visitor use;
- (i) Location and potential impacts of the proposed undertaking in relation to non-Federal lands in which the Secretary of the Interior has a legal interest through NPS under terms of a Federal deed, grant, or other conveyance. This includes areas which have received grants-in-aid from the Land and Water Conservation Fund (Section 6(f)), the Urban Park and Recreation Recovery Program, and the Historic Preservation Fund. It also includes park, recreation and historic properties transferred under the Federal Surplus Property statutes or the Recreation Demonstration Projects Act;
- (j) Location of the proposed undertaking relative to properties listed on or eligible for listing on the National Register of Historic Places, including National Historic Landmarks.

3. Reviewing "Tiered" EIS's

Section 1502.20 of the CEQ Regulations encourages tiering of EIS's. A definition of "tiering" (e.g., producing a programmatic EIS which addresses broad policy issues, followed by other site-specific EIS's, each of which need not re-evaluate, but only refer to the broad policy matters addressed in the programmatic EIS) appears in 1508.28, CEQ Regulations. Reviewers should be alert to attempts to substitute tiering for adequate analysis of site-specific impacts. Site-specific analysis may reveal impacts of greater magnitude than those anticipated in programmatic EIS's.

4. Reviews and State and Local Plans

Section 1506.2(d) of the CEQ Regulations requires EIS's to discuss inconsistencies of proposed actions with approved State or local plans or laws. NPS responsibilities relate to a number of State and local plans, including Statewide Comprehensive Outdoor Recreation Plans, State Historic Preservation Plans, and Recreation Recovery Action Plans. Proposed undertakings should address measures to reconcile situations where the above plans and the proposed actions are at odds.

5. Secondary and Indirect Impacts

NPS reviewers should consider long-term secondary and indirect impacts of proposed undertakings as they affect NPS areas of jurisdiction and expertise. They also should consider cumulative effects and should be alert to possible project segmentation which could distort or mask them.

6. NPS EIS Comment Coordination

Potential impacts of proposed undertakings which require coordination across NPS program areas (e.g., a proposed HUD regional plan affecting both NPS general historic concerns and a unit of the National Park System) should occasion input comments from both the Superintendent of the site concerned and the archeological and historic preservation unit of NPS. In such cases, the Regional Environmental Coordinator usually coordinates preparation of NPS comments.

7. Permit Identification Requirements

Proposed undertakings requiring NPS permits, easements, etc., are subject to Section 1502.25(b) of the CEQ Regulations, which is designed to improve Federal permitting processes through coordination in the NEPA process. The CEQ Regulations call for identification of Federal permit, license, and other approval requirements during scoping, and again in review and comments on draft EIS's.

When NPS identifies a need for an NPS permit, it should inform the agency proposing the undertaking as to why the permit is required and should state a probable NPS position, based on information available at the time.

If NPS expresses serious concerns or if the probable NPS position would be to deny the permit, the applicant should be urged to consult with the appropriate NPS office (provide a name and/or title, address, and telephone number) as early as possible. Mitigation measures or conditions which likely would be imposed before a permit would be issued should be stated in NPS comments on the draft EIS. These concerns and conditions should, of course, have been surfaced during the scoping process; and NPS should be a cooperating or joint lead agency, so that the document also covers NPS compliance needs. NPS comments should address site-specific project impacts, measures necessary to minimize harm, or recommended project

alternatives. The comments should explicitly indicate any tentative objection, or reservations (or lack of same), with reasons stated clearly. The reasons for objections should be based on explicit effects which NPS anticipates, their magnitude (use estimates if necessary), and their significance. Comments based on generalities, frustration with poor procedures, and similar "non-effect" remarks are not useful.

8. Types of NPS Comments on Draft EIS's

NPS reviewers may, for example, provide comments on draft EIS's as follows:

- (a) No-Comment Response. Reviewers may send a simple "no-comment" response form (Exhibit 2 of this chapter) when responding to WASO-135, if a draft EIS presents an adequate analysis of expected impacts on areas of NPS jurisdiction and expertise (assuming that the proposed action or preferred alternative is acceptable to NPS). A "no-comment" response also is appropriate when a proposal has no known impact on areas of NPS jurisdiction and expertise.
- (b) NPS may respond with a finding that the draft EIS is incomplete or inaccurate in some major and relevant way in its description of the predicted impacts on areas of NPS jurisdiction and expertise. If the draft EIS is so inadequate as to preclude meaningful analysis, and the proposed undertaking appears to threaten serious adverse effects on NPS park, recreation, historic, archeological, architectural, or significant natural area interests, the NPS comments should state explicitly how to make the document adequate, and in exceptional cases may request the proposing agency to prepare and circulate a revised or supplemental draft EIS according to Section 1502.9(a) of the CEQ Regulations;
- (c) If there is a possibility that NPS may seek to refer a project to CEQ under provisions of 40 CFR 1504, this must be pointed out to the agency proposing the undertaking at the earliest possible time in the planning process, but no later than when NPS comments on the draft EIS;
- (d) NPS may respond that the draft EIS fails to identify reasonable alternatives or alternative project components with lesser adverse impacts to areas of NPS jurisdiction or expertise, or that NPS favors an alternative other than the alternative preferred in the draft EIS.
- (e) NPS may respond that it does not believe that adverse impacts will be mitigated adequately;
- (f) NPS must respond if it anticipates further involvement with the proposed undertaking (e.g., review of permit applications);

- (g) NPS may respond that concerns it expressed during the scoping process or as a cooperating agency were not addressed adequately or accurately in the draft EIS.

9. Consequences of Declining to Review

National Park Service reviewers should be extremely cautious about giving up future options by declining to review and comment on EIS's or related documents involving undertakings which may affect areas of NPS jurisdiction or expertise. Failure to review and comment may be interpreted by sponsoring agencies (a) to mean that NPS has no concerns in a proposed action; or (b) to believe that it will not significantly affect NPS areas of jurisdiction or expertise; or (c) to mean that NPS will issue any permits required for project construction.

B. Final EIS's

1. When NPS Comments on Final EIS's

During the draft EIS stage, NPS reviews should identify significant omissions, errors, or unaddressed concerns. Ideally, these concerns will be addressed in the final EIS, making further comment unnecessary. Normally no comments are made on final EIS's, unless NPS objects to the proposal itself or to one of its major features. Proposed comments on a final EIS are forwarded through WASO-135 to the Office of Environmental Project Review (OEPR). Depending on the nature and extent of NPS concerns, the comments may request the sponsoring agency to prepare a supplement to its final EIS. Because the sponsoring agency may take action 30 days after release of its final EIS, comments on a final EIS must be handled expeditiously.

2. Responses to Draft EIS Comments

Section 1502.9(b) of the CEQ Regulations requires sponsoring agencies to respond in final EIS's to comments made on draft EIS's, including discussion on responsible opposing views at appropriate points in the final EIS. NPS review of a final EIS should determine whether:

- (a) The final EIS adequately assesses all important issues raised by NPS on the draft EIS, including documentation on appropriate historical and archeological consultation requests and response letters;
- (b) The selected alternative and any accompanying mitigation features are compatible with concerns, recommendations, and objections raised previously by NPS;
- (c) New information contained in the final EIS, or which became available to NPS only after it released its draft EIS comments, has revealed a significant change in potential impacts of the proposed undertaking; and

- (d) The preferred alternative or the mitigation to be employed eliminates significant or adverse impacts on areas of NPS jurisdiction or expertise.

3. Justification for Comments on Finals

Comments on final EIS's may be justified by one or more of the following:

- (a) NPS objects to the project because the preferred alternative is unacceptable to NPS, or it fails to incorporate NPS recommendations for mitigation or monitoring requirements after project completion;
- (b) Changes have been made in the proposed action, aside from adopting mitigating measures, which require additional assessment of environmental impacts on areas of NPS jurisdiction and expertise;
- (c) Changes in the final EIS are needed because the sponsoring agency has failed to understand the significance of NPS comments and concern on the draft EIS, and continues to offer the project or proposal in a form which is unacceptable to NPS in whole or in part (see Section 7-5(B)(2) above);
- (d) Important new information consequential to the decisionmaking process becomes available, or erroneous or obsolete data presented in the final EIS needs to be corrected or challenged because of NPS concerns about or objections to the project.

7-6 INTERRELATED REVIEWS

In addition to NEPA requirements, many Federal undertakings require other "environmental" comments and clearances. Department of Transportation (DOT) Section 4(f) Statements and review of the "recreation exhibits" of Federal Energy Regulatory Commission license and permit applications for water projects are examples.

A discussion of some of the more pertinent non-NEPA environmental review responsibilities of NPS, procedures for those reviews, and their interrelationships with the NEPA process follows.

A. Section 4(f) (as amended) of the Department of Transportation Act of 1966

This section (Exhibit 3 of this chapter) declares that the Secretary of the Department of Transportation (DOT) shall cooperate and consult with the Secretary of the Interior (et al) and shall not approve any program or project requiring use of any lands from a public park or recreation area, public wildlife or waterfowl refuge, or public or privately-owned historical site of national, State, or local significance unless the following two provisions are met: there is no feasible and prudent alternative; and, such program or project includes all possible planning to minimize harm.

1. Meaning of Feasible and Prudent

"Feasible" is usually interpreted as meaning consistent with sound engineering practice. "Prudent" is more difficult to define. Generally, a prudent alternative is one that does not present unique problems that would cause costs or community disruption to reach extraordinary magnitudes. We usually hold that a project must not use Section 4(f) lands unless a prudent person concerned with the quality of the human environment and sound land use planning is convinced that there is no way to avoid doing so. Note, however, that the Supreme Court in the Overton Park decision specifically rejected the argument that there should be a wide-range balancing of competing interests in making Section 4(f) determinations. The values of 4(f) lands are to be considered of paramount importance.

Section 4(f) "use" has been construed to mean direct physical use as well as indirect effects on 4(f) properties (e.g., increased noise levels, adverse aesthetic impacts, restricted access, etc.).

2. NPS Section 4(f) Lead Responsibility

NPS is usually assigned as the Department's lead bureau in preparing the Secretary of the Interior's responses to DOT requests for Section 4(f) consultation comments on projects affecting park, recreation and cultural resources. This includes responses to DOT documents containing only preliminary 4(f) information. When NPS serves as lead bureau, the Departmental comments must incorporate concerns and views from all concerned Interior bureaus.

3. Mandatory Response Requirement

Interior response to a DOT Section 4(f) request is mandatory. A "no-comment" is never appropriate, since the purpose of the consultation is to either concur or disagree that either or both of the Section 4(f) provisions have been satisfied for a proposed transportation project which affects park, recreation, wildlife, or cultural areas of significance.

4. Objecting to Section 4(f) Approval

Section 4(f) review comments should state specifically that the Department of the Interior has no objection to Section 4(f) approval of a project by the Secretary, DOT, if we concur that the proposed undertaking meets the two 4(f) provisions listed above. If we do not concur that the first provision has been satisfied, i.e., if NPS believes that feasible and prudent alternatives to the use of 4(f) lands do exist, the comments which NPS prepares for the Department should state what those alternatives are, and advise that Interior objects to Section 4(f) approval. If we do not concur that adequate planning to minimize harm has been adopted, Interior should also object to Section 4(f) approval, or make our non-objection contingent upon the adoption of such measures. The Interior response should always specify the measures we think are needed to minimize harm, and should not leave the development of such measures to others.

5. Types of Section 4(f) Documents

Department of Transportation requests for Section 4(f) review may reach Interior as a separate document or may be combined with an EA or an EIS. In either case, when NPS is serving as Interior's lead response bureau, it prepares a comment letter for Departmental signature. This letter first includes comments on the Section 4(f) request, and then on the EA or draft EIS if the documents were forwarded together.

6. Commenting on Section 4(f) Statement Inadequacies

Section 4(f) comments for Departmental signature should, as appropriate, evaluate and address any inadequacies in the following:

- (a) Identification of 4(f) properties in a proposed transportation project's zone of adverse impact;
- (b) Assessment of environmental impacts on those properties;
- (c) Determination of the significance of the properties which may be affected (check all units of the National Park System; all non-Federal areas in which the Secretary of the Interior holds a legal interest through grants, etc.; all properties listed on or eligible for listing on the National Register of Historic Places; as well as other park, recreation, historical, archeological, architectural, and significant natural areas);
- (d) Accuracy and completeness of information furnished in support of DOT's determination that there is no feasible and prudent alternative to the proposal as presented;
- (e) Identification and evaluation of alternatives to the use of Section 4(f) properties; and documentation supporting any

conclusion that use of alternative routes, rather than the one proposed, would present unique problems and result in extraordinary cost or community disruption;

- (f) Determination of measures to minimize harm and professional evaluation of whether they would provide replacement of, or compensation equal to the cost of replacing, Section 4(f) land and improvements that would be lost to the proposed undertaking; and that the replacement lands/facilities would be of reasonably equivalent utility;
- (g) Determination of whether proposals to minimize harm (e.g., improving or restoring pedestrian, bicycle, or vehicular access; landscaping; planting; noise abatement installations; tunnelling; cut-and-cover; cut-and-fill; data recovery; moving of historically important structures; bridging such structures; altering traffic flows; installation of devices such as centerstrip "New Jersey-type" barriers; and use of paint designed to help blend intrusive structures into a site) incorporate design features enhancing the Section 4(f) land or lessening adverse effects;
- (h) Determination of whether proposals to minimize harm coordinate construction procedures with recreation activities in a manner permitting orderly transition and continual use of Section 4(f) lands and facilities;
- (i) Evidence of consultation and coordination with NPS and/or other appropriate Interior agencies, the administrator of the 4(f) property, and/or other appropriate groups on measures to minimize harm to NPS or other interests.

Additional information on alternatives needed from DOT should be outlined clearly and specifically. When such information is required, Interior Section 4(f) concurrence should be deferred.

Similarly, inadequacies in measures to minimize harm should be identified explicitly. NPS should point out needed additional measures, such as land replacement, landscaping, fencing, facility replacement, relocation, etc.

7. Format for Section 4(f) Comment

The detailed response regarding Interior's concurrence with the two key Section 4(f) provisions and the propriety of DOT Section 4(f) approval should be contained in the initial portion of the Interior comment letter, entitled "Section 4(f) Comments." Interior's lack of objection, objection, objection with reservations, or objection because of inadequate information should be restated in a separate (last) portion of the letter entitled "Summary Comments." When the review letter is short (one or two pages), the summary section may be omitted as redundant.

8. Questioning Section 4(f) Applicability

In some situations, the applicability of Section 4(f) may be questionable because of the nature of the area or because of difficulty in determining whether the DOT proposal would constitute a "use." In such circumstances, the Departmental comments should provide facts and information, express Interior's opinion and request a General Counsel's opinion relative to the applicability of Section 4(f).

9. Withholding Approval for NPS Transportation Easements

National Park Service managers should not issue right-of-way easements for DOT-assisted or approved transportation projects requiring use of areas under NPS jurisdiction, nor approve the use of lands in which NPS has a grant-in-aid or comparable interest (through the L&WCF, etc.) until the Department of the Interior has reviewed and concurred in the DOT Section 4(f) Statement, and evidence of Section 4(f) approval has been received.

B. Licensing, Permitting and Development of Water-Related Projects

NPS reviews a variety of water and related land resource reports and plans prepared by Federal and State agencies as well as private interests seeking to obtain a Federal license or permit. These include Federal Energy Regulatory Commission (FERC) applications, Federal water project studies, EPA water-related studies, and Federal permit applications. (The permit applications are handled regionally.) The primary purpose of these reviews is to determine whether NPS park, recreational, historic, archeological, and significant natural area responsibilities and concerns have been considered appropriately in the plans and proposals. The reviews also determine if the proposed actions are consistent with national, regional, State, and local plans and objectives relating to NPS interests. The reports, studies, and permit applications reviewed in this category may be received independently or with an EA or EIS. With the exception of some preliminary reports, license applications, and permits, which are sent directly to NPS regions by originating agencies and organizations, these materials reach NPS from OEPR, where they are given "ER" control numbers.

1. Federal Energy Regulatory Commission Reviews

License, preliminary permit, and exemption applications assigned by OEPR for formal comment will have control numbers, and should be examined to determine whether the proposed action:

- (a) Complies with requirements relating to recreation and cultural resource project aspects. Evidence of compliance will be contained in an applicant's Exhibit E;
- (b) Provides for full public use of the project during the period for which the license is sought;

- (c) Includes enough land within project boundaries to assure optimum development and management of its recreation potential and protection of its environmental integrity;
- (d) Calls for acquiring fee title to, or equivalent interest in, all lands immediately adjacent to the exterior margin of a reservoir, all islands, and all areas specified in the recreation use plan, consistent with the project's economic well-being and its public interest requirements;
- (e) Provides for developing, operating, and maintaining facilities called for in the recreation plan;
- (f) Conflicts with provisions of the Wild and Scenic River Act, Section 7(b), which protects rivers designated for study as possible additions to the Wild and Scenic Rivers System. A similar provision in Section 7(a) applies to rivers already in the National System;
- (g) Affects units administered by the National Park Service;
- (h) Affects rivers included in the Nationwide Rivers Inventory. If such rivers are included in the projects, the application should identify what river values would be impacted and what measures could be incorporated to avoid or mitigate any adverse impacts;

License, exemption, or preliminary permit pre-application materials are sometimes sent for review directly to NPS regional offices without OEPR control numbers. Regional offices should regard them as requests for technical assistance and handle them accordingly, responding directly to the applicant. The response should give the applicant a preliminary NPS position on potential environmental impacts and on proposed mitigating measures. Copies of replies should be sent to WASO-135.

2. Federal Water Project Recreation Act (Public Law 89-72) Reviews

This Act requires Federal agencies studying or proposing water-related projects to obtain the views of the Secretary of the Interior with respect to the outdoor recreation and fish and wildlife development of the project. The Secretary also is required to report on the extent to which the recreation and related development conforms to and is in accord with the appropriate Statewide Comprehensive Outdoor Recreation Plan. Preparation of the Secretary's comments on these matters is assigned to NPS. The Act covers planning for Federal navigation, flood control, reclamation, hydroelectric, or multi-purpose water resource projects. Projects of TVA or proposed under the Small Reclamation Project Act or the Watershed Protection and Flood Prevention Act are exempt.

The Act requires Federal agencies planning water-related projects to give full consideration to opportunities for outdoor recreation and for fish and wildlife enhancement; and when the project can reasonably serve either or both of those purposes to construct, operate, and maintain the project accordingly.

NPS reviews, therefore, should state:

- (a) The views of the Secretary as to whether the sponsoring agency has fully considered and provided appropriately for outdoor recreation and fish and wildlife recreational use;
- (b) Whether the plan conflicts with water resource requirements of NPS;
- (c) The extent to which the sponsoring agency's proposal is in accord with appropriate Statewide Comprehensive Outdoor Recreation Plan(s).

Reviews of projects proposed pursuant to this Act are assigned through OEPR, and are given 'ER' control numbers. Some are accompanied by an EA or EIS. When this is the case, comments on both documents should be incorporated in one letter. Within the letter, comments on the project report should be clearly separate from comments on the environmental document.

On occasion, a sponsoring agency may send a preliminary plan to a regional office for comment. As stated above in the Section on FERC applications, these should be regarded as requests for technical assistance and handled in the same manner as FERC preliminary permit applications.

Section 6(a) of the Federal Water Project Recreation Act serves to extend to most Federal agencies engaging in water development projects authority to include provisions for public recreation and conservation of fish and wildlife which had been contained in Section 4 of the earlier Flood Control Act of 1944. The 1944 Act included the recreation, fish and wildlife provisions and authorization for opening flood control reservoirs to the public for boating, fishing, and other recreation purposes; and authorized provisions for ready access to and exit from such areas so long as the public interest was served. NPS comments can cite the 1944 authorization when dealing with Corps of Engineers flood control projects which fail to recognize the Recreation Act authorization.

3. Section 201(g) of the Clean Water Act (Public Law 95-217) Reviews

This Act requires the EPA Administrator to obtain from applicants for grants satisfactory proof that potential recreation and open space opportunities at proposed treatment works have been satisfactorily analyzed. The EPA grants are provided to States, municipalities, or intermunicipal or interstate agencies. Those organizations frequently request NPS help in analyzing recreation potential. Such requests should be treated as requests for technical assistance similar to those mentioned in the above sections on FERC and Federal Water Project Recreation Act reviews.

Formal requests for NPS reviews of the recreation components of EPA grant applications usually arrive through the NEPA process, since they normally are included in or accompanied by EIS's. They are processed by OEPR and assigned control numbers. Procedures for reviewing EIS's apply.

C. Reviewing of Proposed Federal Legislation, Rulemaking, Regulations, Executive Orders, Guidelines, Handbooks, and Other Procedures

Most of these reach NPS through OEPR channels and are given control numbers, although some come directly to NPS from agencies which originate them.

