

Department of the Interior Departmental Manual

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Series: Environmental Quality Programs

Part 516: National Environmental Policy Act of 1969

Chapter 1: Protection and Enhancement of Environmental Quality

Originating Office: Office of Environmental Policy and Compliance

516 DM 1

1.1 **Purpose.** This chapter provides instructions for implementing the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) (NEPA); Section 2 of Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991; Executive Order 12114, Environmental Effects Abroad of Major Federal Actions; and the regulations of the Council on Environmental Quality (CEQ) implementing the procedural provisions of NEPA (40 CFR 1500-1508; identified in this Part 516 as the CEQ Regulations), and the Department of the Interior (DOI) regulations (43 CFR Part 46). It supplements the CEQ and DOI regulations and must be read in conjunction with both.

1.2 **Policy.** It is the policy of the Department:

- A. To provide leadership in protecting and enhancing those aspects of the quality of the Nation's environment which relate to or may be affected by the Department's policies, goals, programs, plans, or functions in furtherance of national environmental policy;
- B. To cooperate with and assist the CEQ; and
- C. To implement Cooperative Conservation (see E.O. 13352).

1.3 **Statutory Requirements.** NEPA requires that in certain circumstances an Environmental Impact Statement (EIS) or other environmental document be prepared by the responsible Federal official. This official is normally the lowest-level official who has overall responsibility for formulating, reviewing, or proposing an action or, alternatively, has been delegated the authority or responsibility to develop, approve, or adopt a proposal or action. Preparation at this level will ensure that the NEPA process will be incorporated into the planning process and that the EIS or other environmental document will accompany the proposal through existing review processes.

1.4 **General Responsibilities.** The following responsibilities reflect the Secretary's decision that the officials responsible for making program decisions are also responsible for taking the requirements of NEPA into account in those decisions and will be held accountable for that responsibility:

A. Assistant Secretary - Policy, Management and Budget (AS/PMB).

(1) Is the Department's focal point on NEPA matters and is responsible for overseeing the Department's implementation of NEPA and Departmental regulations at 43 CFR Part 46.

(2) Serves as the Department's principal contact with the CEQ.

(3) Assigns to the Director, Office of Environmental Policy and Compliance (OEPC), the responsibilities outlined for that Office in this Part.

B. Solicitor. Is responsible for providing legal advice pertaining to the Department's compliance with NEPA, CEQ regulations, 43 CFR Part 46, and this Part.

C. Program Assistant Secretaries.

(1) Are responsible for compliance with NEPA, Executive Order 11514, as amended, Executive Order 12114, the CEQ Regulations, 43 CFR Part 46, and this Part for bureaus and offices under their jurisdiction.

(2) Shall ensure that, to the fullest extent possible, the policies, regulations, and public laws of the United States administered under their jurisdiction are interpreted and administered in accordance with the requirements of NEPA.

D. Heads of Bureaus and Offices.

(1) Must comply with the provisions of NEPA, Executive Order 11514, as amended, Executive Order 12114, the CEQ Regulations, 43 CFR Part 46 and this Part.

(2) Shall interpret and administer, to the fullest extent possible, the policies, regulations, and public laws of the United States administered under their jurisdiction in accordance with the requirements of NEPA.

(3) Shall continue to review their statutory authorities, administrative regulations, policies, programs, and procedures, including those related 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 intent, purpose, and provisions of NEPA and, in consultation with the Office of the Solicitor and the Office of Congressional and Legislative Affairs, shall take or recommend, as appropriate, corrective actions as may be necessary to bring these authorities and policies into conformance with the intent, purpose, and procedures of NEPA.

(4) Shall monitor, evaluate, and control on a continuing basis their activities as needed to protect and enhance the quality of the environment. Such activities will include both 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. They will

develop programs and measures to protect and enhance environmental quality. They will assess progress in meeting the specific objectives of such activities as they affect the quality of the environment.

E. Heads of Regional, Field, or Area Offices, or Responsible Officials.

(1) Must comply with the provisions of NEPA, Executive Order 11514, as amended, Executive Order 12114, the CEQ Regulations, 43 CFR Part 46 and this Part.

(2) Shall use information obtained in the NEPA process, including pertinent information provided by those persons or organizations that may be interested or affected, to identify reasonable alternatives to proposed actions that will avoid or minimize adverse impacts to the human environment while improving overall environmental results.

(3) Shall monitor, evaluate, and control their activities on a continuing basis to further protect and enhance the quality of the environment.

