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FOREST SERVICE HANDBOOK
WASHINGTON

FSH 1909.15 - ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Amendment No. 1909.15-91-1

Effective July 11, 1991

NEW POSTING NOTICE. This amendment is the first one to this Handbook using a new numbering series that corresponds to the year in which the material was amended. Place this transmittal sheet at the front of the Handbook immediately behind title page. The last amendment to this Handbook was amendment No. 3.

<u>Page Code</u>	<u>Superseded (Number of Sheets)</u>	<u>New (Number of Sheets)</u>
(Entire chapter)		
20 thru 25	3	-
20 thru 27.2	-	5

Digest:

20 - Reissues direction contained as Interim Directive No. 3, dated January 12, 1990. It provides direction on when a Decision Memo should be prepared and on the format and content of this type of decision document. It also integrates guidance on categorical exclusions, including how and when to prepare a Decision Memo.

F. DALE ROBERTSON
Chief

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 20 - ENVIRONMENTAL ANALYSIS

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CHAPTER 20 - ENVIRONMENTAL ANALYSIS

Environmental analysis assesses the nature and significance of the physical, biological, social, and economic effects of a proposed action and its reasonable alternatives. Scoping is an integral and initial component of environmental analysis. For detailed guidance on scoping, see chapter 10. This chapter addresses the requirements for conducting the more detailed environmental analysis that follows the scoping process. Exhibit 02 in section 06 of zero code shows how environmental analysis relates to other procedures required under the National Environmental Policy Act and its implementing regulations.

21 - KEEP THE PUBLIC INFORMED. Consistent with the importance of the action, keep the public informed of the progress of the environmental analysis. For major actions, this includes notifying the public that the action is under consideration and providing feedback on the results of scoping and subsequent stages of the analysis. Monitor and consider the interests and concerns of affected publics, and respond to individual requests for information.

22 - COLLECT AND INTERPRET DATA. The type and amount of data to collect depend on the nature of the action, agency objectives, public concerns, opportunities, and the scope of anticipated effects. Focus data collection on the present and expected physical, biological, economic, and social conditions affecting or affected by the decision. When appropriate, document the assumptions, methods, and data sources.

When evaluating significant adverse effects on the human environment, if information that is essential to a reasoned choice among alternatives, is either missing or incomplete, follow the procedures at 40 CFR 1502.22 and chapter 40, section 42.22.

23 - DEVELOP ALTERNATIVES. The final alternatives must provide different responses to important issues identified with the proposed action. Consider all reasonable alternatives (40 CFR 1502.14). The phrase "all reasonable alternatives" is firmly established in case-law interpreting the National Environmental Policy Act. The phrase has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed (sec. 65.11, ex. 01, 43 FR 55983). The objectives of legislation or of higher order Forest Service plans, programs, and policies guide, but do not limit, the range of alternatives that are considered in detail in each environmental analysis.

23.1 - No Action Alternatives. Consider in detail the no action alternative in each environmental analysis. The no action alternative provides a baseline for estimating the effects of other alternatives.

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Two distinct interpretations of no action are often possible, depending on the nature of the proposal being evaluated. The first interpretation involves an action such as the updating of a land management plan where ongoing programs initiated under existing legislation, regulations, and budget allocations continue, even as new plans are developed. In these cases, no action is no change from current management direction or from the level of management intensity. Consequently, the responsible official would compare the projected impacts of alternative management schemes to those impacts projected for the existing plans. The second interpretation of no action is that no action or activity would take place, such as when proposals for projects are denied.

23.2 - Other Alternatives. Develop other alternatives fully and impartially. Ensure that the range of alternatives does not foreclose prematurely any option that might protect, restore, and enhance the environment. Consider reasonable alternatives outside the jurisdiction of the Forest Service (40 CFR 1502.14(c)). In the alternatives section of an environmental impact statement, explain the reasons for eliminating from detailed study any alternative originally considered. (40 CFR 1502.14(a)). Modify alternatives or develop new alternatives as necessary as the analysis proceeds. Alternatives must specify any activities that may produce important environmental changes, and they must address management requirements, mitigation measures, and monitoring of environmental effects.

24 - ESTIMATE EFFECTS OF EACH ALTERNATIVE. (40 CFR 1502.16, 1508.8, and 1508.25(a)(2) and (c)). Estimate the effects of implementing each alternative. Consider direct, indirect, and cumulative effects. For each alternative, effects may be expressed in terms of changes in the physical, biological, economic, and social components of the human environment. Analyze these changes in terms of differences from the no action alternative. Consider the magnitude, duration, and significance of the changes. See section 61 for a list of environmental factors that may change as a result of implementation of the various alternatives.

It is not always necessary to deal with all factors and components of the environment. Consider in detail only those effects important to the issues identified during scoping.

If indicators of economic efficiency are appropriate, develop them at this point. Also consider unquantified environmental amenities and values.

For all alternatives, be sure to consider the effects on the following:

1. Consumers, civil rights, minority groups, and women (FSM 1730).
2. Prime farmland, rangeland, and forest land.

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3. Wetlands and floodplains.
4. Threatened and endangered species.
5. Cultural resources.

If the need for an environmental impact statement (EIS) has not been established already (FSM 1952.1), consider the significance of effects in terms of context and intensity in order to determine whether an EIS is necessary. See the definition of "Significantly," at 40 CFR 1508.27, for definitions of "context" and "intensity."

25 - EVALUATE ALTERNATIVES AND IDENTIFY PREFERRED ALTERNATIVES(S).

Compare alternatives on the basis of their effects on the human environment. This evaluation, along with other relevant considerations, provides a basis for identifying the preferred alternative(s).

When the Chief or the Secretary is the responsible official, the Washington Office (WO) Environmental Coordination Staff Unit participates with appropriate field or other WO staff unit(s) and with the appropriate Deputy Chief, Chief, or Assistant Secretary to identify the preferred alternative(s).

26 - CATEGORIES OF ACTIONS EXCLUDED FROM DOCUMENTATION IN AN EIS OR EA.
(40 CFR 1508.4)

26.1 - Categories for Which a Project File and a Decision Memo Are Not Required. A project file is not required for the categories of actions listed in sections 26.1a and 26.1b. However, a project file may be established for such an action at the discretion of the responsible official.

26.1a - Categories Established by the Secretary. The rules at 7 CFR 1b.3 exclude from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) the following categories of actions:

{ 1b.3 Categorical exclusions.

(a) The following are categories of activities which have been determined not to have significant effect on the human environment and are excluded from the preparation of environmental assessments (EA's) or environmental impact statements (EIS's) unless individual agency procedures prescribe otherwise.

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(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad.

26.1b Categories Established by the Chief. The following categories of routine administrative and maintenance actions normally do not individually or cumulatively have a significant effect (40 CFR 1508.22) on the quality of the human environment and, therefore, may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA):

1. Administrative actions, such as road and area closures; restrictions on travel or use, such as camping, boating, or hunting; and posting signs and markers.

2. Construction of low-impact facilities or improvements, such as auxiliary support buildings or other structures; picnic areas and camp grounds; temporary and other low-standard roads, such as traffic service level "D" roads (FSH 7709.56); and trails.

3. Repair and maintenance activities, such as on buildings, grounds, trails, rights-of-way, and range improvements.

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26.2 - Categories of Actions for Which a Project File and a Decision Memo Are Required. Maintain a project file and prepare a Decision Memo for the following categories of proposed actions:

1. Low-impact silvicultural activities that are limited in size and duration and that primarily use existing roads and facilities, such as firewood and miscellaneous forest product sales; salvage, thinning, and small harvest cuts of less than 100,000 board feet or less than 10 acres; site preparation; and planting and seeding.

2. Low-impact range management activities, such as fencing, seeding, and installing water facilities.

3. Issuance or modification of authorizations or agreements for such uses of lands or facilities as road maintenance and additional use of existing roads, rights-of-way, and easements.

4. Low-impact pest management activities, such as suppressing nuisance insects and poisonous plants in campgrounds and picnic areas; controlling cone and seed insects in seed orchards; and fumigating to control weeds in nurseries.

5. Mineral and energy activities of limited size, duration, and degree of disturbance, such as preliminary exploration and removal of small mineral samples.

6. Fish and wildlife management activities, such as improving habitat, installing fish ladders, and stocking native or established species.

7. Transfer of interests in land, such as sales, exchanges, or interchanges pursuant to the Small Tracts Act; purchases and gifts; and small transfers and trades with other Federal agencies.

26.2a - Content of Project File. As a minimum, a project file on a proposed action as listed in sec. 26.2 should include:

1. A list of the names of interested and affected people, groups, and agencies contacted during scoping;

2. The results of scoping and the subsequent environmental analysis;

3. A copy of the Decision Memo (sec. 27);

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4. A list of the people, agencies, and groups notified of the decision;

5. Other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded.

27 - DOCUMENTATION OF DECISIONS IN A DECISION MEMO.

A Decision Memo is not required if a proposed action has been categorically excluded from documentation in an environmental impact statement or an environmental assessment under categories in section 26.1a (7 CFR 1b.3) or section 26.1b of this chapter. However, interested and affected persons must be informed in an appropriate manner (sec. 11.5).

A Decision Memo is required if the proposed action has been categorically excluded from documentation in an EIS or EA under the categories listed in section 26.2. These decisions are subject to review under 36 CFR 217.6.

27.1 - Format and Content. The format of the Decision Memo is not intended to replicate the format of a correspondence memorandum (FSH 6209.12). Generally, Decision Memos should conform to the following format and content although sections may be combined or rearranged in the interest of clarity and brevity.

1. Heading. The heading consists of the following elements:
 - (a) Title of document-- "Decision Memo."
 - (b) The title of the proposed action.
 - (c) The location of the proposed action (including the Forest Service administrative unit, county, and state). In some cases, including the legal land description is appropriate.
2. Proposed action. Describe the proposed action, the decision to be implemented, and reasons for making the decision.
3. Scoping and public involvement. Describe the scoping process used and the issues identified. It may be appropriate to identify or refer to the interested and affected agencies, organizations, and persons contacted.

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4. Reasons for categorically excluding the proposed action. This section includes:

- (a) Identification of the category (sec. 26) into which the proposed action falls.
- (b) Finding that no extraordinary circumstances exist that might cause the action to have significant effects.

5. Findings required by other laws. Include any findings required by any other laws. For example, findings of consistency with the forest plan, suitability, and vegetation management required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12, sec. 5.3).

6. Implementation date. Include the date when the responsible official intends to implement the decision (sec. 51).

7. Administrative review or appeal opportunities. State whether the decision is subject to review or appeal, cite the applicable regulations (36 CFR Part 217), and identify when and where to file a request for review or appeal.

8. Contact person. Include the name, address, and phone number of the Forest Service employee who can supply further information about the decision.

9. Signature and date. The responsible official must sign and date the Decision Memo on the date the decision is made.

27.2 - Notice and Distribution of Decision Memo. Distribute the Decision Memo in a manner designed to inform agencies, organizations, and persons interested in or affected by the proposed action.

1. For decisions subject to appeal under 36 CFR Part 217, the responsible official shall promptly mail the Decision Memo to those who, in writing, have requested it, and to those who are known to have participated in the decisionmaking process.

2. The responsible official may provide other forms of notice, including legal notice in newspapers of general circulation in the area where the proposed action is to be implemented.

When required by E.O. 12372, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

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FSH 1909.15 - ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

INTERIM DIRECTIVE NO. 3

January 12, 1990

EFFECTIVE DATE: January 31, 1990

EXPIRATION DATE: July 11, 1991

CHAPTER: 20 - ENVIRONMENTAL ANALYSIS

POSTING NOTICE: Last ID was No. 2, which is being removed.

REMOVE: ID No. 2, dated 2/28/89

This interim directive is a reissuance of ID No. 2, dated February 28, 1989. It is being reissued without change to provide continuity of direction related to categories of actions excluded from documentation in an environmental impact statement or an environmental assessment (40 CFR 1508.4).

On February 22, 1989, the new administrative appeal procedures at 36 CFR Part 217 became effective. Section 217.3 of the new rules provides that decisions documented in a Decision Memo, Decision Notice, or Record of Decision may be appealed under the rules in Part 217. A Decision Memo is a new type of environmental document to be prepared by Forest Service employees. In order to implement the new appeal rules, it is necessary to provide interim direction on when a Decision Memo should be prepared and on the format and content of this type of decision document.

For ease of use and consistency of implementation, this interim directive (ID) also integrates guidance on categorical exclusions with the guidance on how and when to prepare a Decision Memo. Specifically, this ID (1) enumerates the categories established by the Department of Agriculture at 7 CFR 1b.3 as categorically excluded from documentation in an EIS or EA; (2) identifies the categories of actions for which a project file and Decision Memo must be prepared; (3) defines the content of a project file; and (4) requires notice of a decision to proceed with an action that has been categorically excluded from documentation. The direction on categorical exclusions is identical to that issued in ID No. 16 to FSM 1950, dated August, 1988, which is being removed by separate posting notice.


Jeff M. Simon
Deputy Chief, P&L

26 - CATEGORIES OF ACTIONS EXCLUDED FROM DOCUMENTATION IN AN EIS OR EA.
(40 CFR 1508.4)

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26.1a - Categories Established by the Secretary. The rules at 7 CFR 1b.3 exclude from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) the following categories of actions:

(1b.3 Categorical exclusions.

(a) The following are categories of activities which have been determined not to have a significant effect on the human environment and are excluded from the preparation of environmental assessments (EA's) or environmental impact statements (EIS's), unless individual agency procedures prescribe otherwise.

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

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(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad.

26.1b - Categories Established by the Chief. The following categories of routine administrative and maintenance actions normally do not individually or cumulatively have a significant effect (40 CFR 1508.22) on the quality of the human environment and, therefore, may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA):

1. Administrative actions, such as road and area closures; restrictions on travel or use, such as camping, boating, or hunting; and posting signs and markers.
2. Construction of low-impact facilities or improvements, such as auxiliary support buildings or other structures; picnic areas and campgrounds; temporary and other low-standard roads, such as traffic service level "D" roads (FSH 7709.56); and trails.
3. Repair and maintenance activities, such as on buildings, grounds, trails, rights-of-way, and range improvements.

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2. Low-impact range management activities, such as fencing, seeding, and installing water facilities.
3. Issuance or modification of authorizations or agreements for such uses of lands or facilities as road maintenance and additional use of existing roads, rights-of-way, and easements.
4. Low-impact pest management activities, such as suppressing nuisance insects and poisonous plants in campgrounds and picnic areas; controlling cone and seed insects in seed orchards; and fumigating to control weeds in nurseries.
5. Mineral and energy activities of limited size, duration, and degree of disturbance, such as preliminary exploration and removal of small mineral samples.
6. Fish and wildlife management activities, such as improving habitat, installing fish ladders, and stocking native or established species.
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2. The results of scoping and the subsequent environmental analysis;

3. A copy of the Decision Memo (sec. 27);
4. A list of the people, agencies, and groups notified of the decision;
5. Other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded.

27 - DOCUMENTATION OF DECISIONS IN A DECISION MEMO

A Decision Memo is not required if a proposed action has been categorically excluded from documentation in an environmental impact statement or an environmental assessment under categories in section 26.1a (7 CFR 1b.3) or section 26.1b of this chapter. However, interested and affected persons must be informed in an appropriate manner (sec. 11.5).

A Decision Memo is required if the proposed action has been categorically excluded from documentation in an EIS or EA under the categories listed in section 26.2. These decisions are subject to review under 36 CFR 217.6.

27.1 - Format and Content. The format of the Decision Memo is not intended to replicate the format of a correspondence memorandum (FSH 6209.12). Generally, Decision Memos should conform to the following format and content although sections may be combined or rearranged in the interest of clarity and brevity.

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 - (b) The title of the proposed action.
 - (c) The location of the proposed action (including the Forest Service administrative unit, county, and state). In some cases, including the legal land description is appropriate.
2. Proposed action. Describe the proposed action, the decision to be implemented, and reasons for making the decision.
3. Scoping and public involvement. Describe the scoping process used and the issues identified. It may be appropriate to identify or refer to the interested and affected agencies, organizations, and persons contacted.
4. Reasons for categorically excluding the proposed action. This section includes:
 - (a) Identification of the category (sec. 26) into which the proposed action falls.
 - (b) Finding that no extraordinary circumstances exist that might cause the action to have significant effects.

5. Findings required by other laws. Include any findings required by any other laws. For example, findings of consistency with the forest plan, suitability, and vegetation management required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12, sec. 5.3).

6. Implementation date. Include the date when the responsible official intends to implement the decision (sec. 51).

7. Administrative review or appeal opportunities. State whether the decision is subject to review or appeal, cite the applicable regulations (36 CFR Part 217), and identify when and where to file a request for review or appeal.

8. Contact person. Include the name, address, and phone number of the Forest Service employee who can supply further information about the decision.

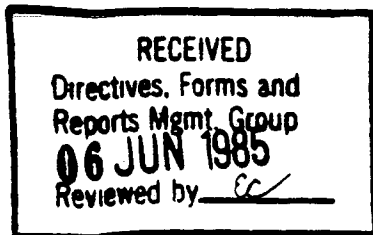
9. Signature and date. The responsible official must sign and date the Decision Memo on the date the decision is made.

27.2 - Notice and Distribution of Decision Memo. Distribute the Decision Memo in a manner designed to inform agencies, organizations, and persons interested in or affected by the proposed action.

1. For decisions subject to appeal under 36 CFR Part 217, the responsible official shall promptly mail the Decision Memo to those who, in writing, have requested it, and to those who are known to have participated in the decisionmaking process.

2. The responsible official may provide other forms of notice, including legal notice in newspapers of general circulation in the area where the proposed action is to be implemented.

When required by E.O. 12372, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.



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WASHINGTON

June 1985

FSH 1909.15 - ENVIRONMENTAL POLICY AND
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Amendment No. 2

POSTING NOTICE. Amendments to this title are numbered consecutively. Check the last transmittal received for this title to see that the above amendment number is in sequence. If not, order intervening amendments at once on form 1100-6. Do not post this amendment until the missing one(s) is received and posted. After posting retain this transmittal until the next amendment to this title is received. Place it at the front of the title.

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Digest:

1909.15 - Revises entire handbook.

10 - Emphasizes the need to scope proposed actions to determine the extent of the analysis needed.

20 - Provides instructions for continuing more detailed environmental analysis.

30 - Sets forth requirements for preparing environmental assessment and related documents.

40 - Sets forth requirements for preparing environmental impact statements and related documents.

50 - Provides guidance on implementation and monitoring.

60 - Provides detailed references from indexing to text of laws and regulations.

R. MAX PETERSON
Chief

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

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This Handbook provides procedural guidance for implementing the National Environmental Policy Act and the Council on Environmental Quality regulations (40 CFR 1500-1508) in Forest Service activities.

The Handbook distinguishes clearly between analyzing the effects of proposed actions and documenting the results of such analysis. Chapter 10 sets forth guidelines on the scoping process. Chapter 20 addresses the actual analysis process. Chapters 30 and 40 contain the documentation requirements for environmental assessments and environmental impact statements. Chapter 50 addresses implementing and monitoring requirements. Chapter 60 includes the text of pertinent laws, regulations, memoranda, and other reference materials needed to carry out the procedures in this Handbook.

Use this Handbook in conjunction with the broad direction set forth in FSM 1950, Environmental Policy and Procedures.

02 - OBJECTIVES

1. To incorporate environmental considerations into Forest Service planning and decisionmaking in a systematic and cost-effective manner.
2. To provide uniform guidelines and direction for conducting environmental analyses associated with preparing Regional guides and forest land and resource management activities.

04 - RESPONSIBILITY. Line officers are responsible for ensuring that planning and decisionmaking follow the procedural direction in this Handbook.

05 - DEFINITIONS

1. Categorical Exclusion. (40 CFR 1508.4).
2. Cooperating Agency. (40 CFR 1508.5).
3. Cumulative Impact. (40 CFR 1508.7).

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4. Decision Notice. A concise public record of the responsible official's decision when an environmental assessment is prepared.
5. Effects. (40 CFR 1508.8).
6. Environmental Analysis. An investigation of alternative actions and their predictable environmental effects, including physical, biological, economic, and social consequences and their interactions; short- and long-term effects; and direct, indirect, and cumulative effects. This process provides the information needed for identifying actions that may be categorically excluded, for preparing environmental documents, and for determining whether an environmental impact statement is required.
7. Environmental Assessment. (40 CFR 1508.9).
8. Environmental Design Arts. Disciplines that directly influence the biological and physical environment as a result of the design of projects of all kinds.
9. Environmental Document. (40 CFR 1508.10).
10. Environmental Impact Statement. (40 CFR 1508.11).
11. Environmentally Preferable Alternative. An alternative that best meets the goals of section 101 of the National Environmental Policy Act. Ordinarily, this means an alternative that causes the least damage to the biological and physical environment. It also means the alternative that best protects, preserves, and enhances historical, cultural, and natural resources. In some situations, there may be more than one environmentally preferable alternative.
12. Finding of No Significant Impact. (40 CFR 1508.13).
13. Floodplains. As defined by E.O. 11988, lowland and relatively flat areas adjoining inland and coastal waters including floodprone areas of offshore islands, including at a minimum, that area subject to a 1 percent or greater chance of flooding in any given year.

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14. Human Environment. (40 CFR 1508.14).
15. Irreversible. A term that describes the loss of future options. Applies primarily to the effects of use of nonrenewable resources, such as minerals or cultural resources, or to those factors, such as soil productivity that are renewable only over long periods of time.
16. Irretrievable. A term that applies to the loss of production, harvest, or use of natural resources. For example, some or all of the timber production from an area is lost irretrievably while an area is serving as a winter sports site. The production lost is irretrievable, but the action is not irreversible. If the use changes, it is possible to resume timber production.
17. Issue. A point of discussion, debate, or dispute.
18. Jurisdiction by Law. (40 CFR 1508.15).
19. Lead Agency. (40 CFR 1508.16).
20. Legislation. (40 CFR 1508.17).
21. Major Federal Action. (40 CFR 1508.18).
22. Matter. (40 CFR 1508.19).
23. Mitigation. (40 CFR 1508.20).
24. NEPA Process. (40 CFR 1508.21).
25. Notice of Intent. (40 CFR 1508.22).
26. Proposal. (40 CFR 1508.23).
27. Proposed Action. A proposal by the Forest Service to authorize, recommend, or implement an action.
28. Record of Decision. (40 CFR 1505.2).
29. Referring Agency. (40 CFR 1508.24).
30. Scope. (40 CFR 1508.25).

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31. Scoping. The procedure by which the Forest Service determines the extent of analysis necessary for an informed decision on a proposed action. Scoping is an integral part of environmental analysis. Depending on the complexity and nature of the action, scoping varies from a brief consideration of a few pertinent factors in a proposed action that may be categorically excluded to compliance with the Council on Environmental Quality direction for a proposed action that must be documented in an environmental impact statement.

32. Special Expertise. (40 CFR 1508.26).

33. Significantly. (40 CFR 1508.27).

34. Substantive Comment. A comment that provides factual information, professional opinion, or informed judgment germane to the action being proposed.