Regulations and procedures come in infinite variety, and are seldom accompanied by EIS's. Generalizations on how NPS should review them are difficult. The general rule to follow is to apply the yardstick of NPS areas of jurisdiction and expertise. Might they affect units of the National Park System? Will they affect NPS operational and/or recreation, historic, archeological, architectural, or significant natural area interests?

NPS often is assigned leadership in assembling Departmental comments on these proposals because of the wide range of NPS jurisdiction and expertise.

Since these proposals often lie outside NEPA processes, NPS can exercise more latitude in responding to them than might be possible otherwise. The Office of Environmental Project Review (OEPR) Departmental mechanism for resolving conflicts is available, and should often be used in preference to unilateral NPS consultation with non-Interior agencies - particularly when there is any chance that an NPS position or comment may be in conflict with that of another Interior bureau.

D. Reviewing of Land Use Plans

NPS examines such plans from the standpoint of their effects on areas of NPS jurisdiction and expertise: park, recreation, historic, archeological, architectural, and significant natural areas. NPS should be particularly alert to long-range cumulative concerns involving NPS interests.

E. Reviewing of State, Local, and Private Environmental Documents

A number of documents prepared to meet State and local environmental requirements are submitted to NPS for review and comment. NPS is free to respond to those documents to the extent that its policy and programmatic interests require and to the extent that staff time is available. To avoid duplicative reviews, the appropriate Regional Environmental Coordinator (REC) should be consulted before any response is made.

As with comments on Federal rulemaking, proposed guidelines and other Federal documents, the variety of State, local, and private documents precludes useful generalization on how to handle them. The text in Section C above may be useful.

7-7 STYLE AND FORMAT FOR ENVIRONMENTAL REVIEW COMMENTS

NPS environmental review comments on NEPA and related documents should normally be organized in the format described in this section, although the format occasionally will not fit some of the comments which NPS prepares. Individual review instructions are provided in WASO-135 and OEPR transmittal forms which accompany the document to the NPS reviewing office.

NPS comments being prepared for submission to other Interior bureaus, including responses to requests for technical assistance, should be typed as a memorandum. Comments going directly to non-Interior agencies should be typed in letter form.

Comments prepared for consolidation with those of other Interior bureaus (e.g., comments addressed to OEPR, the REO, or an Interior lead bureau) should be prepared in memorandum format for signature as directed in the WASO-135 transmittal. The subject line of the memorandum should be identical with that of the incoming OEPR memorandum, and should include the document's ER or DEC number, which should also appear at the upper left corner of the memorandum.

The comments on NEPA and related documents can be logically arranged under four headings: General Comments, Interrelated Review Comments, Specific Comments, and Summary Comments, unless the review is only a page or two and these headings would produce needless repetition and a stilted appearance. The reviewer should choose a format that conveys NPS or Departmental information and views, and pinpoints changes the recipient should make. The four headings recommended for use in longer NEPA and related reviews are discussed below. The locations of the Interrelated Review Comments and Specific NEPA Comments may be interchanged as necessary to produce the most coherent review.

A. General Comments

This topic heading, if used, should summarize any major NPS concerns with the adequacy and accuracy of the document and should provide comments of a general nature. Any major concerns about the project itself should appear here, concentrating on, but not necessarily limited to, the recommended or selected alternative and its impacts.

This section should include any specific comments which otherwise occur repeatedly throughout the review. Any previous technical assistance, cooperation, reports, or other planning information provided by NPS for the project should be noted.

B. Interrelated Review Comments

Section 1502.25 of the CEQ Regulations requires that NEPA analyses be integrated with those for other environmental laws and Executive Orders (e.g., Section 4(f) comments, Endangered Species Act comments, Fish and Wildlife Coordination Act comments, etc.). Reviewers should ascertain whether the document under review is intended to fulfill such other requirements. If so, address compliance, as appropriate, with such requirements in separate sections of the review. See Section 7-6 of this guideline for specific guidance on some of the requirements where NPS has jurisdiction or special expertise. When NPS serves as lead bureau

in consolidating the Department's comments, it is especially important to be aware of these interrelated review requirements so that other Interior bureau review responsibilities are adequately represented in the consolidated Departmental comments.

C. Specific NEPA Comments

The format of this section (e.g., EIS or EA comments) should follow the organization of the document being reviewed. Page and paragraph numbers should be cited to relate comments to the text. Comments should be written in a form designed to help the sponsoring agency in modifying the next draft or the final work.

Assertions of omissions or inadequacies should be specific, not general, and should suggest how to correct the deficiency. Needed additions or deletions should be stated precisely. If NPS criticizes a sponsoring agency's predictive methods, we are obligated to describe the methods we prefer, and to give the reasons why, as the CEQ Regulations point out in Section 1503.3.

Comments should address significant overlooked or downplayed impacts of a proposed action. They also should assure that alternatives which would benefit or have less adverse impact on NPS concerns are included and presented adequately. Comments on the EIS section describing the affected environment are appropriate only if a significantly-impacted component is not described adequately.

D. Summary Comments

If NPS favors an alternative or project modification which would be beneficial to or have less adverse impact on areas of NPS jurisdiction and expertise, this should be highlighted in the summary section.

Comments and positions on the acceptability of project impacts on areas of NPS jurisdiction or expertise should be included in this section. Comments on the proposed undertaking should consider: (1) the intensity, severity, and duration of the impacts, (2) the objectives and importance of the project, and (3) the practicability of mitigation measures. Insofar as possible, this section should point out how to make the proposed undertaking acceptable with regard to our areas of jurisdiction and expertise.

On draft documents, this section should indicate what our position might be unless recommended changes are made.

Summary comments should always state any action relating to the proposed undertaking which the Department or NPS has taken, or may take, in accordance with the requirements of various statutes, rules, and regulations for which the Department or NPS holds jurisdiction by law. The comments also should note any potential further reviews which NPS may make in considering the issuance of easements or other permits which the proposed undertaking would require, and the likely NPS position. If a CEQ referral on a project appears likely, the summary comments should so indicate, and state the particular concern.

This section should close with an offer to meet with the sponsoring agency to discuss comments and concerns. The offer of continued cooperation and assistance is especially important if significant resources are involved or if NPS has complex views and positions which are difficult to describe thoroughly in a letter. Names of NPS personnel who can be of assistance should be listed along with their titles, addresses, and telephone numbers.

WASO-135 INSTRUCTION FORM



United States Department of the Interior

NATIONAL PARK SERVICE
 WASHINGTON, D.C. 20240

DATE _____

IN REPLY REFER TO:

EIS/RELATED DOCUMENT REVIEW

ENVIRONMENTAL ASSIGNMENT _____

TITLE OF DOCUMENT: _____

TYPE OF DOCUMENT: DRAFT EIS FINAL EIS 4(f) PERMIT NOI COE REPORT OTHER _____

NPS Review assigned to:

135 Daugherty	022.	_____	500	_____	725	_____	ARO	- Stodderd
135 Isa	130	_____	501	_____	760	_____	PWRO	- Malbon
135 Jervis	170	_____	535	_____	765	_____	WRO	- Huddleston
135 Ramirez	190	_____	545	_____	775	_____	SWRO	- Lucke
135 Stout	470	_____	560	_____	780	_____	RMRO	- Powell
135 Verstraete	492.	_____	610	_____	_____	_____	_____	- Arklins
	493	_____	640	_____	_____	_____	MWRO	- Strain
	494	_____	670	_____	_____	_____	SERO	- Garner
	497	_____	700	_____	_____	_____	MARO	- Karben
	498	_____	720	_____	_____	_____	NARO	- Clerk
							NCR	- Clement
							DSC	- Well

(Please call WASO-135 ASAP if review should be reassigned -- FTS 343-2163)

REVIEW INSTRUCTIONS:

- Provide comments or other requested input, if any, directly to requesting agency with copy to WASO-135, the Office of Environmental Project Review and appropriate Regional Environmental Officer. DATE DUE _____
- Provide NPS comments directly to lead bureau office, _____, as directed (with copy to WASO-135). DATE DUE _____
- NPS, as lead bureau, should assemble the Departmental letter for signature by the appropriate Regional Environmental Officer: _____. DATE DUE _____
- As lead bureau, assemble the Departmental comments as a final-typed Secretarial letter, and send to WASO-135, _____, for routing to OEPR by _____. DATE DUE _____
- Comments to be routed back through NPS WASO-135, _____, to the Office of Environmental Project Review (OEPR) by _____. Provide final-typed NPS comments on WASO letterhead to WASO-135, set up for signature by the Chief, Office of Park Planning and Environmental Quality. (If NPS has no comment, you may use a pre-printed "No Comment" form. WASO-135 will send a copy to OEPR.) DATE DUE _____
- Comments to be routed back through NPS WASO-135 to _____. DATE DUE _____
- Provide final-typed NPS comments on WASO letterhead to WASO-135, _____, set up for signature by the Chief, Office of Park Planning and Environmental Quality. DATE DUE _____
- NPS WASO to serve as lead bureau to prepare Departmental letter. Provide your input comments to WASO-135, _____. DATE DUE _____
- Final _____. No comment unless NPS has problem with project. Provide any comments in final-typed form on WASO letterhead to WASO-135, _____, set up for signature by the Chief, Office of Park Planning and Environmental Quality. (To OEPR by _____.) DATE DUE _____
- Other instructions: (REMARKS) _____ DATE DUE _____

Data received in the Division of Environmental Compliance _____
 One copy of document sent to: (✓ above).

NO-COMMENT RESPONSE FORM

NATIONAL PARK SERVICE

FOR USE IN PROVIDING A "NO COMMENT" RESPONSE TO WASO-135

(Send to arrive at WASO-135 by deadline date)
(May be hand printed)

ENVIRONMENTAL ASSIGNMENT: _____

TITLE OF DOCUMENT: _____

REVIEWING OFFICE: _____

Document has been reviewed by: _____
(Print or Type Name & Telephone Number)

Brief description of proposal: _____

The subject document adequately addresses NPS concerns, including any Federal, State, Regional or local park, recreation, cultural or natural area in which NPS has a mandated interest or jurisdiction. This includes units of the National Park System; existing and proposed units of the Wild and Scenic Rivers System; National Trails System; archeological, historical, natural, or recreation resources protected by the Antiquities Act of 1906; the Historic Sites Act of 1935; Land and Water Conservation Act of 1965, as amended; Federal Water Project Recreation Act of 1965; National Historic Preservation Act of 1966, as amended; Federal Surplus Lands for Parks and Recreation Act of 1970; Section 4(f), Department of Transportation Act of 1966, as amended; Urban Park and Recreation Recovery Act of 1978; and other appropriate park, recreation and historic area legislation, Executive Orders and regulations.

(SIGNATURE)

(DATE)

(TITLE)

SECTION 4(f) of the DOT ACT

(23 U.S.C. 138 and 49 U.S.C. 1653(f))

Section 4(f) of the Department of Transportation Act (80 Stat. 931; Public Law 89-670) as amended in Section 18 of the Federal-Aid Highway Act of 1968 (82 Stat. 815; Public Law 90-495):

"(f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge or national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

COUNCIL ON ENVIRONMENTAL QUALITY REGULATIONS

(40 CFR 1500-1508)

Council on Environmental Quality
Executive Office of the President

REGULATIONS
For Implementing The Procedural Provisions Of The
NATIONAL
ENVIRONMENTAL
POLICY ACT

Reprint
43 FR 55978-56007
November 29, 1978
40 CFR Parts 1500-1508

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For further information, contact:

**Nicholas C. Yost, General Counsel
Council on Environmental Quality
Executive Office of the President
722 Jackson Pl. N.W.
Washington, D.C. 20006
(202) 633-7032**

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PART 1500—PURPOSE, POLICY, AND MANDATE

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AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970 as amended by Executive Order 11991, May 24, 1977).

§ 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement Section 102(2). Their purpose is to tell federal agencies what they must do to comply with the

procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. 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. These regulations provide the direction to achieve this purpose.

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) 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 con-

currently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

§ 1500.3 Mandate.

Parts 1500-1508 of this Title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.) Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to Sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will

result in irreparable injury. Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action.

§ 1500.4 Reducing paperwork.

Agencies shall reduce excessive paperwork by:

(a) Reducing the length of environmental impact statements (§ 1502.2(c)), by means such as setting appropriate page limits (§§ 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (§ 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (§ 1502.2(b)).

(d) Writing environmental impact statements in plain language (§ 1502.8).

(e) Following a clear format for environmental impact statements (§ 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (§§ 1502.14 and 1502.15) and reducing emphasis on background material (§ 1502.16).

(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (§ 1501.7).

(h) Summarizing the environmental impact statement (§ 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§ 1502.19).

(i) Using program, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (§§ 1502.4 and 1502.20).

(j) Incorporating by reference (§ 1502.21).

(k) Integrating NEPA requirements with other environmental review and consultation requirements (§ 1502.25).

(l) Requiring comments to be as specific as possible (§ 1503.3).

(m) Attaching and circulating only changes to the draft environmental impact statement, rather than re-writing and circulating the entire statement when changes are minor (§ 1503.4(c)).

(n) Eliminating duplication with State and local procedures, by providing for joint preparation (§ 1506.2), and with other Federal procedures, by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(o) Combining environmental documents with other documents (§ 1506.4).

(p) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental impact statement (§ 1508.4).

(q) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment and is therefore exempt from requirements to prepare an environmental impact statement (§ 1508.13).

§ 1500.5 Reducing delay.

Agencies shall reduce delay by:

(a) Integrating the NEPA process into early planning (§ 1501.2).

(b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (§ 1501.6).

(c) Insuring the swift and fair resolution of lead agency disputes (§ 1501.5).

(d) Using the scoping process for an early identification of what are and what are not the real issues (§ 1501.7).

(e) Establishing appropriate time limits for the environmental impact statement process (§§ 1501.7(b)(2) and 1501.8).

(f) Preparing environmental impact statements early in the process (§ 1502.5).

(g) Integrating NEPA requirements with other environmental

review and consultation requirements (§ 1502.25).

(h) Eliminating duplication with State and local procedures by providing for joint preparation (§ 1506.2) and with other Federal procedures by providing that an agency may adopt appropriate environmental documents prepared by another agency (§ 1506.3).

(i) Combining environmental documents with other documents (§ 1506.4).

(j) Using accelerated procedures for proposals for legislation (§ 1506.8).

(k) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment (§ 1508.4) and which are therefore exempt from requirements to prepare an environmental impact statement.

(l) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment (§ 1508.13) and is therefore exempt from requirements to prepare an environmental impact statement.

§ 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

PART 1501—NEPA AND AGENCY PLANNING

Sec.

1501.1 Purpose.

1501.2 Apply NEPA early in the process.

Sec.

- 1501.3 When to prepare an environmental assessment.
- 1501.4 Whether to prepare an environmental impact statement.
- 1501.5 Lead agencies.
- 1501.6 Cooperating agencies.
- 1501.7 Scoping.
- 1501.8 Time limits.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24 1977).

§ 1501.1 Purpose.

The purposes of this part include:

(a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.

(b) Emphasizing cooperative consultation among agencies before the environmental impact statement is prepared rather than submission of adversary comments on a completed document.

(c) Providing for the swift and fair resolution of lead agency disputes.

(d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.

(e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

§ 1501.2 Apply NEPA early in the process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

(a) Comply with the mandate of section 102(2)(A) to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in

planning and in decisionmaking which may have an impact on man's environment," as specified by § 1507.2.

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

(1) Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.

(2) The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.

(3) The Federal agency commences its NEPA process at the earliest possible time.

§ 1501.3 When to prepare an environmental assessment.

(a) Agencies shall prepare an environmental assessment (§ 1508.9) when necessary under the procedures adopted by individual agencies to supplement these regulations as described in § 1507.3. An assessment is not necessary if the agency has decided to prepare an environmental impact statement.

(b) Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decisionmaking.

§ 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations (described in § 1507.3) whether the proposal is one which:

(1) Normally requires an environmental impact statement, or

(2) Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (§ 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by § 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (§ 1501.7), if the agency will prepare an environmental impact statement.

(e) Prepare a finding of no significant impact (§ 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

(1) The agency shall make the finding of no significant impact available to the affected public as specified in § 1506.6.

(2) In certain limited circumstances, which the agency may cover in its procedures under § 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to § 1507.3, or

(ii) The nature of the proposed action is one without precedent.

§ 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

(1) Proposes or is involved in the same action; or

(2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (§ 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

(1) Magnitude of agency's involvement.

(2) Project approval/disapproval authority.

(3) Expertise concerning the action's environmental effects.

(4) Duration of agency's involvement.

(5) Sequence of agency's involvement.

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency.

A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

(1) A precise description of the nature and extent of the proposed action.

(2) A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

§ 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

(1) Request the participation of each cooperating agency in the NEPA process at the earliest possible time.

(2) Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.

(3) Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

(1) Participate in the NEPA process at the earliest possible time.

(2) Participate in the scoping process (described below in § 1501.7).

(3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance

the latter's interdisciplinary capability.

(5) Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b) (3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

§ 1501.7 Scoping.

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (§ 1508.22) in the FEDERAL REGISTER except as provided in § 1507.3(e).

(a) As part of the scoping process the lead agency shall:

(1) Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under § 1507.3(c). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.

(3) Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review

(§ 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

(4) Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

(5) Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.

(6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in § 1502.25.

(7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.

(b) As part of the scoping process the lead agency may:

(1) Set page limits on environmental documents (§ 1502.7).

(2) Set time limits (§ 1501.8).

(3) Adopt procedures under § 1507.3 to combine its environmental assessment process with its scoping process.

(4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

(c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

§ 1501.8 Time limits.

Although the Council has decided that prescribed universal time limits for the entire NEPA process are too inflexible, Federal agencies are encouraged to set time limits appropriate to individual actions (consistent with the time intervals required by § 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall set time limits if an applicant for the proposed action requests them: *Provided*, That the limits are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

(1) Consider the following factors in determining time limits:

(i) Potential for environmental harm.

(ii) Size of the proposed action.

(iii) State of the art of analytic techniques.

(iv) Degree of public need for the proposed action, including the consequences of delay.

(v) Number of persons and agencies affected.

(vi) Degree to which relevant information is known and if not known the time required for obtaining it.

(vii) Degree to which the action is controversial.

(viii) Other time limits imposed on the agency by law, regulations, or executive order.

(2) Set overall time limits or limits for each constituent part of the NEPA process, which may include:

(i) Decision on whether to prepare an environmental impact statement (if not already decided).

(ii) Determination of the scope of the environmental impact statement.

(iii) Preparation of the draft environmental impact statement.

(iv) Review of any comments on the draft environmental impact statement from the public and agencies.

(v) Preparation of the final environmental impact statement.

(vi) Review of any comments on the final environmental impact statement.

(vii) Decision on the action based in part on the environmental impact statement.

(3) Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(c) State or local agencies or members of the public may request a Federal Agency to set time limits.

PART 1502—ENVIRONMENTAL IMPACT STATEMENT

Sec.

- 1502.1 Purpose.
- 1502.2 Implementation.
- 1502.3 Statutory Requirements for Statements.
- 1502.4 Major Federal Actions Requiring the Preparation of Environmental Impact Statements.
- 1502.5 Timing.
- 1502.6 Interdisciplinary Preparation.
- 1502.7 Page Limits.
- 1502.8 Writing.
- 1502.9 Draft, Final, and Supplemental Statements.
- 1502.10 Recommended Format.
- 1502.11 Cover Sheet.
- 1502.12 Summary.
- 1502.13 Purpose and Need.
- 1502.14 Alternatives Including the Proposed Action.
- 1502.15 Affected Environment.
- 1502.16 Environmental Consequences.
- 1502.17 List of Preparers.
- 1502.18 Appendix.
- 1502.19 Circulation of the Environmental Impact Statement.
- 1502.20 Tiering.
- 1502.21 Incorporation by Reference.
- 1502.22 Incomplete or Unavailable Information.
- 1502.23 Cost-Benefit Analysis.
- 1502.24 Methodology and Scientific Accuracy.
- 1502.25 Environmental Review and Consultation Requirements.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to

insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

§ 1502.2 Implementation.

To achieve the purposes set forth in § 1502.1 agencies shall prepare environmental impact statements in the following manner:

(a) Environmental impact statements shall be analytic rather than encyclopedic.

(b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.

(c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.

(d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

(e) The range of alternatives discussed in environmental impact

statements shall encompass those to be considered by the ultimate agency decisionmaker.

(f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

§ 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (§ 1508.11) are to be included in every recommendation or report

On proposals (§ 1508.23)

For legislation (§ 1508.17)

Other major Federal actions (§ 1508.18)

Significantly (§ 1508.27)

Affecting (§§ 1508.3, 1508.8)

The quality of the human environment (§ 1508.14).

§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§ 1508.25) to determine which proposal(s) shall be the subject of a particular statement. 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.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§ 1508.18). 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 decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the

proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By 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. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§ 1501.7), tiering (§ 1502.20), and other methods listed in §§ 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

§ 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§ 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made (§§ 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately

after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

§ 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

§ 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of § 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

§ 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

§ 1502.9 Draft, final, and supplemental statements.