1.5 **Consideration of Environmental Values.**

A. In Departmental Management.

(1) In the management of natural, cultural, historic, and human resources under its jurisdiction, the Department must consider and balance a wide range of economic, environmental, and societal needs at the local, regional, national, and international levels, not all of which are quantifiable in comparable terms. In considering and balancing these objectives, Departmental plans, proposals, and decisions often require recognition of complements and resolution of conflicts among interrelated uses of these natural, cultural, historic, and human resources within technological, budgetary, and legal constraints. Various Departmental conflict resolution mechanisms are available to assist this balancing effort.

(2) Environmental analyses shall strive to provide baseline data where possible and shall provide monitoring and evaluation tools as necessary to ensure that an activity is implemented as contemplated by the NEPA analysis. Baseline data gathered for these analyses may include pertinent social, economic, and environmental data.

(3) If proposed actions are planned for the same geographic area or are otherwise closely related, environmental analysis should be integrated to ensure adequate consideration of resource use interactions, to reduce resource conflicts, to establish baseline data, to monitor and evaluate changes in such data, to adapt actions or groups of actions accordingly, and to comply with NEPA and the CEQ Regulations. Proposals shall not be segmented in order to reduce the levels of environmental impacts reported in NEPA documents.

(4) When proposed actions involve approval processes of other agencies, the Department shall use its lead role to identify opportunities to consolidate those processes.

B. In Internally Initiated Proposals. Officials responsible for development or conduct of planning and decision making systems within the Department shall incorporate environmental planning as an integral part of these systems in order to ensure that environmental values and impacts are fully considered, facilitate any necessary documentation of those considerations, and identify reasonable alternatives in the design and implementation of activities that minimize adverse environmental impacts. An interdisciplinary approach shall be initiated at the earliest possible time to provide for consultation among all participants for each planning or decision making endeavor. This interdisciplinary approach should, to the extent possible, have the capacity to consider innovative and creative solutions from all participants.

C. In Externally Initiated Proposals. Officials responsible for the development or conduct of loan, grant, contract, lease, license, permit, or other externally initiated activities shall require applicants, to the extent necessary and practicable, to provide environmental information, analyses, and reports as an integral part of their applications. As with internally initiated proposals, officials shall encourage applicants and other persons, organizations or communities who may be interested or affected to consult with the Department and provide their comments, recommendations, and suggestions for improvement.

1.6 Consultation, Coordination, and Cooperation with Other Agencies and Organizations.

A. Departmental Plans and Programs.

(1) Officials responsible for planning or implementing Departmental plans and programs will develop and utilize procedures to consult, coordinate, and cooperate with relevant State, local, and tribal governments; other bureaus and Federal agencies; and public and private organizations and individuals concerning the environmental effects of these plans and programs on their jurisdictions or interests. Such efforts should, to the extent allowed by law and in accordance with the Federal Advisory Committee Act (FACA), include consensus-based management whenever possible. This is a planning process that incorporates direct community involvement into bureau activities from initial scoping through implementation of the bureau or office decision and, in practicable cases, monitoring and future adaptive management measures. All bureau NEPA and planning procedures will be made available to the public.

(2) Bureaus and offices will use, to the maximum extent possible, existing notification, coordination, and review mechanisms established by the Office of Management and Budget and CEQ. However, use of these mechanisms must not be a substitute for early consultation, coordination, and cooperation with others, especially State, local, and tribal governments.

(3) Bureaus and offices are encouraged to expand, develop, and use new forms of notification, coordination, and review, particularly by electronic means and the Internet. Bureaus are also encouraged to stay abreast of and use new technologies in environmental data gathering and problem solving.

B. Other Departmental Activities.

(1) Technical assistance, advice, data, and information useful in restoring, maintaining, and enhancing the quality of the environment will be made available to other Federal agencies; State, local, and tribal governments; institutions; and other entities as appropriate.

(2) Information regarding existing or potential environmental problems and control methods developed as a part of research, development, demonstration, test, or evaluation activities will be made available to other Federal agencies; State, local, and tribal governments; institutions; and other entities as appropriate.

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, tribal governments; other bureaus and Federal agencies; and those persons or organizations that may be interested or affected, 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 ensure full cooperation with, and understanding of, the Department's programs and interests in natural, cultural, historic and human resources.

(3) Bureaus and offices will use, to the fullest extent possible, existing Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

(4) Bureaus and offices will work closely with other Federal agencies to ensure that similar or related proposed actions in the same geographic area are fully evaluated to determine if agency analyses can be integrated so that one NEPA compliance document can be used by all for their individual permitting and licensing needs.

1.7 Public Involvement.

A. Bureaus and offices, in accordance with 301 DM 2, 43 CFR Part 46, and this Part, will develop and implement procedures to ensure the fullest practicable provision of timely public information and understanding of their plans and programs with environmental impacts including information on the environmental impacts of alternative courses of action. This is to include appropriate public involvement in the development of NEPA analyses and documents.