35. Tiering. (40 CFR 1508.28).

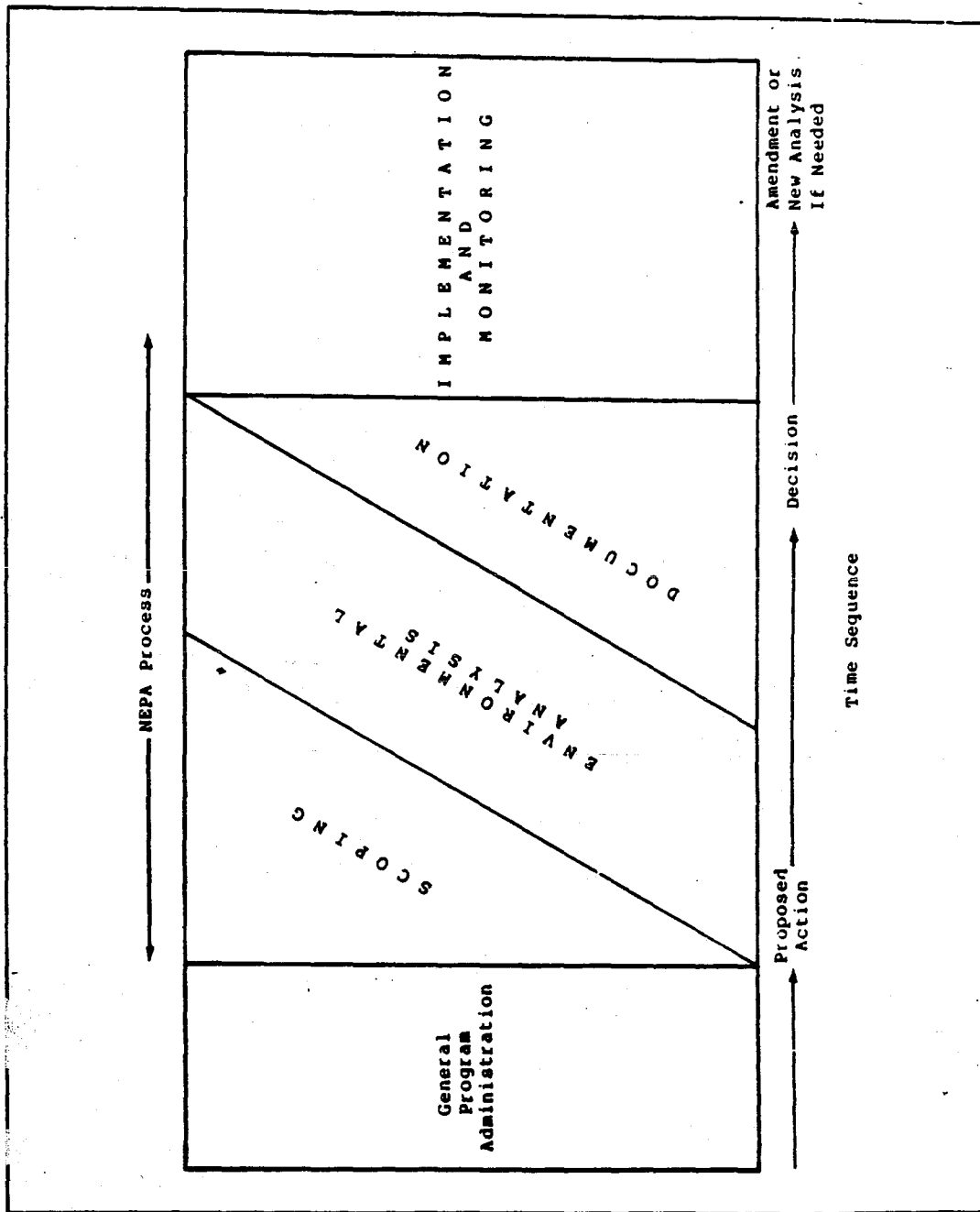
36. Wetlands. As defined by E.O. 11990, areas that are inundated by surface or ground water with a frequency sufficient to support and that under normal circumstances do or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction.

06 - OVERVIEW OF PROCESS. Exhibits 1 and 2 illustrate the full National Environmental Policy Act process and indicate the normal sequence of actions that occur under various alternatives. Exhibit 3 identifies the responsibility of participants in the process.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

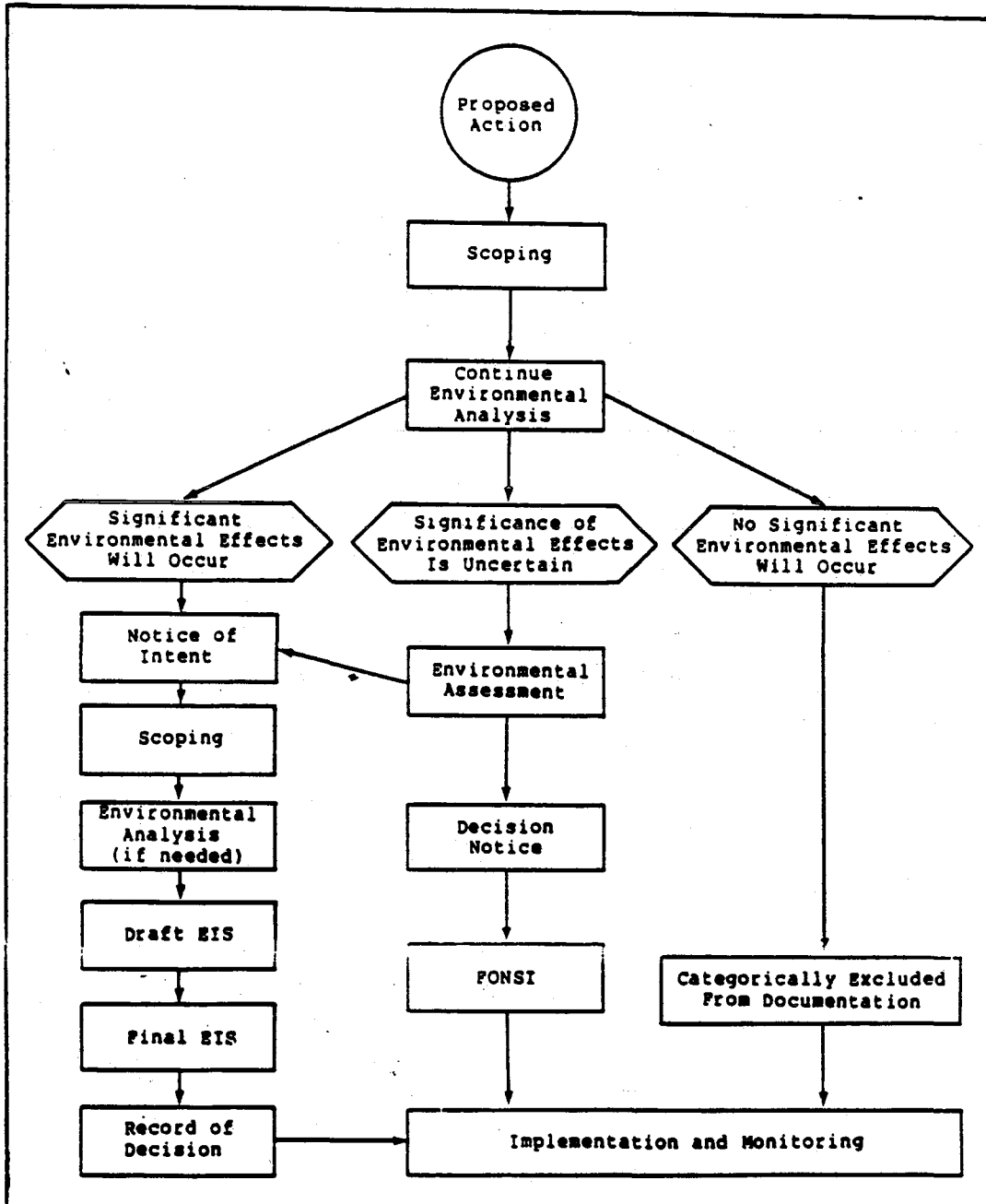
Overview of the NEPA Process



ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 2

Environmental Analysis, Documentation,
and Implementation Overview



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Exhibit 3

Responsibility of Participants in the NEPA Process

NEPA Process Activity	Responsible Official	Staff, Specialist, or Interdisciplinary Team	Other Agencies, Organizations, and Individuals
1. Environmental analysis actions ¹			
a. Scoping	Approve	Conduct	Provide information and suggestions
(1) Characterize the proposed action, including the nature of the decision			
(2) Identify agencies involved and the responsible official			
(3) Look for relevant issues			
(4) Explore possible effects and existing direction			
(5) Assess public participation needs and make initial contacts			
(6) Identify skills needed in the analysis			
(7) Convene interdisciplinary team, identify cooperators, and assign tasks			
(8) Expand public involvement as appropriate			
(9) Plan for orderly analysis			
(a) Formulate analysis criteria			
(b) Formalize issues			
(c) Explore agency alternatives			
(d) Determine other analysis needs			
(e) Continue public involvement as needed			
b. Collect data	Review	Conduct	Provide information and suggestions
c. Interpret data	•	•	•
d. Develop alternatives	•	•	•
e. Estimate effects	•	•	•
f. Evaluate alternatives	•	•	•
g. Identify the preferred alternative(s)	Approve	Recommend	Recommend
2. Documentation	Review	Prepare	Review
3. Decision	Decide	Recommend	Review
4. Implementation and Monitoring	Execute	Conduct	Assist
¹ Analysis actions may be omitted or combined as appropriate to the situation.			

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CHAPTER 10 - SCOPING

Contents

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- 10.3 Policy
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 - 11.1 Organize Scoping Effort
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 - 11.2 Determine the Characteristics of the Proposed Action and Nature of the Decision
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 - 11.7 Use Interdisciplinary Analysis
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 - 11.73 Team Qualifications
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 - 11.75 Convene Team and Assign Tasks
 - 11.8 Expand Public Involvement as Appropriate
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 - 11.92 Formalize Issues and Criteria
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 - 11.94 Determine Other Analysis Needs
 - 11.95 Continue Scoping

- 12 INFORM PARTICIPANTS OF RESULTS OF SCOPING

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CHAPTER 10 - SCOPING

Scoping is an integral part of environmental analysis. Scoping requires examining a proposed action and its possible effects; establishing the depth of environmental analysis needed; and determining analysis procedures, data needs, and task assignments. Scoping varies from a brief consideration of a few pertinent factors for a proposed action that may be categorically excluded to compliance with the Council on Environmental Quality direction for a proposed action that must be documented in an environmental impact statement. Elements of scoping may include exploring the nature of the action, determining the responsible official and cooperating agencies, initiating public involvement, identifying issues, selecting an interdisciplinary team, establishing analysis criteria, exploring possible alternatives and their environmental effects, and making task assignments.

10.2 - Objectives. The Forest Service conducts scoping to:

1. Determine the depth of analysis required for a proposed action.
2. Guide environmental analysis and documentation, and to assign tasks.
3. Achieve effective use of time and money in conducting environmental analysis.

10.3 - Policy

1. Use scoping to investigate the nature of proposed actions and to determine how much analysis is necessary. The use of scoping is not confined to the preparation of environmental impact statements.

2. Conduct the scoping actions set forth in this chapter commensurate with the complexity of the proposed action. Not all scoping activities are required for each proposed action.

10.4 - Responsibility. The official who is responsible for a decision on a proposed action shall:

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1. Ensure that an appropriate level of scoping occurs.
2. Determine whether an interdisciplinary (ID) team of specialists and a formal plan of work are needed.
3. Select the ID team and leader and keep abreast of their work (sec. 11.7).

For actions where the Chief or the Secretary is the responsible official, the Washington Office (WO) Environmental Coordination Staff participates with the appropriate field or other WO staffs and involves the appropriate Deputy Chief, the Chief, or the Assistant Secretary, as necessary (FSM 1950.41).

11 - CONDUCT SCOPING

11.1 - Organize Scoping Effort. The National Environmental Policy Act (NEPA) requires a systematic, interdisciplinary approach to ensure integrated application of the natural and social sciences and the environmental design arts in any planning and decisionmaking that affects the human environment (NEPA sec. 102 (2)(A)). The interdisciplinary approach used in scoping varies according to the judgment of the responsible official.

Where it is necessary to resolve which agency shall be the lead agency for scoping and analysis, follow the direction in section 46.1.

11.11 - Use Flexible Procedures. Because the nature and complexity of a proposed action determine the scope and intensity of the required analysis, there is no single required or prescribed technique. The responsible official may expand, omit, or combine the various steps of the process outlined in this handbook to aid in the understanding of the proposed action and in responding to the issues identified. In each analysis, use previously documented information to avoid duplication of effort. If there is no longer a need to complete an analysis (because a project application is withdrawn or for other reasons), stop the analysis and inform the interested parties.

11.2 - Determining the Characteristics of the Proposed Action and Nature of the Decision. Important details include:

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1. Sponsorship: Who wants the action, and why.
2. Technical details: Phases of activity, equipment used, number and types of employees needed.
3. Time schedules: When the action would begin and end, the duration of major phases.
4. Preliminary estimates of possible environmental effects.
5. Preliminary estimates of public interest in the action and the likelihood of controversy.
6. Type of decision: scope and nature of decision, such as implement, permit, or consent.
7. Recognition of higher level plans and commitments.

11.3 - Identify Agencies Involved and Responsible Officials. The responsible official for proposed actions usually is the agency employee who has the delegated authority to make the required decision(s). When an action is proposed, the responsible official must identify other Federal, State, or local agencies with an interest in the action and must estimate the extent of analysis required for an informed decision. The official may base this estimate on existing documentation, personal experience, and consultation with knowledgeable people. At this point, decide whether an interdisciplinary team is necessary to carry out the remainder of the analysis process or whether a much less formal interdisciplinary approach would suffice (sec. 11.7).

11.4 - Determine If Existing Documents Address the Proposed Action. Sometimes a responsible official may determine that an existing environmental document adequately addresses a proposed action. For such actions, the official may adopt the existing document. See 40 CFR 1506.3 for procedural requirements.

Case histories of similar actions may be reviewed for additional information on:

1. Geographic areas and resources that the action is likely to affect.

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2. The size, duration, and intensity of possible effects.
3. Applicable Federal and State laws and regulations.
4. Pertinent documents and other data sources.

Such information should help define the situation and should narrow the scope of the environmental analysis. The environmental documents prepared for the proposed action may incorporate these sources by reference. (Sec. 32.2, Tiering; sec. 32.3, Adoption; and sec. 32.4, Incorporation by Reference).

11.5 - Look for Relevant Issues. Based on reviews of similar actions, knowledge of the area or areas involved, discussions with community leaders, and/or consultations with experts and other agencies familiar with such actions and their effects, prepare and evaluate a preliminary list of issues. This list provides an early look at potential issues and sharpens the focus of the environmental analysis (40 CFR 1501.1(d)).

11.6 - Assess Public Involvement Needs and Initiate Public Participation. Review the need for public participation in scoping. Identify options for involving potentially interested and affected individuals, organizations, and governments in the analysis process (40 CFR 1506.6).

Early in the analysis of proposed actions that may have important or controversial effects:

1. Provide adequate information to the public about the proposed action.
2. Analyze public reactions; that is, who expects to be affected and how.
3. Consider suggestions offered by those affected.

11.7 - Use Interdisciplinary Analysis. Use an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and environmental design arts in environmental analysis (40 CFR 1502.6).

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Proposals for some actions, especially those that can be tiered from an existing environmental document (40 CFR 1508.28), may not require the selection of an interdisciplinary team (secs. 11.3 and 11.72). A qualified individual may perform the analysis, which must consider all of the physical, biological, social, and economic factors pertinent to the decision.

Interdisciplinary review of the analysis also may satisfy the requirement for use of the interdisciplinary approach. Complex actions normally require a team of specialists representing the necessary disciplines.

11.71 - Use of Interdisciplinary Teams. Use interdisciplinary teams to analyze proposed actions with a potential for substantial environmental effects, especially if an environmental impact statement may be needed.

11.72 - Team Selection and Management. The responsible official must select the leader and other members of the interdisciplinary team, define their tasks, and keep abreast of their work.

The team is responsible for additional scoping, for subsequent environmental analyses, and for preparation of environmental documents. A team integrates its collective knowledge of the physical, biological, economic, and social sciences and the environmental design arts into the analysis process. Interaction among team members often provides insight that otherwise would not be apparent.

11.73 - Team Qualifications. The disciplines and skills of this group must be appropriate to the scope of the action and the issues identified (40 CFR 1502.6). The team must have the expertise to identify and to evaluate the potential direct, indirect, and cumulative social, economic, physical, and biological effects of the proposed action and its alternatives (40 CFR 1507.2; 1508.25).

11.73a - Team Leader. To ensure selection of an effective team leader, the responsible official should consider such factors as the individual's:

1. Degree of working knowledge of the National Environmental Policy Act process.

11.73b

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2. Ability to communicate effectively with team members and the responsible official.

3. Ability to facilitate interaction among team members.

4. Ability to organize and interpret information.

5. Past performance in meeting assigned deadlines.

11.73b - Team Members. In selecting other team members, consider such factors as:

1. Variety of disciplines needed.

2. Ability to work as part of a team.

3. Ability to communicate to others information about the field that a member represents.

4. Knowledge of and degree of experience in the environmental analysis process.

5. Ability to conceptualize and solve problems.

11.74 - Team Size. Limit the team to a manageable number of persons with a good mix of needed skills and expertise.

11.75 - Convene Team and Assign Tasks. The interdisciplinary team continues the scoping at a more specialized level, revising as necessary the:

1. Estimates of the type, distribution, and intensity of effects.

2. Public and agency issues.

3. Public participation procedures.

11.8 - Expand Public Involvement as Appropriate. The Council on Environmental Quality regulations require a diligent effort to involve the public in the National Environmental Policy Act process (40 CFR 1506.6), including:

1. Analyzing target groups. Identify potentially affected groups and the nature of their concerns (FSH 1609.13). Maintain and use mailing lists as appropriate.

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2. Developing and implementing a public participation plan. Establish the level of needed public participation. Ensure that the level of effort to inform and to involve the public is consistent with the scale and importance of the proposed action and the degree of public interest.

When extensive public involvement is necessary, prepare a formal public participation plan (FSM 1626). The Public Participation Handbook, FSH 1609.13, provides guidance in identifying and involving the public, preparing public involvement plans, and using public responses in the analysis process. Invite participation from potentially affected Federal, State, and local agencies; Indian tribes, interested individuals and groups; and others who might be affected by the action or its alternatives.

11.9 - Plan for Orderly Analysis. Scoping can substantially improve the efficiency and effectiveness of the analysis by focusing on important issues.

11.91 - Formulate Analysis Criteria. Criteria and standards may be necessary to guide the process. Be sure to consider Forest Service objectives identified in legislation, policies, and plans. Refine these criteria, as necessary, during the course of the analysis.

Frequently, it is necessary to formulate analysis criteria for:

1. Selecting data, sources, and standards of accuracy.
2. Determining depth or detail of the analysis.
3. Developing a suitable range of alternatives.
4. Evaluating alternatives.
5. Estimating the significance of effects (40 CFR 1508.27).

11.92 - Formalize Issues and Criteria. Formalize the lists of important issues and the analysis criteria, taking public and agency comments into account. These lists define the goals, priorities, and standards for the remainder of the analysis. Adjust these lists as necessary as new insights emerge.

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11.93 - Explore Alternatives. For the proposed action, consider possible alternatives that are responsive to the issues.

Discuss the feasibility and possible effects of these alternatives with potentially affected agencies and public parties. Decide which merit further study and which do not belong in the analysis.

11.94 - Determine Other Analysis Needs. During scoping, anticipate later analysis needs, and make arrangements for meeting them. These might include:

1. Data needed and their availability.
2. Time and support services available. Time and page limits may be set (40 CFR 1501.7(b)).
3. Other agency needs that the analysis can meet.
4. How other agencies might contribute to the analysis.
5. Responsibility for each task not yet assigned.
6. Additional staff support and travel funds needed.
7. The possibility of publishing a notice of intent to prepare an environmental impact statement.

11.95 - Continue Scoping. Scoping is required following the decision to prepare an EIS, including situations in which the proposed action was scoped earlier for a different purpose. Use scoping to determine the public issues at this time. Even though the public may have already been involved in the environmental analysis, an additional opportunity to provide input is required (40 CFR 1501.7 and sec. 11).

12 - INFORM PARTICIPANTS OF RESULTS OF SCOPING. After scoping, provide participants with prompt feedback in an appropriate manner, summarizing both the scope and the important issues that the environmental analysis will consider in depth.

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WASHINGTON

FSH 1909.15 - ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Amendment No. 1909.15-91-1

Effective July 11, 1991

NEW POSTING NOTICE. This amendment is the first one to this Handbook using a new numbering series that corresponds to the year in which the material was amended. Place this transmittal sheet at the front of the Handbook immediately behind title page. The last amendment to this Handbook was amendment No. 3.

<u>Page Code</u>	<u>Superseded (Number of Sheets)</u>	<u>New</u>
(Entire chapter)		
20 thru 25	3	-
20 thru 27.2	-	5

Digest:

20 - Reissues direction contained as Interim Directive No. 3, dated January 12, 1990. It provides direction on when a Decision Memo should be prepared and on the format and content of this type of decision document. It also integrates guidance on categorical exclusions, including how and when to prepare a Decision Memo.

F. DALE ROBERTSON
Chief

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 20 - ENVIRONMENTAL ANALYSIS

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CHAPTER 20 - ENVIRONMENTAL ANALYSIS

Environmental analysis assesses the nature and significance of the physical, biological, social, and economic effects of a proposed action and its reasonable alternatives. Scoping is an integral and initial component of environmental analysis. For detailed guidance on scoping, see chapter 10. This chapter addresses the requirements for conducting the more detailed environmental analysis that follows the scoping process. Exhibit O2 in section O6 of zero code shows how environmental analysis relates to other procedures required under the National Environmental Policy Act and its implementing regulations.

21 - KEEP THE PUBLIC INFORMED. Consistent with the importance of the action, keep the public informed of the progress of the environmental analysis. For major actions, this includes notifying the public that the action is under consideration and providing feedback on the results of scoping and subsequent stages of the analysis. Monitor and consider the interests and concerns of affected publics, and respond to individual requests for information.

22 - COLLECT AND INTERPRET DATA. The type and amount of data to collect depend on the nature of the action, agency objectives, public concerns, opportunities, and the scope of anticipated effects. Focus data collection on the present and expected physical, biological, economic, and social conditions affecting or affected by the decision. When appropriate, document the assumptions, methods, and data sources.

When evaluating significant adverse effects on the human environment, if information that is essential to a reasoned choice among alternatives, is either missing or incomplete, follow the procedures at 40 CFR 1502.22 and chapter 40, section 42.22.

23 - DEVELOP ALTERNATIVES. The final alternatives must provide different responses to important issues identified with the proposed action. Consider all reasonable alternatives (40 CFR 1502.14). The phrase "all reasonable alternatives" is firmly established in case-law interpreting the National Environmental Policy Act. The phrase has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed (sec. 65.11, ex. 01, 43 FR 55983). The objectives of legislation or of higher order Forest Service plans, programs, and policies guide, but do not limit, the range of alternatives that are considered in detail in each environmental analysis.

23.1 - No Action Alternatives. Consider in detail the no action alternative in each environmental analysis. The no action alternative provides a baseline for estimating the effects of other alternatives.

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Two distinct interpretations of no action are often possible, depending on the nature of the proposal being evaluated. The first interpretation involves an action such as the updating of a land management plan where ongoing programs initiated under existing legislation, regulations, and budget allocations continue, even as new plans are developed. In these cases, no action is no change from current management direction or from the level of management intensity. Consequently, the responsible official would compare the projected impacts of alternative management schemes to those impacts projected for the existing plans. The second interpretation of no action is that no action or activity would take place, such as when proposals for projects are denied.

23.2 - Other Alternatives. Develop other alternatives fully and impartially. Ensure that the range of alternatives does not foreclose prematurely any option that might protect, restore, and enhance the environment. Consider reasonable alternatives outside the jurisdiction of the Forest Service (40 CFR 1502.14(c)). In the alternatives section of an environmental impact statement, explain the reasons for eliminating from detailed study any alternative originally considered. (40 CFR 1502.14(a)). Modify alternatives or develop new alternatives as necessary as the analysis proceeds. Alternatives must specify any activities that may produce important environmental changes, and they must address management requirements, mitigation measures, and monitoring of environmental effects.

24 - ESTIMATE EFFECTS OF EACH ALTERNATIVE. (40 CFR 1502.16, 1508.8, and 1508.25(a)(2) and (c)). Estimate the effects of implementing each alternative. Consider direct, indirect, and cumulative effects. For each alternative, effects may be expressed in terms of changes in the physical, biological, economic, and social components of the human environment. Analyze these changes in terms of differences from the no action alternative. Consider the magnitude, duration, and significance of the changes. See section 61 for a list of environmental factors that may change as a result of implementation of the various alternatives.

It is not always necessary to deal with all factors and components of the environment. Consider in detail only those effects important to the issues identified during scoping.

If indicators of economic efficiency are appropriate, develop them at this point. Also consider unquantified environmental amenities and values.

For all alternatives, be sure to consider the effects on the following:

1. Consumers, civil rights, minority groups, and women (FSM 1730).
2. Prime farmland, rangeland, and forest land.

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3. Wetlands and floodplains.
4. Threatened and endangered species.
5. Cultural resources.

If the need for an environmental impact statement (EIS) has not been established already (FSM 1952.1), consider the significance of effects in terms of context and intensity in order to determine whether an EIS is necessary. See the definition of "Significantly," at 40 CFR 1508.27, for definitions of "context" and "intensity."

25 - EVALUATE ALTERNATIVES AND IDENTIFY PREFERRED ALTERNATIVES(S).

Compare alternatives on the basis of their effects on the human environment. This evaluation, along with other relevant considerations, provides a basis for identifying the preferred alternative(s).

When the Chief or the Secretary is the responsible official, the Washington Office (WO) Environmental Coordination Staff Unit participates with appropriate field or other WO staff unit(s) and with the appropriate Deputy Chief, Chief, or Assistant Secretary to identify the preferred alternative(s).

26 - CATEGORIES OF ACTIONS EXCLUDED FROM DOCUMENTATION IN AN EIS OR EA.
(40 CFR 1508.4)

26.1 - Categories for Which a Project File and a Decision Memo Are Not Required. A project file is not required for the categories of actions listed in sections 26.1a and 26.1b. However, a project file may be established for such an action at the discretion of the responsible official.