Except for proposals for legislation as provided in § 1506.8 environmen-

tal impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in

the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

- (a) Cover sheet.
- (b) Summary.
- (c) Table of Contents.
- (d) Purpose of and Need for Action.
- (e) Alternatives Including Proposed Action (secs. 102(2)(C)(iii) and 102(2)(E) of the Act).
- (f) Affected Environment.
- (g) Environmental Consequences (especially sections 102(2)(C) (i), (ii), (iv), and (v) of the Act).
- (h) List of Preparers.
- (i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.
- (j) Index.
- (k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in §§ 1502.11-1502.18, in any appropriate format.

§ 1502.11 Cover sheet.

The cover sheet shall not exceed one page. It shall include:

- (a) A list of the responsible agencies including the lead agency and any cooperating agencies.
- (b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.
- (c) The name, address, and telephone number of the person at the

agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under § 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

§ 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

§ 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§ 1502.15) and the Environmental Consequences (§ 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

- (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- (b) Devote substantial treatment to each alternative considered in detail including the proposed action

so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

§ 1502.15 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

§ 1502.16 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under § 1502.14. It shall consolidate the discussions of those elements required by secs. 102(2)(C) (i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of sec. 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irre-

versible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in § 1502.14. It shall include discussions of:

(a) Direct effects and their significance (§ 1508.8).

(b) Indirect effects and their significance (§ 1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See § 1506.2(d).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under § 1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.

(g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(h) Means to mitigate adverse environmental impacts (if not fully covered under § 1502.14(f)).

§ 1502.17 List of preparers.

The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (§§ 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statement the appendix shall:

(a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (§ 1502.21)).

(b) Normally consist of material which substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decision to be made.

(d) Be circulated with the environmental impact statement or be readily available on request.

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in § 1502.18(d) and unchanged statements as provided in § 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

(a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.

(b) The applicant, if any.

(c) Any person, organization, or agency requesting the entire environmental impact statement.

(d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

§ 1502.20 Tiering.

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision

at each level of environmental review (§ 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28).

§ 1502.21 Incorporation by reference.

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

(a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information

in the environmental impact statement.

(b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence.

§ 1502.23 Cost-benefit analysis.

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with sec. 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

§ 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and

analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

§ 1502.25 Environmental review and consultation requirements.

(a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and other environmental review laws and executive orders.

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate.

PART 1503—COMMENTING

Sec.

1503.1 Inviting Comments.

1503.2 Duty to Comment.

1503.3 Specificity of Comments.

1503.4 Response to Comments.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11614, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1503.1 Inviting comments.

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

(1) Obtain the comments of any Federal agency which has jurisdic-

tion by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

(2) Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

(iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

(3) Request comments from the applicant, if any.

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

(b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under § 1506.10.

§ 1503.2 Duty to comment.

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in § 1506.10. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment.

§ 1503.3 Specificity of comments.

(a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

§ 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do

not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (§ 1502.19). The entire document with a new cover sheet shall be filed as the final statement (§ 1506.9).

PART 1504—PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY UNSATISFACTORY

Sec.

1504.1 Purpose.

1504.2 Criteria for Referral.

1504.3 Procedure for Referrals and Response.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements

concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

§ 1504.2 Criteria for referral.

Environmental referrals should be made to the Council only after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

(a) Possible violation of national environmental standards or policies.

(b) Severity.

(c) Geographical scope.

(d) Duration.

(e) Importance as precedents.

(f) Availability of environmentally preferable alternatives.

§ 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

(1) Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.

(2) Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not contain adequate information to permit an assessment of the matter's environmental acceptability.

(3) Identify any essential information that is lacking and request that it be made available at the earliest possible time.

(4) Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the Council will not accept a referral after that date.

(c) The referral shall consist of:

(1) A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in (c)(2) below.

(2) A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

(i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts,

(ii) Identify any existing environmental requirements or policies which would be violated by the matter,

(iii) Present the reasons why the referring agency believes the matter is environmentally unsatisfactory,

(iv) Contain a finding by the agency whether the issue raised is of national importance because of the threat to national environmental resources or policies or for some other reason,

(v) Review the steps taken by the referring agency to bring its con-

cerns to the attention of the lead agency at the earliest possible time, and

(vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council the lead agency may deliver a response to the Council and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

(1) Address fully the issues raised in the referral.

(2) Be supported by evidence.

(3) Give the lead agency's response to the referring agency's recommendations.

(e) Interested persons (including the applicant) may deliver their views in writing to the Council. Views in support of the referral should be delivered not later than the referral. Views in support of the response shall be delivered not later than the response.

(f) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

(1) Conclude that the process of referral and response has successfully resolved the problem.

(2) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.

(3) Hold public meetings or hearings to obtain additional views and information.

(4) Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.

(5) Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of

agencies report to the Council that the agencies' disagreements are irreconcilable.

(6) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).

(7) When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.

(g) The Council shall take no longer than 60 days to complete the actions specified in paragraph (f) (2), (3), or (5) of this section.

(h) When the referral involves an action required by statute to be determined on the record after opportunity for agency hearing, the referral shall be conducted in a manner consistent with 5 U.S.C. 557(d) (Administrative Procedure Act).

PART 1505—NEPA AND AGENCY DECISIONMAKING

Sec.

1505.1 Agency decisionmaking procedures.

1505.2 Record of decision in cases requiring environmental impact statements.

1505.3 Implementing the decision.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1505.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (§ 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

(a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).

(b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment

and assuring that the NEPA process corresponds with them.

(c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.

(e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

§ 1505.2 Record of decision in cases requiring environmental impact statements.

At the time of its decision (§ 1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95 (Revised), part I, sections 6 (c) and (d), and part II, section 5(b)(4), shall:

(a) State what the decision was.

(b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how

those considerations entered into its decision.

(c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

§ 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

(a) Include appropriate conditions in grants, permits or other approvals.

(b) Condition funding of actions on mitigation.

(c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.

(d) Upon request, make available to the public the results of relevant monitoring.

PART 1506—OTHER REQUIREMENTS OF NEPA

Sec.

1506.1 Limitations on actions during NEPA process.

1506.2 Elimination of duplication with State and local procedures.

1506.3 Adoption.

1506.4 Combining documents.

1506.5 Agency responsibility.

1506.6 Public involvement.

1506.7 Further guidance.

1506.8 Proposals for legislation.

1506.9 Filing requirements.

1506.10 Timing of agency action.

1506.11 Emergencies.

1506.12 Effective date.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section

309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:

(1) Have an adverse environmental impact; or

(2) Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

(1) Is justified independently of the program;

(2) Is itself accompanied by an adequate environmental impact statement; and

(3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. Nothing in this section shall preclude Rural Electrification Administration approval of

minimal expenditures not affecting the environment (e.g. long leadtime equipment and purchase options) made by non-governmental entities seeking loan guarantees from the Administration.

§ 1506.2 Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsisten-

cy of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

§ 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

§ 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

§ 1506.5 Agency responsibility.

(a) *Information.* If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of

information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (§ 1502.17). It is the intent of this subparagraph that acceptable work not be redone, but that it be verified by the agency.

(b) *Environmental assessments.* If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.

(c) *Environmental impact statements.* Except as provided in §§ 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under § 1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or

to prohibit any person from submitting information to any agency.

§ 1506.6 Public involvement.

Agencies shall: (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.

(b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.

(1) In all cases the agency shall mail notice to those who have requested it on an individual action.

(2) In the case of an action with effects of national concern notice shall include publication in the **FEDERAL REGISTER** and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the *102 Monitor*. An agency engaged in rule-making may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.

(3) In the case of an action with effects primarily of local concern the notice may include:

(i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

(ii) Notice to Indian tribes when effects may occur on reservations.

(iii) Following the affected State's public notice procedures for comparable actions.

(iv) Publication in local newspapers (in papers of general circulation rather than legal papers).

(v) Notice through other local media.

(vi) Notice to potentially interested community organizations including small business associations.

(vii) Publication in newsletters that may be expected to reach potentially interested persons.

(viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appro-

priate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

(1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.

(2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for inter-agency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

§ 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time, which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the 102 Monitor, notice of:

(1) Research activities;

(2) Meetings and conferences related to NEPA; and

(3) Successful and innovative procedures used by agencies to implement NEPA.

§ 1506.8 Proposals for legislation.

(a) The NEPA process for proposals for legislation (§ 1508.17) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(b) Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

(1) There need not be a scoping process.

(2) The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the "detailed statement" required by statute; *Provided*, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by §§ 1503.1 and 1506.10.

(i) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C.

1271 et seq.) and the Wilderness Act (16 U.S.C. 1131 et seq.)).

(iii) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration, a draft statement shall accompany the Prospectus or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(iv) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

§ 1506.9 Filing requirements.

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, D.C. 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and § 1506.10 below.

§ 1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the FEDERAL REGISTER each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under § 1505.2 by a Federal agency until the later of the following dates:

(1) Ninety (90) days after publication of the notice described above in

paragraph (a) of this section for a draft environmental impact statement.

(2) Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement.

An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published. This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy

reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see § 1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

§ 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

§ 1506.12 Effective date.

The effective date of these regulations is July 30, 1979, except that for agencies that administer programs that qualify under sec. 102(2)(D) of the Act or under sec. 104(h) of the Housing and Community Development Act of 1974 an additional four months shall be allowed for the State or local agencies to adopt their implementing procedures.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement or supplement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be redone by reason of these regulations. Until these regulations are applicable, the Council's guidelines published in the FEDERAL REGISTER of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the

guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

PART 1507—AGENCY COMPLIANCE

Sec.

1507.1 Compliance.

1507.2 Agency Capability to Comply.

1507.3 Agency Procedures.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.

§ 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of Sec. 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

(b) Identify methods and procedures required by Sec. 102(2)(B) to

insure that presently unquantified environmental amenities and values may be given appropriate consideration.

(c) Prepare adequate environmental impact statements pursuant to Sec. 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.

(d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of Sec. 102(2)(E) extends to all such proposals, not just the more limited scope of Sec. 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.

(e) Comply with the requirements of Sec. 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

(f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quality, Sec. 2.

§ 1507.3 Agency procedures.

(a) Not later than eight months after publication of these regulations as finally adopted in the FEDERAL REGISTER, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department, major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the FEDERAL REGISTER for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting simi-

lar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

(b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:

(1) Those procedures required by §§ 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.

(2) Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (§ 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with agencies' own regulations applicable to classified information. These documents may be organized so that classified por-

tions can be included as annexes, in order that the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in §1506.10 when necessary to comply with other specific statutory requirements.

(e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by §1501.7 may be published at a reasonable time in advance of preparation of the draft statement.

PART 1508—TERMINOLOGY AND INDEX

- Sec.
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 - 1508.27 Significantly.
 - 1508.28 Tiering.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), Section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1508.1 Terminology.

The terminology of this part shall

be uniform throughout the Federal Government.

§ 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*) which is also referred to as "NEPA."

§ 1508.3 Affecting.

"Affecting" means will or may have an effect on.

§ 1508.4 Categorical exclusion.

"Categorical Exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (§1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in §1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

§ 1508.5 Cooperating agency.

"Cooperating Agency" means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in §1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

§ 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

§ 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

§ 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

§ 1508.9 Environmental assessment.

"Environmental Assessment"

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by sec. 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

§ 1508.10 Environmental document.

"Environmental document" includes the documents specified in § 1508.9 (environmental assessment), § 1508.11 (environmental impact statement), § 1508.13 (finding of no significant impact), and § 1508.22 (notice of intent).

§ 1508.11 Environmental impact statement.

"Environmental Impact Statement" means a detailed written statement as required by Sec. 102(2)(C) of the Act.

§ 1508.12 Federal agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

§ 1508.13 Finding of no significant impact.

"Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§ 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§ 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

§ 1508.14 Human Environment.

"Human Environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (§ 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

§ 1508.15 Jurisdiction By Law.

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

§ 1508.16 Lead agency.

"Lead Agency" means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

§ 1508.17 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

§ 1508.18 Major Federal action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of sig-

nificantly (§ 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (§§ 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

(1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

(2) Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of federal resources, upon which future agency actions will be based.

(3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

(4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

§ 1508.19 Matter.

"Matter" includes for purposes of Part 1504:

(a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in Section 309(a) of the Clean Air Act (42 U.S.C. 7609).

(b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

§ 1508.20 Mitigation.

"Mitigation" includes:

(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.

§ 1508.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of Section 2 and Title I of NEPA.

§ 1508.22 Notice of intent.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

§ 1508.23 Proposal.

"Proposal" exists at that stage in the development of an action when an agency subject to the Act has a

goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (§ 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

§ 1508.24 Referring agency.

"Referring agency" means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

§ 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (§§ 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

(i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when

viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include: (1) No action alternative. (2) Other reasonable courses of actions. (3) Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct. (2) Indirect. (3) Cumulative.

§ 1508.26 Special expertise.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

§ 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) *Context*. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity*. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

§ 1508.28 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on

the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

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THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, AS AMENDED*

An Act to establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969."

PURPOSE

SEC. 2. The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

*Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, and Pub. L. 94-83, August 9, 1975.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Sec. 102. The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall—

(A) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) Identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations;

(C) Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) The environmental impact of the proposed action,
- (ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) Alternatives to the proposed action,
- (iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(d) Any detailed statement required under subparagraph (c) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

- (i) the State agency or official has statewide jurisdiction and has the responsibility for such action,
- (ii) the responsible Federal official furnishes guidance and participates in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, 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;

(g) Make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(i) Assist the Council on Environmental Quality established by title II of this Act.

Sec. 103. All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

Sec. 104. Nothing in section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Sec. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201. The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Sec. 202. There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to

the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Sec. 203. The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

Sec. 204. It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 201 of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Sec. 205. In exercising its powers, functions, and duties under this Act, the Council shall—

(1) Consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order No. 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) Utilize, to the fullest extent possible, the services, facilities and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Sec. 206. Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

Sec. 207. The Council may accept reimbursements from any private non-profit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

Sec. 208. The Council may make expenditures in support of its international activities, including expenditures for: (1) international travel; (2) activities in implementation of international agreements; and (3) the sup-

port of international exchange programs in the United States and in foreign countries.

Sec. 209. There are authorized to be appropriated to carry out the provisions of this chapter not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

THE ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970*

TITLE II—ENVIRONMENTAL QUALITY (OF THE WATER QUALITY IMPROVEMENT ACT OF 1974)

SHORT TITLE

Sec. 201. This title may be cited as the "Environmental Quality Improvement Act of 1970."

FINDINGS, DECLARATIONS, AND PURPOSES

Sec. 202. (a) The Congress finds—

- (1) That man has caused changes in the environment;
- (2) That many of these changes may affect the relationship between man and his environment; and
- (3) That population increases and urban concentration contribute directly to pollution and the degradation of our environment.

(b) (1) The Congress declares that there is a national policy for the environment which provides for the enhancement of environmental quality. This policy is evidenced by statutes heretofore enacted relating to the prevention, abatement, and control of environmental pollution, water and land resources, transportation, and economic and regional development.

(2) The primary responsibility for implementing this policy rests with State and local governments.

(3) The Federal Government encourages and supports implementation of this policy through appropriate regional organizations established under existing law.

(c) The purposes of this title are—

- (1) To assure that each Federal department and agency conducting or supporting public works activities which affect the environment shall implement the policies established under existing law; and
- (2) To authorize an Office of Environmental Quality, which, notwithstanding any other provision of law, shall provide the professional and administrative staff for the Council on Environmental Quality established by Public Law 91-190.

OFFICE OF ENVIRONMENTAL QUALITY

Sec. 203. (a) There is established in the Executive Office of the President an office to be known as the Office of Environmental Quality (hereafter in this title referred to as the "Office"). The Chairman of the Council on Environmental Quality established by Public Law 91-190 shall be the Director of the Office. There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The compensation of the Deputy Director shall be fixed by the President at a rate not in excess of the annual rate of compensation payable to the Deputy Director of the Bureau of the Budget.

(c) The Director is authorized to employ such officers and employees (including experts and consultants) as may be necessary to enable the Office to carry out its functions under this title and Public Law 91-190, except that he may employ no more than 10 specialists and other experts without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and pay such specialists and experts without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay rates, but no such specialist or

*Pub. L. 91-224, 42 U.S.C. 4371-4374, April 3, 1970.

expert shall be paid at a rate in excess of the maximum rate for GS-18 of the General Schedule under section 5330 of title 5.

(d) In carrying out his functions the Director shall assist and advise the President on policies and programs of the Federal Government affecting environmental quality by—

(1) Providing the professional and administrative staff and support for the Council on Environmental Quality established by Public Law 91-190;

(2) Assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, and those specific major projects designated by the President which do not require individual project authorization by Congress, which affect environmental quality;

(3) Reviewing the adequacy of existing systems for monitoring and predicting environmental changes in order to achieve effective coverage and efficient use of research facilities and other resources;

(4) Promoting the advancement of scientific knowledge of the effects of actions and technology on the environment and encourage the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man;

(5) Assisting in coordinating among the Federal departments and agencies those programs and activities which affect, protect, and improve environmental quality;

(6) Assisting the Federal departments and agencies in the development and interrelationship of environmental quality criteria and standards established through the Federal Government;

(7) Collecting, collating, analyzing, and interpreting data and information on environmental quality, ecological research, and evaluation.

(e) The Director is authorized to contract with public or private agencies, institutions, and organizations and with individuals without regard to sections 3618 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) in carrying out his functions.

REPORT

Sec. 204. Each Environmental Quality Report required by Public Law 91-190 shall, upon transmittal to Congress, be referred to each standing committee having jurisdiction over any part of the subject matter of the Report.

AUTHORIZATION

Sec. 205. There are hereby authorized to be appropriated not to exceed \$500,000 for the fiscal year ending June 30, 1970, not to exceed \$750,000 for the fiscal year ending June 30, 1971, not to exceed \$1,250,000 for the fiscal year ending June 30, 1972, and not to exceed \$1,500,000 for the fiscal year ending June 30, 1973. These authorizations are in addition to those contained in Public Law 91-190.

Approved April 3, 1970.

THE CLEAN AIR ACT § 309*

§ 7609. Policy review

(a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this chapter or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which section 4332(2)(C) of this title applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

*July 14, 1955, c. 360, § 309, as added Dec. 31, 1970, Pub. L. 91-604 § 12(a), 42 U.S.C. § 7609 (1970).

Executive Order 11514. March 5, 1970

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

As amended by Executive Order 11991. (Secs. 2(g) and 2(h)). May 24, 1977*

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970), it is ordered as follows:

Section 1. Policy. The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

Sec. 2. Responsibilities of Federal agencies. Consonant with Title I of the National Environmental Policy Act of 1969, hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

*The Preamble to Executive Order 11991 is as follows:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in furtherance of the purpose and policy of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4371 *et seq.*), and Section 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), it is hereby ordered as follows:

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act.

(g) In carrying out their responsibilities under the Act and this Order, comply with the regulations issued by the Council except where such compliance would be inconsistent with statutory requirements.

Sec. 3. Responsibilities of Council on Environmental Quality.
The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue regulations to Federal agencies for the implementation of the procedural provisions of the Act (42 U.S.C. 4332(2)). Such regulations shall be developed after consultation with affected agencies and after such public hearings as may be appropriate. They will be designed to make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives. They will require impact statements to be concise, clear, and to the point, and supported by evidence that agencies have made the necessary environmental analyses. The Council shall include in its regulations procedures (1) for the early preparation of environmental impact statements, and (2) for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended, and

Section 309 of the Clean Air Act, as amended, for the Council's recommendation as to their prompt resolution.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act.

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

Sec. 4. *Amendments of E.O. 11472.* Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget," the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) shall assist the President in directing the affairs of the Cabinet Committee."

(5) by deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91-190)".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

PART 516, DEPARTMENT OF THE INTERIOR MANUAL,
SECTION 1-7 (INCLUDING NPS APPENDICES)

DEPARTMENTAL MANUAL



TRANSMITTAL SHEET

PART 516 DM 1-7	SUBJECT Environmental Quality	RELEASE NUMBER 2744
FOR FURTHER INFORMATION, CONTACT Office of Environ- mental Project Review		DATE MAR 18 1980

EXPLANATION OF MATERIAL TRANSMITTED:

This release completely revises the Department's procedures for compliance with the National Environmental Policy Act (NEPA). The procedures adopt the regulations of the Council on Environmental Quality (CEQ) and Chapters 2-6 cannot be read independently from CEQ's regulations.

In addition the procedures reflect the Secretary's decision that there be only one set of NEPA procedures for the Department, that environmental impact statements be approved at the organizational levels responsible for decisionmaking on proposals, and that decisionmakers be held accountable for NEPA compliance.

Procedures specific to each bureau will be promulgated as appendices to Chapter 6.