B. These procedures will include, wherever appropriate, provision for public meetings in order to obtain the views of persons, organizations, or communities who may be interested or affected. Public information shall include all necessary policies and procedures concerning plans and programs in a readily accessible, consistent format.

C. Bureaus and offices will also coordinate and collaborate with State and local agencies and tribal governments in developing and using similar procedures for informing the public concerning their activities affecting the quality of the environment.

1.8 **Mandate.**

A. The provisions of Part 516 are intended to establish guidelines to be followed by the Department and its bureaus, and offices. Part 516 is not intended to, nor does it, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by any person or party against the United States, its agencies, its officers, or any other person. The provisions of Part 516 are not intended to direct or bind any person outside the Department.

B. Instructions supplementing the CEQ Regulations are provided in Departmental regulations at 43 CFR Part 46.

C. Instructions specific to each bureau are found in Chapters 8 through 15. This portion of the manual may expand or contract depending on the number of bureaus existing at any particular time. In addition, bureaus may prepare handbooks or other technical guidance for their personnel on how to apply this Part to principal programs. In the case of any apparent discrepancies between these procedures and bureau handbooks or technical guidance, Departmental regulations at 43 CFR 46 and 516 DM 1 - 4 shall govern.

1.9 **Lead Agencies** (40 CFR 1501.5; 43 CFR 46.220).

A. The AS/PMB shall designate lead bureaus within the Department when bureaus under more than one Assistant Secretary are involved and cannot reach agreement on lead bureau status. The AS/PMB shall represent the Department in consultations with CEQ or other Federal agencies in the resolution of lead agency determinations.

B. Bureaus will inform the OEPC of any agreements to assume lead agency status. OEPC will assist in the coordination and documentation of any AS/PMB designations made in 1.9A.

C. To eliminate duplication with State and local procedures, a non-Federal agency (including tribal governments) may be designated as a joint lead agency when it has a duty to comply with non-Federal requirements that are comparable to the NEPA requirements.

D. 40 CFR 1501.5 describes the selection of lead agencies, the settlement of lead agency disputes, and the use of joint lead agencies. While the joint lead relationship is not precluded among several Federal agencies, the Department recommends that it be applied sparingly and that one Federal agency be selected as the lead with the remaining Federal, State, tribal governments, and local agencies assuming the role of cooperating agency. In this manner, the other Federal agencies, as well as State, tribal, and local agencies can work to ensure that the ensuing NEPA document will meet their needs for adoption and application to their related decision. If joint lead is dictated by other law, regulation, policy, or practice, then one Federal agency shall be identified as the agency responsible for filing the EIS.

E. Lead agency designations may be required by law in certain circumstances.

1.10 Cooperating Agencies (40 CFR 1501.6 and 1508.5; 43 CFR 46.225).

A. Upon the request of a bureau, the OEPC will assist bureaus in determining cooperating agencies and coordinating requests from non-Interior agencies.

B. Bureaus will inform the OEPC of any requests to become a cooperating agency or any declinations to become a cooperating agency pursuant to 40 CFR 1501.6(c).

C. Bureaus will consult with the Solicitor's Office in cases where such non-Federal agencies are also applicants before the Department to determine relative lead/cooperating agency responsibilities.

D. An agency meeting the requirements of 43 CFR 46.225(a) is defined as an eligible governmental entity for the purposes of designation as a cooperating agency.

1.11 Scoping (40 CFR 1501.7; 43 CFR 46.235). Scoping should encourage the responsible official to integrate analyses required by other environmental laws. Scoping should also be used to integrate other planning activities for separate projects that may have similar or cumulative impacts. Integrated analysis facilitates the resolution of resource conflicts and minimizes redundancy.

1.12 Environmental Assessments (40 CFR 1501.3; 43 CFR 46.120, 46.140, 46.320).

A. Previous NEPA analyses should be used in a tiered analysis or transferred and used in a subsequent analysis to enhance the content of an EA whenever possible.

B. If such an EA is adopted or augmented, responsible officials must prepare their own notice of intent (NOI) or Finding of No Significant Impact (FONSI) that acknowledges the origin of the EA and takes full responsibility for its scope and content.

1.13 Environmental Impact Statements (40 CFR 1501.4, 1502.3; 43 CFR 46.100(b), and Subpart E).

A. If an agency's assessment of the environmental effects of a proposed action reveals that such action may significantly affect the quality of the human environment, and the agency elects to go forward with the proposed action, an EIS should be commenced.