26.1a - Categories Established by the Secretary. The rules at 7 CFR 1b.3 exclude from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) the following categories of actions:

{ 1b.3 Categorical exclusions.

(a) The following are categories of activities which have been determined not to have a significant effect on the human environment and are excluded from the preparation of environmental assessments (EA's) or environmental impact statements (EIS's), unless individual agency procedures prescribe otherwise.

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(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad.

26.1b - Categories Established by the Chief. The following categories of routine administrative and maintenance actions normally do not individually or cumulatively have a significant effect (40 CFR 1508.22) on the quality of the human environment and, therefore, may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA):

1. Administrative actions, such as road and area closures; restrictions on travel or use, such as camping, boating, or hunting; and posting signs and markers.

2. Construction of low-impact facilities or improvements, such as auxiliary support buildings or other structures; picnic areas and campgrounds; temporary and other low-standard roads, such as traffic service level "D" roads (FSH 7709.56); and trails.

3. Repair and maintenance activities, such as on buildings, grounds, trails, rights-of-way, and range improvements.

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26.2 - Categories of Actions for Which a Project File and a Decision Memo Are Required. Maintain a project file and prepare a Decision Memo for the following categories of proposed actions:

1. Low-impact silvicultural activities that are limited in size and duration and that primarily use existing roads and facilities, such as firewood and miscellaneous forest product sales; salvage, thinning, and small harvest cuts of less than 100,000 board feet or less than 10 acres; site preparation; and planting and seeding.
2. Low-impact range management activities, such as fencing, seeding, and installing water facilities.
3. Issuance or modification of authorizations or agreements for such uses of lands or facilities as road maintenance and additional use of existing roads, rights-of-way, and easements.
4. Low-impact pest management activities, such as suppressing nuisance insects and poisonous plants in campgrounds and picnic areas; controlling cone and seed insects in seed orchards; and fumigating to control weeds in nurseries.
5. Mineral and energy activities of limited size, duration, and degree of disturbance, such as preliminary exploration and removal of small mineral samples.
6. Fish and wildlife management activities, such as improving habitat, installing fish ladders, and stocking native or established species.
7. Transfer of interests in land, such as sales, exchanges, or interchanges pursuant to the Small Tracts Act; purchases and gifts; and small transfers and trades with other Federal agencies.

26.2a - Content of Project File. As a minimum, a project file on a proposed action as listed in sec. 26.2 should include:

1. A list of the names of interested and affected people, groups, and agencies contacted during scoping;
2. The results of scoping and the subsequent environmental analysis;
3. A copy of the Decision Memo (sec. 27);

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4. A list of the people, agencies, and groups notified of the decision;

5. Other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded.

27 - DOCUMENTATION OF DECISIONS IN A DECISION MEMO.

A Decision Memo is not required if a proposed action has been categorically excluded from documentation in an environmental impact statement or an environmental assessment under categories in section 26.1a (7 CFR 1b.3) or section 26.1b of this chapter. However, interested and affected persons must be informed in an appropriate manner (sec. 11.5).

A Decision Memo is required if the proposed action has been categorically excluded from documentation in an EIS or EA under the categories listed in section 26.2. These decisions are subject to review under 36 CFR 217.6.

27.1 - Format and Content. The format of the Decision Memo is not intended to replicate the format of a correspondence memorandum (FSH 6209.12). Generally, Decision Memos should conform to the following format and content although sections may be combined or rearranged in the interest of clarity and brevity.

1. **Heading.** The heading consists of the following elements:
 - (a) Title of document-- "Decision Memo."
 - (b) The title of the proposed action.
 - (c) The location of the proposed action (including the Forest Service administrative unit, county, and state). In some cases, including the legal land description is appropriate.
2. **Proposed action.** Describe the proposed action, the decision to be implemented, and reasons for making the decision.
3. **Scoping and public involvement.** Describe the scoping process used and the issues identified. It may be appropriate to identify or refer to the interested and affected agencies, organizations, and persons contacted.

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4. Reasons for categorically excluding the proposed action. This section includes:

- (a) Identification of the category (sec. 26) into which the proposed action falls.
- (b) Finding that no extraordinary circumstances exist that might cause the action to have significant effects.

5. Findings required by other laws. Include any findings required by any other laws. For example, findings of consistency with the forest plan, suitability, and vegetation management required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12, sec. 5.3).

6. Implementation date. Include the date when the responsible official intends to implement the decision (sec. 51).

7. Administrative review or appeal opportunities. State whether the decision is subject to review or appeal, cite the applicable regulations (36 CFR Part 217), and identify when and where to file a request for review or appeal.

8. Contact person. Include the name, address, and phone number of the Forest Service employee who can supply further information about the decision.

9. Signature and date. The responsible official must sign and date the Decision Memo on the date the decision is made.

27.2 - Notice and Distribution of Decision Memo. Distribute the Decision Memo in a manner designed to inform agencies, organizations and persons interested in or affected by the proposed action.

1. For decisions subject to appeal under 36 CFR Part 217, the responsible official shall promptly mail the Decision Memo to those who, in writing, have requested it, and to those who are known to have participated in the decisionmaking process.

2. The responsible official may provide other forms of notice, including legal notice in newspapers of general circulation in the area where the proposed action is to be implemented.

When required by E.O. 12372, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

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FSH 1909.15 - ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

INTERIM DIRECTIVE NO. 3

January 12, 1990

EFFECTIVE DATE: January 31, 1990

EXPIRATION DATE: July 11, 1991

CHAPTER: 20 - ENVIRONMENTAL ANALYSIS

POSTING NOTICE: Last ID was No. 2, which is being removed.

REMOVE: ID No. 2, dated 2/28/89

This interim directive is a reissuance of ID No. 2, dated February 28, 1989. It is being reissued without change to provide continuity of direction related to categories of actions excluded from documentation in an environmental impact statement or an environmental assessment (40 CFR 1508.4).

On February 22, 1989, the new administrative appeal procedures at 36 CFR Part 217 became effective. Section 217.3 of the new rules provides that decisions documented in a Decision Memo, Decision Notice, or Record of Decision may be appealed under the rules in Part 217. A Decision Memo is a new type of environmental document to be prepared by Forest Service employees. In order to implement the new appeal rules, it is necessary to provide interim direction on when a Decision Memo should be prepared and on the format and content of this type of decision document.

For ease of use and consistency of implementation, this interim directive (ID) also integrates guidance on categorical exclusions with the guidance on how and when to prepare a Decision Memo. Specifically, this ID (1) enumerates the categories established by the Department of Agriculture at 7 CFR 1b.3 as categorically excluded from documentation in an EIS or EA; (2) identifies the categories of actions for which a project file and Decision Memo must be prepared; (3) defines the content of a project file; and (4) requires notice of a decision to proceed with an action that has been categorically excluded from documentation. The direction on categorical exclusions is identical to that issued in ID No. 16 to FSM 1950, dated August, 1988, which is being removed by separate posting notice.


Jeff M. Simons
Deputy Chief, P&L

26 - CATEGORIES OF ACTIONS EXCLUDED FROM DOCUMENTATION IN AN EIS OR EA.
(40 CFR 1508.4)

26.1 - Categories for Which a Project File and a Decision Memo Are Not Required. A project file is not required for the categories of actions listed in sections 26.1a and 26.1b. However, a project file may be established for such an action at the discretion of the responsible official.

26.1a - Categories Established by the Secretary. The rules at 7 CFR 1b.3 exclude from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) the following categories of actions:

(1b.3 Categorical exclusions.

(a) The following are categories of activities which have been determined not to have a significant effect on the human environment and are excluded from the preparation of environmental assessments (EA's) or environmental impact statements (EIS's), unless individual agency procedures prescribe otherwise.

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultation to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad.

26.1b - Categories Established by the Chief. The following categories of routine administrative and maintenance actions normally do not individually or cumulatively have a significant effect (40 CFR 1508.22) on the quality of the human environment and, therefore, may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA):

1. Administrative actions, such as road and area closures; restrictions on travel or use, such as camping, boating, or hunting; and posting signs and markers.
2. Construction of low-impact facilities or improvements, such as auxiliary support buildings or other structures; picnic areas and campgrounds; temporary and other low-standard roads, such as traffic service level "D" roads (FSH 7709.56); and trails.
3. Repair and maintenance activities, such as on buildings, grounds, trails, rights-of-way, and range improvements.

26.2 - Categories of Actions for Which a Project File and a Decision Memo Are Required. Maintain a project file and prepare a Decision Memo for the following categories of proposed actions:

1. Low-impact silvicultural activities that are limited in size and duration and that primarily use existing roads and facilities, such as firewood and miscellaneous forest product sales; salvage, thinning, and small harvest cuts of less than 100,000 board feet or less than 10 acres; site preparation; and planting and seeding.
2. Low-impact range management activities, such as fencing, seeding, and installing water facilities.
3. Issuance or modification of authorizations or agreements for such uses of lands or facilities as road maintenance and additional use of existing roads, rights-of-way, and easements.
4. Low-impact pest management activities, such as suppressing nuisance insects and poisonous plants in campgrounds and picnic areas; controlling cone and seed insects in seed orchards; and fumigating to control weeds in nurseries.
5. Mineral and energy activities of limited size, duration, and degree of disturbance, such as preliminary exploration and removal of small mineral samples.
6. Fish and wildlife management activities, such as improving habitat, installing fish ladders, and stocking native or established species.
7. Transfer of interests in land, such as sales, exchanges, or interchanges pursuant to the Small Tracts Act; purchases and gifts; and small transfers and trades with other Federal agencies.

26.2a - Content of Project File. As a minimum, a project file on a proposed action as listed in sec. 26.2 should include:

1. A list of the names of interested and affected people, groups, and agencies contacted during scoping;
2. The results of scoping and the subsequent environmental analysis;

3. A copy of the Decision Memo (sec. 27);
4. A list of the people, agencies, and groups notified of the decision;
5. Other notice used to inform interested and affected persons of the decision to proceed with or to implement an action that has been categorically excluded.

27 - DOCUMENTATION OF DECISIONS IN A DECISION MEMO

A Decision Memo is not required if a proposed action has been categorically excluded from documentation in an environmental impact statement or an environmental assessment under categories in section 26.1a (7 CFR 1b.3) or section 26.1b of this chapter. However, interested and affected persons must be informed in an appropriate manner (sec. 11.5).

A Decision Memo is required if the proposed action has been categorically excluded from documentation in an EIS or EA under the categories listed in section 26.2. These decisions are subject to review under 36 CFR 217.6.

27.1 - Format and Content. The format of the Decision Memo is not intended to replicate the format of a correspondence memorandum (FSH 6209.12). Generally, Decision Memos should conform to the following format and content although sections may be combined or rearranged in the interest of clarity and brevity.

1. Heading. The heading consists of the following elements:
 - (a) Title of document-- "Decision Memo."
 - (b) The title of the proposed action.
 - (c) The location of the proposed action (including the Forest Service administrative unit, county, and state). In some cases, including the legal land description is appropriate.
2. Proposed action. Describe the proposed action, the decision to be implemented, and reasons for making the decision.
3. Scoping and public involvement. Describe the scoping process used and the issues identified. It may be appropriate to identify or refer to the interested and affected agencies, organizations, and persons contacted.
4. Reasons for categorically excluding the proposed action. This section includes:
 - (a) Identification of the category (sec. 26) into which the proposed action falls.
 - (b) Finding that no extraordinary circumstances exist that might cause the action to have significant effects.

5. Findings required by other laws. Include any findings required by any other laws. For example, findings of consistency with the forest plan, suitability, and vegetation management required by the National Forest Management Act (FSM 1922.41 and FSH 1909.12, sec. 5.3).

6. Implementation date. Include the date when the responsible official intends to implement the decision (sec. 51).

7. Administrative review or appeal opportunities. State whether the decision is subject to review or appeal, cite the applicable regulations (36 CFR Part 217), and identify when and where to file a request for review or appeal.

8. Contact person. Include the name, address, and phone number of the Forest Service employee who can supply further information about the decision.

9. Signature and date. The responsible official must sign and date the Decision Memo on the date the decision is made.

27.2 - Notice and Distribution of Decision Memo. Distribute the Decision Memo in a manner designed to inform agencies, organizations, and persons interested in or affected by the proposed action.

1. For decisions subject to appeal under 36 CFR Part 217, the responsible official shall promptly mail the Decision Memo to those who, in writing, have requested it, and to those who are known to have participated in the decisionmaking process.

2. The responsible official may provide other forms of notice, including legal notice in newspapers of general circulation in the area where the proposed action is to be implemented.

When required by E.O. 12372, send copies to the State Single Point of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 30 - ENVIRONMENTAL ASSESSMENTS AND RELATED DOCUMENTS

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ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 30 - ENVIRONMENTAL ASSESSMENTS AND RELATED DOCUMENTS

30.4 - Responsibility

1. When the Chief or Secretary is the responsible official, the appropriate field unit prepares documents with assistance from the Washington Office Environmental Coordination Staff and other appropriate Washington Office staff units. The Environmental Coordination Staff arranges for processing of documents and involves other appropriate staff units.

2. The responsible official may require applicants or contractors to conduct studies to determine the impact of a proposed action on the human environment and to provide data and documentation (40 CFR 1506.5(b) and (c)). When applicants or contractors prepare an environmental assessment, limit their activities to those shown in section 06, exhibit 1, for staff, specialists, and interdisciplinary teams participating in the National Environmental Policy Act process.

32 - DOCUMENTATION OF ANALYSIS. (FSM 1952). Document the results of analysis in an environmental assessment when the analysis indicates that the proposed action is not categorically excluded and the decision to prepare an environmental impact statement (EIS) has not been made (40 CFR 1501.3, 1501.4, and 1508.9). The length and detail of documentation in an environmental assessment may vary according to the complexity of the issues involved in the analysis. Environmental analysis or a resulting environmental assessment may reveal that a proposed action significantly affects the quality of the human environment. If so, publish a notice of intent in the Federal Register and prepare an EIS (ch. 40).

31.1 - Content. (40 CFR 1508.9). An environmental assessment may be prepared in any format useful to facilitate planning and decisionmaking as long as the requirements of 40 CFR 1508.9 are met. An assessment must include brief discussions of:

1. The need for the proposal.

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2. Alternatives as required by section 102(2)(e) of the National Environmental Policy Act.

3. Environmental impacts of the proposed action and alternatives.

4. A listing of agencies and persons consulted.

32 - OTHER CONSIDERATIONS IN PREPARING ENVIRONMENTAL ASSESSMENTS

32.1 - Public Involvement. (40 CFR 1506.6).

32.2 - Tiering. (40 CFR 1502.20 and 1508.28). Tiering is appropriate for environmental assessments. See section 45.1 for additional information about tiering.

32.3 - Adoption. (40 CFR 1506.3). Adoption is appropriate for environmental assessments, as well as for environmental impact statements.

32.4 - Incorporation by Reference. (40 CFR 1502.21). Incorporation by reference is appropriate for environmental assessments, as well as for environmental impact statements.

32.5 - Supplements, Corrections, and Revisions. Supplement, correct, or revise environmental assessments, as needed (sec. 42.4).

33 - DOCUMENTATION OF DECISIONS

33.1 - Decision Notice. A decision notice may be a separate document or combined with a finding of no significant impact. Exhibit 1 displays a document that combines a decision notice and a finding of no significant impact.

A decision notice also may be an integral part of brief environmental assessments.

When the Chief or the Secretary is the responsible official, the appropriate field unit prepares the decision notice with assistance from the Washington Office (WO) Environmental Coordination Staff, as necessary. The Environmental Coordination Staff coordinates the review and signing of the decision notice, involving other appropriate WO staff units, Deputy Chiefs, the Chief, and the Secretary, as necessary.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

Decision Notice and Finding of No Significant Impact

DECISION NOTICE
and
FINDING OF NO SIGNIFICANT IMPACT

BROWN BUG TIMBER SALE

Siskiyou County, California.
Klamath National Forest
Happy Camp Ranger District

The Brown Bug Timber Sale Environmental Assessment documents the analysis of 3 timber harvest alternatives for the Coon Creek and Douglas Compartments. The southwest corner of the Coon Creek Compartment is an inventoried roadless area that was contested in the California Rare II suit. The environmental assessment is enclosed.¹

Based on the analysis documented in the environmental assessment and the current status of roadless areas, it is my decision to adopt Alternative 1 with the following modifications. Delete units 41, 42, 43, 44, 45, and 50, and roads 15N28 and 15N28C. This will defer any proposed activity within the roadless area. The modified alternative harvests an estimated 6.3 million board feet of timber primarily by clearcutting 316 acres of understocked partial cut and old growth timber stands. It also constructs 1.95 miles of new road. After harvest, 181 acres of clearcuts will require broadcast burning and 135 acres tractor piling to control vegetation and reduce slash. All clearcuts will be planted with Douglas-fir. The modified alternative 1 is selected because it provides for:

1. No timber harvest activity in the contested roadless area.

¹ The FONSI shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (1501.7(a)(5)). (40 CFR 1508.13).

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

2. Timber management in conformance with Multiple-Use and Timber Management Plan direction.
3. Maintenance of acceptable water quality.
4. Protection of private property.
5. Improvement of deer winter range.
6. Protection of the Pick-a-Wish Ceremony.
7. Harvest of high silvicultural priority stands.²

Alternatives considered were:

- Alternative 1. Harvest 9.5 MMBF of timber by regenerating both poorly stocked old growth and partial cut stands.
- Alternative 2. No action. Defer harvest activity until a later date.
- Alternative 3. Harvest 6.1 MMBF of timber by regenerating only those poorly stocked old growth and partial cut stands that are not adjacent to private property, in domestic watersheds, or on sensitive terrain.

Alternative 1, as proposed in the environmental assessment, was not selected because it proposed harvest within a roadless area. Alternative 2 was not selected because it did not conform with Multiple-Use and Timber Management Plan direction and it did not harvest high silvicultural priority stands. Alternative 3 was not selected because it also proposed harvest in a roadless area and did not harvest as many high silvicultural priority stands.

I have determined through the environmental assessment that this is not a major Federal action that would significantly affect the quality of the human environment; therefore, an environmental impact statement is not needed. This determination is based on the following factors:

²Decision and reason for the decision.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

1. There are minimal irreversible resource commitments and irretrievable loss of timber production.
2. There are no significant cumulative effects.
3. The physical and biological effects are limited to the area of planned activity.
4. No known threatened or endangered wildlife are affected.
5. No activity is proposed within a roadless area.
6. This project is within the scope of the Environmental Statement for Forest Re-establishment on National Forests in California, USDA, 1974, and the Environmental Statement for the Klamath National Forest Timber Management Plan, USDA, 1974.³

Implementation of this decision may occur after the sale has been awarded to a successful bidder.

This decision is subject to appeal pursuant to 36 CFR 211.18.

Thomas Smith
THOMAS SMITH
Forest Supervisor

5/10/85
DATE

³List relevant factors that were considered in determining that an environmental impact statement (EIS) was not required (finding of no significant impact).

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

33.2 - Finding of No Significant Impact. (40 CFR 1508.13). A finding of no significant impact may be included as an integral part of the decision notice or prepared as a separate document.

33.3 - Publication of Decision Documents on Actions of National Concern. If the responsible official determines that an environmental impact statement is not necessary, but that the effects of the action are of national concern, publish the decision notice and a finding of no significant impact in the Federal Register. Follow the Federal Register document requirements in section 67. In addition, to be in compliance with E.O. 12372 and the National Environmental Policy Act process, send copies to the State Single Points of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved (40 CFR 1506.6(b)(2)).

33.4 - Distribution of Decision Documents. (40 CFR 1506.6(b)). In addition to the requirements of sections 33.3 and 51.21, distribute environmental assessments, decision notices, and findings of no significant impact in a manner designed to inform parties interested in or affected by the proposed action.

For an action similar to one that normally requires an environmental impact statement, for an action without precedent, or for an action involving floodplains or wetlands, make the decision notice and finding of no significant impact available for public review for 30 days before implementation. In addition, send copies to the State Single Points of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State Official(s) involved.

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CHAPTER 40 - ENVIRONMENTAL IMPACT STATEMENTS
AND RELATED DOCUMENTS40.4 - Responsibility

1. When the Chief or the Secretary is the responsible official for an action requiring an environmental impact statement, the appropriate field unit prepares the necessary documents with assistance from the Washington Office Environmental Coordination Staff and other Washington Office staffs.

2. The Washington Office Environmental Coordination Staff coordinates, reviews, and processes documents for actions for which the Chief or the Secretary is the responsible official.

41 - NOTICES OF INTENT

41.1 - Preparation and Circulation of Notices of Intent.
(40 CFR 1501.7 and 1508.22). Prepare and publish the notice of intent in the Federal Register as soon as practicable after determining that an environmental impact statement (EIS) is necessary, except in cases where a lengthy period of time may exist between the determination of need and the actual preparation of the EIS (40 CFR 1501.7 and 1507.3(e)). The notice of intent must meet the requirements of 40 CFR 1508.22 and must include the identity of the responsible official(s) and the estimated dates for filing the draft and final EIS. Follow the Federal Register document requirements in section 67.

In addition to sending notices of intent to the Office of the Federal Register, send one copy to the Washington Office (WO) Director of Environmental Coordination. The WO Staff uses notices of intent to prepare reports of EIS's under preparation.

When the Chief or the Secretary is the responsible official, the appropriate field unit prepares the notice of intent as soon as practicable after the decision to prepare an EIS (40 CFR 1507.3(e) and FSM 1953.1). Send the notice of intent to the WO Environmental Coordination Staff for review, processing, and submission to the Office of the Federal Register. Exhibit 1 illustrates a notice of intent.

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Exhibit 1

Notice of Intent

[3410-11]¹

DEPARTMENT OF AGRICULTURE

Forest Service

CLOUD TOP MOUNTAIN ALPINE WINTER
SPORTS SITE

Star Mountain National Forest
Summit County, Colorado

Notice of Intent To Prepare an
Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to permit the development of Cloud Top Mountain Alpine Winter Sports Site on the Galaxy Ranger District.

¹This Forest Service billing code is shown on all Federal Register documents.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

The Star Mountain National Forest Land and Resource Management Plan has been prepared. One of the management decisions in the Plan was to study further the development of an Alpine Winter Sports Site on Cloud Top Mountain.

²A range of alternatives for this site will be considered. One of these will be nondevelopment of the site. Other alternatives will consider development designs with capacities ranging from 4,000 to 10,000 persons at one time. Alternative locations for uphill facilities, ski runs, and support facilities will be considered.

Federal, State, and local agencies; potential developers; and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

²Note that the document has only two lines between paragraphs, not three lines, and each paragraph is indented five spaces.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential winter sports site.

The Forest Supervisor will hold public meetings in his office at the Star Mountain National Forest, Central, Colorado, at 1 p.m., Saturday, November 3, 1984.

William Watson, Regional Forester, Rocky Mountain Region, Denver, Colorado, is the responsible official.

The analysis is expected to take about 10 months. The draft environmental impact statement should be available for public review by (month/year). The final environmental impact statement is scheduled to be completed by (month/year).

Written comments and suggestions concerning the analysis should be sent to William Hill, Forest Supervisor, Star Mountain National Forest, Central, Colorado 80000, by December 15, 1984.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

Questions about the proposed action and environmental impact statement should be directed to Phil Graham, Recreation Staff Officer, Star Mountain National Forest, phone 303-234-3800.

William Watson

WILLIAM WATSON

Regional Forester

5/10/85

Date

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

41.2 - Revision of Notices of Intent. The official responsible for preparation of an environmental impact statement (EIS) must notify the appropriate Regional, Station, or Area Environmental Coordinator and the Washington Office Director of Environmental Coordination whenever information shown in the notice of intent changes. Significant changes may require publishing a revised notice of intent in the Federal Register (40 CFR 1501.7 and 1507.3(e)). A revised notice of intent shall reference any previously published document relevant to the action being proposed, including the filing of an EIS.

41.3 - Cancellation Notice. Publish a cancellation notice (exhibit 1) in the Federal Register to terminate the process, if, after publication of a notice of intent or distribution of a draft EIS, the project application is withdrawn or, for some other reason, a decision is no longer necessary. A cancellation notice must refer to any previously published notice of intent or notice of availability of an EIS. Prepare and distribute a cancellation notice in the same manner as the notice of intent (sec. 41.1).