Larry E. Glick
Assistant Secretary of the Interior

Filing Instructions

Remove:

516 DM 1 (2 sheets)
516 DM 2 (10 sheets)
Appendices A-E (11 sheets)

Insert:

516 DM 1 (4 sheets)
516 DM 2 (2 sheets)
Appendix 1 (1 sheet)
516 DM 3 (1 sheet)
516 DM 4 (3 sheets)
Appendix 1 (2 sheets)
Appendix 2 (1 sheet)
516 DM 5 (1 sheet)
516 DM 6 (2 sheets)

Pen and Ink Change:

516 DM 3

change to 516 DM 7

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Protection and Enhancement
Chapter 1 of Environmental Quality 516 DM 1.5B(3)

programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

C. Plans and Programs of Other Agencies and Organizations

(1) Officials responsible for protecting, conserving, developing, or managing resources under the Department's jurisdiction shall coordinate and cooperate with State, local, and Indian tribal governments, other bureaus and Federal agencies, and public and private organizations and individuals, and provide them with timely information concerning the environmental effects of these entities' plans and programs.

(2) Bureaus and offices are encouraged to participate early in the planning processes of other agencies and organizations in order to insure full cooperation with and understanding of the Department's programs and interests in natural, cultural, and human resources.

(3) Bureaus and offices will utilize to the fullest extent possible, existing Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

1.6 Public Involvement. Bureaus and offices, in consultation with the Office of Public Affairs, will develop and utilize procedures to insure the fullest practicable provision of timely public information and understanding of their plans and programs with environmental impact including information on the environmental impacts of alternative courses of action. These procedures will include, wherever appropriate, provision for public meetings or hearings in order to obtain the views of interested parties. Bureaus and offices will also encourage State and local agencies and Indian tribal governments to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment. (See also 301 DM 2.)

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Environmental Quality	Part 516	National Environmental Policy Act of 1969
<hr/>		
Protection and Enhancement		
Chapter 1	of Environmental Quality	516 DM 1.7

1.7 Mandate.

A. This Part provides Department-wide instructions for complying with NEPA and Executive Orders 11514, as amended by 11991 (Protection and Enhancement of Environmental Quality) and 12114 (Environmental Effects Abroad of Major Federal Actions).

B. The Department hereby adopts the regulations of the CEQ implementing the procedural provisions of NEPA (Sec. 102(2)(C)) except where compliance would be inconsistent with other statutory requirements. In the case of any apparent discrepancies between these procedures and the mandatory provisions of the CEQ regulations, the regulations shall govern.

C. Instructions supplementing the CEQ regulations are provided in Chapters 2-7 of this Part. Citations in brackets refer to the CEQ regulations. Instructions specific to each bureau are appended to Chapter 6. In addition, bureaus may prepare a handbook(s) or other technical guidance for their personnel on how to apply this Part to principal programs.

D. Instructions implementing Executive Order 12114 will be provided in Chapter 8.

3/18/80 #2244

Replaces 9/17/70 #1222 and 9/27/71 #1341

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Chapter 2 Initiating the NEPA Process 516 DM 2.3A(4)

(4) Notwithstanding the criteria and exceptions above, extraordinary circumstances may dictate or a responsible Departmental or bureau official may decide to prepare environmental assessments.

B. Environmental Assessment (EA) [1508.9].
See 516 DM 3.

C. Finding of No Significant Impact (FONSI) [1508.13].
A FONSI will be prepared as a separate covering document based upon a review of an EA. Accordingly, the words include(d) in Section 1508.13 should be interpreted as attach(ed).

D. Notice of Intent (NOI) [1508.22]. A NOI will be prepared as soon as practicable after a decision to prepare an environmental impact statement and shall be published in the Federal Register, with a copy to the Office of Environmental Project Review, and made available to the affected public in accordance with Section 1506.6. Publication of a NOI may be delayed if there is proposed to be more than three (3) months between the decision to prepare an environmental impact statement and the time preparation is actually initiated. The Office of Environmental Project Review will periodically publish a consolidated list of these notices in the Federal Register.

E. Environmental Impact Statement (EIS) [1508.11].
See 516 DM 4. Decisions/actions which would normally require the preparation of an EIS will be identified in the Bureau Appendix to Chapter 6.

2.4 Lead Agencies [1501.5].

A. The Assistant Secretary--Policy, Budget and Administration will designate lead bureaus within the Department when bureaus under more than one Assistant Secretary are involved and will represent the Department in consultations with CEQ or other Federal agencies in the resolution of lead agency determinations.

B. Bureaus will inform the Office of Environmental Project Review of any agreements to assume lead agency status.

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516 DM 2
Appendix 1

DEPARTMENTAL CATEGORICAL EXCLUSIONS

The following actions are categorical exclusions pursuant to 516 DM 2.3A(2). However, environmental documents will be prepared for individual actions within these categorical exclusions if the exceptions listed in 516 DM 2.3A(3) apply.

- 1.1 Personnel actions and investigations and personnel services contracts.
- 1.2 Internal organizational changes and facility and office reductions and closings.
- 1.3 Routine financial transactions, including such things as salaries and expenses, procurement contracts, guarantees, financial assistance, income transfers, and audits.
- 1.4 Law enforcement and legal transactions, including such things as arrests; investigations; patents; claims; legal opinions; and judicial proceedings including their initiation, processing and/or settlement.
- 1.5 Regulatory and enforcement actions, including inspections, assessments, administrative hearings, and decisions; when the regulations themselves or the instruments of regulations (leases, permits, licenses, etc.) have previously been covered by the NEPA process or are exempt from it.
- 1.6 Non-destructive data collection, inventory (including mapping), study, research and monitoring activities.
- 1.7 Routine and continuing government business, including such things as supervision, administration, operations, maintenance, and replacement.
- 1.8 Management, formulation, and allocation of the Department's budget at all levels. (This does not exempt the preparation of environmental documents for proposals included in the budget when otherwise required.)

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Part 516 National Environmental
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Environmental Quality

Chapter 4 Environmental Impact Statements

516 DM 4.12

4.12 Incorporation by Reference [1502.21]. Citations of specific topics will include the pertinent page numbers. All literature references will be listed in the bibliography.

4.13 Incomplete or Unavailable Information [1502.22]. The references to overall costs in this section are not limited to market costs, but include other costs to society such as social costs due to delay.

4.14 Methodology and Scientific Accuracy [1502.24]. Conclusions about environmental effects will be preceded by an analysis that supports that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public.

4.15 Environmental Review and Consultation Requirements [1502.25].

A. A list of related environmental review and consultation requirements is attached as Appendix 1 to this Chapter.

B. If the EIS is intended to serve as the vehicle to fully or partially comply with any of these requirements, the associated analyses, studies, or surveys will be identified as such and discussed in the text of the EIS and the cover sheet will so indicate. Any supporting analyses or reports will be referenced or included as an appendix and shall be sent to reviewing agencies as appropriate in accordance with applicable regulations or procedures.

4.16 Inviting Comments [1503.1].

A. Comments from State agencies will be requested through the State Clearinghouse established by the Governor pursuant to OMB Circular A-95, unless the Governor has designated an alternative review process, and may be requested from local agencies through Areawide Clearinghouses to the extent that they include the affected local jurisdiction.

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Chapter 4 Environmental Impact Statements 516 DM 4.16B

B. When the proposed action may affect the environment of an Indian reservation, comments will be requested from the Indian tribe through the tribal governing body, unless the tribal governing body has designated an alternate review process.

4.17 Response to Comments [1503.4].

A. Preparation of a final EIS need not be delayed in those cases where a Federal agency, from which comments are required to be obtained [1503.1(a)(1)], does not comment within the prescribed comment period. Informal attempts will be made to determine the status of any such comments and every reasonable attempt should be made to include the comments and a response in the final EIS.

B. When other commentors are late, their comments should be included in the final EIS to the extent practicable.

C. For those EISs requiring the approval of the Assistant Secretary--Policy, Budget and Administration pursuant to 516 DM 6.3, bureaus will consult with the Office of Environmental Project Review when they propose to prepare an abbreviated final EIS [1503.4(c)].

4.18 Elimination of Duplication with State and Local Procedures [1506.2]. Bureaus will incorporate in their appropriate program regulations provisions for the preparation of an EIS by a State agency to the extent authorized in Section 102(2)(D) of NEPA. Eligible programs are listed in Appendix 2 to this Chapter.

4.19 Combining Documents [1506.4]. See 516 DM 4.6D.

4.20 Departmental Responsibility [1506.5]. Following the responsible official's preparation or independent evaluation of and assumption of responsibility for an environmental document, an applicant may print it provided the applicant is bearing the cost of the document pursuant to other laws.

4.21 Public Involvement [1506.6]. See 516 DM 1.6 and 301 DM 2.

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Appendix 1

LIST OF OTHER ENVIRONMENTAL REVIEW AND CONSULTATION
REQUIREMENTS

1.1 Cultural Resources

Archeological Resources Protection Act of 1979
16 U.S.C. § 470aa et seq.

Archeological and Historic Preservation Act of 1974
16 U.S.C. § 469a-1

National Historic Preservation Act of 1966 (Sec. 106)
16 U.S.C. § 470f

Antiquities Act of 1906
16 U.S.C. § 431

Executive Order 11593 (Protection and Enhancement of
the Cultural Environment)

American Indian Religious Freedom Act
92 Stat. 469

1.2 Water and Related Land Resources

Marine Protection, Research and Sanctuaries Act of
1972
(Sec. 102, 103, 301)
16 U.S.C. § 1431 et seq.

Safe Drinking Water Act of 1974
42 U.S.C. § 300f

Flood Disaster Protection Act of 1973
12 U.S.C. § 24, 1701-1 Supp
42 U.S.C. § 4001 et seq.

Coastal Zone Management Act of 1972
16 U.S.C. § 1451, 1456

Estuary Protection Act
16 U.S.C. § 1221

Executive Order 11988 (Floodplain Management)

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Executive Order 11990 (Wetlands Protection)

Federal Water Project Recreation Act (Ss 6(a))
16 U.S.C. § 4601-17

Clean Water Act (§ 208, 303, 401, 402, 404, 405, 511)
33 U.S.C. §§ 1288, 1314, 1341, 1342, 1344

Rivers and Harbors Act of 1899 (§ 9 and § 10)
33 U.S.C. § 401 et seq.

Wild and Scenic Rivers Act of 1968 (Sec. 7)
16 U.S.C. § 1274 et seq.

Federal Power Act
16 U.S.C. § 797

Water Resources Planning Act of 1965
42 U.S.C. § 1962 et seq.

Water Resources Council's Principles and Standards

1.3 Wildlife

Endangered Species Act (Sec. 7)
16 U.S.C. § 1531 et seq.

Fish and Wildlife Coordination Act
16 U.S.C. § 661, 662

Fish and Wildlife Conservation at Small Watershed
Projects
16 U.S.C. § 1001, 1005(4), 1008

1.4 Public Lands, Open Space, Recreation

Federal Land Policy and Management Act
43 U.S.C. § 1701, 1761-1771

Mineral Leasing Act Amendments of 1973
30 U.S.C. § 185

Forest and Rangeland Renewable Resources Act
16 U.S.C. § 1601 et seq.

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Land and Water Conservation Fund Act of 1965(Sec. 6(f))
16 U.S.C. § 4601-8(f)

Open Space Lands
42 U.S.C. § 1500a(d)

Urban Park and Recreation Recovery Act
16 U.S.C. § 2501 et seq.

National Trails System Act
16 U.S.C. § 1241

1.5 Marine Resources

Deepwater Port Act
33 U.S.C. § 1501, 1503-1505

Ocean Dumping
33 U.S.C. § 1401, 1412, 1413, 1414

Marine Protection, Research and Sanctuaries Act
16 U.S.C. § 1431-1434

1.6 Transportation

Department of Transportation Act of 1966 (Sec. 4(f))
49 U.S.C. § 1653(f)

Federal Aid Highway Act of 1958
23 U.S.C. § 128, 138

Urban Mass Transportation Act of 1964
49 U.S.C. § 1602, 1610

Airport and Airway Development Act of 1970
49 U.S.C. § 1716

Federal Aviation Act
49 U.S.C. § 3334

1.7 Air Quality

Clean Air Act
42 U.S.C. § 7401 et seq.

3/18/80 #2244

Replaces 9/17/70 #1222 and 9/27/71 #1341

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1.8 Miscellaneous

Intergovernmental Coordination Act of 1968

42 U.S.C. § 4201, 4231, 4233

(A-95 review process, including urban impact
analysis)

Demonstration Cities and Metropolitan Development Act
of 1966

42 U.S.C. § 3334

Surface Mining Control and Reclamation Act of 1977

30 U.S.C. § 1201 et seq.

Resources Conservation and Recovery Act of 1976

42 U.S.C. § 3251 et seq.

Noise Control Act of 1972, as amended

42 U.S.C. § 4901 et seq.

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Appendix 2

PROGRAMS OF GRANTS TO STATES IN WHICH STATE AGENCIES HAVING
STATEWIDE JURISDICTION MAY PREPARE EISS

2.1 Fish and Wildlife Service

- A. Anadromous Fish Conservation [#15.600]
- B. Fish Restoration [#15.605]
- C. Wildlife Restoration [#15.611]
- D. Endangered Species Conservation [#15.612]

2.2 Heritage Conservation and Recreation Service

- A. Outdoor Recreation--Acquisition, Development and Planning [#15.400]
- B. Historic Preservation Grants-in-Aid [#15.411]
- C. Urban Park and Recreation Recovery Program Grants (not yet incorporated in CFDA)

Note: Citations in brackets refer to the Catalog of Federal Domestic Assistance, Office of Management and Budget, 1979

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Chapter 5 Relationship to Decisionmaking 516 DM 5.4

5.4 Record of Decision [1505.2].

A. Any decision documents prepared pursuant to 301 DM 1 for proposals involving an EIS may incorporate all appropriate provisions of Section 1505.2(b) and (c).

B. If a decision document incorporating these provisions is made available to the public following a decision, it will serve the purpose of a record of decision.

5.5 Implementing the Decision [1505.3]. The terms "monitoring" and "conditions" will be interpreted as being related to factors affecting the quality of the human environment.

5.6 Limitations on Actions [1506.1]. A bureau will notify its Assistant Secretary, the Solicitor, and the Office of Environmental Project Review of any situations described in Section 1506.1(b).

5.7 Timing of Actions [1506.10]. For those EISs requiring the approval of the Assistant Secretary--Policy, Budget and Administration pursuant to 516 DM 6.3, the responsible official will consult with the Office of Environmental Project Review before making any request for reducing the time period before a decision or action.

5.8 Emergencies [1506.11]. In the event of an unanticipated emergency situation, a bureau will immediately take any necessary action to prevent or reduce risks to public health or safety or serious resource losses and then expeditiously consult with its Assistant Secretary, the Solicitor, and the Office of Environmental Project Review about compliance with NEPA. The Office of Environmental Project Review and the bureau will jointly be responsible for consulting with CEQ.

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Chapter 6 Managing the NEPA Process

516 DM 6.6

6.6 Information About the NEPA Process. The Office of Environmental Project Review will publish periodically a Departmental list of contacts where information about the NEPA process and the status of EISs may be obtained.

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Appendix 3

Heritage Conservation and Recreation Service

516 DM 6 Appendix 3—Heritage
Conservation and Recreation Service

3.1 NEPA Responsibility

A. The *Director* is responsible for NEPA compliance for Heritage Conservation and Recreation Service (HCRS) activities.

B. *Associate Directors* (Natural, Recreational, and Cultural Programs and Administration) are responsible for general environmental guidance and for NEPA compliance in their areas of responsibility.

C. *Regional and Area Directors* are responsible for overall management and guidance of HCRS environmental procedures within their areas of jurisdiction. Each is responsible for designating a chief environmental officer for the regional/area office.

D. The *Division of Environmental and Compliance Review* (Washington), which reports to the Associate Director for Administration, serves as the bureau focal point for all NEPA related environmental activities. It advises the Directorate, ensures bureau-wide compliance, approves all bureau EISs, and manages the review of all EISs referred to the bureau for comment. Information about HCRS NEPA documents or the NEPA process can be obtained by contacting this office.

3.2 Guidance to Applicants

A. *Federal Aid.*

(1) The HCRS administers grant funds to States, local governments, and private organizations/individuals for outdoor recreation acquisition, development, and planning (CFDA #15.400), historic preservation (CFDA #15.411) and urban park and recreation recovery (CFDA #15.417).

(2) The following program guidelines and regulations list environmental requirements which applicants must meet:

(a) Land and Water Conservation Fund grants manual—Part 650.

(b) Historic Preservation grants-in-aid manual (under preparation).

(c) Urban Park and Recovery Program—38 CFR Part 1228.

(3) Copies of the grants manuals have been provided to all State Liaison Officers for outdoor recreation and all State Historic Preservation Officers. Current copies are also available for inspection in each HCRS Regional Office as well as in Washington.

(4) Many State agencies with State-wide jurisdiction which seek HCRS funding may prepare related EISs pursuant to Section 102(2)(D) of NEPA. Such agencies should consult with the appropriate regional/area office.

B. *Conversion of Acquired Recreation Lands.*

(1) The HCRS must approve the conversion of certain acquired recreation lands. These include:

(a) All local and State lands, and interests therein, and certain Federal lands under lease to the States, acquired or developed in whole or in part with monies from the Land and Water Conservation Fund Act are subject to Section 6(f) of the Act requiring approval of conversion of use.

(b) All recreation areas and facilities (as defined in Section 1004) developed or improved, in whole or in part, with a grant under the Urban Park and Recreation Recovery Act of 1978 (Title 10 of Pub. L. 95-625) are subject to Section 1010 of the Act which requires approval for a conversion to other than public recreation uses.

(c) Most Federal surplus real property which has been deeded to State and local governments for use and management as park demonstration areas or recreation areas, and all historic monuments and properties so deeded, under the Recreation Demonstration Act of 1942, or the Federal Property and Administrative Services Act of 1949, as amended, are subject to approval of conversion of use.

(d) All abandoned railroad rights-of-way acquired by State and local governments for recreational and/or conservation uses with grants under Section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 are subject to approval of conversion of use.

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Heritage Conservation and Recreation Service

(2) Applications for approval of conversion of the use of these lands must be submitted through the State Liaison Officer to the appropriate Regional Director of HCRS. Early consultation with the Regional Office is encouraged to insure that the application is accompanied with any required environmental documents.

3.3 Major Actions Normally Requiring an EIS

A. The following types of HCRS proposed actions and decisions will normally require the preparation of an EIS:

(1) Actions, including multi-year actions, whose size or scope will or may result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes, within the project area or its immediate environs.

(2) Actions which foreclose other beneficial uses of mineral, agricultural, timber, water, energy, or transportation resources critical to the Nation's or a State's welfare.

B. If for any of these proposals it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2). 3.4 *Categorical Exclusions*. In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Service also performs, the following HCRS actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. Routine internal management functions, including preparation of internal surveys, studies, reports, and similar documents used in evaluating effectiveness or extent of HCRS activities. Examples: Preparing regular Regional reports to the Director, maintaining grants-in-aid status reports; listing progress in promoting cooperative recreation management of areas under the jurisdiction of the Department of Defense.

B. Preparing routine reports required by law or regulation. Examples: Report on the Recreation Fee Program to the Congress; report on the status of properties disposed of for park and recreation purposes pursuant to the provisions of Federal Surplus Properties legislation.

C. Preparation or funding of surveys, studies, reports, and similar documents which do not recommend, propose, prescribe, or proscribe future actions. Examples: Statistical reports providing information on the types of professionals engaged in heritage conservation work; surveys to gather data on existing conditions, such as determining the number, acreage, and visitor volume at recreation or historic areas; analytical studies which try to develop rule-of-thumb formulae for estimating visitor carrying capacity of public areas; data collection for inventorying historic and archeological sites.

D. Preparation of internal reports, plans, studies, and other documents containing recommendations for action which HCRS develops preliminary to the process of preparing a specific proposal or set of alternatives for decision.

Example: Preliminary to developing an energy program pursuant to the President's initiatives, HCRS asked each of its Divisions and its Regional and Area Offices to propose directions which the program should take. Such proposals, since they were prepared preliminary to actual program planning and development, qualify for categorical exclusion from environmental documentation requirements.

E. Funding of proposed non-Federal actions which replace, or renovate, facilities at their same location: *Provided*, That they do not alter the integrity of the setting or increase public use of the area to the extent of compromising the nature and character of the property or cause physical damage to it, introduce motorized

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Appendix 3

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recreation vehicles, introduce active recreation pursuits into a passive recreation area, or cause a nuisance to adjacent property owners or occupants. These actions use monies from the Land and Water Conservation Fund, the Historic Preservation Fund, or the Urban Park and Recreation Recovery Fund. Examples: Resurfacing tennis courts; restoring a historic building; replacing and upgrading playground equipment; removing an architecturally incompatible addition to a historic structure; improving the lighting system of an indoor recreation structure.

F. Funding for construction or rehabilitation work on existing non-Federal properties which is required to meet health, safety and handicapped regulations. Examples: Improving sanitary systems or bathhouses, adding ramps to provide wheelchair access.