B. The feasibility analysis (go/no-go) stage, at which time an EIS is to be prepared for proposed projects undertaken by DOI, is to be interpreted as the stage prior to the first point of major commitment to the proposal. For example, this would normally be at the authorization stage for proposals requiring Congressional authorization; the location or corridor stage for transportation, transmission, and communication projects; and the leasing stage for offshore mineral resources proposals (40 CFR 1502.5(a)).

C. For situations involving applications to DOI or the bureaus, an EIS need not be commenced until an application is essentially complete; i.e., any required environmental information is submitted and any required advance funding is paid by the applicant (40 CFR 1502.5(b)). Officials shall also inform applicants of any responsibility they will bear for funding environmental analyses associated with their proposals (43 CFR 46.200(e)).

1.14 **Supplemental Statements** (40 CFR 1502.9).

A. Supplements are required if an agency makes substantial changes in the proposed action relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

B. A bureau and/or the appropriate program Assistant Secretary will consult with the OEPC and the Office of the Solicitor prior to proposing to CEQ to prepare a supplemental statement using alternative arrangements such as issuing a final supplement without preparing an intervening draft.

C. If, after a decision has been made based on a final EIS, a described proposal is further defined or modified and if its changed effects are not significant and still within the scope of the earlier EIS, an EA, and a FONSI may be prepared for subsequent decisions rather than a supplement.

1.15 **Format** (40 CFR 1502.10).

A. Proposed departures from the standard format described in the CEQ regulations and this chapter must be approved by the OEPC.

B. The section listing the preparers of the EIS will also include other sources of information, including a bibliography or list of cited references, when appropriate.

C. Cover Sheet (40 CFR 1502.11). The cover sheet will also indicate whether the EIS is intended to serve any other environmental review or consultation requirements pursuant to Section 1502.25. The cover sheet will also identify cooperating agencies, the location of the action, and whether the analysis is programmatic in nature.

D. Summary (40 CFR 1502.12). The emphasis in the summary should be on those considerations, controversies, and issues that significantly affect the quality of the human environment.

1.16 **Alternatives Including the Proposed Action** (40 CFR 1502.14; 43 CFR 46.425). For externally initiated proposals, i.e., for those cases where the Department is reacting to an application or similar request, the draft and final EIS shall identify the applicant's proposed action. Proposed departures from 43 CFR 46.425(a) or this guidance must be approved by the OEPC and the Office of the Solicitor.

1.17 **Appendix** (40 CFR 1502.18). If an EIS is intended to serve other environmental review or consultation requirements pursuant to Section 1502.25, any more detailed information needed to comply with these requirements may be included as an appendix.

1.18 **Tiering** (40 CFR 1502.20; 43 CFR 46.120, 46.140). Bureaus must maintain access to such things as: sources of similar information, examples of tiered and transferred analyses, a set of procedural steps to make the most of tiered and transferred analyses, knowledge of when to use previous material, and how to use tiered and transferred analyses without sacrificing references to original sources.

1.19 **Methodology and Scientific Accuracy** (40 CFR 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. Bureaus will also follow Departmental procedures for information quality as required under Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L.106-554, 114 Stat. 2763).

1.20 **Environmental Review and Consultation Requirements** (40 CFR 1502.25; 43 CFR 46.155, 46.430).

A. A list of related environmental review and consultation requirements is available from the OEPC (ESM 09-8).

B. Bureaus shall ensure that they have a process in place to make integrated analyses a standard part of their NEPA compliance efforts.

C. The comments of bureaus and offices must also be requested. In order to do this, the preparing bureau must furnish copies of the environmental document to the other bureaus in quantities sufficient to allow simultaneous review. Bureaus may be removed from this circulation following consultation with, and concurrence of, a bureau.

D. Informal attempts will be made to determine the status of any late comments and a reasonable attempt should be made to include the comments and a response in the final EIS. Late introduction of new issues and alternatives is to be avoided and they will be considered only to the extent practicable.

E. For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 3.3B, bureaus will consult with the OEPC when they propose to prepare an abbreviated final EIS [40 CFR 1503.4(c)].

1.21 **Further Guidance** (40 CFR 1506.7). The OEPC may provide further guidance concerning NEPA pursuant to its organizational responsibilities (112 DM 4) and through supplemental directives (381 DM 4.5B). Current guidance is located in the Environmental Memoranda Series periodically updated by OEPC and available on the OEPC website at: <http://www.doi.gov/oepec/>.

1.22 **Time Periods** (40 CFR 1506.10).

A. The minimum review period for a draft EIS will be forty-five (45) days from the date of publication by the Environmental Protection Agency (EPA) of the notice of availability, unless a longer period is required by individual agency regulation or process.

B. For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 3.3B, the OEPC will be responsible for consulting with the EPA and/or CEQ about any proposed reductions in time periods or any extensions of time periods proposed by the bureaus.