When the Chief or the Secretary is the responsible official, the appropriate field unit prepares the cancellation notice as soon as there is a decision to terminate the process and sends the notice to the Washington Office of Environmental Coordination for review, processing, and submission to the Office of the Federal Register.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

42 - ENVIRONMENTAL IMPACT STATEMENTS42.1 - General Preparation Standards42.11 - Preparation. (FSM 1952.1).42.12 - Page Limits. (40 CFR 1502.7).42.13 - Writing. (40 CFR 1502.8).42.14 - Legislative Proposals. (40 CFR 1506.8 and FSM 1952.1).42.2 - Content Standards and Recommended Format. (40 CFR 1502.10). An environmental impact statement must contain the following:

1. Cover Sheet. (40 CFR 1502.11). In addition to the Council on Environmental Quality requirements, the cover sheet must include the name and title of the responsible official. The abstract of the statement should include the alternatives considered and identification of the preferred alternative. See exhibit 1 for a cover sheet.

2. Summary. (40 CFR 1502.12).

3. Table of Contents

4. Statement of Purpose and Need. (40 CFR 1502.13).

5. Description and Comparison of Alternatives, Including the Proposed Action. (40 CFR 1502.14).

6. Description of the Affected Environment. (40 CFR 1502.15).

7. Statement of the Environmental Consequences of the Actions. (40 CFR 1502.16 and 1502.22). The environmental impact statement discusses physical, biological, economic, and social consequences of a proposed action and its alternatives. Effects are expressed as quantified or relative changes in components of the affected environment. In addition, it is appropriate to discuss the expected outputs--in terms of goods, services, and uses--that will result from implementing each alternative. In presenting outputs, use

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

Cancellation Notice

[3410-11]¹DEPARTMENT OF AGRICULTURE
Forest Service

LOMEX PROSPECTING

Los Padres National Forest .
San Luis Obispo County, CaliforniaEnvironmental Impact Statement
Cancellation Notice

Lomex Corporation, now the Caithness Corporation of New York, has withdrawn its proposal for mineral exploration for uranium and other minerals in the Navajo area of San Luis Obispo County.

The Notice of Intent, published in the Federal Register of August 15, 1980, is hereby rescinded (45 FR 54386).

For further information contact: Christine A. Rose, Environmental Coordinator, Los Padres National Forest, 45 Aero Camino, Goleta, CA 93117; telephone 805-968-1578 or 8-960-7578.



JOE SMITH
Forest Supervisor

5/10/85
DATE

¹This billing code must appear on all Forest Service Federal Register documents.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

the standard Service-wide terminology set forth in FSH 1309.11, Management Information Handbook, and in FSM 1905. Use the Resource Planning Act program planning time periods where appropriate.

8. List of Preparers. (40 CFR 1502.17).

9. List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent

10. Index. (40 CFR 1502.10(j)). All environmental impact statements (EIS's) must include indexes. The purpose of an index is to make the information in the EIS fully available to the reader without delay. See section 62 for preparation of indexes.

11. Appendix. (Sec. 42.51b and 40 CFR 1502.18 and 1503.4).

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

Cover Sheet

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Star Mountain National Forest Land and
Resource Management Plan

Summit, Comet, and Garfield Counties, Colorado

Lead Agency: USDA - Forest Service

Cooperating Agencies: USDI - Bureau of Land Management
321 No. Fern Street
Central, Colorado 80000

Colorado Fish and Game Department
1700 Alder Street
Garfield, Colorado 80017

Responsible Official: William Watson, Regional Forester
Rocky Mountain Region (for NFS
lands)

For Further Information
Contact: Ms. Ruth Gibson
Forest Planner
Star Mountain National Forest
123 So. Fern Street
Central, Colorado 80000
(303-555-1515)

Abstract: The draft environmental impact statement documents the analysis of five alternatives which were developed for possible management of the 2,500,000-acre Star Mountain National Forest. The alternatives are: (A) moderate increase in commodity production; (B) a continuation of present management direction with no change in the level of outputs or activities; (C) dispersed recreation emphasis; (D) commodity emphasis; and (E) amenity emphasis. Alternative A is the Forest Service preferred alternative. The selected alternative will become the forest plan and will guide management of the Forest for the decade 1985-1994.

Comments must be received by September 15, 1985.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

42.21 - Incorporation by Reference. (40 CFR 1502.21).

42.22 - Incomplete or Unavailable Information. (40 CFR 1502.22). When estimating "overall costs," consider total program costs, including the cost of delaying the proposed action, as well as the costs of research or other activities required to obtain the essential information.

42.23 - Documentation of Cost-Benefit Analysis. (40 CFR 1502.23).

42.24 - Identification of Methodology and Scientific Accuracy. (40 CFR 1502.24).

42.25 - Identification in Draft Environmental Impact Statements of Permits Necessary to Implement Proposal. (40 CFR 1502.25).

42.3 - Filing, Circulation, and Availability of Environmental Impact Statements

42.31 - Draft Environmental Impact Statements

1. File a draft environmental impact statement (EIS) with the Environmental Protection Agency (40 CFR 1506.9). The official filing date is the date that the Environmental Protection Agency receives the EIS, not the date that the notice of availability appears in the Federal Register.
2. Circulate a draft EIS to agencies and to the public prior to or at the same time it is transmitted to the Environmental Protection Agency (EPA) in Washington, D.C. (40 CFR 1502.19). (See mailing address at 42.34(b).)
3. Conduct public participation sessions, if appropriate.
4. Review, analyze, evaluate, and respond to substantive comments on the draft EIS. Make copies of all comments available for public and in-service review in the office of the responsible official and administrative unit affected by the policy, plan, program, or project (40 CFR 1503.4).

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42.32 - Final Environmental Impact Statements

1. File a final environmental impact statement (EIS) with the Environmental Protection Agency (EPA), along with all substantive comments or summaries (40 CFR 1503.4(b)) on the draft EIS. The official filing date is the date that the EPA receives the EIS, not the date that the notice of availability appears in the Federal Register. The Washington Office files with EPA the statements for which the Chief or the Secretary is the responsible official. Other levels of the Forest Service may assist with the preparation of these documents.

2. Circulate a final EIS to other agencies and to the public prior to or at the same time it is transmitted to EPA (40 CFR 1506.10). If the statement is unusually long, a summary may be circulated instead (40 CFR 1500.4(h)). However, the responsible unit must file the entire document with EPA and furnish it to other persons specified by 40 CFR 1502.19).

A summary distributed as a separate document must:

a. State how other agencies and the public can obtain or review the complete EIS.

b. Have a cover sheet attached.

If changes resulting from comments to a draft EIS are minor, they may be written on an addenda sheet and attached to the draft EIS. In this case only the comments, the responses, and the changes need to be circulated. File the entire document with a new cover sheet as the final statement (40 CFR 1503.4(c)).

3. After filing the EIS with the EPA, ensure that a reasonable number of copies of the statement are available free of charge (40 CFR 1506.6(f) and FSM 1950.3(4)).

42.33 - Environmental Impact Statements on RARE II "Further Planning" Areas. If an environmental impact statement (EIS) deals with plans or projects that allocate RARE II "further planning" roadless areas to nonwilderness uses, the responsible official may make public distribution

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of the final EIS and may file the final EIS with EPA in the same manner as other EIS's. The responsible official should then send five additional copies of the final EIS to the Washington Office Director of Environmental Coordination for transmittal to congressional committees (sec. 42.34).

42.34 - Distribution of Environmental Impact Statements42.34a - Draft and Final Environmental Impact Statements

1. When the Responsible Official Is a Field Officer. When the responsible official is the Regional Forester, Station Director, Area Director, or other field officer having the delegated authority to file EIS's, send:

a. Five copies to the Environmental Protection Agency (EPA) in Washington, D.C., for filing purposes. Include a transmittal letter. See exhibit 1 for a sample transmittal letter.

b. Five copies to the Washington Office, Director of Environmental Coordination.

c. Two copies of the letter transmitting the EIS to EPA to the Washington Office, Director of Environmental Coordination.

2. When the Chief is the Responsible Official. When the responsible official is the Chief, send:

a. Ten copies to the Washington Office. (The Washington Office files five copies with EPA.) (Thirty-five copies of a draft EIS and twenty-five copies of a final EIS are needed by WO-Land Management Planning for wild and scenic river studies.)

b. One original and two copies of the transmittal letter for transmittal to EPA to the Washington Office for signature.

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Exhibit 1

Transmittal Letter to EPA

Return Address¹

1950²
August 4, 1984

Management Information Unit
Office of Federal Activities (A-104)
Environmental Protection Agency
Room 2119 Mall
401 M Street, SW
Washington, DC 20460

Dear Sir:

Five copies of the Draft Environmental Impact Statement for the proposal to permit Snow Top Mountain Ski Area development, Star Mountain National Forest, Summit, Comet, and Garfield Counties, Colorado, are enclosed.

The responsible official is Regional Forester William Watson, Rocky Mountain Region, Denver, Colorado.

Sincerely,

/s/ William Watson
WILLIAM WATSON
Regional Forester

Enclosures

¹When the Chief is the responsible official, use WO return address: P.O. Box 2417, Washington, DC 20013.

²Use 1950 file designation to ensure proper distribution of EIS's in the Forest Service.

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42.34b - Lists. Responsible officials shall maintain lists of individuals, groups, organizations, and government agencies interested in reviewing Forest Service environmental impact statements (EIS's). Regions shall develop specific distribution lists. Include on the distribution list the State Single Points of Contact or, in cases where a State has elected not to establish a Single Point of Contact, the State official(s) involved.

1. State and Local Agencies. Regions, Stations, and the Area Office shall develop and maintain lists of State and local agencies as supplements to this section.

2. Organizations. Regions, Stations, and the Area Office shall develop and maintain lists of organizations as supplements to this section.

3. Individuals. Regions, Stations, and the Area Office shall develop and maintain, as supplements to this section, lists of individuals who have expressed an interest in receiving Forest Service EIS's.

4. Federal Agencies. Following is the mandatory distribution list for all EIS's prepared by the Forest Service:

- a. Management Information Unit
Office of Federal Activities (A-104)
Environmental Protection Agency
Room 2119 Mall
401 M Street, SW
Washington, DC 20460
- b. Environmental Protection Agency
Appropriate Regional Offices
- c. Director, Office of Environmental Project Review
Office of the Secretary
Department of the Interior, Room 4256
Washington, DC 20240

Always send copies of EIS's to these Agencies by methods of delivery that require verified receipts. These methods also may be desirable for other key recipients. Base any

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other distribution to Federal agencies on agency expertise and legal jurisdiction. When the Forest Service requests review and comments from any of the above agencies, the addresses, phone numbers, and recommended number of copies to be sent are shown in section 63.1.

42.4 - Corrections, Revisions, or Supplements. The standards at 40 CFR 1502.9 govern revision of draft environmental impact statements (EIS's) or supplementation of drafts and finals. Use errata sheets to make any necessary corrections to EIS's. Draft EIS's may be revised. Use supplements to modify EIS's, if necessary. Prepare, circulate, and file supplements and revisions in the same manner as the document being modified.

42.5 - Environmental Impact Statement Review and Comment Procedures

42.51 - Comments on Forest Service Environmental Impact Statements

42.51a - Draft Environmental Impact Statement. (40 CFR 1503.1 (a)). The responsible officer may receive comments on a draft environmental impact statement (EIS) after the end of the review period and before filing the final EIS. If it is too late to incorporate the comments in the final EIS, the responsible official may respond to them on an individual basis.

42.51b - Final Environmental Impact Statement. (40 CFR 1502.9(b) and 1503.4). When the responsible official determines that a summary of responses is appropriate, the summary must reflect accurately all substantive comments received on the draft EIS. Comments that are pertinent to the same subject may be aggregated by categories, but the summary must identify the comment specifically. Avoid a general summary.

As a minimum, include in the appendix of a final EIS copies of all comments received on the draft EIS from Federal, State, and local agencies and elected officials. See exhibit 1 for one example of a summary of substantive comments.

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Exhibit 1

Summary of Substantive Comments

PUBLIC COMMENTS AND RESPONSES ON DEIS

Public comments received by the U.S. Forest Service on the Draft Environmental Impact Statement (DEIS) totaled 1,125 letters by the January 29, 1985, deadline. All were considered during preparation of this Final Environmental Impact Statement (FEIS).

Due to the large volume of comments received, only those from government agencies and other public officials are reproduced at the end of this chapter. Other substantive comments have been excerpted from letters to represent a composite of comments on a particular subject. Responses to these comments are either to rewrite the text or to offer a brief explanation. Many comments noted typographic, computational, grammatical, or minor technical errors. These have been corrected in the FEIS without specific identification in this chapter.

1. Impacts of diverting the river, as suggested in Section 4.2.1.3, have not been analyzed.

Response

Diversion or mechanical adjustment of the Keta River from the existing channel was suggested as a possible mitigating measure. However, due to the narrow dimension of the bulk sample/access road, it will not encroach upon the main river channel. Therefore, this type of mitigating action is not required. See Encroachment Analysis and floodplain, Section 4.3.1.3.

2. The DEIS, Section 3.4.2, infers that heavy metal concentrations will result in detrimental effects. Is this a valid concern?

Response

As demonstrated in the table in Section 4.2.1.4, Water Quality, significant changes in water quality are not anticipated. After mixing and diluting with surface waters, concentrations of copper, lead, and zinc are about 1/10th of the EPA recommended upper limit for toxicity. The diluted concentration for arsenic is about 1/2 the recommended upper limit. Thus, heavy metal concentrations are not a concern at this time.

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Exhibit 1--Continued

3. Are the flow discharges of the Wilson/Blossom Rivers and the Keta River large enough to clean themselves of the construction-induced sediments identified in the DEIS?

Response

As stated in the concluding paragraph of Appendix H, the Keta River, with its steep channel gradient, should flush the construction-induced sediments through its system and into the delta area of the fjord within 12 months. The Blossom/Wilson Rivers have flatter gradients and the Blossom has numerous deep pools. It could take as long as 24 months to move this sediment load through the system. Also see Appendix I.

4. Many comments expressed concern about the change in designation of the responsible official for this environmental statement.

Response

The reason for the change in responsible official from Forest Supervisor to Chief of the Forest Service has to do with a conflict between provisions of ANILCA and the regulations governing appeals of Forest Service decisions.

5. A number of comments received were critical of the lack of discussion of the Interdisciplinary Team's (IDT) role in the preparation of the DEIS. They were especially concerned that the IDT recommendation was not followed.

Response

The IDT's role is to disclose the environmental effects of various alternative actions to the public and the responsible official. It is not a decision-making body nor is it required to recommend a preferred alternative. This IDT made a recommendation (Appendix F) to the Forest Supervisor. Eleven team members preferred the Keta alternative, five team members preferred the Blossom alternative, and three members expressed no preference.

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42.52 - Review of Other Agency Environmental Impact Statements. (40 CFR 1503.2 and 1503.3). Because of special agency expertise or jurisdiction by law, the Forest Service may be asked to review and comment on environmental impact statements (EIS's) prepared by other agencies. Unless otherwise assigned by the Chief, officials in the Washington Office shall review and comment on EIS's prepared on legislative proposals, Service-wide policies, regulations, or national program proposals. The Regional Forester or Area Director in whose Region or Area a proposal is located shall review all other draft and final EIS's prepared by other agencies. When an EIS affects both Regional and Area program responsibilities, the Regional Forester and the Area Director shall determine who assumes the lead for responding.

The responsible field unit shall submit comments on other agency EIS's directly to the appropriate agency. Send one copy of the comments to the Washington Office Director of Environmental Coordination. When another agency's EIS involves more than one Region, the Washington Office Director of Environmental Coordination coordinates the responses.

42.52a - Referrals to Council on Environmental Quality. (40 CFR 1504). When Forest Service review of another agency's draft EIS concludes that the proposed action is environmentally unacceptable, follow the procedures set forth in 40 CFR 1504.3(a).

If after receipt of the final EIS, the other agency has not remedied the situation or reached an agreement with the Forest Service, follow the procedures set forth in 40 CFR 1504.3(b). Send the referral to the Washington Office Director of Environmental Coordination for processing. The Director submits the referral to the Council on Environmental Quality.

The 25-day time period is extremely short; therefore, begin referral documentation immediately after determination that the proposal is environmentally unacceptable.

In addition to the requirements of 40 CFR 1504.3(c), the responsible official shall include a letter to the Council on Environmental Quality requesting the referral for signature by the Chief.

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43 - OTHER PLANNING AND PREPARATION REQUIREMENTS FOR ENVIRONMENTAL IMPACT STATEMENTS

43.1 - Interdisciplinary Approach. See section 102(2)(A) of the National Environmental Policy Act, as amended; 40 CFR 1502.6; and section 11.7 of this Handbook.

43.2 - Public Involvement. (40 CFR 1501.7, and 1506.6).

43.3 - Consultation Requirements. (40 CFR 1502.25).

43.4 - Elimination of Duplication With State and Local Procedures. (40 CFR 1506.2).

43.5 - Federal and Federal-State Agencies With Legal Jurisdiction or Special Expertise. (40 CFR 1503.1). See section 63 for the Council on Environmental Quality's list of agencies with jurisdiction by law or special expertise. See section 63.1 for addresses and recommended document distribution.

43.6 - Limitations on Actions During the Environmental Analysis and Documentation Process. (40 CFR 1506.1).

44 - RESPONSIBILITIES WHEN APPLICANTS AND CONTRACTORS ARE INVOLVED. (40 CFR 1506.5). The responsible official may require project proponents to provide data and documentation for consideration and use in preparing an environmental impact statement (EIS). When a contractor is to prepare an EIS, limit the contractor's activities to those of the interdisciplinary team (sec. 06, ex. 3) participating in the National Environmental Policy Act process. Applicants or contractors may be required to conduct studies to determine the impact of the proposed action on the human environment. (Sec. 65.14).

45 - TIERING AND ADOPTING OTHER ENVIRONMENTAL IMPACT STATEMENTS

45.1 - Tiering. (40 CFR 1502.20). Tiered documents may refer to the evaluation of the no action alternative in a broad program document. However, a decision on site-specific actions must consider the no action alternative appropriate to that decision.

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45.2 - Adoption. Use adoption procedures, when applicable, to avoid duplication of effort (40 CFR 1506.3).

46 - DETERMINING LEAD AND COOPERATING AGENCIES

46.1 - Lead Agency. (40 CFR 1501.5, 1501.6, 1501.7, 1503.1, and 1508.16). If the Forest Service requests the Council on Environmental Quality to determine which Federal agency shall be the lead agency, send this request to the Director of Environmental Coordination in Washington, D.C., for processing. Where National Forest System lands are involved, the Forest Service shall exert a strong role in the preparation of environmental documents. If the Forest Service is the lead agency, promptly request, in writing, that all other Federal agencies with jurisdiction by law or special expertise become cooperating agencies.

46.2 - Cooperating With Other Agencies. (40 CFR 1501.6, 1503.2, 1503.3, and 1508.5). When National Forest System lands are involved and the Forest Service is not the lead agency, the responsible official shall request that the Forest Service be a cooperating agency in scoping, environmental analysis, and documentation. The Forest Service may also be a cooperating or lead agency when State and private forest lands are involved.

If the Forest Service is asked to be a cooperating agency and other program commitments preclude being able to become involved, the responsible official shall prepare a reply to this effect. Send two copies of this reply to the Director of Environmental Coordination in Washington, D.C., for transmittal to the Council on Environmental Quality.

47 - DOCUMENTATION OF DECISIONS

47.1 - Decision. Follow the instructions in exhibit 1 on timing of a decision with other conditions that must be met for environmental impact statements.

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Exhibit 1Conditions for Decision¹

If an EIS is required for:	These conditions must be met prior to a decision:
I. Land and Resource Management Plans for units of the National Forest System (36 CFR 219).	
A. That <u>do not</u> involve RARE II <u>Further Planning</u> areas.	1. 90 days have elapsed since the notice of availability of the draft EIS was published in the Federal Register by EPA. 2. A final EIS that responds to comments on the draft EIS has been prepared.
B. That <u>do</u> involve RARE II <u>Further Planning</u> areas.	1. 90 days have elapsed since the notice of availability of the draft EIS was published in the Federal Register by EPA. 2. A final EIS that responds to comments on the draft EIS has been prepared.
II. Plans (other than land management plans), adversely affecting the existing wilderness character of RARE II <u>Further Planning</u> areas.	1. 60 days have elapsed since the notice of availability of the draft EIS was published in the Federal Register by EPA. 2. A final EIS that responds to comments on the draft EIS has been prepared.
¹ For conditions that must be met prior to implementation of a decision, see exhibit 1, section 52.	

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53 - MONITORING. (40 CFR 1505.3). Monitor actions to ensure that:

1. Environmental safeguards are executed according to plan.
2. Necessary adjustments are made to achieve desired results.
3. Anticipated results are achieved.

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CHAPTER 60 - REFERENCES

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CHAPTER 60 - REFERENCES

This chapter contains various guidelines and reference documents essential to conducting environmental analysis or preparing environmental documents.

61 - ENVIRONMENTAL FACTORS. The following list identifies environmental factors that may need to be considered when collecting data and information during environmental analyses. Few, if any, analyses deal with all of these factors. The classification into physical, biological, economic, and social factors is arbitrary and is not mandatory.

61.1 - Physical Factors

1. Location.
2. Geomorphic/physiographic.
 - a. Geologic hazards.
 - b. Unique land forms.
3. Climate.
4. Soils.
 - a. Productivity.
 - b. Capability.
 - c. Hazard.
 - (1) Erodibility.
 - (2) Mass failure.
5. Minerals and energy resources.
 - a. Locatable minerals.
 - b. Leasable minerals.
 - c. Saleable minerals.

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- d. Other energy sources.
6. Visual resources.
7. Cultural resources.
 - a. Archaeological.
 - b. Historical.
 - c. Architectural.
8. Wilderness resources.
9. Wild and scenic rivers.
10. Water resources.
 - a. Water quality.
 - b. Streamflow regimes.
 - c. Floodplains.
 - d. Wetlands.
 - e. Ground water recharge areas.
11. Air quality.
12. Noise.
13. Fire.
 - a. Potential wildlife hazard.
 - b. Role of fire in the ecosystem.
14. Land use--including prime farm, timber, and rangelands.
15. Infrastructure improvements.
 - a. Roads.
 - b. Trails.

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- c. Utility corridors and distribution.
- d. Water collection, storage, and distribution.
- e. Communications systems.
- f. Solid waste collection and disposal.
- g. Sanitary waste collection and disposal.
- h. Buildings and other structures.

61.2 - Biological Factors

- 1. Vegetation.
 - a. Forest, including diversity of tree species.
 - b. Rangeland, including conditions and trends.
 - c. Other major vegetation types.
 - d. Threatened or endangered plants.
 - e. Research natural area (RNA) potentials.
 - f. Unique ecosystems (other than RNA's).
 - g. Diversity of plant communities.
 - h. Noxious weeds.
- 2. Wildlife.
 - a. Habitat.
 - b. Populations.
 - c. Threatened or endangered species.
 - d. Diversity of animal communities.
 - e. Animal damage control.

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3. Fish.
 - a. Habitat.
 - b. Populations.
 - c. Threatened, or endangered species, including State-listed species.
4. Recreation resources (usually a combination of physical and biological factors).
5. Insects and diseases.
6. Exotic organisms; for example, Russian thistle, a Siberian ibex.

61.3 - Economic Factors

1. Economic base.
2. Labor force composition, availability.
3. Housing.
4. Land-use requirements.
5. Community service requirements.
6. Revenue base.
 - a. Local general government revenues.
 - b. Special service districts.
 - c. Grants-in-aid.
 - d. Payments to State and local governments.
7. Plans and programs of other agencies.
8. Income.
 - a. Sources.
 - b. Amounts.

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- c. Distribution.
- 9. Cost (who pays for what and when).

61.4 - Social Factors

- 1. Population characteristics and dynamics.
 - a. Size and trends (growth, stability, decline).
 - b. Composition (age, sex, marital status, racial and ethnic minorities).
 - c. Geographic mobility.
 - d. Displacement.
- 2. Social institutions.
 - a. Educational.
 - b. Family.
 - c. Economic.
 - d. Political.
 - e. Military.
 - f. Religious.
 - g. Recreation/leisure.
- 3. Civil Rights, including opportunities for minorities and women.
- 4. Historical/archaeological/cultural resources.
- 5. Lifestyles, as defined by subcultural variation, leisure and cultural opportunities, personal security, rate of social and technological change, basic values and attitudes, beliefs, symbolic meanings, levels of cohesion and conflict, community identity, quality of community services, and health and safety.

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6. Economic well-being.
 - a. Types of jobs available.
 - b. Type and distribution of income.
 - c. Level of unemployment.
7. Land tenure and land use.

62 - INDEXING STANDARDS. Preparation of an index is a specialized task. Consider using an experienced indexer, rather than the author of the environmental impact statement, to prepare the index. The author(s) can assist the indexer by suggesting subject headings and indicating their relative importance. Contacts with local publishing firms, colleges, and universities may be useful in locating experienced indexers.

62.05 - Definitions. The following definitions are derived from a publication on British Standards for Indexing (B.S. 3700:1964) and are used in this section of the handbook.

1. **Index.** A systematic guide to the text, comprising a series of entries, with headings arranged in alphabetical order and with references to show where each indexed item appears in the text.