G. Funding for construction of new facilities within an existing recreation, historic, archeological, or natural area: *Provided*, That the new facilities will not increase public use of the area to the extent of compromising the nature and character of the property or causing physical damage to it; institute non-compatible uses which might compromise the nature and characteristics of the property or cause physical damage to it; introduce motorized recreation vehicles; introduce active recreation pursuits into a passive recreation area; or cause a nuisance to adjacent property owners or occupants. Examples: Installing paths to public facilities; installing picnic shelters designed for single family use; planting hedgerows to screen out unsightly adjacent areas; installing underground lawn sprinkling systems; installing fencing to guide or redirect foot or vehicular traffic or to provide security.

H. Providing technical assistance in historic, architectural, and archeological preservation; recreation; or natural area

preservation to other Federal, State and local agencies and to the general public.

I. Identifying, nominating, certifying, and determining the eligibility of properties for the National Register of Historic Places and the National Historic Landmark and National Natural Landmark programs.

(FR Doc. 80-36227 Filed 11-19-80; 2:45 am)

BILLING CODE 4310-03-M

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APPENDIX 7

National Park Service

National Park Service

7.1 NEPA Responsibility.

A. *Director* is responsible for NEPA compliance for National Park Service (NPS) activities.

B. *Regional Directors* are responsible to the Director for integrating the NEPA process into all regional activities and for NEPA compliance in their regions.

C. *Denver Service Center* performs most major planning efforts for the National Park Service and integrates NEPA compliance and environmental planning with project planning consistent with direction and oversight provided by the appropriate Regional Director.

D. *Office of Park Planning and Environmental Quality (Washington)* serves as the focal point for all matters relating to NEPA compliance; coordinates NPS review of NEPA documents prepared by other agencies and provides policy review for NPS NEPA documents. Information concerning NPS NEPA documents or the NEPA process can be obtained by contacting this office.

7.2 Guidance to Applicants.

Actions in NPS areas that are initiated by private or non-Federal entities include the following:

A. Mining Operations and Exercise of Non-Federal Oil and Gas Rights

All NPS areas are closed to mineral entry, and mining operations are limited to valid, prior existing rights. Prior to conducting mining operations under the authority of the 1872 Mineral Law or the exercise of non-Federally owned oil and gas rights within the National Park System, operators must provide to the Service information required to understand the scope of proposed operations, evaluate the impacts on parklands, prepare stipulations and conditions for operations, and make a decision on approval/denial/modification of the plan of operations. Detailed informational requirements are contained in 36 CFR 9.

B. Mineral Leasing

Mineral leasing is restricted to five national recreation areas in the National Park System. The Bureau of Land Management (BLM) administers leases on these lands and the Geological Survey (GS) controls and monitors operations. Applicable BLM general leasing procedures are contained in 43 CFR 3100 and 3500. Regulations governing operations are found in 43 CFR 23 and 30 CFR 231 for minerals other than oil and gas; and in 30 CFR 231 for oil and gas. The NPS, as the surface management agency, is consulted at all stages of the leasing and operating process, and can require special lease stipulations for protecting the environment. In addition, the NPS participates with BLM and GS in preparing environmental analyses of all activities and sets forth the reclamation requirements. Also, the NPS controls access to leases over parklands through special permit procedures.

Note.—NPS special regulations in 43 CFR regarding mineral leasing are currently being revised. Substantial changes to the established procedures are not expected.

C. Grazing in NPS-Administered Areas

Grazing management plans for NPS units subject to legislatively authorized grazing are normally prepared by the BLM which presently determines informational requirements from applicants for BLM permits, the issuance of which requires prior concurrence by NPS. Applicants for grazing allotments must provide the BLM with such information as may be required to enable preparation of environmental documents or grazing management plans.

Additionally, grazing is permitted in some NPS areas as a condition of land acquisition in instances where grazing rights were held prior to Federal acquisition. The availability of these grazing rights is limited and information should be sought through individual park superintendents.

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D. Issuance of Special use Permits, Rights-of-Way, and Easements for non-Park Uses in NPS-Administered Areas.

Informational requirements are determined on a case-by-case basis, and applicants should consult with the park superintendent before making formal application. The applicant must provide sufficient information on the proposed non-park use, as well as park resources and resource-related values to be affected directly and indirectly by the proposed use, in order to allow the Service to evaluate the application, assess the impacts of the proposed use on the NPS unit, develop restrictions/stipulations to mitigate impacts, and reach a final decision on issuance of the instrument. Authorities for such permits, rights-of-way, etc., are found in the enabling legislation for individual National Park System units and in 16 U.S.C. 5 and 79 and 23 U.S.C. 317. Right-of-way and easement regulations are found at 36 CFR 14. Policies concerning regulation of special uses are described in the NPS Management Policies Notebook.

7.3 Major Actions Normally Requiring Environmental Impact Statements

A. The following types of NPS proposals will normally require the preparation of an EIS:

- (1) Wild and Scenic River proposals
- (2) Wilderness proposals
- (3) National Trail proposals
- (4) Proposals for major boundary adjustments to existing units of the National Park System, and

(5) General Management Plans for National Parks, National Recreation Areas, National Seashores, National Lakeshores, and National Preserves.

B. If, for any of these proposals it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(c)(2).

7.4 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Service also performs, the following NPS actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. Plans and Studies

(1) Changes or amendments in approved plans, when such changes have no potential for causing significant environmental impact.

(2) Cultural resources maintenance guides, collections, management plans, and historic furnishings reports.

(3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans).

(4) Plans for non-manipulative research.

(5) Statements for management, outlines of planning requirements, and task directives for plans and studies.

B. Actions Related to General Administration

(1) Land and boundary surveys.

(2) Reissuance of special use permits not entailing environmental disturbance.

(3) Extensions or minor modifications of concession contracts or permits, not entailing construction.

(4) Commercial use licenses involving no construction within NPS areas.

(5) Park publications.

C. Actions Related to Development

(1) Land acquisition not involving condemnation.

(2) Day-to-day maintenance and repairs to non-historic structures, facilities, utilities, grounds, and trails.

(3) Day-to-day maintenance and repairs to cultural resource sites, structures, utilities, and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide.

(4) Installation of signs, displays, kiosks, etc.

(5) Installation of navigation aids in open waters.

(6) Experimental testing of mass transit systems and changes in operation of existing systems (routes and schedule changes).

(7) Replacement in kind for minor structures and facilities with no change in location, capacity, or appearance.

(8) Road repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails.

(9) Sanitary facilities operation.

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(10) Installation of single-unit pit toilet sanitation in areas of existing use.

(11) Minor trail relocations.

D. Actions Related to Visitor Use

(1) Carrying capacity analyses.

(2) Minor noncontroversial changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

(3) Changes in interpretive and environmental education programs.

(4) Minor noncontroversial changes in programs and regulations pertaining to visitor activities.

(5) Issuance of short-term permits for small demonstrations, gatherings, concerts, arts and crafts shows, etc.

(6) Designation of trailside camping zones with no, or minimal, improvements.

(7) Designation of small (10-car or less) improved parking areas.

E. Actions Related to Resource Management

(1) Archeological surveys, including small-scale test excavations.

(2) Day-to-day resource management and research activities.

(3) Designation of environmental study areas and research natural areas.

(4) Dune stabilization of small areas by planting of native plant species.

(5) Issuance of individual hunting and/or fishing licenses in accordance with State and Federal regulations.

(6) Planting of native species in natural and development zones.

F. Actions Related to Grant Programs

(1) Grants for land acquisition not involving condemnation, when it is known that such lands will be conveyed to the Service for administration and any development activity.

(2) Grants for acquisition of areas which will continue in the same use or in a lower density use with no greater disturbance to the natural setting.

(3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural opportunities provided; or the integrity of the existing setting and cultural resources of the area.

(4) Grants for construction at a park or recreation area required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.

(5) Grants for construction of new facilities within an existing recreation area provided that the facilities will not:

(a) introduce motorized recreation vehicles; or

(b) introduce active recreation pursuits into a passive recreation area; or

(c) increase public use to the extent of compromising the nature and character of the property or causing physical damage to it; or

(d) cause a nuisance to adjacent owners or occupants; or

(e) institute noncompatible uses which might compromise the nature and characteristics of the property, or cause physical damage to it; or

(f) extend use beyond daylight hours; or

(g) add or alter access to the park from the surrounding areas; or

(h) conflict with adjacent ownerships or land use.

(6) Grants for construction of facilities on lands acquired under a previous NPS grant project, provided that the development is in accord with plans submitted with the acquisition project.

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Part 516 National Environmental

Environmental Quality

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Chapter Prepared by Other Federal Agencies

516.7.1

.1 Purpose. These procedures are to implement the policy and directives of Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91-190, 83 Stat. 852, January 1, 1970); Section 2(f) of Executive Order No. 11514 (March 5, 1970); the Guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); Bulletin No. 72-6 of the Office of Management and Budget (September 14, 1971); and provide guidance to bureaus and offices of the Department in the review of environmental statements prepared by and for other Federal agencies.

.2 Policy. The Department considers it a priority responsibility to provide competent and timely review comments on environmental statements prepared by other Federal agencies for their major actions which significantly affect the quality of the human environment. These reviews are predicated on the Department's jurisdiction by law or special expertise with respect to the environmental impact involved and shall provide constructive comments to other Federal agencies to assist them in meeting their environmental responsibilities.

.3 Responsibilities.

A. The Assistant Secretary - Program Policy:

(1) Shall be the Department's contact point for the receipt of requests for reviews of draft and final environmental statements prepared by or for other Federal agencies;

(2) Shall determine whether such review requests are to be answered by a Secretarial officer or by a Field Representative, and determine which bureaus and/or offices shall perform such reviews;

(3) Shall prepare, or where appropriate, shall designate a lead bureau responsible for preparing the Department's review comments. The lead bureau may be a bureau, Secretarial office, other Departmental office, or task force and shall be that organizational entity with the most significant jurisdiction or environmental expertise in regard to the requested review;

(4) Shall set review schedules and target dates for responding to review requests and monitor their compliance;

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(5) Shall review, sign, and transmit the Department's review comments to the requesting agency and to the Council on Environmental Quality, unless he designates otherwise;

(6) Shall follow through on the Department's review comments transmitted to the requesting agency to ensure resolution of the Department's concerns, unless he designates otherwise; and

(7) Shall consult with the Legislative Counsel and the Solicitor when environmental reviews pertain to legislative or legal matters, respectively.

B. The Legislative Counsel:

(1) Shall ensure that requests for reviews of environmental statements prepared by other Federal agencies that accompany or pertain to legislative proposals are immediately referred to the Assistant Secretary - Program Policy.

C. Field Representatives:

(1) When designated by the Assistant Secretary - Program Policy, shall review, sign, and transmit the Department's review comments to the requesting agency and to the Council on Environmental Quality.

D. Assistant Secretaries and
Heads of Bureaus and Offices:

(1) Shall designate officials and organizational elements responsible for the coordination and conduct of environmental reviews and report this information to the Assistant Secretary - Program Policy;

(2) Shall provide the Assistant Secretary - Program Policy with appropriate information and material concerning their delegated jurisdiction and special environmental expertise in order to assist him in assigning review responsibilities:

(3) Shall conduct reviews based upon their areas of jurisdiction or special environmental expertise and provide comments to designated lead bureaus assigned responsibilities for preparing Departmental comments;

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(4) When designated lead bureau by the Assistant Secretary - Program Policy, shall prepare and forward the Department's review comments as instructed; and

(5) Shall assure that review schedules for discharging assigned responsibilities are met, and promptly inform other concerned offices if established target dates cannot be met and when they will be met.

4 Types of Reviews

A. Descriptions of Proposed Actions:

(1) Descriptions of proposed actions are not substitutes for environmental statements. Federal agencies and applicants for Federal assistance may circulate such descriptions, for the purpose of soliciting information concerning environmental impact in order to determine whether or not to prepare environmental statements.

(2) Requests for reviews of descriptions of proposed actions are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices, with the Field Representative and Assistant Secretary - Program Policy being advised of significant or highly controversial issues. Review comments are for the purpose of providing technical assistance to the requesting agency and should reflect this fact.

B. Environmental Assessments or Reports:

(1) Environmental assessments or reports are not substitutes for environmental statements. These assessments or reports may be prepared by Federal agencies, their consultants, or applicants for Federal assistance. They are prepared either to provide information in order to determine whether or not an environmental statement should be prepared, or to provide input into an environmental statement. If they are separately circulated, it is generally for the purpose of soliciting additional information concerning environmental impact.

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(2) Requests for reviews of environmental assessments or reports are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices, with the Field Representative and Assistant Secretary - Program Policy being advised of significant or highly controversial issues. Review comments are for the purpose of providing technical assistance to the requesting agency and should reflect this fact.

C. Negative Declarations:

(1) Negative declarations are prepared in lieu of environmental statements by Federal agencies and, in some cases, by applicants for Federal assistance. A negative declaration is a statement for the record by the proponent Federal agency that it has reviewed the environmental impact of its proposed action, that it determines that the action will not significantly affect the quality of the human environment, and that an environmental statement is not required. Such declarations are not normally circulated.

(2) Requests for reviews of negative declarations are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices and shall concur or not concur with the requesting agency. If a bureau or office does not concur, the Field Representative and Assistant Secretary - Program Policy will be advised promptly by copy of the comments with a copy of the negative declaration attached.

D. Preliminary, Proposed, or Working Draft Environmental Statements:

(1) Preliminary, proposed, or working draft environmental statements are sometimes prepared and circulated by Federal agencies and applicants for Federal assistance for consultative purposes.

(2) Requests for reviews of these types of draft environmental statements are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices with the Field Representative and Assistant Secretary - Program Policy being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the review comments of the Department on the draft environmental statement.

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(d) Detailed Comments

The format of this section shall follow the organization of the other agency's statement. These comments shall not approve, disapprove, support, or object to proposed actions of other Federal agencies, but shall constructively and objectively comment on the environmental impact of the proposed action, and on the adequacy of the statement in describing the environmental impacts of the action, the alternatives, and the impacts of the alternatives.

(e) Summary Comments, if any

In general, the Department will not take a position on the proposed action of another Federal agency, but will limit its comments to those above. However, in those cases where the Department has jurisdiction by statute, executive order, memorandum of agreement, or other authority the Department may comment on the proposed action. These comments shall be provided in this section and may take the form of support for, concurrence with, concern over, or objection to the proposed action and/or the alternatives.

B. Bureau and Office Comments:

(1) Bureau and office reviews of environmental statements prepared by other Federal agencies are considered informal inputs to the Department's comments and their content will generally conform to paragraph .5A of this chapter with the substitution of the bureau's or office's delegated jurisdiction or special environmental expertise for that of the Department.

C. Relationship to Other Concurrent Reviews:

(1) Where the Department, because of other authority or agreement, is concurrently requested to review a proposal as well as its environmental statement, the Department's comments on the proposal shall be separately identified and precede the comments on the environmental statement. A summary of the Department's position, if any, on the proposal and its environmental impact shall be separately identified and follow the review comments on the environmental statement.

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(2) Where another Federal agency elects to combine other related reviews into the review of the environmental statement by including additional or more specific information into the statement, the introduction to the Department's review comments will acknowledge the additional review request and the review comments will be incorporated into appropriate parts of the combined statement review. A summary of the Department's position, if any, on the environmental impacts of the proposal and any alternatives shall be separately identified and follow the detailed review comments on the combined statement.

.6 Availability of Review Comments

A. Prior to the public availability of another Federal agency's final environmental statement, the Department shall not independently release to the public its comments on that agency's draft environmental statement. In accordance with Section 10(f) of the Council on Environmental Quality's Guidelines [516 DM 2, App. A], the agency that prepared the statement is responsible for making the comments available to the public, and requests for copies of the Department's comments shall be referred to that agency. Exceptions to this procedure shall be made only by the Assistant Secretary - Program Policy in consultation with the Solicitor and the Director of Communications.

B. Various internal Departmental memoranda, such as the review comments of bureaus, offices, task forces, and individuals, which are used as inputs to the Department's review comments are generally available to the public in accordance with the Freedom of Information Act (5 U.S.C. Section 552) and the Departmental procedures established by 43 C.F.R. 2. Upon receipt of such requests and in addition to following the procedures above, the responsible bureau or office shall notify and consult the Assistant Secretary - Program Policy.

 **.7 Procedures for Processing Environmental Reviews**

A. General Procedures:

(1) All requests for reviews of draft and final environmental statements prepared by or for other Federal agencies shall be received and controlled by the Assistant Secretary - Program Policy.

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(2) If a bureau or office, whether at headquarters or field level, should receive an environmental statement for review directly from outside of the Department, it should ascertain whether the statement is a preliminary, proposed, or working draft circulated for technical assistance or input in order to prepare a draft statement or whether the statement is in fact a draft environmental statement, or in some cases, a final statement circulated for official review.

(a) If the document is a preliminary, proposed, or working draft, the bureau or office should handle independently and provide whatever technical assistance possible, within the limits of their resources, to the requesting agency. The response should clearly indicate the type of assistance being provided and state that it does not represent the office's or the Department's review of the draft environmental statement. Each bureau or office should provide the Field Representative and the Assistant Secretary - Program Policy copies of any comments involving significant or controversial issues.

(b) If the document is a draft or final environmental statement circulated for official review, the bureau or office should inform the requesting agency of the Department's procedures in subparagraph (1) above and promptly refer the request and the statement to the Assistant Secretary Program Policy for processing.

(3) All bureaus and offices processing and reviewing environmental statements of other Federal agencies will do so within the time limits specified by the Assistant Secretary - Program Policy. From thirty (30) to forty-five (45) days are normally available for responding to other Federal agency review requests. Whenever possible the Assistant Secretary - Program Policy shall seek a forty-five (45) day review period. Further extensions shall be handled in accordance with paragraph .7B(3) of this chapter.

(4) The Department's review comments on other Federal agencies environmental statements shall reflect the full and balanced interests of the Department in the protection and enhancement of the environment. Lead bureaus shall be responsible for resolving any intra-Departmental differences in bureau or office review comments submitted to them. The Office of Environmental Project Review is available for guidance and assistance in this regard. In cases where agreement cannot be reached, the matter shall be referred through channels to the Assistant Secretary - Program Policy or to the Field Representative, if appropriate.

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B. Processing Environmental Reviews:

(1) The Assistant Secretary - Program Policy has delegated to the Director, Office of Environmental Project Review, the responsibility for distributing and monitoring the review of all environmental statements referred to the Department by other Federal agencies. In carrying out this responsibility, the Director, Office of Environmental Project Review, shall determine which bureaus and offices will review the statements, shall designate lead bureaus which shall prepare the Department's comments, shall indicate the intended signator of the comments, and shall set and monitor review schedules.

(2) The Office of Environmental Project Review shall secure and distribute sufficient copies of environmental statements for Departmental review. Bureaus and offices should keep the Office of Environmental Project Review informed as to their needs for review copies, which shall be kept to a minimum, and shall develop internal procedures to efficiently and expeditiously distribute environmental statements to reviewing offices.

(3) Reviewing bureaus and offices which cannot meet the review schedule shall so inform the lead bureau and shall provide the date that the review will be delivered. The lead bureau shall inform the Office of Environmental Project Review in cases of headquarters-level response, or the Field Representative in cases of field-level response, if it cannot meet the schedule, why it cannot, and when it will. The Office of Environmental Project Review or the Field Representative shall be responsible for informing the other Federal agency of any changes in the review schedule.

(4) Reviewing offices shall route their review comments through channels to the lead bureau, with a copy to the Office of Environmental Project Review. When, in cases, of headquarters-level response, review comments cannot reach the lead bureau within the established review schedule, reviewing bureaus and offices shall send a copy marked "Advance Copy" directly to the lead bureau.

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(cont.)

(5) In cases of headquarters-level response:

(a) The lead bureau shall route the completed comments through channels to the Office of Environmental Project Review. Copies shall be prepared and attached for all bureaus and offices from whom review comments were requested, for the Office of Environmental Project Review, and for the Field Representative when the review pertains to a project within his geographic jurisdiction. In addition, legible copies of all review comments received shall accompany the Department's comments through the clearance process and shall be retained by the Office of Environmental Project Review;

(b) The Office of Environmental Project Review shall review, secure any necessary additional surnames, surname, and transmit the Department's comments to the Assistant Secretary - Program Policy for signature or for his forwarding to another appropriate Secretarial Officer for signature. Upon signature, the Office of Environmental Project Review shall transmit the comments to the requesting agency, and shall reproduce and send ten (10) copies of the signed original to the Council on Environmental Quality.

(6) In cases of field-level response:

(a) The lead bureau shall route the completed comments to the appropriate Field Representative. Copies shall be prepared and attached for all offices from whom review comments were requested and for the Office of Environmental Project Review. In addition legible copies of all review comments received shall be attached to the Office of Environmental Project Review's copy and to the Field Representative's file copy;

(b) The Field Representative shall review, sign, and transmit the Department's comments to the agency requesting the review. In addition he shall reproduce and send ten (10) copies of the signed original to the Council on Environmental Quality and send a copy of the CEQ transmittal memorandum, the Department's comments, and the bureau review comments to the Office of Environmental Project Review.