2. **Entry.** A unit of the index consisting of a heading and at least one reference to the location of the item in the text (or with a cross-reference to another entry to the index).

3. **Heading.** The word(s) or symbol(s) selected from, or based on, an item in the text--specifically, the initial word or keyword. For example: "Fish, Fishing, or Water."

4. **Subheading.** The word(s) or symbol(s) under which references in a complex entry are located specifically; for example:

Fish (Heading)

 Trout (Subheading)

 rainbow (Subheading)

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5. Reference. The number of the section or page where the item is to be found in the body of the material indexed.

6. Cross-Reference. A direction from one heading or subheading to another heading.

7. "See" Cross-References. A direction from one heading (after which there are no references) to an alternative heading, under which there are all the relevant references to an item in the text. "See" cross-references usually are for synonyms or near-synonyms; for example: "Impacts, see Effects." Also use "see" cross-references when the "inverted form" of heading is used; for example: Human environment, see Environment, human.

8. "See Also" Cross References. A direction from one heading (after which there are references) to any additional heading(s) under which further relevant references to an item in the text are to be found; for example: "Environment, natural (see also Environment, physical)...reference 89." (Note: the reference "89" above indicates that natural environment appears on page 89 of the text).

62.1 - Length. The length of an index should relate to the length of the text material. Because indexes are usually in smaller type than the text, express the index length in number of lines and compare this to the number of lines in the text. Generally, the length of the index shall be from 4 to 8 percent of the number of lines in the document. Example: If an environmental impact statement is 105 pages long (including the Appendix, but not the Table of Contents), and there are 45 lines per page, the total length of the document would be 4,725 lines. The index should be from 190 to 390 lines in length.

62.2 - Layout. The "set out" system of subheadings is preferred. In this system, the heading is flush with the left margin of the list; indent subheadings three spaces. Place comma after headings with subheadings, but not after headings without subheadings. Use a line of dots to connect the headings and the reference. Align references with the right margin of the list.

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Example:

EPA, See Environmental Protection Agency

Environment,

biological. 32-39

economic. 17-21

human 2

social. 21-23

Environmental Protection Agency.2, 7, 16

If the list of references is too large to fit on one line, list only the first reference on the line with the heading and subsequent references on subsequent lines; for example:

Environmental Protection Agency2

7, 16, 93-95, 101

A long series of references is discouraging to readers. If possible, limit the number of references to five for each entry. This can be done, in most cases, by increased use of subheadings.

Use of smaller than normal size type is customary for indexes. Because most environmental impact statements are printed from camera-ready material typed on a standard typewriter, it is possible to create smaller-than-normal size type only by reducing the page of copy to a smaller size before printing. An index originally typed on 12" x 15-3/4" paper, with double-size margins, in two columns of material, can be reduced to 8" x 10-1/2" and still be legible.

62.3 - Conventional Practices. These are generally accepted indexing standards:

1. Leave a blank line between the last heading in one letter of the alphabet and the first heading in the next letter.

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2. Use uppercase and lowercase headings as appropriate.
3. The table of contents of the environmental impact statement (EIS) is not subject to indexing.
4. Index footnotes, the bibliography, and the appendix.
5. If paragraphs are numbered, it is permissible to use paragraph numbers as well as the page numbers for references. Place paragraph numbers in parentheses immediately following the headings; for example: "Environment, man's (3.25)...36." The introduction to the index should explain that this is the practice followed. If pages are not numbered, references should be to numbered paragraphs of the EIS. Clearly state this practice at the bottom of each page of the index.
6. Index compound headings of two or more words under the words that are likely to be most useful to prospective readers and that are still consistent with the general construction of the index.
7. Use a noun as the heading, or subheading, rather than an adjective, when choice is available; for example: "Criteria, evaluation" rather than "Evaluation criteria." If, as in the example above, the term is a subject-matter heading in the EIS, or is otherwise likely to be searched for in the index, use a "see" reference after the heading that begins with the adjective; for example: "Evaluation criteria, see Criteria, evaluation."
8. When possible, avoid having separate entries under both the singular and plural forms of a noun. Use "(s)" or "(ies)" after the entry and list all appropriate references; for example:

Index(es).....72-91

9. References.
 - a. List references in page order; for example: 7, 23, 29, 56.

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b. It is permissible, but not necessary, to emphasize "more important" references by underlining them in typed copy, or by printing them in boldface type. The introduction to the index should explain the use of this practice.

c. When there is scattered mention of the subject on several pages, the reference shall list each of the pages; for example: 63, 64, 67, 72.

d. When several pages deal continuously with the subject, the reference shall be to the first and last pages; for example: 63-72.

e. When the reference is to a subject that starts on one page and continues to the next page, list both pages; for example: 63-4.

f. When listing pages, repeat 10's and 100's only when there is any possibility of misunderstanding: for example: use 121-6 rather than 121-26, 13-17 rather than 13-7, 97-101 rather than 97-1, or 97-01, 125-31 rather than 125-131.

10. Use letter-by-letter alphabetization, particularly for compound word headings; that is, treat all letters in the headings as if they were in a single word. For example: treat Red Cross as if it were spelled redcross. If in doubt about the order of listing of entries, check a current dictionary and use the system used there.

11. Proper names require special attention.

a. Do not invert a proper name just so that the noun is usable as the heading; for example: "Desolation Wilderness" is preferable to "Wilderness, Desolation," or to "Wilderness (Desolation)"; "Sierra Club" is preferable to "Club, Sierra"; "Western Timber Association" is preferable to "Association, Western Timber."

b. For names of people, list the surname (last name) before the first name and any initials; for example: "Peterson, R. Max" or "Peterson, R. M.," rather than "R. Max Peterson" or "R. M. Peterson."

c. If in doubt the listing of names of people, firms, or organizations, consult the telephone directory for their listing.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

12. If initials are used in the text, the index heading also should use the initials with a "see" reference to the full name; for example:

"EPA, see Environmental Protection Agency"

13. List headings consisting of initials only at the head of the letter division of the index; for example:

EPA, see Environmental Protection Agency

Environment,

biological.....32-39

economic.....17-21

social.....21-3

Environmental Protection Agency.....2, 7, 16

14. When entries start on one page and continue on the next page (or start in one column and continue in the next column), repeat the heading followed by "(continued)."

15. When referencing footnotes, follow the page reference with a small "n"; for example: 117n.

62.4 - Methodology. The following suggestions may be useful when specialist indexing services are not used.

1. Index from final typed copy, not from earlier drafts.

2. Use 3" x 5" cards with a separate entry on each card. Keep the cards arranged alphabetically in a file box.

3. Plan on at least three readings of the text.

4. Determine the approximate length of the index and after completing about one-fourth of the text (on the first review), check the number of entries to see whether the length will be approximately the length that is desired.

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5. Check references carefully during the last review of the text. Check to be sure that a series of "see" references does not take the reader back to the original reference.

6. Carefully proofread the final typed index against the original text.

62.5 - References. The following reference may be useful for further understanding of the practice of indexing: Council of Biology Editors, 1983 "CBE Style Manual" Fifth Edition, published by the Council of Biology Editors, Inc. It is possible to purchase the CBE Style Manual by contacting the Special Publication Department of the Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, Maryland 20814; the telephone number is (301) 530-7158. They require prepayment.

63 - LIST OF FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE ON ENVIRONMENTAL QUALITY ISSUES. See exhibit I.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

List of Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

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Appendix II—Federal and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

This appendix is a compilation of Federal and Federal-State agencies with jurisdiction by law, a statutorily mandated consultative role, or special expertise on environmental quality issues. Both the public and private sectors and governmental agencies can use this list as a reference guide to facilitate their participation in and compliance with NEPA process.

The appendix is organized into four broad categories: pollution control, energy, land use, and natural resource management. Because most actions involve environmental issues falling into more than one of these categories, users should consult all pertinent entries.

The areas of special expertise are listed in parentheses *following* the agency name. They are intended to provide examples rather than define the limits of an agency's total expertise in that area.

The areas of jurisdiction by law and statutorily mandated consultations are listed below each appropriate agency or component. Entries dealing with jurisdiction by law relate to that agency's authority to approve, deny, or finance all or part of a proposal and include permits and licenses. Because experience in implementing NEPA has proven that identification of an agency's statutorily mandated consultative role is of equal significance to users of this list, those responsibilities are now specifically cited and include such authorities as the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 *et seq.*), the Fish and Wildlife Coordination Act (16 U.S.C. Sec. 661 *et seq.*), and the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 *et seq.*). Because laws are amended and new laws enacted, the responsibilities identified in this appendix may change or new ones may be added. Hence, the definitive responsibility of an agency depends on the then current law and not on this index.

The Council on Environmental Quality has prepared this list to supplement its NEPA regulations and believes that it will be helpful in the following ways:

First, the Council's NEPA regulations require the Federal agency having primary responsibility for preparing an environmental impact statement (EIS) under NEPA (the lead agency) to determine whether any other Federal agencies have jurisdiction by law or special expertise with respect to any environmental effects involved in a proposal for legislation or other major Federal action significantly affecting the human environment. 40 CFR 1501.3(a), 1501.6(a), 1501.7(a). The Federal lead agency must, early in the NEPA process, request the participation of Federal cooperating agencies with jurisdiction by law or special expertise concerning the proposal. 40 CFR 1501.6(a), 1501.7(a). The lead agency and those involved in the "scoping process" (see 40 CFR 1501.7) may use this list to help determine which other Federal agencies should be requested to participate as cooperating agencies in the NEPA process. The list will also be helpful to the lead agency in determining which agencies should receive copies of the draft environmental impact statement for review and comment. 40 CFR 1503.1.

Second, this compilation will prove useful to those whose activities or proposed actions require Federal regulatory approvals by facilitating the identification of:

- a. Those Federal agencies with the authority to issue applicable permits, licenses or other Federal regulatory approvals, and
- b. Those Federal agencies that have a statutorily mandated consultative role that must be carried out before a decision is made.

Third, a major goal of NEPA and the CEQ regulations is to encourage public participation in agency decisionmaking. 40 CFR 1500.2(d). Individuals, citizen groups and State and local governments who are interested in an environmental issue may use the list to help identify those agencies that have jurisdiction by law over or special expertise in the subject matter of a proposal. Those interested may then contact the potentially involved agencies to obtain information on the issues and to participate in the NEPA process.

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Exhibit 1--Continued

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- B. Federal Land Management
C. Coastal Areas
D. Environmentally Sensitive Areas
E. Outdoor Recreation
F. Community Development
G. Historic, Architectural, and Archeological Resources
- IV. Natural Resources Management
A. Weather Modification
B. Marine Resources
C. Water Resources Development and Regulation
D. Watershed Protection and Soil Conservation
E. Forest, Range, and Vegetative Resources
F. Fish and Wildlife Resources
G. Non-energy Mineral Resources
H. Natural Resources Conservation
- I. POLLUTION CONTROL**
A. Air Quality
- Department of Agriculture*
- Agricultural Research Service (effects of air pollution on vegetative growth).
 - Farmers Home Administration (effects of air pollution on housing, community, and business loan programs, and farmer loan programs).
 - Forest Service (effects of air pollution on vegetation and visibility; fire smoke management on National Forest and Grasslands).
 - Rural Electrification Administration (electric power plant emissions).
 - Soil Conservation Service (effects of air pollution on vegetation; wind erosion).
- Department of Commerce*
- National Bureau of Standards (air quality measurements, standards, data and methods).
 - National Oceanic and Atmospheric Administration (meteorological and climatological research and monitoring in relation to urban air pollution; incorporation of national air quality standards in Coastal Zone Management Plans for management and protection of coastal and marine resources).
- Department of Defense*
- Department of the Air Force (air pollution from military aircraft).
 - Department of the Army (emissions from military vehicles).
- Department of Energy*
- Economic Regulatory Administration (emissions from power plants and other major fuel-burning installations):
—Exemptions from prohibitions against burning of natural gas and oil in power plants and major fuel-burning installations, 42 U.S.C. 7101 and 8001 (19 CFR Part 806, et seq.).
 - Office of Policy, Safety, and Environment (air quality in relation to general energy policies, programs, and projects; emissions from energy sources).
- Department of Health and Human Services*
- Public Health Service: Center for Disease Control (effects of air pollution on health); National Institutes of Health (effects of air pollution on health).
- Department of Housing and Urban Development*
- Office of Community Planning and Development (effects of air pollution on the built environment; air pollution abatement; energy costs and State implementation Plans).
 - Office of Housing (effect of air pollution on housing values and marketability; economic impacts).
- Department of the Interior*
- Fish and Wildlife Service (effects of air pollution, including acid rain, on endangered species and critical habitats; National Wildlife Refuge System areas; and other fish and wildlife resources).
 - Geological Survey (effects of acid rain on surface and ground waters).
 - Bureau of Indian Affairs (effects of air pollution on Indian lands).
 - Bureau of Land Management (effects of air pollution, including smoke from forest fires and prescribed burning, on public lands, vegetation and visibility).
 - Minerals Management Service (emissions from outer continental shelf lease operations):
—Oil, gas, and sulphur operations on the outer continental shelf—air quality, 43 U.S.C. 1321, et seq., and 43 U.S.C. 7411 (30 CFR Part 228.17).
 - Bureau of Mines (air pollution from mining and minerals processing).
 - National Park Service (visibility and other effects of air pollution on National Park System areas; effects of air pollution on recreation areas and historic, archeological and architectural sites).
 - Office of Surface Mining Reclamation and Enforcement (air pollution from surface coal mining and reclamation operations; control of wind erosion at surface coal mines; control of coal waste fires).
- Department of Labor*
- Mine Safety and Health Administration (airborne hazards in mining operations).
 - Occupational Safety and Health Administration (airborne hazards in the workplace):
—Air contaminants, toxic and hazardous substances, 29 U.S.C. 656, et seq. (29 CFR Part 1916, Subpart Z).
- Department of State* (international aspects of air pollution).
- Department of Transportation*
- Coast Guard (cargo tank cleaning and vapor recovery systems).
 - Federal Aviation Administration (aircraft emissions):
—Fuel venting and exhaust emission requirements for turbine engine powered airplanes, Special Federal Aviation Regulation 27 (S FAR), 42 U.S.C. 1857, et seq., 7571 and 7591; 49 U.S.C. 1345, 1346, 1421, 1423 and 1655 (14 CFR Part 11; 49 CFR Part 87).
 - Federal Highway Administration (highway related air quality impacts; vehicle emissions).

Appendix II—Federal and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

Index

- I. Pollution Control
A. Air Quality
B. Water Quality
C. Waste Disposal on Land
D. Noise
E. Radiation
F. Hazardous Substances
(1) Toxic, Explosive, and Flammable Materials
(2) Food Additives and Contaminants
(3) Pesticides
- II. Energy
A. Electric Power
B. Oil and Gas
C. Coal
D. Uranium
E. Geothermal Resources
F. Other Energy Sources—Solar, Wind, Biomass, etc.
G. Energy Conservation
- III. Land Use
A. Land Use Planning, Regulation, and Development

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- Air quality conformity of highway projects. 23 U.S.C. 108; 42 U.S.C. 7401, *et seq.*, and 7508 (23 CFR Part 770).
- Federal Railroad Administration (locomotive emissions).
 - Urban Mass Transportation Administration (air quality effects of urban transportation systems).
- Air quality conformity of transit projects. 42 U.S.C. 7401, *et seq.*, and 7508 (48 CFR Part 653).
- Advisory Council on Historic Preservation** (effects of air pollution on historic districts, buildings and monuments).
- Consumer Product Safety Commission** (toxic emissions from consumer products and household substances):
- Consumer products and household substances regulations. 15 U.S.C. 1261, *et seq.*, and 2061, *et seq.* (16 CFR Part 1008, *et seq.*).
- Environmental Protection Agency** (effect of air pollution on public health and welfare; air quality criteria and standards; air pollution control and abatement technologies; transportation emissions and air quality impacts; stationary source emissions; monitoring technology):
- Air quality programs in general. 42 U.S.C. 1887, *et seq.*; 7401, *et seq.*; 7501, *et seq.*; and 7601, *et seq.* (40 CFR Parts 50-67).
- Prevention of significant air quality deterioration. 42 U.S.C. 7470, *et seq.* (40 CFR Parts 51, 52 and 124).
- Approval of State Implementation Plans (SIPs) for National primary and secondary ambient air quality standards. 42 U.S.C. 7410 (40 CFR Parts 51 and 52).
- Approval of State plans for standards of performance for new stationary emission sources (NSPS). 42 U.S.C. 7411 (40 CFR Part 60).
- Applications for primary non-ferrous smelter orders. 42 U.S.C. 7418 (40 CFR Part 57).
- Assuring that Federal projects conform with State Implementation Plans. 42 U.S.C. 7916 (40 CFR Part 26).
- Certification of new emission sources for conformance with National Emission Standards for Hazardous Air Pollutants including radioactive materials. 42 U.S.C. 7412(c) (40 CFR Part 61).
- Interstate Commerce Commission** (air pollution from trucks and railroads).
- National Aeronautics and Space Administration** (advanced technology for remote sensing of air quality parameters and for reduction of aircraft engine emissions).
- Nuclear Regulatory Commission** (radioactive substances in air pollution):
- For jurisdictional responsibilities see Part 1E—Radiation.
- Tennessee Valley Authority** (air quality in the Tennessee Valley region; measurement and control of air pollution from fossil-fueled steamplants; effects on vegetation).
- B. Water Quality**
- Department of Agriculture**
- Agricultural Research Service (research on erosion and sediment control, pesticide degradation and runoff, and salinity).
 - Agricultural Stabilization and Conservation Service (water quality on agricultural lands; Water Bank Program).
 - Farmers Home Administration (water quality in relation to housing, community, and business loan programs, and farmer loan programs).
 - Forest Service (effects of water pollution on National Forests and Crosslands, and on forest and range land in general):
- Consultation regarding effects of pollution on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
- Management of municipal watersheds on National Forest lands. (36 CFR Parts 251.9 and 251.38).
- Soil Conservation Service (water quality in relation to agricultural waste management, erosion and sediment control and stabilization of rural abandoned mines; salinity control; pesticides in conservation systems):
- Reclamation of rural abandoned mined land. 30 U.S.C. 1201 *et seq.* (7 CFR Part 632).
- Program for land conservation and utilization, and aquaculture. 7 U.S.C. 1011(e).
- Department of Commerce**
- National Bureau of Standards (water quality measurements, standards, data, and methods).
 - National Oceanic and Atmospheric Administration (water quality in the management and protection of coastal and marine resources, marine pollution research and monitoring for ocean mining):
- National Ocean Pollution Planning Act. 33 U.S.C. 1701, *et seq.*
- Marine Protection, Research, and Sanctuaries Act. 16 U.S.C. 1431, *et seq.* 16 CFR Part 662, *et seq.*
- Department of Defense**
- Army Corps of Engineers (water pollution from activities in navigable waters):
- Rules governing work or structure in or affecting navigable waters of the United States. 33 U.S.C. 401 and 403 (33 CFR Parts 221 and 222).
- Authority to enjoin dumping of, or force removal of, refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407 (33 CFR Part 320.2(d)).
- Permits for discharge of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (33 CFR Part 323).
- Guidelines controlling discharge of dredged or fill material in waters of the U.S. including wetlands. 33 U.S.C. 1344(b) and 1361(a) (40 CFR Part 230).
- Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413 (30 CFR Part 504).
- Regulation of artificial islands, installations and devices on the outer continental shelf. 43 U.S.C. 1333(e), (30 CFR Part 220.2(b)).
- Department of Navy (water pollution control for ships and naval installations oceanography).
- Department of Energy**
- Office of Policy, Safety, and Environment (water quality and marine pollution in relation to general energy policies, programs and projects):
- Department of Health and Human Services**
- Center for Disease Control (effects of water quality on health).
 - Food and Drug Administration (shellfish sanitation; contamination of fish and shell fish with toxics).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (effects of water pollution community planning and on sole source aquifers, floodplains, wetlands, and urban coastal zones).
- Department of the Interior**
- Fish and Wildlife Service (effects of water pollution on National Wildlife Refuge and National Fish Hatchery System areas, endangered species and their critical habitats, migratory waterfowl, floodplains, wetlands, estuarine areas, marine sanctuaries, barrier islands, and sport fisheries and wildlife resources).
 - Geological Survey (general hydrology and water quality; National Water Summary; National Stream Quality Accounting Network [NASQAN]).
 - Bureau of Indian Affairs (water quality on Indian lands).
 - Bureau of Land Management (water quality on public lands):
- Permits and leases for facilities to control/reduce water pollution. 43 U.S.C. 1732(b) and 1781(a)(1) (43 CFR Part 2800).
- Minerals Management Service (effects of marine pollution on the outer continental shelf and coastal waters):
- Control of pollution from mineral mining, including oil and gas development, on the outer continental shelf. 43 U.S.C. 1331-1343 (30 CFR Parts 250, 251, 252 and 258).
- Bureau of Mines (water pollution from mining and mineral processing; acid mine drainage).
 - National Park Service (effects of water pollution on National Park System areas including National Seashores and Lakeshores, on outdoor recreational values, and on historic, archeological, and architectural resources):
- Consultations regarding effects of pollution on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
- Bureau of Reclamation (effects of public works, salinity control, sedimentation, and irrigation on water quality; effects of water developments on estuarine areas, research on weather modification, water quality and quantity, and desalination).
 - Office of Surface Mining Reclamation and Enforcement (effects of surface coal mining and reclamation operations on water quality and hydrologic balance).
- Department of State** (international aspects of water pollution):
- Facilities for export/import of water and sewage. Executive Order 11422

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Department of Transportation

- Coast Guard (effects of oil spills and ship sanitation on water quality; ocean dumping enforcement; marine resource protection);
- Tanker construction, equipment, manning, operation. 46 U.S.C. 391(a) (33 CFR Part 157).
- Control of pollution by oil and hazardous substance discharges in ports, waterways, and offshore facilities. 33 U.S.C. 1008-1011, 1221, and 1351; 90 U.S.C. 191 (33 CFR Parts 151 and 154-156).
- Certification of marine sanitation devices. 33 U.S.C. 1322 (33 CFR Part 158).
- Federal Highway Administration (effects of highways, traffic and use of salt on water quality).
- Maritime Administration (water pollution from ships; destruction/treatment of wastes at sea);
- Merchant vessels, polluting discharges and dumping. 46 U.S.C. 1101, *et seq.*
- Port operations, polluting discharges and dumping. 46 U.S.C. 887.
- Research and Special Programs Administration: Materials Transportation Bureau (effects of hazardous substances transportation on water quality).
- Advisory Council on Historic Preservation (effects of water pollution on historic districts, buildings and monuments).
- Environmental Protection Agency (waste water treatment works; effluent limitations; oil and hazardous substance discharges; protection of drinking water supplies; thermal discharges; ocean dumping; monitoring technology);
- Water quality programs in general. 33 U.S.C. 1105, *et seq.*, and 1251, *et seq.*; 42 U.S.C. 3005, *et seq.*, and 6901, *et seq.* (40 CFR Parts 100-149).
- Effluent guidelines and standards. 33 U.S.C. 1251, *et seq.* (40 CFR Part 401, *et seq.*).
- Ocean dumping in general. 33 U.S.C. 1344, 1381 and 1412-1416 (40 CFR Parts 228-231).
- Permits for discharge of specific pollutants from aquaculture projects. 33 U.S.C. 1328 (40 CFR Parts 123-124).
- Review of permits for transportation of dredged material for ocean dumping. 33 U.S.C. 1413 (40 CFR Parts 228-229).
- Permits for transportation of materials (other than dredged material) for ocean dumping. 33 U.S.C. 1412 and 1414 (40 CFR Parts 228-229).
- Permits for disposal of sewage sludge. 33 U.S.C. 1346 (40 CFR Parts 123-125).
- Permits for ocean discharges. 33 U.S.C. 1343 (40 CFR Parts 125, 126-128, 134).
- Prevention of discharges of oil and hazardous substances in waters of the United States. 33 U.S.C. 1321 and 1321 (40 CFR Part 123).
- Permits for treatment, storage or disposal of hazardous wastes. 42 U.S.C. 6923 (40 CFR Parts 124, 276, and 271).
- Review of permits for discharges of dredged or fill material into navigable waters. 33 U.S.C. 1344(a) (40 CFR Part 228).
- Guidelines controlling the discharge of dredged or fill material in waters of the U.S. including wetlands. 33 U.S.C. 1344(b) and 1361(a) (40 CFR Part 230).
- Assistance for construction of publicly-owned waste water treatment works. 33 U.S.C. 1281 (40 CFR Parts 30 and 38).

- Underground injection control permits. 42 U.S.C. 300f, *et seq.* (40 CFR Parts 122-124 and 144-146).
- National Pollutant Discharge Elimination System (NPDES) wastewater permits. 33 U.S.C. 1342 (40 CFR Parts 122-125, 128, 133, and 136).
- Designation of Sole Source Aquifers. 42 U.S.C. 300f and h-(e) (40 CFR Part 146).
- Federal Emergency Management Agency (water quality in floodplain management).
- Federal Maritime Commission (vessel certification with respect to liability for water pollution);
- Certificates of financial responsibility for water pollution. 33 U.S.C. 1321 (40 CFR Part 542); 42 U.S.C. 1943 (40 CFR Part 543); 43 U.S.C. 1813 (40 CFR Part 544).
- International Boundary and Water Commission, United States Section (U.S.-Mexico border water quality, salinity, and sanitation problems).
- National Aeronautics and Space Administration (advanced technology for remote sensing of water quality and marine pollution).
- Nuclear Regulatory Commission (radioactive substances in water pollution);
- For jurisdictional responsibilities, see PART I, E—Radiation.
- Tennessee Valley Authority (water quality in the Tennessee Valley; effects of chemical and thermal effluents).

C. Waste Disposal on Land**Department of Agriculture**

- Agricultural Research Service (effects of agricultural wastes and sludge on cropland).
- Agriculture Stabilization and Conservation Service (effects of solid waste, especially sludge disposal, on cropland).
- Forest Service (effects of solid and liquid wastes on National Forests and Greenlands);
- Permits for disposal sites on National Forest System lands. 16 U.S.C. 498, 499, 533-536 and 689 (36 CFR Part 201).
- Rural Electrification Administration (solid waste disposal from electric power plants).
- Soil Conservation Service (agriculture waste management; siting of disposal areas; sludge application on cropland for beneficial purposes).

Department of Commerce

- National Bureau of Standards (measurements, standards, data, and methods relating to solid and liquid wastes).
- National Oceanic and Atmospheric Administration (disposal of solid wastes in the management and protection of coastal and marine resources).

Department of Health and Human Services

- Center for Disease Control (effects of wastes on health).
- Food and Drug Administration (contamination of food resulting from disposal of municipal and industrial waste treatment sludge).

Department of the Interior

- Fish and Wildlife Service (effects of solid wastes on National Wildlife Refuge and National Fish Hatchery System areas).

endangered species and their critical habitats, and other fish and wildlife resources).

- Geological Survey (geologic and hydrologic effects of solid and liquid wastes).
- Bureau of Indian Affairs (effects of solid wastes on Indian lands).
- Bureau of Land Management (effects of solid wastes on public lands):

—Sale or lease of land for solid waste disposal sites. 43 U.S.C. 885, *et seq.* (for sale—43 CFR Part 2746; for lease—43 CFR Part 2912).

- Bureau of Mines (mine wastes; mineral processing wastes; tailings stabilization; impoundment structures; municipal solid wastes; recycling).
- National Park Service (effects of solid wastes on National Park System areas).
- Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation operation wastes).

Department of Labor

- Mine Safety and Health Administration (mine waste control).

Department of Transportation

- Maritime Administration (destruction/treatment of wastes at sea).
- Research and Special Programs Administration: Materials Transportation Bureau (transport of hazardous wastes);
- Hazardous materials regulations. (40 CFR Part 171, *et seq.*).
- Environmental Protection Agency (solid waste; hazardous waste; resource conservation and recovery; removal and remedial actions; environmental effects):
- Solid wastes in general. 42 U.S.C. 1251, *et seq.*, and 6901, *et seq.* (40 CFR Part 302, *et seq.*).
- Permits for disposal of sewage sludge. 33 U.S.C. 1346 (40 CFR Parts 123-125).
- Solid Waste Disposal Act permits. 42 U.S.C. 6921, *et seq.*, and 6901, *et seq.* (40 CFR Parts 124, 227, 276, 271 and 280).
- Criteria for classification of solid waste disposal facilities and practices. 42 U.S.C. 6927(a)(3) and 6944(a); 33 U.S.C. 1346 (40 CFR Part 257).
- Identification and listing of hazardous wastes. 42 U.S.C. 6921 (40 CFR Part 261).
- Standards applicable to generators and transporters of hazardous waste, and for owners and operators of hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6923-6924 (40 CFR Parts 260-267).
- Permits for hazardous waste treatment, storage, and disposal facilities. 42 U.S.C. 6928 (40 CFR Parts 123, 124, 276 and 271).
- Preliminary notification of hazardous waste activities. 42 U.S.C. 6928 (40 CFR Parts 261.5, 262.12, and 263.11).
- Removal and remedial actions taken in response to the release or threatened release of hazardous substances. 42 U.S.C. 6921 (23) and (24) (40 CFR Part 300).
- National Contingency plan for the release of oil and hazardous substances into the environment. 42 U.S.C. 6928 (40 CFR Part 300).

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- Notification requirements for the release of hazardous substances into the environment. 42 U.S.C. 9605 (40 CFR Part 302).
- Assistance for construction of solid waste disposal facilities. 42 U.S.C. 9901, *et seq.* (40 CFR Parts 30 and 38).
- Federal Emergency Management Agency* (hazardous materials emergency management and disaster relief assistance).
- General Services Administration* (wastes in public buildings).
- Nuclear Regulatory Commission* (radioactive waste disposal):
- For jurisdictional responsibilities, see PART I, E—Radiation.
- Tennessee Valley Authority* (coal combustion products).
- D. Noise**
- Department of Agriculture*
- Farmers Home Administration (noise in relation to housing, community, and business loan programs, and farmer loan programs).
 - Forest Service (noise effects on National Forests and Grasslands).
 - Rural Electrification Administration (electric generating facility, powerline, and substation noise).
- Department of Commerce*
- National Oceanic and Atmospheric Administration (effects of noise on marine mammals).
- Department of Defense*
- Department of the Air Force (military aircraft noise).
 - Department of the Army (noise from rotary wing aircraft and other military vehicles).
- Department of Health and Human Services*
- Public Health Service (effects of noise on health).
- Department of Housing and Urban Development*
- Office of Community Planning and Development (aircraft and vehicular noise and land use compatibility):
 - Noise abatement and control. (24 CFR Part 51, Subpart B).
 - Siting of HUD assisted projects in runway clear zones (civil airports) and clear zones and accident potential zones (military airfields). (24 CFR Part 51, Subpart D).
 - Office of Housing (noise standards for housing; noise abatement and control).
- Department of Interior*
- Fish and Wildlife Service (effects of noise on endangered species and their critical habitats, National Wildlife Refuge System areas, and other fish and wildlife resources).
 - Bureau of Indian Affairs (noise effects on Indian lands).
 - Bureau of Land Management (noise effects on public lands; noise abatement and control).
 - Minerals Management Service (effects of noise on marine mammals).
 - Bureau of Reclamation (mine noise, blasting and vibration).
 - National Park Service (effects of noise on National Park System areas, including off-
- road vehicular noise; effects of noise and vibration on historic, archeological, and architectural sites, and recreational resources).
- Bureau of Reclamation (effects of noise on reclamation project lands).
 - Office of Surface Mining Reclamation and Enforcement (noise from surface coal mining and reclamation operations, and from the use of explosives).
- Department of Labor*
- Mining Safety and Health Administration (noise in mining operations).
 - Occupational Safety and Health Administration (noise in the workplace):
 - Occupational noise exposure. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910.95).
- Department of Transportation*
- Federal Aviation Administration (aircraft noise and land use compatibility):
 - Airport noise compatibility planning. 49 U.S.C. 1341, 1346, 1354, 1421, 1431, 1655 and 2101–2104 (14 CFR Part 150).
 - Noise standards: Aircraft type and airworthiness certification. 49 U.S.C. 1354, 1421, 1423, 1431 and 1655 (14 CFR Part 36).
 - Operating noise limits. 49 U.S.C. 1344, *et seq.*; 1421, *et seq.*; and 1655 (14 CFR Part 91, Subpart E).
 - Civil aircraft sonic boom. (14 CFR Part 91.55).
 - Federal Highway Administration (traffic and motor vehicle noise):
 - Procedures for abatement of highway traffic and construction noise. 23 U.S.C. 109 (23 CFR Part 772).
 - Federal Railroad Administration (railroad noise):
 - Railroad noise emission compliance regulation. 45 U.S.C. 4601, *et seq.* (49 CFR Part 2101).
 - Noise standards for railroad employees. (49 CFR Parts 228–239).
 - Urban Mass Transportation Administration (urban transportation system noise).
- Advisory Council on Historic Preservation* (effects of noise and vibration on historic districts, buildings and monuments).
- Consumer Products Safety Commission* (hazardous noise from consumer products):
- Consumer products regulations. 15 U.S.C. 1261, *et seq.*, and 2051, *et seq.* (16 CFR Part 1005, *et seq.*).
- Environmental Protection Agency* (noise exposure standards; noise abatement and control techniques; environmental effects):
- Noise abatement programs. 42 U.S.C. 4301, *et seq.* (40 CFR Part 201, *et seq.*).
- Interstate Commerce Commission* (noise effects from trucks and railroads).
- National Aeronautics and Space Administration* (advanced technology for reduction of aircraft noise).
- E. Radiation**
- Department of Agriculture*
- Agricultural Research Service (effects of irradiation on insects and microorganisms in food).
- Forest Service (disposal of radioactive materials in National forests and Grasslands; electromagnetic radiation from powerlines and radio transmission systems).
 - Rural Electrification Administration (electromagnetic radiation from high voltage sources).
- Department of Commerce*
- National Bureau of Standards (radiation measurements, standards, methods and data).
 - National Oceanic and Atmospheric Administration (electromagnetic radiation from radar systems and telecommunications).
- Department of Energy*
- Office of Civilian Radioactive Waste Management (storage and disposal of commercial high-level radioactive waste and spent nuclear fuel).
 - Office of Defense Programs (storage and disposal of Defense nuclear waste).
 - Office of Energy Research (health effects of radiation and nuclear energy).
 - Office of Policy, Safety, and Environment (nuclear energy and radioactive waste disposal; radiation effects).
- Department of Health and Human Services*
- Food and Drug Administration (effects of radiation on health and safety; contamination of food with radioactive materials).
 - National Institutes of Health (effects of radiation on health).
- Department of Housing and Urban Development*
- Office of Community Planning and Development (radiation health and safety factors; siting and distance criteria):
 - Policy guidance on problems posed by toxic chemicals and radioactive materials. (HUD Notice 78-33 of Sept. 10, 1979).
 - Office of Housing (radiation location factors affecting value and marketability).
- Department of the Interior*
- Fish and Wildlife Service (effects of radiation on National Wildlife Refuge, endangered species and their critical habitats, and other fish and wildlife resources).
 - Geological Survey (effects of radioactive waste disposal).
 - Bureau of Indian Affairs (effects of radiation on Indian lands).
 - Bureau of Land Management (effects of radiation on public lands):
 - Withdrawal of public lands for deep burial depositories for radioactive waste. 43 U.S.C. 1714 (43 CFR Part 2000, *et seq.*).
 - Bureau of Mines (radiation from uranium mines).
 - National Park Service (effects of radiation on National Park System areas).
- Department of Labor*
- Mining Safety and Health Administration (worker protection from radiation exposure in mining).
 - Occupational Safety and Health Administration (worker protection from exposure to sources of radiation not covered by other Federal agencies).

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- Ionizing and nonionizing radiation. 29 U.S.C. 855, *et seq.* (29 CFR Parts 1910.98 and 1910.97).
- Department of Transportation**
- Federal Aviation Administration (radiation effects on air traffic transport of radioactive materials).
 - Federal Highway Administration: Bureau of Motor Carrier Safety (radioactive material transportation in interstate commerce);
- Hazardous materials tables and communications regulations. (49 CFR Part 172).
- Research and Special Programs Administration: Materials Transportation Bureau (transportation of radioactive materials);
- Hazardous materials regulations. 49 U.S.C. 1801, *et seq.* (49 CFR Part 171, *et seq.*).
- Consumer Product Safety Commission** (radiation from consumer products and household substances):
- Consumer products and household substance regulations. 15 U.S.C. 1201, *et seq.*, 2061, *et seq.*, and 2080 (16 CFR Part 1000, *et seq.*).
- Environmental Protection Agency** (radiation protection standards and guidance; radioactive air emissions; ocean disposal of radioactive waste; radiation limits for drinking water; radiation monitoring):
- Radiation protection programs. 42 U.S.C. 2011, *et seq.* (40 CFR Part 190, *et seq.*).
 - Standards for the uranium fuel cycle. 42 U.S.C. 2011, *et seq.* (40 CFR Part 199).
 - Standards for uranium mill tailings. 42 U.S.C. 2022, (40 CFR Part 192).
 - Radiation standards for drinking water. 42 U.S.C. 2001, *et seq.* (40 CFR Part 141).
 - Guidance to other Federal agencies for environmental radiation standards. 42 U.S.C. 2021(h).
- Federal Emergency Management Agency** (review and approval of state and local nuclear incident emergency response plans; Federal contingency plans; radiation hazards emergency management).
- Nuclear Regulatory Commission** (radioactive wastes, radiation effects in general):
- Standards for protection against radiation. 42 U.S.C. 2073, *et seq.*, and 2061, *et seq.* (10 CFR Part 20).
 - Licensing of byproduct material. 42 U.S.C. 2014, *et seq.*, and 2061, *et seq.* (10 CFR Parts 30-33 and 39).
 - Licensing and radiation safety requirements for radiography. 42 U.S.C. 2017, *et seq.*, and 2061, *et seq.* (10 CFR Part 41).
 - Licensing of source material. 42 U.S.C. 2014, *et seq.*, and 2061, *et seq.* (10 CFR Part 49).
 - Licensing of production and utilization facilities. 42 U.S.C. 2073, *et seq.*, and 2061, *et seq.* (10 CFR Parts 50, 51 and 60).
 - Disposal of high level radioactive waste. 42 U.S.C. 2021, *et seq.*, and 2042, *et seq.* (10 CFR Parts 60 and 61).
 - Licensing of special nuclear material. 42 U.S.C. 2014, *et seq.*, and 2061, *et seq.* (10 CFR Part 70).
 - Packaging and transportation of radioactive material. 42 U.S.C. 2073, *et seq.*, and 2041, *et seq.* (10 CFR Part 71).
 - Licensing for storage of spent fuel. 42 U.S.C. 2021, *et seq.*, and 2072, *et seq.* (10 CFR Part 72).
 - Reactor site criteria. 42 U.S.C. 2133, *et seq.*, and 2041, *et seq.* (10 CFR Part 100).
 - Export and import of nuclear material. 42 U.S.C. 2073, *et seq.*, and 2041 (10 CFR Part 110).
 - Licenses for Department of Energy demonstration reactors. 42 U.S.C. 2042 (1) and (2).
 - Licenses for receipt and long-term storage of high-level radioactive wastes at Department of Energy facilities. 42 U.S.C. 2042 (3) and (4).
- Tennessee Valley Authority* (nuclear power plant planning; radiation monitoring).
- F. Hazardous Substances**
- (1) Toxic, Explosive, and Flammable Materials*
- Department of Agriculture**
- Agricultural Marketing Services (toxic materials and consumer protection).
 - Animal and Plant Health Inspection Service (toxic materials in the control of plant pests, noxious weeds, animal diseases, and vectors).
 - Food Safety and Inspection Service (toxic materials and consumer protection).
 - Forest Service (effects of toxic materials on National Forests and Greenlands).
 - Soil Conservation Service (toxic materials in the control of insects and other plant pests).
- Department of Commerce**
- National Bureau of Standards (toxic material measurements, standards, methods and data).
 - National Oceanic and Atmospheric Administration (toxic materials in coastal and marine resources management and protection; ocean pollution research and monitoring).
- Department of Defense** (toxic materials in military operations).
- Department of Health and Human Services**
- Center for Disease Control (toxic materials and health issues).
 - Food and Drug Administration (toxic materials and contamination of food).
 - National Institute of Health (toxic materials and health issues).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (assisted housing projects; 100% set-aside; treatment and compatible land use);
 - Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1461, *et seq.*
 - Policy guidance on problems posed by toxic chemicals and radioactive materials. (HUD Notice 79-33 of Sept. 18, 1979).
 - Siting of HUD assisted projects near hazardous operations handling explosive or flammable materials. (24 CFR Part 31, Subpart C).
 - Office of Housing (lead-based paint poisoning prevention; hazardous material storage and effects on property values).
- Department of the Interior**
- Fish and Wildlife Service (effects of toxic materials, including lead shot, on endangered species and critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources).
 - Geological Survey (effects of the disposal of toxic wastes).
 - Bureau of Indian Affairs (toxic materials on Indian lands).
 - Bureau of Land Management (toxic materials on public lands).
 - Minerals Management Service (toxic materials from outer continental shelf mineral, including oil and gas, operations);
- Discharges from outer continental shelf mineral, including oil and gas, operations. 42 U.S.C. 1331, *et seq.* (30 CFR Part 250).
- Bureau of Mines (disposal methods for selected milling and mine wastes).
 - National Park Service (effects of toxic materials on National Park System areas).
 - Bureau of Reclamation (effects of toxic materials on water storage and delivery projects).
 - Office of Surface Mining Reclamation and Enforcement (toxic materials from surface coal mining and reclamation wastes).
- Department of Labor**
- Mining Safety and Health Administration (toxic materials in mining).
 - Occupational Safety and Health Administration (toxic materials in the workplace);
- Hazardous and toxic materials and substances. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910, Subparts H and Z).
- Department of Transportation**
- Coast Guard (transportation of toxic materials by vessel; discharges to navigable waters);
 - Transportation of hazardous materials by vessel. 49 U.S.C. 179, 375, 391(a) and 410(j); 49 U.S.C. 1805, 1806, 1804 and 1808(j); 30 U.S.C. 193 (30 CFR Parts 161, *et seq.*, and 168, *et seq.* (49 CFR Chapter I)).
 - Hazardous substance discharge in navigable waters. 33 U.S.C. 1321 (33 CFR Parts 25 and 181, *et seq.*; 49 CFR Part 542, *et seq.*).
 - Federal Aviation Administration (hazardous aircraft cargo).
 - Federal Highway Administration: Bureau of Motor Carrier Safety (hazardous material transportation in interstate commerce);
 - Hazardous materials tables and communications regulations. (49 CFR Part 172).
 - Transportation of hazardous materials—driving and parking rules. (49 CFR Part 397).
 - Federal Railroad Administration (railroad transport of hazardous materials).
 - Maritime Administration (port, coastal and ocean pollution from hazardous materials);
 - Merchant vessels, porting discharges, dumping, and destruction/treatment of wastes *et seq.* 46 U.S.C. 1101, *et seq.*

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• Research and Special Programs Administration: Materials Transportation Bureau (hazardous cargo, hazardous materials in pipelines).

—Transportation of hazardous materials. 49 U.S.C. 1801, *et seq.* (49 CFR Part 171 *et seq.*, and 191, *et seq.*)

—Approval for shipments of Class A explosives. 49 U.S.C. 1707 (7).

—Permits for facilities to handle hazardous materials. 49 U.S.C. 1801, *et seq.*

Consumer Product Safety Commission (toxic consumer products and hazardous household substances):

—Consumer product and household substances regulations. 15 U.S.C. 1261, *et seq.*, 1471, *et seq.*; and 2051, *et seq.* (16 CFR Part 1000, *et seq.*)

Environmental Protection Agency (hazardous material pollution control and environmental effects):

—Permits for the treatment, storage and disposal of hazardous wastes. 42 U.S.C. 6901, *et seq.* (40 CFR Parts 122-124, 257, 270, and 271).

—Criteria for classification of hazardous waste disposal facilities and practices. 42 U.S.C. 6907(a)(3) and 6944(a); 33 U.S.C. 1345 (40 CFR Part 257).

—Identification and listing of hazardous waste. 42 U.S.C. 6921 (40 CFR Part 261).

—Standards applicable to generators and transporters of hazardous wastes and for owners and operators of hazardous waste treatment, storage and disposal facilities. 42 U.S.C. 6901, *et seq.* (40 CFR Parts 268-267).

—Preliminary notification of hazardous waste activities. 42 U.S.C. 6930 (40 CFR Parts 261.5, 262.12 and 263.11).

—National emission standards for hazardous air pollutants (NESHAP). 42 U.S.C. 1857, *et seq.* General provisions. (40 CFR Part 63).

—Hazardous substances in water. 33 U.S.C. 1251, *et seq.* (40 CFR Parts 118 and 117).

—Toxic effluent standards. 33 U.S.C. 1251, *et seq.* (40 CFR Part 129).

—Control of toxic substances in general. 15 U.S.C. 2601, *et seq.* (40 CFR Part 762, *et seq.*)

—Regulation of hazardous chemical substances and mixtures. 15 U.S.C. 2605 (40 CFR Part 730).

—Reporting of toxic substances: inventory and retention of information. 15 U.S.C. 2607 (40 CFR Parts 718, 716, 701 and 703).

—Testing of chemical substances and mixtures. 15 U.S.C. 2608.

Federal Emergency Management Agency (evacuations and relocations resulting from hazardous materials released into the environment):

—Temporary evacuation and housing and permanent relocation due to hazardous substance pollution. 42 U.S.C. 5001-5004, and 5007 (23) and (24).

(2) **Food Additives and Contaminants: Food**

Department of Agriculture

• Agricultural Research Service (determination of additives and contaminants in food).

• Agricultural Marketing Service (quality standards).

• Food Safety and Inspection Service (contamination of meat and poultry products).

Department of Commerce

• National Oceanic and Atmospheric Administration (seafood quality).

Department of Health and Human Services

• Food and Drug Administration (effects of food additives and contamination on health).

Department of the Interior

• Fish and Wildlife Service (effects of contaminated food on endangered and threatened species and other Federally protected fish and wildlife).

Environmental Protection Agency (contamination of the environment and food from pesticide use and other toxic materials).

(3) **Pesticides**

Department of Agriculture

• Agricultural Research Service (biological controls: pesticides in food and fiber production).

• Animal Plant Health and Inspection Service (pesticides in the control of animal and plant pests and exotic noxious weeds).

• Food Safety and Inspection Service (pesticide residues and consumer protection).

• Forest Service (pesticides in the control of animal and plant pests: pesticide use on National Forests and Grasslands).

• Soil Conservation Service (pesticides in conservation systems; watershed resource protection).

Department of Commerce

• National Oceanic and Atmospheric Administration (effects of pesticides on marine life, the coastal zone, and seafood safety; ocean pollution research and monitoring).

Department of Defense

• Armed Forces Pest Management Board (pesticide use on military lands, facilities and equipment; control of disease vectors).

Department of Health and Human Services

• Center for Disease Control (effects of pesticides on health).

• Food and Drug Administration (pesticide contamination of food).

Department of the Interior

• Fish and Wildlife Service (pesticide use on National Wildlife Refuge and National Fish Hatchery System lands: effects of pesticides on endangered species and their critical habitats, and other fish and wildlife resources).

• Geological Survey (effects of pesticides on water quality).

• Bureau of Indian Affairs (pesticide use on Indian lands).

• Bureau of Land Management (pesticide use on public lands).

• Bureau of Reclamation (pesticide use on irrigated lands and other project lands, facilities and rights-of-way).

• National Park Service (pesticide use in National Park System areas).

Department of Labor

• Occupational Safety and Health Administration (worker exposures during manufacture of pesticides).

—Hazardous and toxic materials and substances. 29 U.S.C. 653, *et seq.* (29 CFR Part 1910, Subparts H and Z).

Department of Transportation

• Coast Guard (transportation of pesticides by vessel):

—Permits for transportation of hazardous substances by vessel. 46 U.S.C. 170, and 391a (33 CFR Parts 151, *et seq.*, and 160, *et seq.*, 46 CFR Chapter II).

• Federal Aviation Administration (transport and use of pesticides by aircraft):

• Federal Highway Administration: Bureau of Motor Carrier Safety (pesticide transport in interstate commerce):

—Hazardous materials tables and communications regulations. (49 CFR Part 172).

• Federal Railroad Administration (transport of pesticides by railroads):

• Research and Special Programs Administration: Materials Transportation Bureau (transport of pesticides):

—Transportation of hazardous materials. 49 U.S.C. 1801, *et seq.* (40 CFR Part 171, *et seq.*)

Environmental Protection Agency (pollution control and environmental effects of pesticides):

—Pesticide programs in general. 7 U.S.C. 136, *et seq.*, 21 U.S.C. 346a (40 CFR Part 162, *et seq.*)

—Certification of pesticide applicators. 7 U.S.C. 136b (40 CFR Part 171).

—Registration of pesticides. 7 U.S.C. 136a (40 CFR Part 163).

—Experimental pesticide use permits. 7 U.S.C. 136c (40 CFR Part 173).

—Establishment of pesticide tolerances. 21 U.S.C. 346a (40 CFR Part 160 and 21 CFR Part 165).

—Pesticide disposal and transportation. 7 U.S.C. 136g (40 CFR Part 168).