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(c) If the Field Representative determines in the course of his review of the Department's comments that the review involves policy matters of Secretarial significance, he shall not sign and transmit the comments as provided in subparagraph (b) above, but shall forward the review to the Assistant Secretary - Program Policy.

SCOPING GUIDANCE BY COUNCIL ON
ENVIRONMENTAL QUALITY (4/30/81)

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
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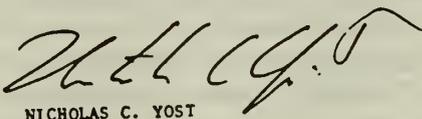
April 30, 1981

MEMORANDUM FOR GENERAL COUNSELS, NEPA LIAISONS AND PARTICIPANTS IN SCOPING

SUBJECT: Scoping Guidance

As part of its continuing oversight of the implementation of the NEPA regulations, the Council on Environmental Quality has been investigating agency experience with scoping. This is the process by which the scope of the issues and alternatives to be examined in an EIS is determined. In a project led by Barbara Bramble of the General Counsel's staff, the Council asked federal agencies to report their scoping experiences; Council staff held meetings and workshops in all regions of the country to discuss scoping practice; and a contract study was performed for the Council to investigate what techniques work best for various kinds of proposals.

Out of this material has been distilled a series of recommendations for successfully conducting scoping. The attached guidance document consists of advice on what works and what does not, based on the experience of many agencies and other participants in scoping. It contains no new legal requirements beyond those in the NEPA regulations. It is intended to make generally available the results of the Council's research, and to encourage the use of better techniques for ensuring public participation and efficiency in the scoping process.


NICHOLAS C. YOST
General Counsel

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SCOPING GUIDANCE

I. Introduction

A. Background of this document.

In 1978, with the publication of the proposed NEPA regulations (since adopted as formal rules, 40 C.F.R. Parts 1500-1508), the Council on Environmental Quality gave formal recognition to an increasingly used term — scoping. Scoping is an idea that has long been familiar to those involved in NEPA compliance: In order to manage effectively the preparation of an environmental impact statement (EIS), one must determine the scope of the document — that is, what will be covered, and in what detail. Planning of this kind was a normal component of EIS preparation. But the consideration of issues and choice of alternatives to be examined was in too many cases completed outside of public view. The innovative approach to scoping in the regulations is that the process is open to the public and state and local governments, as well as to affected federal agencies. This open process gives rise to important new opportunities for better and more efficient NEPA analyses, and simultaneously places new responsibilities on public and agency participants alike to surface their concerns early. Scoping helps insure that real problems are identified early and properly studied; that issues that are of no concern do not consume time and effort; that the draft statement when first made public is balanced and thorough; and that the delays occasioned by re-doing an inadequate draft are avoided. Scoping does not create problems that did not already exist; it ensures that problems that would have been raised anyway are identified early in the process.

Many members of the public as well as agency staffs engaged in the NEPA process have told the Council that the open scoping requirement is one of the most far-reaching changes engendered by the NEPA regulations. They have predicted that scoping could have a profound positive effect on environmental analyses, on the impact statement process itself, and ultimately on decisionmaking.

Because the concept of open scoping was new, the Council decided to encourage agencies' innovation without unduly restrictive guidance. Thus the regulations relating to scoping are very simple. They state that "there shall be an early and open process for determining the scope of issues to be addressed" which "shall be termed scoping," but they lay down few specific requirements. (Section 1501.7*). They require an open process with public notice; identification of significant and insignificant issues; allocation of EIS preparation assignments; identification of related analysis requirements in order to avoid duplication of work; and the planning of a schedule for EIS preparation that meshes with the agency's decisionmaking

* All citations are to the NEPA regulations, 40 C.F.R. Parts 1500-1508 unless otherwise specified.

schedule. (Section 1501.7(a)). The regulations encourage, but do not require, setting time limits and page limits for the EIS, and holding scoping meetings. (Section 1501.7(b)). Aside from these general outlines, the regulations left the agencies on their own. The Council did not believe, and still does not, that it is necessary or appropriate to dictate the specific manner in which over 100 federal agencies should deal with the public. However, the Council has received several requests for more guidance. In 1980 we decided to investigate the agency and public response to the scoping requirement, to find out what was working and what was not, and to share this with all agencies and the public.

The Council first conducted its own survey, asking federal agencies to report some of their scoping experiences. The Council then contracted with the American Arbitration Association and Clark McGlennon Associates to survey the scoping techniques of major agencies and to study several innovative methods in detail.* Council staff conducted a two-day workshop in Atlanta in June 1980, to discuss with federal agency NEPA staff and several EIS contractors what seems to work best in scoping of different types of proposals, and discussed scoping with federal, state and local officials in meetings in all 10 federal regions.

This document is a distillation of all the work that has been done so far by many people to identify valuable scoping techniques. It is offered as a guide to encourage success and to help avoid pitfalls. Since scoping methods are still evolving, the Council welcomes any comments on this guide, and may add to it or revise it in coming years.

B. What scoping is and what it can do.

Scoping is often the first contact between proponents of a proposal and the public. This fact is the source of the power of scoping and of the trepidation that it sometimes evokes. If a scoping meeting is held, people on both sides of an issue will be in the same room and, if all goes well, will speak to each other. The possibilities that flow from this situation are vast. Therefore, a large portion of this document is devoted to the productive management of meetings and the de-fusing of possible heated disagreements.

Even if a meeting is not held, the scoping process leads EIS preparers to think about the proposal early on, in order to explain it to the public and affected agencies. The participants respond with their own concerns about significant issues and suggestions of alternatives. Thus as the draft EIS is prepared, it will include, from the beginning, a reflection or at least an acknowledgement of the cooperating agencies' and the public's concerns. This reduces the need for changes after the draft is finished, because it

* The results of this examination are reported in "Scoping the Content of EISs: An Evaluation of Agencies' Experiences," which is available from the Council or the Resource Planning Analysis Office of the U.S. Geological Survey, 750 National Center, Reston, Va. 22092.

reduces the chances of overlooking a significant issue or reasonable alternative. It also in many cases increases public confidence in NEPA and the decisionmaking process, thereby reducing delays, such as from litigation, later on when implementing the decisions. As we will discuss further in this document, the public generally responds positively when its views are taken seriously, even if they cannot be wholly accommodated.

But scoping is not simply another "public relations" meeting requirement. It has specific and fairly limited objectives: (a) to identify the affected public and agency concerns; (b) to facilitate an efficient EIS preparation process, through assembling the cooperating agencies, assigning EIS writing tasks, ascertaining all the related permits and reviews that must be scheduled concurrently, and setting time or page limits; (c) to define the issues and alternatives that will be examined in detail in the EIS while simultaneously devoting less attention and time to issues which cause no concern; and (d) to save time in the overall process by helping to ensure that draft statements adequately address relevant issues, reducing the possibility that new comments will cause a statement to be rewritten or supplemented.

Sometimes the scoping process enables early identification of a few serious problems with a proposal, which can be changed or solved because the proposal is still being developed. In these cases, scoping the EIS can actually lead to the solution of a conflict over the proposed action itself. We have found that this extra benefit of scoping occurs fairly frequently. But it cannot be expected in most cases, and scoping can still be considered successful when conflicts are clarified but not solved. This guide does not presume that resolution of conflicts over proposals is a principal goal of scoping, because it is only possible in limited circumstances. Instead, the Council views the principal goal of scoping to be an adequate and efficiently prepared EIS. Our suggestions and recommendations are aimed at reducing the conflicts among affected interests that impede this limited objective. But we are aware of the possibilities of more general conflict resolution that are inherent in any productive discussions among interested parties. We urge all participants in scoping processes to be alert to this larger context, in which scoping could prove to be the first step in environmental problem-solving.

Scoping can lay a firm foundation for the rest of the decisionmaking process. If the EIS can be relied upon to include all the necessary information for formulating policies and making rational choices, the agency will be better able to make a sound and prompt decision. In addition, if it is clear that all reasonable alternatives are being seriously considered, the public will usually be more satisfied with the choice among them.

II. Advice for Government Agencies Conducting Scoping

A. General context.

Scoping is a process, not an event or a meeting. It continues throughout the planning for an EIS, and may involve a series of meetings, telephone conversations, or written comments from different interested groups. Because it is a process, participants must remain flexible. The scope of an EIS occasionally may need to be modified later if a new issue surfaces,

no matter how thorough the scoping was. But it makes sense to try to set the scope of the statement as early as possible.

Scoping may identify people who already have knowledge about a site or an alternative proposal or a relevant study, and induce them to make it available. This can save a lot of research time and money. But people will not come forward unless they believe their views and materials will receive serious consideration. Thus scoping is a crucial first step toward building public confidence in a fair environmental analysis and ultimately a fair decisionmaking process.

One further point to remember: the lead agency cannot shed its responsibility to assess each significant impact or alternative even if one is found after scoping. But anyone who hangs back and fails to raise something that reasonably could have been raised earlier on will have a hard time prevailing during later stages of the NEPA process or if litigation ensues. Thus a thorough scoping process does provide some protection against subsequent lawsuits.

B. Step-by-step through the process.

1. Start scoping after you have enough information.

Scoping cannot be useful until the agency knows enough about the proposed action to identify most of the affected parties, and to present a coherent proposal and a suggested initial list of environmental issues and alternatives. Until that time there is no way to explain to the public or other agencies what you want them to get involved in. So the first stage is to gather preliminary information from the applicant, or to compose a clear picture of your proposal, if it is being developed by the agency.

2. Prepare an information packet.

In many cases, scoping of the EIS has been preceded by preparation of an environmental assessment (EA) as the basis for the decision to proceed with an EIS. In such cases, the EA will, of course, include the preliminary information that is needed.

If you have not prepared an EA, you should put together a brief information packet consisting of a description of the proposal, an initial list of impacts and alternatives, maps, drawings, and any other material or references that can help the interested public to understand what is being proposed. The proposed work plan of the EIS is not usually sufficient for this purpose. Such documents rarely contain a description of the goals of the proposal to enable readers to develop alternatives.

At this stage, the purpose of the information is to enable participants to make an intelligent contribution to scoping the EIS. Because they will be helping to plan what will be examined during the environmental review, they need to know where you are now in that planning process.

Include in the packet a brief explanation of what scoping is, and what procedure will be used, to give potential participants a context for their involvement. Be sure to point out that you want comments from participants

on very specific matters. Also reiterate that no decision has yet been made on the contents of the EIS, much less on the proposal itself. Thus, explain that you do not yet have a preferred alternative, but that you may identify the preferred alternative in the draft EIS. (See Section 1502.14(e)). This should reduce the tendency of participants to perceive the proposal as already a definite plan. Encourage them to focus on recommendations for improvements to the various alternatives.

Some of the complaints alleging that scoping can be a waste of time stem from the fact that the participants may not know what the proposal is until they arrive at a meeting. Even the most intelligent among us can rarely make useful, substantive comments on the spur of the moment. Don't expect helpful suggestions to result if participants are put in such a position.

3. Design the scoping process for each project.

There is no established or required procedure for scoping. The process can be carried out by meetings, telephone conversations, written comments, or a combination of all three. It is important to tailor the type, the timing and the location of public and agency comments to the proposal at hand.

For example, a proposal to adopt a land management plan for a National Forest in a sparsely populated region may not lend itself to calling a single meeting in a central location. While people living in the area and elsewhere may be interested, any meeting place will be inconvenient for most of the potential participants. One solution is to distribute the information packet, solicit written comments, list a telephone number with the name of the scoping coordinator, and invite comments to be phoned in. Otherwise, small meetings in several locations may be necessary when face-to-face communication is important.

In another case, a site-specific construction project may be proposed. This would be a better candidate for a central scoping meeting. But you must first find out if anyone would be interested in attending such a meeting. If you simply assume that a meeting is necessary, you may hire a hall and a stenographer, assemble your staff for a meeting, and find that nobody shows up. There are many proposals that just do not generate sufficient public interest to cause people to attend another public meeting. So a wise early step is to contact known local citizens groups and civic leaders.

In addition, you may suggest in your initial scoping notice and information packet that all those who desire a meeting should call to request one. That way you will only hear from those who are seriously interested in attending.

The question of where to hold a meeting is a difficult one in many cases. Except for site specific construction projects, it may be unclear where the interested parties can be found. For example, an EIS on a major energy development program may involve policy issues and alternatives to the program that are of interest to public groups all over the nation, and to agencies headquartered in Washington, D.C., while the physical impacts might be expected to be felt most strongly in a particular region of the country. In such a case, if personal contact is desired, several meetings

would be necessary, especially in the affected region and in Washington, to enable all interests to be heard.

As a general guide, unless a proposal has no site specific impacts, scoping meetings should not be confined to Washington. Agencies should try to elicit the views of people who are closer to the affected regions.

The key is to be flexible. It may not be possible to plan the whole scoping process at the outset, unless you know who all the potential players are. You can start with written comments, move on to an informal meeting, and hold further meetings if desired.

There are several reasons to hold a scoping meeting. First, some of the best effects of scoping stem from the fact that all parties have the opportunity to meet one another and to listen to the concerns of the others. There is no satisfactory substitute for personal contact to achieve this result. If there is any possibility that resolution of underlying conflicts over a proposal may be achieved, this is always enhanced by the development of personal and working relationships among the parties.

Second, even in a conflict situation people usually respond positively when they are treated as partners in the project review process. If they feel confident that their views were actually heard and taken seriously, they will be more likely to be satisfied that the decisionmaking process was fair even if they disagree with the outcome. It is much easier to show people that you are listening to them if you hold a face-to-face meeting where they can see you writing down their points, than if their only contact is through written comments.

If you suspect that a particular proposal could benefit from a meeting with the affected public at any time during its review, the best time to have the meeting is during this early scoping stage. The fact that you are willing to discuss openly a proposal before you have committed substantial resources to it will often enhance the chances for reaching an accord.

If you decide that a public meeting is appropriate, you still must decide what type of meeting, or how many meetings, to hold. We will discuss meetings in detail below in "Conducting a Public Meeting." But as part of designing the scoping process, you must decide between a single meeting and multiple ones for different interest groups, and whether to hold a separate meeting for government agency participants.

The single large public meeting brings together all the interested parties, which has both advantages and disadvantages. If the meeting is efficiently run, you can cover a lot of interests and issues in a short time. And a single meeting does reduce agency travel time and expense. In some cases it may be an advantage to have all interest groups hear each others' concerns, possibly promoting compromise. It is definitely important to have the staffs of the cooperating agencies, as well as the lead agency, hear the public views of what the significant issues are; and it will be difficult and expensive for the cooperating agencies to attend several meetings. But if there are opposing groups of citizens who feel strongly on both sides of an issue, the setting of the large meeting may needlessly create tension and an emotional confrontation between the groups. Moreover, some

people may feel intimidated in such a setting, and won't express themselves at all.

The principal drawback of the large meeting, however, is that it is generally unwieldy. To keep order, discussion is limited, dialogue is difficult, and often all participants are frustrated, agency and public alike. Large meetings can serve to identify the interest groups for future discussion, but often little else is accomplished. Large meetings often become "events" where grandstanding substitutes for substantive comments. Many agencies resort to a formal hearing-type format to maintain control, and this can cause resentments among participants who come to the meeting expecting a responsive discussion.

For these reasons, we recommend that meetings be kept small and informal, and that you hold several, if necessary, to accommodate the different interest groups. The other solution is to break a large gathering into small discussion groups, which is discussed below. Using either method increases the likelihood that participants will level with you and communicate their underlying concerns rather than make an emotional statement just for effect.

Moreover, in our experience, a separate meeting for cooperating agencies is quite productive. Working relationships can be forged for the effective participation of all involved in the preparation of the EIS. Work assignments are made by the lead agency, a schedule may be set for production of parts of the draft EIS, and information gaps can be identified early. But a productive meeting such as this is not possible at the very beginning of the process. It can only result from the same sort of planning and preparation that goes into the public meetings. We discuss below the special problems of cooperating agencies, and their information needs for effective participation in scoping.

4. Issuing the public notice.

The preliminary look at the proposal, in which you develop the information packet discussed above, will enable you to tell what kind of public notice will be most appropriate and effective.

Section 1501.7 of the NEPA regulations requires that a notice of intent to prepare an EIS must be published in the Federal Register prior to initiating scoping.* This means that one of the appropriate means of giving

* Several agencies have found it useful to conduct scoping for environmental assessments. EAs are prepared where answering the question of whether an EIS is necessary requires identification of significant environmental issues; and consideration of alternatives in an EA can often be useful even where an EIS is not necessary. In both situations scoping can be valuable. Thus the Council has stated that scoping may be used in connection with preparation of an EA, that is, before publishing any notice of intent to prepare an EIS. As in normal scoping, appropriate public notice is required, as well as adequate information on the proposal to make scoping worthwhile. But scoping at this early stage cannot substitute for the normal scoping process unless the earlier public notice stated clearly that this would be the case, and the notice of intent expressly provides that written comments suggesting impacts and alternatives for study will still be considered.

public notice of the upcoming scoping process could be the same Federal Register notice. And because the notice of intent must be published anyway, the scoping notice would be essentially free. But use of the Federal Register is not an absolute requirement, and other means of public notice often are more effective, including local newspapers, radio and TV, posting notices in public places, etc. (See Section 1506.6 of the regulations.)

What is important is that the notice actually reach the affected public. If the proposal is an important new national policy in which national environmental groups can be expected to be interested, these groups can be contacted by form letter with ease. (See the Conservation Directory for a list of national groups.**) Similarly, for proposals that may have major implications for the business community, trade associations can be helpful means of alerting affected groups. The Federal Register notice can be relied upon to notify others that you did not know about. But the Federal Register is of little use for reaching individuals or local groups interested in a site specific proposal. Therefore notices in local papers, letters to local government officials and personal contact with a few known interested individuals would be more appropriate. Land owners abutting any proposed project site should be notified individually.

Remember that issuing press releases to newspapers, and radio and TV stations is not enough, because they may not be used by the media unless the proposal is considered "newsworthy." If the proposal is controversial, you can try alerting reporters or editors to an upcoming scoping meeting for coverage in special weekend sections used by many papers. But placing a notice in the legal notices section of the paper is the only guarantee that it will be published.

5. Conducting a public meeting.

In our study of agency practice in conducting scoping, the most interesting information on what works and doesn't work involves the conduct of meetings. Innovative techniques have been developed, and experience shows that these can be successful.

One of the most important factors turns out to be the training and experience of the moderator. The U.S. Office of Personnel Management and others give training courses on how to run a meeting effectively. Specific techniques are taught to keep the meeting on course and to deal with confrontations. These techniques are sometimes called "meeting facilitation skills."

When holding a meeting, the principle thing to remember about scoping is that it is a process to initiate preparation of an EIS. It is not concerned with the ultimate decision on the proposal. A fruitful scoping process leads to an adequate environmental analysis, including all reasonable

** The Conservation Directory is a publication of the National Wildlife Federation, 1421 16th St., N.W., Washington, D.C. 20036, \$4.00.

alternatives and mitigation measures. This limited goal is in the interest of all the participants, and thus offers the possibility of agreement by the parties on this much at least. To run a successful meeting you must keep the focus on this positive purpose.

At the point of scoping therefore, in one sense all the parties involved have a common goal, which is a thorough environmental review. If you emphasize this in the meeting you can stop any grandstanding speeches without a heavy hand, by simply asking the speaker if he or she has any concrete suggestions for the group on issues to be covered in the EIS. By frequently drawing the meeting back to this central purpose of scoping, the opponents of a proposal will see that you have not already made a decision, and they will be forced to deal with the real issues. In addition, when people see that you are genuinely seeking their opinion, some will volunteer useful information about a particular subject or site that they may know better than anyone on your staff.

As we stated above, we found that informal meetings in small groups are the most satisfactory for eliciting useful issues and information. Small groups can be formed in two ways: you can invite different interest groups to different meetings, or you can break a large number into small groups for discussion.

One successful model is used by the Army Corps of Engineers, among others. In cases where a public meeting is desired, it is publicized and scheduled for a location that will be convenient for as many potential participants as possible. The information packet is made available in several ways, by sending it to those known to be interested, giving a telephone number in the public notices for use in requesting one, and providing more at the door of the meeting place as well. As participants enter the door, each is given a number. Participants are asked to register their name, address and/or telephone number for use in future contact during scoping and the rest of the NEPA process.

The first part of the meeting is devoted to a discussion of the proposal in general, covering its purpose, proposed location, design, and any other aspects that can be presented in a lecture format. A question and answer period concerning this information is often held at this time. Then if there are more than 15 or 20 attendees at the meeting, the next step is to break it into small groups for more intensive discussion. At this point, the numbers held by the participants are used to assign them to small groups by sequence, random drawing, or any other method. Each group should be no larger than 12, and 8-10 is better. The groups are informed that their task is to prepare a list of significant environmental issues and reasonable alternatives for analysis in the EIS. These lists will be presented to the main group and combined into a master list, after the discussion groups are finished. The rules for how priorities are to be assigned to the issues identified by each group should be made clear before the large group breaks up.