—Worker protection standards for agricultural pesticides. 7 U.S.C. 136 (40 CFR Part 170).

—Emergency exemptions for pesticides use. 7 U.S.C. 136h (40 CFR Part 169).

Tennessee Valley Authority (pesticide use on public lands and waters in Tennessee Valley region).

II. **ENERGY**

A. **Electric Power** (Development, Generation, Transmission, and Use)

Department of Agriculture

• Farmers Home Administration (small hydro, solar, and wind projects):

—Approval of plans and specifications for FMAA funded projects. 7 U.S.C. 1942 (7 CFR Parts 1824, 1942 and 1944).

• Forest Service (power development in National Forests and Grasslands):

—Permits, easements, and leases for power transmission, road, and hydro

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- developments 16 U.S.C. 522, *et seq.*, 43 U.S.C. 1781 (36 CFR Part 251.50, *et seq.*).
- Permits for commercial use of existing roads. 16 U.S.C. 537 (37 CFR Part 212).
 - Consultations regarding power developments on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1276, *et seq.*
 - Rural Electrification Administration (power development in and for rural areas):
 - Electrical generation and transmission projects. 7 U.S.C. 901 *et seq.* (7 CFR Part 1708, *et seq.*)
- Department of Commerce**
- National Oceanic and Atmospheric Administration (coastal energy facility planning and siting):
 - Approval of licenses for siting, design, and operation of ocean-thermal energy facilities. 42 U.S.C. 9101, *et seq.* (15 CFR Part 981).
- Department of Defense**
- Army Corps of Engineers (hydroelectric projects: effects of power development on navigable waters):
 - For jurisdictional responsibilities, see PART I.B.—Water Quality.
- Department of Energy**
- Economic Regulatory Administration (regulation of power plants and other major fuel-burning installations):
 - Exemptions from prohibitions against the burning of natural gas and petroleum in power plants and major fuel burning installations. 42 U.S.C. 7101 and 6301 (18 CFR Part 308, *et seq.*).
 - Transmission of electric energy to a foreign country. 16 U.S.C. 834a(e); E.O. 10488 and E.O. 12028 (18 CFR Parts 32.38–32.39 and 19 CFR Parts 208.208–208.209).
 - Office of Policy, Safety, and Environment (general energy policies, programs and projects):
 - Alaska Power Administration (hydroelectric generation and transmission systems in Alaska).
 - Bonneville Power Administration (electric transmission systems in the Pacific northwest).
 - Southeastern Power Administration (electric transmission systems in the southeastern States).
 - Southwestern Power Administration (electric transmission systems in the southwestern States).
 - Western Power Administration (electric transmission systems in the western States).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (energy policy; demonstration programs; research; assistance for community and economic development; assistance for energy efficiency):
 - Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 576).
 - Office of Housing (energy factors in rehabilitation and retrofitting):
 - Office of Policy Development and Research (building energy technology, urban energy studies).
 - Office of Solar Energy and Conservation (new technologies and research).
- Department of the Interior**
- Fish and Wildlife Service (effects of power development, including transmission line and tower construction, on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):
 - Easements/permits for transmission line rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 668dd; for hatcheries—43 U.S.C. 931 c and d (50 CFR Part 28.21).
 - Permits for rights-of-way on National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 468(k)-j and 742(f) (50 CFR Part 98).
 - For additional jurisdictional responsibilities, see PART IV.C.—Water Resources Development.
 - Geological Survey (geologic and hydrologic siting constraints for power developments: National Water Summary).
 - Bureau of Indian Affairs (power development on Indian lands):
 - Approval of leases and permits for Indian lands. 25 U.S.C. 308, 309–308, 307, 402–402, 413, 415, 477 and 639 (25 CFR Part 163).
 - Rights-of-way over Indian lands. 25 U.S.C. 311–321 and 323–329 (25 CFR Part 169).
 - Specific power systems. (25 CFR Parts 175–177).
 - Bureau of Land Management (power development on public lands):
 - Easements/permits for rights-of-way. 30 U.S.C. 186 and 43 U.S.C. 1791, *et seq.* (43 CFR Parts 2800–2807).
 - Exchange of Federal lands to facilitate energy development. 43 U.S.C. 1716 (43 CFR Parts 2200–2270).
 - National Park Service (effects of power development on National Park System lands; on historic archeologic and architectural sites; and on recreational values):
 - Easements for rights-of-way across National Park System land. 16 U.S.C. 5 (26 CFR Parts 7 and 14).
 - Consultations about extent to which proposed recreational developments at hydroelectric projects conform to and are in accord with the Statewide Comprehensive Outdoor Recreation Plans. 16 U.S.C. 468.
 - Consultations regarding power developments on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1276, *et seq.*
 - Bureau of Reclamation (hydroelectric power development in the 17 contiguous western states; impact of power development on State water laws; analysis of cost sharing):
 - Easements/permits for powerline rights-of-way. 43 U.S.C. 3871.
- Department of Labor**
- Occupational Safety and Health Administration (workers safety and health issues):
 - Construction, transmission and distribution facilities. 29 U.S.C. 655, *et seq.* (29 CFR Part 1928, Subpart V).
- Department of Transportation**
- Federal Highway Administration (highways and electric utility facilities):
 - Relocation and accommodation of utility facilities on highway rights-of-way. 23 U.S.C. 108(f), 116 and 123 (23 CFR Part 645).
 - Advisory Council on Historic Preservation (effects of power developments on historic properties).
 - Environmental Protection Agency (pollution control and environmental effects of power development):
 - For jurisdictional responsibilities see PART I.A.—Air Quality, PART I.B.—Water Quality, and PART I.C.—Waste Disposal on Land.
 - Federal Emergency Management Agency (review and approval of state and local nuclear incident emergency response plans).
 - Federal Energy Regulatory Commission (hydroelectric power projects; electric transmission; electric supply; facility siting):
 - Regulation of interconnection of electric transmission facilities and regulation of enlargement of electric transmission facilities. 16 U.S.C. 634–625K (16 CFR Part 32).
 - Regulation of the development of water power including the licensing of non-Federal hydroelectric power projects. 16 U.S.C. 791–685r (16 CFR Parts 4–28, 31, 131 and 141).
 - Application for order directing the establishment of physical connection facilities. 16 U.S.C. 624(b).
 - Withdrawal of Federal lands for power and geoscientific development projects. 16 U.S.C. 618 (43 CFR Part 2304, *et seq.*).
- International Boundary and Water Commission, United States Section (hydroelectric power installations on the Rio Grande).**
- Nuclear Regulatory Commission (nuclear power development in general):**
- Licensing of production and utilization facilities. 42 U.S.C. 2872, *et seq.*, and 5041, *et seq.* (10 CFR Parts 20 and 51).
 - Nuclear power reactor operators' licenses. 42 U.S.C. 2127, *et seq.*, and 5041, *et seq.* (10 CFR Part 50).
 - Reactor site criteria. 42 U.S.C. 2133, *et seq.*, and 5041, *et seq.* (10 CFR Part 108).
 - For other jurisdictional responsibilities, see PART I.E.—Radiation.
- Tennessee Valley Authority (power development in the Tennessee Valley Region).**
- B. Oil and Gas (Development, Extraction, Refining, Transport and Use)**
- Department of Agriculture**
- Forest Service (effects of oil and gas development on National Forests and Grasslands):

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- Permits and rights-of-way on National Forest System lands 16 U.S.C. 471-472, 476, 495, 497-499, 528, 531-536, 551, 572, and 580 (36 CFR Parts 212, 251 and 261)
- Department of Commerce**
- National Oceanic and Atmospheric Administration (effects of oil and gas development and coastal and marine resources, management, and protection).
- Department of Defense**
- Army Corps of Engineers (effects of oil and gas development on navigable waters):
 - For jurisdictional responsibilities, see PART I B—Water Quality.
- Department of Energy**
- Economic Regulatory Administration (regulation of power plants and other major fuel-burning installations):
 - Exemptions from prohibitions against the burning of petroleum in power plants and major fuel-burning installations. 42 U.S.C. 7101 and 8301 (10 CFR Part 500, *et seq.*).
 - Office of Policy, Safety, and Environment (general energy policies, programs, and projects).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (health and safety standards; distance factors for pipeline, storage, and production facilities including sour gas wells; assistance for community and economic development; assistance to conserve petroleum and natural gas energy efficiency):
 - Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*
 - Siting of HUD assisted projects near hazardous operations handling petroleum products or chemicals of an explosive or flammable nature. (24 CFR Part 51, Subpart C).
 - Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).
 - Office of Housing (siting standards and effects on housing values and marketability).
- Department of the Interior**
- Fish and Wildlife Service (effects of oil and gas development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):
 - Permits for oil and gas pipeline rights-of-way across National Wildlife Refuge and National Fish Hatchery Systems lands. For refuges—16 U.S.C. 666dd; for hatcheries—43 U.S.C. 801c and d (50 CFR Part 29.21).
 - Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 602(h)-3 and 742(f) (50 CFR Part 98).
 - Geological Survey (oil and gas resources in general):
 - Bureau of Indian Affairs (oil and gas development on Indian lands):
 - Leases and permits on Indian lands 25 U.S.C. 340, 363-366, 367, 402-403, 413, 415, 477 and 625 (25 CFR Part 162).
 - Rights-of-way over Indian lands 25 U.S.C. 311-321 and 317-328 (25 CFR Part 109)
 - Mining leases (including oil and gas) on Indian lands 25 U.S.C. 378, 396, 476-477 and 504 (25 CFR Parts 211-215 and 226-227)
 - Bureau of Land Management (oil and gas development on public lands):
 - Leases for oil and gas deposits:
 - (a) Public domain lands. 30 U.S.C. 181, *et seq.*; 43 CFR Parts 3100, *et seq.*, and 3180.
 - (b) Acquired lands. 30 U.S.C. 351-358 (43 CFR Parts 3100, *et seq.*, and 3180).
 - (c) In and under railroad and other rights-of-way acquired under laws of the United States. 30 U.S.C. 301-306 (43 CFR Part 3100).
 - (d) Indian lands. 25 U.S.C. 396a, *et seq.* (25 CFR Parts 211, 213, 226 and 227).
 - Leases and land exchanges for oil shale, native asphalt, solid and semisolid bitumen and bituminous rock. For leases—30 U.S.C. 241 (43 CFR Part 35); for exchanges—43 U.S.C. 1718 (43 CFR Parts 2200-2270).
 - Easements/permits for oil and gas pipeline rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800-2827).
 - Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapters 2000 and 3000).
 - Disposal of government royalty oil (non-OCS oil). 30 U.S.C. 188, 192 and 350 (30 CFR Part 208).
 - Exchange of non-OCS Federal lands with oil and gas deposits. 43 U.S.C. 1718 (43 CFR Parts 2200-2277).
 - Minerals Management Service (oil and gas development on the outer continental shelf):
 - Leases for minerals on the outer continental shelf. 43 U.S.C. 1331-1343 (30 CFR Parts 250, 251, 257, and 258).
 - Permits/easements for rights-of-way for "common carrier" gas pipelines on the outer continental shelf. 43 U.S.C. 1331 (30 CFR Part 256, Subpart 1).
 - Permits for exploration and development activities on Federal leases on the outer continental shelf. 43 U.S.C. 1331, *et seq.* (30 CFR Parts 250 and 251).
 - Easements/rights-of-way for gathering pipelines, artificial islands, platforms, and other fixed structures on any Federal or State outer continental shelf oil and gas lease. 43 U.S.C. 1334-1338 (30 CFR Parts 250.10-250.19).
 - Applications for purchase of government royalty oil from the outer continental shelf. 43 U.S.C. 1334 (30 CFR Part 223a).
 - Permits for geological and geophysical exploration on the outer continental shelf. 43 U.S.C. 1334 and 1340 (30 CFR Part 231).
 - Drilling permits. 43 U.S.C. 1331.
 - Bureau of Mines (environmental, health, and safety aspects of mining oil, tar sands, and oil shale; control of methane control and recovery; health and safety):
 - National Park Service (effects of oil and gas development on National Park System areas on historic, archeological, and architectural sites, and recreational values):
 - Permits for oil and gas operations on National Park System lands. 16 U.S.C. 1 (30 CFR Part 9).
 - Determining the significance of effects for combined hydrocarbon lease conversions on Glen Canyon NRA. (43 CFR Parts 480 and 1141.2)
 - Bureau of Reclamation (effects of oil and gas development on water storage and delivery systems):
 - Easements/permits for pipeline rights-of-way 43 U.S.C. 3871
- Department of Labor**
- Occupational Safety and Health Administration (general worker safety and health issues):
 - Oil and gas well drilling. 29 U.S.C. 655, *et seq.* (29 CFR Part 1910.270).
- Department of State** (international aspects of oil and gas development):
- Facilities for export/import of petroleum and petroleum products. E.O. 11423.
- Department of Transportation**
- Coast Guard (oil and gas transport by vessel):
 - Tank vessel regulation 46 U.S.C. 3911(4) (33 CFR Part 157).
 - Ports and waterways safety 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).
 - Construction and alteration of bridges for pipelines over navigable waters. 33 U.S.C. 491, *et seq.*; 511, *et seq.*; 525, *et seq.*; and 535 (33 CFR Part 114, *et seq.*).
 - Outer continental shelf structures 43 U.S.C. 1331 (33 CFR Part 140, *et seq.*).
 - Maritime Administration (effects of oil and gas development on port, coastal and ocean pollution):
 - Merchant vessels, including liquefied natural gas vessels. 42 U.S.C. 1101, *et seq.* (46 CFR Part 250, *et seq.*).
 - Port operations, including loading/unloading of liquefied natural gas vessels. 42 U.S.C. 607 (46 CFR Part 348, *et seq.*).
 - Federal Highway Administration (pipelines and highway rights-of-way):
 - Relocation and accommodation of pipelines on highway rights-of-way 23 U.S.C. 108(1), 116 and 123 (23 CFR Part 645).
 - Federal Railroad Administration (railroad transport of oil and gas):
 - Research and Special Programs Administration: Materials Transportation Bureau (pipeline safety; oil and gas shipments; natural gas marine terminals).
 - Pipeline safety. 49 U.S.C. 1671, *et seq.*, and 2001, *et seq.* (49 CFR Part 190, *et seq.*).
- Advisory Council on Historic Preservation** (effects of oil and gas development on historic properties):
- Environmental Protection Agency** (pollution control and environmental effects of oil and gas development):
- For jurisdictional responsibilities, see PART I A.—Air Quality, PART I B.—Water Quality, and PART I C.—Waste Disposal on Land.
 - Federal Energy Regulatory Commission (charges/rates for transportation of oil and gas by pipeline; transportation, storage and sale of natural gas):
 - Certificates for natural gas facilities (underground storage fields, LNG facilities and transmission pipeline facilities), sale, exchange and transportation of gas

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- abandonment of facilities and curtailment of natural gas service, authorization to import and export natural gas. 15 U.S.C. 717-717i(w); E.O. 10485 and E.O. 12038 (18 CFR Part 152, *et seq.*).
- Authorization compelling the expansion, improvement or connection of natural gas facilities. 15 U.S.C. 717i(e) (18 CFR Part 150).
- Interstate Commerce Commission**
(regulation of petroleum and natural gas carriers).
- C. Coal (Development, Mining, Conversion, Processing, Transport and Use)**
- Department of Agriculture**
- Forest Service (effects of coal development on National Forests and Grasslands):
 - Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471-472, 478, 495, 497-498, 525, 528, 531-536, 551, 572 and 580 (36 CFR Parts 212, 251 and 281).
 - Coal leasing. 30 U.S.C. 201-252.
 - Surface coal mining operations. 30 U.S.C. 1272.
 - Rural Electrification Administration (coal development in relation to rural electrification):
 - Financial assistance for purchase of coal mines and mining facilities. 7 U.S.C. 881, *et seq.* (7 CFR Part 1700, *et seq.*).
 - Soil Conservation Service (abandoned rural mined land, mine reclamation, and transportation):
 - Reclamation of rural abandoned mined land. 30 U.S.C. 1201, *et seq.* (7 CFR Part 632).
- Department of Commerce**
- National Oceanic and Atmospheric Administration (atmospheric dispersion of effluents; acid rain; management and protection of coastal and marine resources; air and water pollution from mining offshore and coastal mining port planning).
- Department of Defense**
- Army Corps of Engineers (effects of coal development on navigable waters):
 - For jurisdictional responsibilities, see PART I, B.—Water Quality.
- Department of Energy**
- Economic Regulatory Administration (regulation of powerplants and other major fuel-burning installations):
 - Exemptions from prohibitions against burning of natural gas and oil in powerplants and major fuel-burning installations. 42 U.S.C. 7101 and 6304 (10 CFR Part 200, *et seq.*).
 - Office of Policy, Safety, and Environment (general energy policies, programs, and projects).
 - Office of Fossil Energy (coal research, coal liquefaction projects, and emerging coal technologies).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (assistance for community impacts due to rapid development):
 - Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).
 - Office of Housing (subsidies from mining operations and soil factors related to housing).
- Department of the Interior**
- Fish and Wildlife Service (effects of coal development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):
 - Permits for use of National Wildlife Refuge and National Fish Hatchery System lands. For refuges—16 U.S.C. 968 dd and ee; for hatcheries—43 U.S.C. 501 c and d (50 CFR Parts 25.41 and 28.21).
 - Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 480(k-3) and 742(f) (50 CFR Part 98).
 - Geological Survey (coal resources in general; hydrologic effects of coal mining and reclamation):
 - Bureau of Indian Affairs (coal development on Indian lands):
 - Leases and permits on Indian lands. 25 U.S.C. 385, 386-388, 387, 402-403, 413, 415, 477 and 635 (25 CFR Part 162).
 - Rights-of-way over Indian lands. 25 U.S.C. 311-321 and 328 (25 CFR Part 169).
 - Mining leases on Indian lands. U.S.C. 386, 388, 476-477 and 508 (25 CFR Parts 211-213 and 225-227).
 - Surface exploration and reclamation. 25 U.S.C. 355, 366, 473 and 501-502 (25 CFR Part 218).
 - Bureau of Land Management (coal development on public lands):
 - Exploration licenses for coal deposits on unleased lands. 30 U.S.C. 181 and 201(b) (43 CFR Part 3400).
 - Leases/permits for recovery of coal deposits. 30 U.S.C. 181, *et seq.*, 201b and 202a; 43 U.S.C. 1701, *et seq.* (43 CFR Parts 3400 and 3405).
 - Easements/leases/permits for use, conservation and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapters 2020 and 2025).
 - Permits to mine coal for domestic needs. 30 U.S.C. 209 (43 CFR Part 3400).
 - Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2020-2027).
 - Exchange of Federal lands with coal or uranium deposits. 43 U.S.C. 1718 (43 CFR Parts 2020-2070).
 - Mines Mining Technology, Health and Safety, Subsidence Prediction and Control, and Coal Reclamation.
 - National Park Service (effects of coal development on National Park System areas and on historic and recreational values):
 - Leases, permits and licenses for mining on National Park System lands involved in West and Snake River Systems. 16 U.S.C. 1288.
 - Access permits for mining activity within the National Park System. 16 U.S.C. 1608 and 1609 (36 CFR Part 9).
 - Easements for rights-of-way across National Park System land. 16 U.S.C. 1, *et seq.* (36 CFR Part 9, *et seq.*).
 - Bureau of Reclamation (effects of coal development on water storage and delivery projects):
 - Easement/permits for access rights-of-way. 43 U.S.C. 3871.
 - Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation; general effects of surface coal mining operations):
 - Identification of certain lands considered unsuitable for surface coal mining operations. 30 U.S.C. 1272 (30 CFR Chapter 7, Subchapter F).
 - Permits for coal exploration operations on Federal lands within an approved mining permit area, and, if there is no approved State Coal Mining Regulatory Program, on non-Federal and non-Indian lands. 30 U.S.C. 1282 (30 CFR Chapter VII and 43 CFR Part 3400).
 - Permits for surface coal mining and reclamation operations (includes underground mines with surface effects) on Federal lands except the States may do this when there is both an approved State Coal Mining Regulatory Program and a Cooperative Agreement between the State and the Secretary of the Interior. 30 U.S.C. 1286, 1287, 1288, 1271 and 1273 (30 CFR Chapter VII).
 - Permits for surface coal mining and reclamation operations (includes underground mines with surface effects) on non-Federal lands in those States where there is no approved State Coal Mining Regulatory Program. 30 U.S.C. 1256-1282 (30 CFR Chapter VII).
 - Permits for surface coal mining and reclamation operations (includes underground mines with surface effects) on Indian lands. 30 U.S.C. 1300 (30 CFR Chapter VII and 25 CFR Part 218).
 - Grants for reclamation of abandoned mined lands. 30 U.S.C. 1231-1235 and 1237-1243 (30 CFR Chapter VII).
- Department of Labor**
- Mining Safety and Health Administration (safety and health issues in mining operations).
 - Occupational Safety and Health Administration (worker safety and health issues):
 - Coal tar pitch volatility. 29 U.S.C. 655, *et seq.* (29 CFR Part 1918.1000).
- Department of State (international aspects of coal development)**
- Facilities for export/import of coal. E.O. 11422.
- Department of Transportation**
- Coast Guard (vessel transport of coal):
 - Construction and alterations of bridges and causeways over navigable waters. 33 U.S.C. 601, *et seq.*; 511, *et seq.*; 525, *et seq.*; and 536 (33 CFR Part 114, *et seq.*).
 - Piers and waterways safety. 33 U.S.C. 1221 (33 CFR Part 165, *et seq.*).
 - Federal Highway Administration (coal haul roads; effects of railroad coal transport on roads and streets).
 - Federal Railroad Administration (railroad transport of coal).

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• Maritime Administration (bulk shipping of coal and other minerals in the inland waterways, domestic oceans, Great Lakes, and U.S. foreign trade).

Advisory Council on Historic Preservation (effects of coal development on historic properties).

Environmental Protection Agency (pollution control and environmental effects of coal development):

—For jurisdictional responsibilities see PART I. A.—Air Quality, PART I. B.—Water Quality, and PART I. C.—Waste Disposal on Land.

Interstate Commerce Commission (regulation of coal rail-carriers and rates; impacts from railroad construction for moving coal, including downline impacts).

Tennessee Valley Authority (coal development in the Tennessee Valley region).

D. Uranium (Exploration, Mining, Transport and Use)

Department of Agriculture

• Forest Service (uranium in National Forests and Grasslands):

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471-472, 478, 486, 487-488, 525, 526, 531-536, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

—Surface use of public domain lands under U.S. mining laws. 16 U.S.C. 478 and 581 (36 CFR Part 228).

—Mineral development on acquired lands. For solid (hardrock) minerals—16 U.S.C. 530 (43 CFR Part 3200); for phosphate, sodium, potassium and sulphur—30 U.S.C. 351, *et seq.*

• Soil Conservation Service (abandoned mine land, mine reclamation, and transportation).

Department of Commerce

• National Oceanic and Atmospheric Administration (air and water pollution from mining; offshore and coastal mining; port planning; management and protection of coastal and marine resources):

—Approval of licenses for deep seabed hard mineral exploration and development. 30 U.S.C. 1401, *et seq.* (15 CFR Part 670).

Department of Defense

• Army Corps of Engineers (effects of uranium mining on navigable waters):

—For jurisdictional responsibilities, see PART I. B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Government (general energy policies, programs and projects).

• Office of Civilian Radioactive Waste Management (management of commercial radioactive wastes).

• Office of Defense Programs (management of Defense radioactive wastes).

• Office of Nuclear Energy (nuclear energy in general).

Department of Housing and Urban Development

• Office of Housing (subsidized team mining operations and soil factors related to housing).

Department of the Interior

• Fish and Wildlife Service (effects of uranium mining on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Easements/permits on National Wildlife Refuge and National Fish Hatchery System land. 16 U.S.C. 668 *et seq.*; 43 U.S.C. 651 c and d (50 CFR Parts 25.41 and 28.21).

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 480(b-3) and 742(f) (50 CFR Part 98).

• Geological Survey (uranium resources in general).

• Bureau of Indian Affairs (uranium on Indian lands):

—Leases and permits on Indian lands. 25 U.S.C. 380, 383-388, 389, 402-403, 413, 418, 477 and 633 (25 CFR Part 182).

—Rights-of-way over Indian lands. 25 U.S.C. 311-321 and 323-328 (25 CFR Part 169).

—Mining leases on Indian lands. 25 U.S.C. 356, 398, 476-477 and 508 (25 CFR Parts 211-213 and 226-227).

—Surface exploration and reclamation. 25 U.S.C. 353, 388, 473 and 501-502 (25 CFR Part 216).

• Bureau of Land Management (uranium on public lands):

—Exchange of Federal lands with coal or uranium deposits. 43 U.S.C. 1716 (43 CFR Parts 2200-2270).