Some agencies ask each group member to vote for the 5 or 10 most important issues. After tallying the votes of individual members, each group would only report out those issues that received a certain number of votes. In this way only those items of most concern to the members would even make the list compiled by each group. Some agencies go further, and only let

each group report out the top few issues identified. But you must be careful not to ignore issues that may be considered a medium priority by many people. They may still be important, even if not in the top rank. Thus instead of simply voting, the members of the groups should rank the listed issues in order of perceived importance. Points may be assigned to each item on the basis of the rankings by each member, so that the group can compile a list of its issues in priority order. Each group should then be asked to assign cut-off numbers to separate high, medium and low priority items. Each group should then report out to the main meeting all of its issues, but with priorities clearly assigned.

One member of the lead agency or cooperating agency staff should join each group to answer questions and to listen to the participants' expressions of concern. It has been the experience of many of those who have tried this method that it is better not to have the agency person lead the group discussions. There does need to be a leader, who should be chosen by the group members. In this way, the agency staff member will not be perceived as forcing his opinions on the others.

If the agency has a sufficient staff of formally trained "meeting facilitators," they may be able to achieve the same result even where agency staff people lead the discussion groups. But absent such training, the staff should not lead the discussion groups. A good technique is to have the agency person serve as the recording secretary for the group, writing down each impact and alternative that is suggested for study by the participants. This enhances the neutral status of the agency representative, and ensures that he is perceived as listening and reacting to the views of the group. Frequently, the recording of issues is done with a large pad mounted on the wall like a blackboard, which has been well received by agency and public alike, because all can see that the views expressed actually have been heard and understood.

When the issues are listed, each must be clarified or combined with others to eliminate duplication or fuzzy concepts. The agency staff person can actually lead in this effort because of his need to reflect on paper exactly what the issues are. After the group has listed all the environmental impacts and alternatives and any other issues that the members wish to have considered, they are asked to discuss the relative merits and importance of each listed item. The group should be reminded that one of its tasks is to eliminate insignificant issues. Following this, the members assign priorities or vote using one of the methods described above.

The discussion groups are then to return to the large meeting to report on the results of their ranking. At this point further discussion may be useful to seek a consensus on which issues are really insignificant. But the moderator must not appear to be ruthlessly eliminating issues that the participants ranked of high or medium importance. The best that can usually be achieved is to "deemphasize" some of them, by placing them in the low priority category.

6. What to do with the comments.

After you have comments from the cooperating agencies and the interested public, you must evaluate them and make judgments about which issues are in

fact significant and which ones are not. The decision of what the EIS should contain is ultimately made by the lead agency. But you will now know what the interested participants consider to be the principal areas for study and analysis. You should be guided by these concerns, or be prepared to briefly explain why you do not agree. Every issue that is raised as a priority matter during scoping should be addressed in some manner in the EIS, either by in-depth analysis, or at least a short explanation showing that the issue was examined, but not considered significant for one or more reasons.

Some agencies have complained that the time savings claimed for scoping have not been realized because after public groups raise numerous minor matters, they cannot focus the EIS on the significant issues. It is true that it is always easier to add issues than it is to subtract them during scoping. And you should realize that trying to eliminate a particular environmental impact or alternative from study may arouse the suspicions of some people. Cooperating agencies may be even more reluctant to eliminate issues in their areas of special expertise than the public participants. But the way to approach it is to seek consensus on which issues are less important. These issues may then be deemphasized in the EIS by a brief discussion of why they were not examined in depth.

If no consensus can be reached, it is still your responsibility to select the significant issues. The lead agency cannot abdicate its role and simply defer to the public. Thus a group of participants at a scoping meeting should not be able to "vote" an insignificant matter into a big issue. If a certain issue is raised and in your professional judgment you believe it is not significant, explain clearly and briefly in the EIS why it is not significant. There is no need to devote time and pages to it in the EIS if you can show that it is not relevant or important to the proposed action. But you should address in some manner all matters that were raised in the scoping process, either by an extended analysis or a brief explanation showing that you acknowledge the concern.

Several agencies have made a practice of sending out a post-scoping document to make public the decisions that have been made on what issues to cover in the EIS. This is not a requirement, but in certain controversial cases it can be worthwhile. Especially when scoping has been conducted by written comments, and there has been no face-to-face contact, a post-scoping document is the only assurance to the participants that they were heard and understood until the draft EIS comes out. Agencies have acknowledged to us that "letters instead of meetings seem to get disregarded easier." Thus a reasonable quid pro quo for relying on comment letters would be to send out a post-scoping document as feedback to the commentators.

The post-scoping document may be as brief as a list of impacts and alternatives selected for analysis; it may consist of the "scope of work" produced by the lead and cooperating agencies for their own EIS work or for the contractor; or it may be a special document that describes all the issues and explains why they were selected.

7. Allocating work assignments and setting schedules.

Following the public participation in whatever form, and the selection of issues to be covered, the lead agency must allocate the EIS preparation work among the available resources. If there are no cooperating agencies, the lead agency allocates work among its own personnel or contractors. If there are cooperating agencies involved, they may be assigned specific research or writing tasks. The NEPA regulations require that they normally devote their own resources to the issues in which they have special expertise or jurisdiction by law. (Sections 1501.6(b)(3), (5), and 1501.7(a)(4)).

In all cases, the lead agency should set a schedule for completion of the work, designate a project manager and assign the reviewers, and must set a time limit for the entire NEPA analysis if requested to do so by an applicant. (Section 1501.8).

8. A few ideas to try.

a. Route design workshop

As part of a scoping process, a successful innovation by one agency involved route selection for a railroad. The agency invited representatives of the interested groups (identified at a previous public meeting) to try their hand at designing alternative routes for a proposed rail segment. Agency staff explained design constraints and evaluation criteria such as the desire to minimize damage to prime agricultural land and valuable wildlife habitat. The participants were divided into small groups for a few hours of intensive work. After learning of the real constraints on alternative routes, the participants had a better understanding of the agency's and applicant's viewpoints. Two of the participants actually supported alternative routes that affected their own land because the overall impacts of these routes appeared less adverse.

The participants were asked to rank the five alternatives they had devised and the top two were included in the EIS. But the agency did not permit the groups to apply the same evaluation criteria to the routes proposed by the applicant or the agency. Thus public confidence in the process was not as high as it could have been, and probably was reduced when the applicant's proposal was ultimately selected.

The Council recommends that when a hands-on design workshop is used, the assignment of the group be expanded to include evaluation of the reasonableness of all the suggested alternatives.

b. Hotline

Several agencies have successfully used a special telephone number, essentially a hotline, to take public comments before, after, or instead of a public meeting. It helps to designate a named staff member to receive these calls so that some continuity and personal relationships can be developed.

c. Videotape of sites

A videotape of proposed sites is an excellent tool for explaining site differences and limitations during the lecture-format part of a scoping meeting.

d. Videotape meetings

One agency has videotaped whole scoping meetings. Staff found that the participants took their roles more seriously and the taping appeared not to precipitate grandstanding tactics.

e. Review committee

Success has been reported from one agency which sets up review committees, representing all interested groups, to oversee the scoping process. The committees help to design the scoping process. In cooperation with the lead agency, the committee reviews the materials generated by the scoping meeting. Again, however, the final decision on EIS content is the responsibility of the lead agency.

f. Consultant as meeting moderator

In some hotly contested cases, several agencies have used the EIS consultant to actually run the scoping meeting. This is permitted under the NEPA regulations and can be useful to de-fuse a tense atmosphere if the consultant is perceived as a neutral third party. But the responsible agency officials must attend the meetings. There is no substitute for developing a relationship between the agency officials and the affected parties. Moreover, if the responsible officials are not prominently present, the public may interpret that to mean that the consultant is actually making the decisions about the EIS, and not the lead agency.

g. Money saving tips

Remember that money can be saved by using conference calls instead of meetings, tape-recording the meetings instead of hiring a stenographer, and finding out whether people want a meeting before announcing it.

C. Pitfalls.

We list here some of the problems that have been experienced in certain scoping cases, in order to enable others to avoid the same difficulties.

1. Closed meetings.

In response to informal advice from CEQ that holding separate meetings for agencies and the public would be permitted under the regulations and could be more productive, one agency scheduled a scoping meeting for the cooperating agencies some weeks in advance of the public meeting. Apparently, the lead agency felt that the views of the cooperating agencies would be more candidly expressed if the meeting were closed. In any event, several members of the public learned of the meeting and asked to be present. The lead agency acquiesced only after newspaper reporters were able to make a

story out of the closed session. At the meeting, the members of the public were informed that they would not be allowed to speak, nor to record the proceedings. The ill feeling aroused by this chain of events may not be repaired for a long time. Instead, we would suggest the following possibilities:

a. Although separate meetings for agencies and public groups may be more efficient, there is no magic to them. By all means, if someone insists on attending the agency meeting, let him. There is nothing as secret going on there as he may think there is if you refuse him admittance. Better yet, have your meeting of cooperating agencies after the public meeting. That may be the most logical time anyway, since only then can the scope of the EIS be decided upon and assignments made among the agencies. If it is well done, the public meeting will satisfy most people and show them that you are listening to them.

b. Always permit recording. In fact, you should suggest it for public meetings. All parties will feel better if there is a record of the proceeding. There is no need for a stenographer, and tape is inexpensive. It may even be better than a typed transcript, because staff and decision-makers who did not attend the meeting can listen to the exchange and may learn a lot about public perceptions of the proposal.

c. When people are admitted to a meeting, it makes no sense to refuse their requests to speak. However, you can legitimately limit their statements to the subject at hand—scoping. You do not have to permit some participants to waste the others' time if they refuse to focus on the impacts and alternatives for inclusion in the EIS. Having a tape of the proceedings could be useful after the meeting if there is some question that speakers were improperly silenced. But it takes an experienced moderator to handle a situation like this.

d. The scoping stage is the time for building confidence and trust on all sides of a proposal, because this is the only time when there is a common enterprise. The attitudes formed at this stage can carry through the project review process. Certainly it is difficult for things to get better. So foster the good will as long as you can by listening to what is being said during scoping. It is possible that out of that dialogue may appear recommendations for changes and mitigation measures that can turn a controversial fight into an acceptable proposal.

2. Contacting interested groups.

Some problems have arisen in scoping where agencies failed to contact all the affected parties, such as industries or state and local governments. In one case, a panel was assembled to represent various interests in scoping an EIS on a wildlife-related program. The agency had an excellent format for the meeting, but the panel did not represent industries that would be affected by the program or interested state and local governments. As a result, the EIS may fail to reflect the issues of concern to these parties.

Another agency reported to us that it failed to contact parties directly because staff feared that if they missed someone they would be accused of

favoritism. Thus they relied on the issuance of press releases which were not effective. Many people who did not learn about the meetings in time sought additional meeting opportunities, which cost extra money and delayed the process.

In our experience, the attempt to reach people is worth the effort. Even if you miss someone, it will be clear that you tried. You can enlist a few representatives of an interest group to help you identify and contact others. Trade associations, chambers of commerce, local civic groups, and local and national conservation groups can spread the word to members.

3. Tiering.

Many people are not familiar with the way environmental impact statements can be "tiered" under the NEPA regulations, so that issues are examined in detail at the stage that decisions on them are being made. See Section 1508.28 of the regulations. For example, if a proposed program is under review, it is possible that site specific actions are not yet proposed. In such a case, these actions are not addressed in the EIS on the program, but are reserved for a later tier of analysis. If tiering is being used, this concept must be made clear at the outset of any scoping meeting, so that participants do not concentrate on issues that are not going to be addressed at this time. If you can specify when these other issues will be addressed it will be easier to convince people to focus on the matters at hand.

4. Scoping for unusual programs.

One interesting scoping case involved proposed changes in the Endangered Species Program. Among the impacts to be examined were the effects of this conservation program on user activities such as mining, hunting, and timber harvest, instead of the other way around. Because of this reverse twist in the impacts to be analyzed, some participants had difficulty focusing on useful issues. Apparently, if the subject of the EIS is unusual, it will be even harder than normal for scoping participants to grasp what is expected of them.

In the case of the Endangered Species Program EIS, the agency planned an intensive 3 day scoping session, successfully involved the participants, and reached accord on several issues that would be important for the future implementation of the program. But the participants were unable to focus on impacts and program alternatives for the EIS. We suggest that if the intensive session had been broken up into 2 or 3 meetings separated by days or weeks, the participants might have been able to get used to the new way of thinking required, and thereby to participate more productively. Programmatic proposals are often harder to deal with in a scoping context than site specific projects. Thus extra care should be taken in explaining the goals of the proposal and in making the information available well in advance of any meetings.

D. Lead and Cooperating Agencies.

Some problems with scoping revolve around the relationship between lead and cooperating agencies. Some agencies are still uncomfortable with these

roles. The NEPA regulations, and the 40 Questions and Answers about the NEPA Regulations, 46 Fed. Reg. 18026, (March 23, 1981) describe in detail the way agencies are now asked to cooperate on environmental analyses. (See Questions 9, 14, and 30.) We will focus here on the early phase of that cooperation.

It is important for the lead agency to be as specific as possible with the cooperating agencies. Tell them what you want them to contribute during scoping: environmental impacts and alternatives. Some agencies still do not understand the purpose of scoping.

Be sure to contact and involve representatives of the cooperating agencies who are responsible for NEPA-related functions. The lead agency will need to contact staff of the cooperating agencies who can both help to identify issues and alternatives and commit resources to a study, agree to a schedule for EIS preparation, or approve a list of issues as sufficient. In some agencies that will be at the district or state office level (e.g., Corps of Engineers, Bureau of Land Management, and Soil Conservation Service) for all but exceptional cases. In other agencies you must go to regional offices for scoping comments and commitments (e.g., EPA, Fish and Wildlife Service, Water and Power Resources Service). In still others, the field offices do not have NEPA responsibilities or expertise and you will deal directly with headquarters (e.g., Federal Energy Regulatory Commission, Interstate Commerce Commission). In all cases you are looking for the office that can give you the answers you need. So keep trying until you find the organizational level of the cooperating agency that can give you useful information and that has the authority to make commitments.

As stated in 40 Questions and Answers about the NEPA Regulations, the lead agency has the ultimate responsibility for the content of the EIS, but if it leaves out a significant issue or ignores the advice and expertise of the cooperating agency, the EIS may be found later to be inadequate. (46 Fed. Reg. 18030, Question 14b.) At the same time, the cooperating agency will be concerned that the EIS contain material sufficient to satisfy its decisionmaking needs. Thus, both agencies have a stake in producing a document of good quality. The cooperating agencies should be encouraged not only to participate in scoping but also to review the decisions made by the lead agency about what to include in the EIS. Lead agencies should allow any information needed by a cooperating agency to be included, and any issues of concern to the cooperating agency should be covered, but it usually will have to be at the expense of the cooperating agency.

Cooperating agencies have at least as great a need as the general public for advance information on a proposal before any scoping takes place. Agencies have reported to us that information from the lead agency is often too sketchy or comes too late for informed participation. Lead agencies must clearly explain to all cooperating agencies what the proposed action is conceived to be at this time, and what present alternatives and issues the lead agency sees, before expecting other agencies to devote time and money to a scoping session. Informal contacts among the agencies before scoping gets underway are valuable to establish what the cooperating agencies will need for productive scoping to take place.

Some agencies will be called upon to be cooperators more frequently than others, and they may lack the resources to respond to the numerous requests. The NEPA regulations permit agencies without jurisdiction by law (i.e., no approval authority over the proposal) to decline the cooperating agency role. (Section 1501.6(c)). But agencies that do have jurisdiction by law cannot opt out entirely and may have to reduce their cooperating effort devoted to each EIS. (See Section 1501.6(c) and 40 Questions and Answers about the NEPA Regulations, 46 Fed. Reg. 18030, Question 14a.) Thus, cooperators would be greatly aided by a priority list from the lead agency showing which proposals most need their help. This will lead to a more efficient allocation of resources.

Some cooperating agencies are still holding back at the scoping stage in order to retain a critical position for later in the process. They either avoid the scoping sessions or fail to contribute, and then raise objections in comments on the draft EIS. We cannot emphasize enough that the whole point of scoping is to avoid this situation. As we stated in 40 Questions and Answers about the NEPA Regulations, "if the new alternative [or other issue] was not raised by the commentor during scoping, but could have been, commentors may find that they are unpersuasive in their efforts to have their suggested alternative analyzed in detail by the [lead] agency." (46 Fed. Reg. 18035, Question 29b.)

III. Advice for Public Participants

Scoping is a new opportunity for you to enter the earliest phase of the decisionmaking process on proposals that affect you. Through this process you have access to public officials before decisions are made and the right to explain your objections and concerns. But this opportunity carries with it a new responsibility. No longer may individuals hang back until the process is almost complete and then spring forth with a significant issue or alternative that might have been raised earlier. You are now part of the review process, and your role is to inform the responsible agencies of the potential impacts that should be studied, the problems a proposal may cause that you foresee, and the alternatives and mitigating measures that offer promise.

As noted above, and in 40 Questions and Answers, no longer will a comment raised for the first time after the draft EIS is finished be accorded the same serious consideration it would otherwise have merited if the issue had been raised during scoping. Thus you have a responsibility to come forward early with known issues.

In return, you get the chance to meet the responsible officials and to make the case for your alternative before they are committed to a course of action. To a surprising degree this avenue has been found to yield satisfactory results. There's no guarantee, of course, but when the alternative you suggest is really better, it is often hard for a decisionmaker to resist.

There are several problems that commonly arise that public participants should be aware of:

A. Public input is often only negative

The optimal timing of scoping within the NEPA process is difficult to judge. On the one hand, as explained above (Section II.B.1.), if it is attempted too early, the agency cannot explain what it has in mind and informed participation will be impossible. On the other, if it is delayed, the public may find that significant decisions are already made, and their comments may be discounted or will be too late to change the project. Some agencies have found themselves in a tactical cross-fire when public criticism arises before they can even define their proposal sufficiently to see whether they have a worthwhile plan. Understandably, they would be reluctant after such an experience to invite public criticism early in the planning process through open scoping. But it is in your interest to encourage agencies to come out with proposals in the early stage because that enhances the possibility of your comments being used. Thus public participants in scoping should reduce the emotion level wherever possible and use the opportunity to make thoughtful, rational presentations on impacts and alternatives. Polarizing over issues too early hurts all parties. If agencies get positive and useful public responses from the scoping process, they will more frequently come forward with proposals early enough so that they can be materially improved by your suggestions.

B. Issues are too broad

The issues that participants tend to identify during scoping are much too broad to be useful for analytical purposes. For example, "cultural impacts" — what does this mean? What precisely are the impacts that should be examined? When the EIS preparers encounter a comment as vague as this they will have to make their own judgment about what you meant, and you may find that your issues are not covered. Thus, you should refine the broad general topics, and specify which issues need evaluation and analysis.

C. Impacts are not identified

Similarly, people (including agency staff) frequently identify "causes" as issues but fail to identify the principal "effects" that the EIS should evaluate in depth. For example, oil and gas development is a cause of many impacts. Simply listing this generic category is of little help. You must go beyond the obvious causes to the specific effects that are of concern. If you want scoping to be seen as more than just another public meeting, you will need to put in extra work.

IV. Brief Points For Applicants.

Scoping can be an invaluable part of your early project planning. Your main interest is in getting a proposal through the review process. This interest is best advanced by finding out early where the problems with the proposal are, who the affected parties are, and where accommodations can be made. Scoping is an ideal meeting place for all the interest groups if you have not already contacted them. In several cases, we found that the compromises made at this stage allowed a project to move efficiently through the permitting process virtually unopposed.

The NEPA regulations place an affirmative obligation on agencies to "provide for cases where actions are planned by private applicants" so that designated staff are available to consult with the applicants, to advise applicants of information that will be required during review, and to insure that the NEPA process commences at the earliest possible time. (Section 1501.2(d)). This section of the regulations is intended to ensure that environmental factors are considered at an early stage in the applicant's planning process. (See 40 Questions and Answers about the NEPA Regulations, 46 Fed. Reg. 18028, Questions 8 and 9.)

Applicants should take advantage of this requirement in the regulations by approaching the agencies early to consult on alternatives, mitigation requirements, and the agency's information needs. This early contact with the agency can facilitate a prompt initiation of the scoping process in cases where an EIS will be prepared. You will need to furnish sufficient information about your proposal to enable the lead agency to formulate a coherent presentation for cooperating agencies and the public. But don't wait until your choices are all made and the alternatives have been eliminated. (Section 1506.1).

During scoping, be sure to attend any of the public meetings unless the agency is dividing groups by interest affiliation. You will be able to answer any questions about the proposal, and even more important, you will be able to hear the objections raised, and find out what the real concerns of the public are. This is, of course, vital information for future negotiations with the affected parties.

PROCEDURES FOR PROCESSING DRAFT AND FINAL
ENVIRONMENTAL IMPACT STATEMENTS

Step 1. Regional Director or WASO program office, after clearing the preliminary draft or final EIS, distributes copies (along with the proposed action document if separately prepared) concurrently to:

- A. Appropriate Regional, field or WASO Solicitor, with a request for review and approval for legal sufficiency;
- B. Any other NPS participants in preparation, plus other appropriate NPS reviewers such as park superintendents, Denver Service Center's Legislative Compliance Division, etc.;
- C. Appropriate Department of the Interior Regional Environmental Officer(s);
- D. Any other cooperating agency; and
- E. Chief, Office of Park Planning and Environmental Quality (WASO-130). Send 14 copies of preliminary draft/final EIS's. WASO-130 sends preliminary EIS to the Chief, Division of Environmental Compliance (WASO-135), and initiates any necessary policy review of the action document. WASO-135 transmits the preliminary EIS to the Department's Office of Environmental Project Review for review and any clearance.

Step 2. Regional Director or WASO program office transmits Solicitor's review/approval and other review inputs received, along with any reaction or further input of their own, to WASO-135.

Step 3. WASO-135 provides any germane input to the Office of Environmental Project Review, completes EIS review, and clears the EIS for printing. EIS's for actions which are approvable within NPS (park plans, grants, etc.) are cleared by WASO-135. Printing clearance must also be obtained from the Office of Environmental Project Review for EIS's involving a Secretarial action or recommendation, such as wilderness proposals and recommendations for additions to the National Trails System and the National Wild and Scenic Rivers System.

WASO-135 may clear a preliminary EIS with or without conditions, or may deny printing clearance. If clearance is denied, WASO-135 will work closely with the preparer to correct deficiencies.

When an EIS deals with a park plan which is undergoing concurrent policy review by WASO-130, WASO-135 printing clearance will usually be combined with the policy review response. This occurs primarily at the draft EIS stage.

Step 4. Regional Director or WASO program office transmits the following to WASO-135: the printed EIS (15 copies) along with copies of the printed action document (if separately prepared), (2) a copy of a signed Federal Register notice, and (3) a signed original undated letter transmitting five copies of the EIS to the EPA Office of Federal Activities. Samples of a Federal Register notice and EPA transmittal letter are attached.

The original and two copies of the Federal Register notice (along with Solicitor clearance per 318 DM 2.7) are sent simultaneously to the Administrative Services Division (WASO-230).

Step 5. WASO-135 secures Departmental EIS control number, and advises WASO-230 and either the Regional Environmental Coordinator or WASO program office. WASO-230 transmits the Federal Register notice to the Register. Two other actions are to be taken by the time the NPS Federal Register notice appears:

- A. WASO-135 dates the EPA transmittal letter, and delivers it to EPA with five copies of the EIS and advises Regional Environmental Coordinator or WASO program office of filing date;
- B. Regional Environmental Coordinator or WASO program office arranges for immediate distribution.

EIS control number and date filed with EPA must be stamped on EIS copies sent to other Federal agencies and appropriate State and local entities designated according to Executive Order 12372.

Special Procedures - Secretarial Proposals

When an EIS deals with a Secretarial proposal (such as a proposed addition to the National Wild and Scenic Rivers, National Trails or Wilderness Systems, etc.), the Federal Register notice and EPA transmittal letter must be set up for Secretarial rather than NPS signature. The original and all copies of the Federal Register notice should come to WASO-135 (none to WASO-230). WASO-135 obtains Secretarial signatures (generally by routing through Assistant Secretary for Fish and Wildlife and Parks for signature by Assistant Secretary, Policy, Budget and Administration). The signed Federal Register notice may then be filed either through WASO-230, or directly by the Secretary's office.

Secretarial proposals usually also involve special letters of transmittal to Federal and State agencies and/or the Congress. The proposing office (usually a WASO program office) should advise WASO-135 of such requirements early in the process, and arrange for coordination of the environmental transmittals with other desired or required transmittals. At the draft EIS stage, this usually means special transmittals to State and other Federal agencies. At the final EIS stage, it typically involves transmittal of a proposal from the President to the Congress, and a special arrangement has been made for most such proposals. Under this arrangement, the Office of Environmental Project Review (OEPR) holds the final EIS and the Federal Register notice until advised by WASO-135 that the action document

has been signed by the President for transmittal to the Congress. OEPR then assigns a control number to the final EIS, and arranges with WASO-135 and the NPS program office for the Federal Register notice and EPA transmittal to go out simultaneously with the President's transmittal to the Congress.

Attachments (2):

Sample Federal Register Notice

Sample Transmittal Letter to EPA

SAMPLE FEDERAL REGISTER NOTICE

Department of the Interior

National Park Service

(Title and General Location of Proposal)

Action: Notice of Availability of (Draft, Final) Environmental Impact
Statement

Summary: This notice announces the availability of a (draft, final)
environmental impact statement (EIS) for (proposal). This notice also
announces (public meeting(s), hearing(s)) for the purpose of receiving public
comments on the draft EIS.

Dates: (for draft EIS's) Comments on the draft EIS should be received no later
than _____. The date(s) of the public meeting(s)/hearing(s)
regarding the draft EIS is/are _____. (for final EIS's) The 30-
day no-action period following the Environmental Protection Agency's notice of
availability of the final EIS will end _____.

Addresses: Comments on the draft EIS should be submitted to (name(s),
address(es), phone number(s)). The public meeting(s)/hearing(s) will be held
at (address(es)). Public reading copies of the (draft, final) EIS will be
available for review at the following location(s).

Office of Public Affairs
National Park Service
Department of the Interior
18th and C Streets, N.W.
Washington, D.C. 20240
(Telephone 202-343-6843)
Other locations - Region, park, etc.

A limited number of copies of the statement are available on request from
(name, title, address, phone).

Supplementary Information: (Brief description of proposal, alternatives
considered, and significant environmental effects expected.)

Date _____

Signed _____
(Title - Regional Director, etc.)

SAMPLE TRANSMITTAL LETTER TO EPA

Director, Office of Environmental Review (A-104)
U.S. Environmental Protection Agency
Room 2119 Waterside Mall
401 M Street, S.W.
Washington, D.C. 20024

Dear Sir:

In compliance with Section 102(2)(C) of the National Environmental Policy Act and Section 1516.9 of the Council on Environmental Quality Regulations, we are enclosing five copies of the (Draft or Final) Environmental Impact Statement for (title and general location of proposal).

Sincerely,

Regional Director

APPROVED NEPA FORMAT VARIATIONS

The Department has approved special formats for combining National Park Service General Management Plans, Wild and Scenic River Studies and National Trail Studies with an Environmental Assessment (EA) or Environmental Impact Statement (EIS). The formats to be used are described below, along with related study/planning guidance. Note that these are the only approved variations of the standard CEQ format for EIS's. Other format variations may be sought by application to WASO-135, which will obtain Departmental approval and publish the variation as an amendment to this appendix.

A. General Management Plans (GMP) for Units of the National Park System

1. GMP's should be combined with an EA or EIS in the following formats. For more detailed instructions on the content for each section, refer to the appropriate section of NPS-2.

Title Page/Cover Sheet containing all the information required by 40 CFR 1502.11.

Summary as required by 40 CFR 1502.12.

Table of Contents.

Purpose and Need for the Plan (Issues). (40 CFR 1502.13)

Brief Description of the Park - size, significance, etc. This may be incorporated in the foregoing section.

The Proposal and Alternatives Addressing the Issues (40 CFR 1502.14) - including costs for development, operation and maintenance, and staffing; other requirements for implementation; capacity-limiting information; etc. The introduction of this section should state that the Service's proposed general management plan constitutes the proposed action. The description of each alternative should include the proposed NPS management zoning scheme that it would involve.

The Affected Environment (40 CFR 1502.15) - should contain, as necessary for understanding the proposed action, alternatives, and related issues for each particular park, the following subheadings:

Natural Resources - description of geological, air, water and plant and animal resources including any endangered species, with emphasis on those resources that would be affected by the proposed action and alternatives.

Cultural Resources - description of archeology, history and architecture, including historic properties as defined in NPS-28 (see footnote, Chapter 2, page 6), with discussions limited to those

resources that would be affected by the proposed action and alternatives, and to those qualities that make them historic properties (see Chapter 3, NPS-28);

Visitor Use Data - data required for an understanding of the levels and trends of park and facility use, including information on the seasonal nature of park use;

Facility Analysis - a brief description of the purpose and use of facilities (including trails, roads, and appurtenant structures, as well as buildings and utilities) and their condition (The description should be placed in an appendix to the document if it is lengthy.); and;

Regional Land Use - including regional visitor facilities and services and other agency programs related to the proposed action and alternatives.

Where planning issues are few and not complex, this material may be covered in other sections, or in an appendix if the GMP is being combined with an EA.

Environmental Consequences of the Proposed Action and Alternatives (40 CFR 1502.16) - This is the section that should contain the major analytical evaluations of environmental impact by specific topic. In addition to describing the consequences of the proposed action and alternatives, this section should conclude with a summary comparison of consequences of the proposed action and alternatives so that major environmental issues are highlighted and easily identified.

List of Preparers (40 CFR 1502.17).

List of Agencies, Organizations, and Persons to Whom Copies of the Document Were Sent. (See NPS-12, Section 4-1(I) where a GMP/EIS is involved.)

Index (need not be provided for GMP/EA).

Appendices (See 40 CFR 1502.18 and NPS-12, Section 4-1(K) where a GMP/EIS is involved).

2. Every combined General Management Plan/environmental document must address three classes of alternatives:
 - no action (business-as-usual);
 - minimum requirements to meet legislative and executive mandates; and
 - a full range of other reasonable alternatives.

Normally the no-action alternative will not be the NPS proposed action at the EA or draft EIS stage, but as a result of public review and comment

it may become the NPS proposal by the final EIS or decision stage. It is not a do-nothing or shut-down alternative, but rather a business-as-usual alternative. The "minimum requirements" alternative outlines minimum actions required for:

(1) continued operation of a park that already has a reasonable infrastructure for visitor use, management, and resource protection; or
(2) the minimum actions and developments needed to make a new or undeveloped park operational in a way that provides, consistent with its purpose, for primary visitor use, park management, and resource protection. The minimum requirements alternative reflects a balanced judgement of the necessary level and method of providing for the effective operation of the park, considering periodic replacement or rehabilitation of facilities, necessary new development, staffing requirements, health and safety, and resource protection. Other reasonable alternatives may address actions, consistent with law and NPS policy, necessary to meet park objectives for visitor use and resource protection including new development for access, circulation, interpretation, accommodations, visitor use, park administration, and resource management and protection. Each alternative should constitute a distinctly different approach to the issues and may thus emphasize the achievement of some objectives at the expense of others. Minor variations on each alternative should be considered as options under that alternative rather than as alternatives in and of themselves.

B. Wild and Scenic River Studies

Wild and Scenic River Studies should be combined with an EA or EIS (as appropriate) in the following format:

Title Page/Cover Sheet containing all the information required by 40 CFR 1502.11.

Summary as required by 40 CFR 1502.12. Content should be a clear, comprehensive description distilled from pertinent sections of the report document to provide a briefing on those factors which constitute the basis for decision.

Table of Contents.

Purpose of Study and Characteristics Which Make the Area a Worthy Addition to the National Wild and Scenic Rivers System - This evaluation is conducted as an initial part of the study effort. First, it is determined whether the study area or any part thereof is eligible for addition to the National System (i.e., whether the river is free-flowing and together with its immediate environment possesses one or more outstandingly remarkable values).

Second, given a finding of eligibility, a preliminary assessment is to be made as to whether the river area is suitable for addition to the National System. This preliminary assessment of suitability is developed giving consideration to such factors as extent of public lands in the river area;

costs required for acquisition, development, management and operation; public, local or state interest in acting to protect and manage the river; the feasibility and timeliness of such action, etc. The preliminary assessment of suitability should be well documented. The determination of suitability will be made by the Office of the Secretary after review of the preliminary assessment and consideration of any other appropriate factors.

If the river is found ineligible or if the Secretary finds the river nonsuitable prior to expiration of the stipulated study period, further study effort is terminated and a study document, upon which the determination was made, is prepared for the Secretary to utilize in notifying the appropriate committees of Congress. While this determination, given Congressional concurrence, would preclude further consideration by the Department of protection of a river as a component of the National System, other assistance to concerned interests and jurisdictions in suggesting, developing or implementing other measures or techniques for river protection is not necessarily foreclosed.

As required by Section 7(b) of the Wild and Scenic Rivers Act, 180 days after notification to Congress of a determination that a river should not be included in the system, the Secretary shall publish a notice to that effect in the Federal Register. This notice should also include reference to termination of any related NEPA compliance activity, thereby concurrently terminating activities for which a Notice of Intent had earlier been published in the Federal Register per CEQ regulations.

Proposal and Alternatives Considered - Formulation of Proposal and Alternatives - so that the proposal and alternatives reflect pertinent issues, conditions and needs, it is essential to begin analysis with the existing condition in order to determine the impacts of a continuation of present trends and conditions (no-action alternative). The proposal and alternatives should flow out of this analysis.

Alternatives should be developed and discussed in accordance with 40 CFR 1502.14 and will vary depending on the problems, opportunities and issues associated with each specific river area. However, every study report must present at least three classes of alternatives:

- addition of eligible and suitable river segments to the National System;
- reasonable alternative(s) for protecting the river without inclusion in the National System;
- no-action.

Innovative, practical and cost-effective solutions to problems, opportunities and issues should be included among the alternatives. Sufficient specific data and concise analyses here, as elsewhere, are required to facilitate comprehension and to guide decisions.

As part of the scoping process (40 CFR 1501.7) a variety of possible alternatives may be suggested. Additional alternatives may be advanced by the public and other agencies at other junctures in the planning process, e.g., review of the draft study/NEPA document. From these a set of reasonable alternatives will be selected for rigorous exploration and objective evaluation. Consistent with 40 CFR 1502.14(a), those alternatives which are eliminated from detailed study will be discussed briefly and the reasons for their having been eliminated described. Reasons for eliminating alternatives from detailed study can include: (1) conflict with the intent and purposes of the Wild and Scenic Rivers Act or other pertinent statutes and regulations; (2) costs related to establishment or annual operation and maintenance (for local, State or Federal governments); and (3) nonsuitable utilization of land and water resources.

Alternatives other than no-action should clearly address the factors involved in their implementation, including means of administration and costs. Costs should include operation and maintenance costs as well as those for development and acquisition. Costs will reflect the size and composition of projected operational staff and the extent of necessary facilities and development.

The Affected Environment - Descriptions and illustrations should be included only to the extent necessary for understanding the issues, proposal and alternatives, and differences in environmental impacts among the alternatives for the river area and for the following subjects:

Natural Resources - Content should be limited to brief statements about the scenery, geology, plants and animals (including any endangered species) and similar values for those resources that would be affected by the proposal and alternatives.

Cultural Resources - If applicable, include a brief description of the condition, significance and use of cultural resources within the river area.

Existing Public Use - Describe the quantity and type of public use, including periods during the year when it occurs.

Status of Land Ownership and Use - Show specific information on maps and briefly describe by category, e.g., private, public, and commercial, agricultural, residential, etc.

Environmental and Economic Consequences. Environmental consequences should be evaluated according to 40 CFR 1502.16. The proposal and alternatives should be evaluated equally and through analysis that is objective rather than subjective or conjectural. In addition to concise text describing the environmental and economic consequences of the proposal and each alternative, this section should conclude with a summary tabular presentation by alternative so that the current and reasonably foreseeable uses of the affected environment

which would be enhanced, foreclosed, or curtailed are measured, valued and specified in terms appropriate for a basis of decision.

It is important to contact appropriate Federal, State and local agencies (e.g., COE, FERC, SCS, State/local departments of parks and recreation) to determine what current uses as well as potential future uses might be affected by a designation or an alternative to designation. Effects may result upstream as well as downstream of a designation; thus the area of the affected environment must be carefully determined.

List of Preparers (516 DM 4.6B; 40 CFR 1502.17).

List of Agencies, Organizations, and Persons to Whom Copies of the Statement Were Sent (40 CFR 1502.10) In accordance with 516 DM 4.6C, this section also should briefly describe consultation and coordination efforts with the public.

Index (40 CFR 1502.10).

Appendices (516 DM 4.11; 40 CFR 1502.18).

C. National Trail Studies

National Trail Studies should be combined with an EA or EIS (as appropriate) in the following format.

Title Page/Cover Sheet containing all the information required by 40 CFR 1502.11.

Summary as required by 40 CFR 1502.12. Content should be a clear, comprehensive description distilled from pertinent sections of the study document to provide a briefing on those factors which constitute the basis for decision.

Table of Contents.

Purpose of the Study and Characteristics Which Make the Trail Route a Worthy Addition to the National Trails System - This evaluation is conducted as an initial part of the study effort. First it is determined if the trail route or any part thereof is eligible for addition to the National System (i.e., for National Scenic Trails - whether the extended trail route is so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural or cultural qualities of the area through which it passes; for National Historic Trails - the route must have been established by historic use and be historically significant with respect to a broad facet of American history; and have significant potential for public recreational use of historic interest based on historic interpretation and appreciation).

In addition, a determination must be made as to whether a potential National Scenic or National Historic Trail route found eligible for inclusion in the national system should be proposed for inclusion on the basis of feasibility and desirability. Determinations of feasibility and desirability are made through consultation and coordination with Federal agencies administering lands through which the trail would pass and with affected State and local Government agencies, public and private organizations, and landowners and users. Factors considered include but are not limited to costs of establishment and operation, competing or conflicting land uses, existing supply of public trail opportunity and support by entities which would be affected were the trail established.

Characteristics which make the trail route eligible for inclusion in the system and the factors related to the feasibility and desirability of inclusion should be documented in the study report.

Proposal and Alternatives Considered - Formulation of Proposal and Alternatives - So that the proposal and alternatives reflect pertinent issues, conditions and needs, it is essential to begin analysis with the existing condition in order to determine the impacts of a continuation of present trends and conditions (no-action alternative). The proposal and alternatives should flow out of this analysis.

Alternatives should be developed and discussed in accordance with 40 CFR 1502.14 and will vary depending on the problems, opportunities and issues associated with each specific trail route. However, every study report must present at least three classes of alternatives:

- addition of eligible trail route segments to the National System under Federal and/or State administration;
- reasonable concepts for protecting the trail route without inclusion in the National System;
- no-action.

Innovative, practical and cost-effective solutions to problems, opportunities and issues should be incorporated among the alternatives. Sufficient specific data and concise analyses here, as elsewhere, are required to facilitate comprehension of issues and to guide decisions.

As part of the scoping process (40 CFR 1501.7), a variety of possible alternatives may be suggested. Additional alternatives may be advanced by the public and other agencies at other junctures in the planning process, e.g., review of the draft study/NEPA document. From these a set of reasonable alternatives will be selected for rigorous exploration and objective evaluation. Consistent with 40 CFR 1502.14(a), those alternatives which are eliminated from detailed study will be discussed briefly and the reasons for their being eliminated described. Reasons for eliminating alternatives from detailed study can include (1) conflict with the intent and purposes of the National

Trails System Act or other pertinent statutes and regulations; (2) level of costs related to establishment and/or annual operation and maintenance (for local, State or Federal Governments); and (3) nonsuitable utilization of land and water resources.

Alternatives other than no-action should clearly address the factors involved in implementation including ways and means of administration and costs. Costs should include operation and maintenance costs as well as those for development and acquisition. Costs will reflect the size and composition of projected operational staff and the extent of necessary facilities and development.

The Affected Environment - Descriptions and illustrations should be included only to the extent necessary for understanding the issues, proposal and alternatives, and differences in environmental impacts among the alternatives for the trail route and for the following subjects:

Natural Resources - Content should include statements about the scenery, geology, plants and animals, including any endangered species, and similar values for those resources that would be affected by the proposal and alternatives.

Cultural Resources - If applicable, include a brief description of the condition, significance and use of cultural resources within the trail route.

Existing Public Use - Describe the quantity and type of public use including periods during the year when it occurs.

Status of Land Ownership and Use - Show specific information on maps and briefly describe by category, e.g., private, public, etc., and commercial, agricultural, residential, etc.

Environmental Consequences - The proposal and alternatives should be evaluated equally, and through analysis that is supported rather than conjectural, according to 40 CFR 1502.16.

In addition to concise text describing the economic and environmental consequences of the proposal and each alternative, this section concludes with a summary tabular presentation by alternative so that the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed are valued, measured and specified in appropriate terms.

List of Preparers (516 DM 4.6B; 40 CFR 1502.17).

List of Agencies, Organizations and Persons to Whom Copies of the Statement Were Sent (516 DM 4.6C; 40 CFR 1502.10).

Index (40 CFR 1502.10).

Appendices (40 CFR 1502.18).