—Leases for uranium exploration and mining. 30 U.S.C. 181, 381-386 and 1201, *et seq.* (43 CFR Parts 3200-3280).

—Approval of plan of operations in connection with uranium leases. 30 U.S.C. 22, *et seq.*; 30 U.S.C. 181, *et seq.*; and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 3270 *et seq.*).

—Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapter 2200 and 3200).

—Exploration licenses to explore for uranium and other leasable minerals on unleased lands. 30 U.S.C. 181, *et seq.*, and 301(b) (43 CFR Parts 3400 and 3480).

—Leases, permits and licenses for mining in Wild and Scenic River System or 16 U.S.C. 1289 (each area has special Federal Regulations).

—Conservation for mining use of public lands withdrawn or reserved for power development or for a power site. 30 U.S.C. 621 (43 CFR Part 3720).

—Easements/permits for rights-of-way. 30 U.S.C. 186 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 3800-3800).

• Bureau of Mines (uranium mining in general).

• National Park Service (effects of uranium mining on public park and recreation values on historic, archeological and architectural sites; and on National Park System areas):

—Permits, leases, and easements for rights-of-way. 16 U.S.C. 1, *et seq.* (36 CFR Part 9, *et seq.*).

—Leases, permits and licenses for mining on National Park System lands involving Wild and Scenic River Systems. 16 U.S.C. 1289.

—Access permits for mining activity within the National Park System. 16 U.S.C. 1902 and 1908; 30 U.S.C. 21, *et seq.* (36 CFR Part 9).

• Bureau of Reclamation (effects of uranium mining on water storage and delivery projects):

—Easements/permits for access, pipeline, and other rights-of-way. 43 U.S.C. 3871.

Department of Labor

• Mining Safety and Health Administration (safety and health issues in mining operations).

• Occupational Safety and Health Administration (general worker safety and health issues):

—General industrial and construction standards. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910 and 1926).

Department of State (international aspects of uranium mining):

—Facilities for export/import of minerals. E.O. 11423.

Department of Transportation

• Coast Guard (vessel transport of minerals):

—Construction and alterations of bridges and causeways over navigable waters. 33 U.S.C. 691, *et seq.*; 311, *et seq.*; 525, *et seq.*, and 536 (33 CFR Part 114, *et seq.*).

—Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 100, *et seq.*).

Advisory Council on Historic Preservation (effects of uranium mining on historic properties).

Environmental Protection Agency (pollution control and environmental effects of uranium mining):

—Jurisdictional responsibilities, see Part I. A.—Air Quality, PART I. B.—Water Quality, PART I. C.—Waste Disposal on Land, and PART I. E.—Radiation.

Nuclear Regulatory Commission (nuclear power development in general):

—Licensing uranium milling operations. 42 U.S.C. 2091, *et seq.* (10 CFR Part 40).

Tennessee Valley Authority (uranium mining and milling).

E. Geothermal Resources (Development, Transmission, and Use)

Department of Agriculture

• Forest Service (effects of geothermal resource development on National Forests and Grasslands):

—Leases for geothermal resource development. 30 U.S.C. 1014. Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471-472, 478, 486, 487-488, 525, 526, 531-536, 551, 572 and 580 (36 CFR Parts 212, 251 and 261).

Department of Commerce

• National Oceanic and Atmospheric Administration (air and water pollution from geothermal development).

Department of Defense

• Army Corps of Engineers (effects of geothermal development on navigable waters):

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For jurisdictional responsibilities, see PART I.B.—Water Quality

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects)

• Office of Conservation and Renewable Energy (research and development on geothermal energy sources)

Department of the Interior

• Fish and Wildlife Service (effects of geothermal development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

—Easements/permits on National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 669 *et seq.* for hatcheries—43 U.S.C. 931 *c and d* (50 CFR Parts 25 41 and 22 81)

—Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k-3) and 742(f) (50 CFR Part 98)

• Geological Survey (geothermal resources in general)

• Bureau of Indian Affairs (geothermal development on Indian lands):

—Leases and permits on Indian lands. 25 U.S.C. 380, 383-385, 387, 402-403, 413, 415, 477 and 635 (25 CFR Part 162)

—Rights-of-way over Indian lands. 25 U.S.C. 311-321 and 323-328 (25 CFR Part 169)

• Bureau of Land Management (geothermal development on public lands):

—Permits for geothermal resources exploration. 30 U.S.C. 107 (43 CFR Part 3280)

—Leases for geothermal resources recovery. 30 U.S.C. 1001-1025 (43 CFR Parts 3280-3290, 3290 and 3299)

—Licenses for geothermal powerplants. 30 U.S.C. 1001-1025 (43 CFR Part 3299)

—Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapter 2000 and 3000)

—Easements/permits for rights-of-way. 30 U.S.C. 186 *et seq.* 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800-28

• Bureau of Mines (recovery of mineral values in geothermal operations; materials for construction of geothermal facilities)

• National Park Service (effects of geothermal development on public park and recreation values, on historic, archeological and architectural sites, and on National Park System areas)

• Bureau of Reclamation (alternative energy studies or projects of geothermal operations with hydroelectric generation)

—Easements/permits for access, pipeline, and other rights. 43 U.S.C. 3071

Department of Labor

• Occupational Safety and Health Administration (worker safety and health issues):

—General industry construction standards. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910 *et seq.*)

Advisory Council on Historic Preservation (effects of geothermal development on historic properties)

Environmental Protection Agency (pollution control and environmental effects of geothermal development)

—For jurisdictional responsibilities, see PART I.A.—Air Quality, PART I.B.—Water Quality, and PART I.C.—Waste Disposal on Land

F. Other Energy Sources—Solar, Wind, Biomass, etc. (Development and Use)

Department of Agriculture

• Agricultural Research Service (utilization of biomass, wastes, solar, and wind energy sources in agricultural production)

• Farmers Home Administration (small hydro, solar, and wind projects):

—Approval of plans and specifications for FMI/A-funded projects. 7 U.S.C. 1942 (7 CFR Parts 1924, 1942 and 1944)

• Forest Service (uses and rights-of-way on National Forests and Grasslands):

—Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471-472, 478, 496, 497-498, 525, 526, 531-536, 531, 572 and 580 (36 CFR Parts 212, 251 and 281)

• Office of Energy (general energy policies related to agriculture):

—Solar and wind energy facility siting. 16 U.S.C. 476 (36 CFR Part 208)

Department of Commerce

• National Oceanic and Atmospheric Administration (coastal energy facility planning and siting; basic weather data and research):

—Approval of licenses for siting, design, and operation of ocean-thermal energy facilities. 42 U.S.C. 9101, *et seq.* (15 CFR Part 981)

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects)

• Office of Conservation and Renewable Energy (research and development programs on alternative energy sources)

Department of Housing and Urban Development

• Office of Community Planning and Development (alternative energy policy, including district heating and cogeneration; demonstration programs; research; technical assistance and feasibility studies; building materials; and technical assistance for community and economic development):

—Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 576)

—Urban Development Action Grant Handbook, HUD 6088.1 of Oct. 1982

• Solar Energy and Energy Conservation Bank (assistance for energy conservation improvements to residential, commercial, and agricultural buildings, including solar energy systems):

—Energy Security Act of 1980. 12 U.S.C. 3801, *et seq.* (24 CFR Part 1800, *et seq.*)

Department of the Interior

• Fish and Wildlife Service (effects of alternative energy development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources)

• Geological Survey (geology and hydrologic siting constraints for alternative energy development)

• Bureau of Indian Affairs (alternative energy development on Indian lands)

• Bureau of Land Management (alternative energy development on public lands):

—Licenses for synthetic liquid fuel facilities. 30 U.S.C. 323

—Solar energy facility siting. 43 U.S.C. 1761

• National Park Service (effects of alternative energy development on park and recreation values on historic, archeological and architectural sites, and on National Park System areas)

• Bureau of Reclamation (alternative energy studies; coordination of operations with hydroelectric generation)

Department of Labor

• Occupational Health and Safety Administration (worker safety and health issues):

—General industrial and construction standards. 29 U.S.C. 655, *et seq.* (29 CFR Parts 1910 and 1928)

Advisory Council on Historic Preservation (effects of alternative energy development on historic properties)

Environmental Protection Agency (pollution control and environmental effects of alternative energy development):

—For jurisdictional responsibilities, see PART I.—POLLUTION CONTROL

G. Energy Conservation**Department of Agriculture**

• Extension Service (rural family energy conservation)

• Farmers Home Administration (energy conservation in relation to agency funded projects)

• Forest Service (energy conservation in National Forests and Grasslands)

• Office of Energy (general agricultural energy policies)

• Rural Electrification Administration (energy conservation in relation to power development in rural areas)

Department of Commerce

• National Bureau of Standards (energy efficiency objectives and standards)

• National Oceanic and Atmospheric Administration (heating fuel usage forecasting; weather forecasting in relation to energy conservation)

Department of Energy

• Office of Policy, Safety, and Environment (general energy policies, programs and projects)

• Office of Conservation and Renewable Energy (energy efficiency of transportation, building, and industrial systems; assistance programs for energy planning and conservation)

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- Energy conservation standards for new buildings. 42 U.S.C. 6834 (10 CFR Part 450, *et seq.*)
- Bonneville Power Administration (energy conservation studies in the Pacific Northwest);
- Regional planning and conservation. 16 U.S.C. 639, *et seq.*
- Department of Housing and Urban Development**
- Office of Community Planning and Development (energy conservation policy; demonstration and research programs; technical assistance; assistance for community and neighborhood development, economic development, public facilities, residential and commercial rehabilitation and retrofit for energy efficiency; comprehensive energy use strategies);
- Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).
- Urban Development Action Grant Handbook. HUD 6050.1 of Oct. 1982.
- Housing Act of 1937. 42 U.S.C. 1401, *et seq.*
- Solar Energy and Energy Conservation Bank (assistance for energy conservation improvements to residential, commercial, and agricultural buildings, including solar energy systems);
- Energy Security Act of 1980. 12 U.S.C. 3601, *et seq.* (24 CFR Part 1600, *et seq.*)
- Office of Manufactured Housing and Construction Standards (building materials; new materials standards and performance criteria);
 - Office of Policy Development and Research (building energy technology);
 - Office of Public Housing (energy factors in rehabilitation and retrofitting; urban energy studies).
- Department of the Interior**
- Fish and Wildlife Service (energy conservation in National Wildlife Refuge and National Fish Hatchery System areas, and effects of energy conservation projects on endangered species and critical habitats);
 - Bureau of Indian Affairs (energy conservation on Indian lands);
 - Bureau of Land Management (energy conservation on public lands);
 - National Park Service (energy conservation in National Park System areas; effects of energy conservation on historic, archeological, and architectural sites, and on park and recreation values);
 - Bureau of Reclamation (energy conservation in relation to hydroelectric power development, and water storage and delivery systems).
- Department of Transportation**
- Federal Aviation Administration (aviation energy conservation and energy-use assessments);
 - Federal Highway Administration (energy conservation in relation to highway systems);
 - National Highway Traffic Safety Administration (fuel economy standards for motor vehicles);
- Fuel economy standards. 15 U.S.C. 2001, *et seq.* (49 CFR Parts 525-527, 531, 533 and 537).
- Research and Special Programs Administration, Transportation Systems Center (energy conservation and transportation systems in general);
 - Urban Mass Transportation Administration (energy conservation in relation to urban transportation systems);
 - Advisory Council on Historic Preservation (effects of energy conservation on historic properties);
 - Interstate Commerce Commission (assessment of differences in energy efficiencies between transport modes);
 - Tennessee Valley Authority (energy conservation in general).
- III. LAND USE**
- A. Land Use Planning, Regulation, and Development**
- Department of Agriculture**
- Agricultural Research Service (effects of agricultural practices on resource quality and off-farm pollution);
 - Agricultural Stabilization and Conservation Service (Federally subsidized agricultural conservation and land use programs);
 - Economic Research Service and Statistical Reporting Service (data on natural resources; analysis of the economic impacts of agriculturally related pollution and resource degradation; interactions of environmental programs with other Federal farm policy objectives);
 - Extension Service (rural and community development);
 - Farmers Home Administration (farmland protection; rural and community development);
- Farmland Protection Policy Act, Secretary's Memorandum 5505-2, *Statement on Land Use Policy* (7 CFR Part 1940).
- Forest Service (effects of adjacent land uses on National Forests and Greenlands);
- Coordination with other public planning efforts. (36 CFR Part 218.7).
- Soil Conservation Service (land use data; soil and water resource condition data and related natural resource data; resource management technology and technical planning assistance for watershed protection);
- Soil, water, and related resource data. 7 U.S.C. 1010a.
- Program for land conservation and utilization. 7 U.S.C. 1011(e).
- Department of Commerce**
- National Oceanic and Atmospheric Administration (management and protection of coastal and marine resources).
- Department of Defense**
- Army Corps of Engineers (land use in flood plains and wetlands);
- For jurisdictional responsibilities see PART I.B.—Water Quality.
- Department of the Air Force (land use around military airfields).
- Department of Energy**
- Office of Policy, Safety, and Environment (effects of energy policies, programs, and projects on adjacent land uses).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (land use planning; environmental criteria and compatible uses near hazards; noise abatement and mitigation measures);
- Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*
- Siting of HUD assisted projects near hazardous operations handling explosive or flammable materials. (24 CFR Part 51 Subpart C).
- Siting of HUD assisted projects in runway clear zones (civil airports) and clear zones and accident potential zones (military airfields). (24 CFR Part 51, Subpart D)
- Office of Interstate Land Sales (subdivided land sales);
- Subdivided land sales, registration and disclosure statements. 15 U.S.C. 1701 (24 CFR Part 1700, *et seq.*)
- Department of the Interior**
- Fish and Wildlife Service (effects of land use on endangered species and their critical habitats, other fish and wildlife resources, and components of the National Wildlife Refuge and National Fish Hatchery System);
- Approval of conversion of use for State lands acquired, developed or improved with grants under the: (1) Pittman-Robertson Act, (2) Dingell-Johnson Act, (3) Endangered Species Act and/or (4) Anadromous Fish Conservation Act. For (1)—16 U.S.C. 669 (50 CFR Parts 80.4 and 80.14); for (2)—16 U.S.C. 771-780 CFR Parts 80.4 and 80.14; for (3)—16 U.S.C. 1535 and for (4)—16 U.S.C. 757 (50 CFR Part 100.1).
- Consultation regarding administrative actions that may directly or indirectly affect a designated coastal barrier. 16 U.S.C. 1501 (for advisory guidelines, see 48 FR 45664 of Oct. 6, 1983).
- Consultation concerning the protection of fish and wildlife refuges, which may be impacted by transportation projects. 49 U.S.C. 305.
- For jurisdictional responsibilities of the Fish and Wildlife Service on Federal lands see PART I.B.—Federal Land Management.
- Geological Survey (land use planning; geologic and hydrologic hazards; flood studies; geologic, topographic, land use and photographic mapping);
 - Bureau of Indian Affairs (effects of land uses on Indian lands);
- Approval of leases and permits on Indian lands. 25 U.S.C. 400, 307, 308, 402-403, 413, 415, 477 et. (25 CFR Part 162)
- Sale of Indian lands. 25 U.S.C. 320-326, 328, 372-373, 378-379, 404-405, 408-409, 483 and 608 (25 CFR Parts 152 and 156-159)
- Right-of-way over Indian lands. 25 U.S.C. 311-321 and 323-328 (25 CFR Part 151)
- Permits concessions, withdrawal or acquisition of Indian lands. 25 U.S.C. 311-321 (25 CFR Part 171)
- For jurisdictional responsibilities on Federal lands administered by Bureau of

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- Indian Affairs, see PART III B—Federal Land Management
- Bureau of Land Management (effects of land uses on public lands):
 - For jurisdiction responsibilities on Federal lands administered by the Bureau of Land Management, see PART III B—Federal Land Management
 - Bureau of Mines (mineral resources and land use):
 - National Park Service (effects of land uses on National Park System areas; National Trails System; Wild and Scenic River System; park and recreation areas and values; and historic, archeological and architectural sites):
 - Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with a Land and Water Conservation Fund Act grant. 16 U.S.C. 4601.
 - Assistance to State and local agencies, through an Urban Park and Recreation Recovery Act grant, for the development and/or improvement of park and recreation areas. 16 U.S.C. 2504 (36 CFR Part 69).
 - Approval of a conversion to other than public recreation uses for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2504 (36 CFR Part 69).
 - Consultations regarding land uses and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, et seq.
 - Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.
 - Approval of a conversion to a non-designated use for lands donated by the Federal government to State and local entities as park demonstration areas, as recreation areas, as wildlife conservation preserves and refuges and as historic monuments and properties under: (1) Recreation Demonstration Act of 1945 and (2) Federal Property and Administrative Services Act of 1949. For (1)—16 U.S.C. 469 (r-k); for (2)—49 U.S.C. 469(h)(2) (41 CFR Part 101-47).
 - Approval of a conversion to a non-designated use of abandoned railroad rights-of-way acquired by State and local governments under Section 608(b) of the Railroad Revitalization and Regulatory Reform Act of 1976. 49 U.S.C. 1(a) (36 CFR Part 64).
 - Consultation concerning the protection of park, recreation, and cultural resources which may be impacted by transportation projects. 49 U.S.C. 205.
 - For other jurisdictional responsibilities of the National Park Service, see PART III B—Federal Land Management.
 - Bureau of Reclamation (effects of land use on Federal water storage and distribution; planning for water development projects; basin-wide water studies and land use aspects of the National Water Summary):
 - Sale of farm units on Federal irrigation projects. (Statutory authority appears in individual project authorizations).
 - Administration of excess lands and residency requirements. 43 U.S.C. 371.
 - Office of Surface Mining Reclamation and Enforcement (land use and surface coal mining and reclamation operations):
 - For jurisdictional responsibilities of the Office of Surface Mining, see PART II. C—Coal.
- Department of Transportation**
- Office of the Secretary (general effects of transportation projects on land use):
 - Approval of transportation programs or projects that require the use of or have significant impacts on park and recreation areas, fish and wildlife refuges, and historic sites. 49 U.S.C. 303.
 - Coast Guard (effects of bridges on land use):
 - Permits for bridges and causeways over navigable waters. 33 U.S.C. 491, et seq.; 511, et seq.; 525, et seq.; and 525 (33 CFR Part 114 et seq.).
 - Federal Aviation Administration (airport land use compatibility):
 - Airport aid program. 49 U.S.C. 1711-1727 (14 CFR Part 132).
 - Acquisition of U.S. land for public airports. 49 U.S.C. 1723 (14 CFR Part 154).
 - Notice of construction, alteration, activation, and deactivation of airports. 49 U.S.C. 1380, 1384 and 1385 (14 CFR Part 157).
 - Objects affecting navigable airspace. 49 U.S.C. 1055 (14 CFR Part 77).
 - Release of airport property from surplus property disposal restrictions. 49 U.S.C. 1101-1119 (14 CFR Part 158).
 - Federal Highway Administration (effects of highways on land use):
 - Approval of highway projects and programs. 23 U.S.C. 101-156, generally, and 23 U.S.C. 291-316.
 - Consultations, in cooperation with the Urban Mass Transportation Administration, with State and local officials concerning urban transportation related systems. 23 U.S.C. 105(d) and 134(a); 49 U.S.C. 1604(g) (23 CFR Part 489).
 - Regulation of highway-related land use. For highway beautification—23 U.S.C. 131 (23 CFR Part 739); for junkyard control and acquisition—23 U.S.C. 136 (23 CFR Part 751); for landscape and roadside development—23 U.S.C. 131 and 316 (23 CFR Part 752); for protection of parklands, recreation areas, wildlife refuges, and historic sites—23 U.S.C. 136 (23 CFR Part 771).
 - Urban Mass Transportation Administration (effects of urban transportation systems on land use):
 - Consultations, in cooperation with the Federal Highway Administration, with State and local officials concerning urban transportation related systems. 23 U.S.C. 105(d) and 134(a); 49 U.S.C. 1604(g) (49 CFR Part 613).
 - Approval for substituting mass transit or other transit projects in lieu of an interstate highway project. 23 U.S.C. 105(e)(4).
 - Advisory Council on Historic Preservation (effects of land use planning on historic properties):
 - Environmental Protection Agency (effects of land use on pollution control and environmental quality):
 - For jurisdictional responsibilities see PART I. A—Air Quality, PART I. B—Water Quality, and PART I. C—Waste Disposal on Land.
 - Federal Emergency Management Agency (national flood insurance program; disaster relief assistance; mitigation of natural hazards):
 - Federal Energy Regulatory Commission (effects of power projects on land use):
 - Regulation of development of water resources. 16 U.S.C. 791-823(e) (16 CFR Parts 4-25, 36, 131 and 141).
 - International Boundary and Water Commission, United States Section (land use along international boundary with Mexico):
 - Interstate Commerce Commission (land use and interstate commerce):
 - Approval of Public Convenience and Necessity Certificate for new railroad lines. 49 U.S.C. 10801.
 - National Aeronautics and Space Administration (remote sensing of land use and land cover):
 - National Capital Planning Commission (land use in the National Capital Region):
 - Approval of land-use plans and construction in National Capital Region. 49 U.S.C. 746 (DC Code 6-404, DC Code 6-108; 49 U.S.C. 122 (DC Code 6-111, DC Code 6-432).
 - Tennessee Valley Authority (land use planning on public lands in Tennessee Valley region; assistance to local planning organizations).
- B. Federal Land Management**
- Department of Agriculture**
- Forest Service (National Forests and Grasslands management, including fire management):
 - National Forest System Management Planning. 16 U.S.C. 1604 and 1613 (36 CFR Part 219).
 - Special use permits, archeological permits, leases and easements. 16 U.S.C. 497 and 505(d); 49 U.S.C. 1701 and 49 U.S.C. 341 (36 CFR Parts 251 and 261).
 - Easement and road rights-of-way on National Forests and other lands. 16 U.S.C. 533 (36 CFR Part 212.10).
 - Permits for commercial use of existing roads. 16 U.S.C. 537 (36 CFR Part 212).
 - Buckhead-Jones Farm Tenant Act. Title III permits on National Grasslands. 7 U.S.C. 1019-12 (36 CFR Part 213.3).
- Department of Commerce**
- National Oceanic and Atmospheric Administration (consistency of Federal land uses with coastal zone management programs):
 - Department of Defense (overall management of Department of Defense lands):
 - Department of the Army (management of Army lands):
 - Permits and leases for use of Army reservations.
 - Permits and leases for use and occupancy of lands of water development projects of the Corps of Engineers.

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- Department of the Air Force (management of Air Force lands):
 - Permits and leases for use of Air Force reservations.
- Department of the Navy (management of Navy and Marine Corps lands):
 - Permits and leases for uses of naval reservations.
- Department of the Interior**
 - Fish and Wildlife Service (effects of Federal land management on endangered species and their critical habitats and other fish and wildlife resources, management of National Wildlife Refuge and National Fish Hatchery System areas):
 - Easements/permits for right-of-way across National Wildlife Refuge and National Fish Hatchery System land. For refuges—18 U.S.C. 666dd, or seq.; for hatcheries—43 U.S.C. 831 c and d (30 CFR Parts 25.41 and 29.21).
 - Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 462k–j and 742(f) (50 CFR Part 96).
 - Permits for off-road vehicular use on National Wildlife Refuge System areas. E.O. 11844 (30 CFR Part 28.34).
 - Consultation concerning the protection of fish and wildlife refuges which may be impacted by transportation projects. 49 U.S.C. 303.
 - Geological Survey (Federal land mineral resources potential; wilderness reviews, land-use planning; geologic and hydrologic hazards; flood studies; geologic, topographic, land use, and photographic mapping).
 - Bureau of Indian Affairs (effects of Federal land management on Indian lands; management of Bureau of Indian Affairs lands):
 - Sale of Federal land purchased for Indian administrative uses. 25 U.S.C. 393.
 - Rights-of-way over Federal lands under BIA jurisdiction. 25 U.S.C. 329–336 (25 CFR Part 160).
 - Leases for mining, oil and gas, coal, farming and other uses on Federal lands under BIA jurisdiction. 25 U.S.C. 301 and 25 U.S.C. 303, or seq. (25 CFR Part 160).
 - For the trust responsibilities of the Bureau of Indian Affairs for Indian lands, see PART III, A.—Land Use Planning, etc.
 - Bureau of Land Management (management of Federal lands):
 - Easements/permits for rights-of-way. 43 U.S.C. 8 and 1701, or seq. (43 CFR Parts 2800–2800).
 - Special land-use permits for habitation, occupation and other purposes. 43 U.S.C. 1732(b) (43 CFR Part 2820).
 - Conditions and standards for off-road vehicle use on BLM lands. 43 U.S.C. 1201; E.O. 11844 (43 CFR Part 2340).
 - Permits for off-road vehicular use special events, i.e., tours and competitions. 43 U.S.C. 1701, or seq., and 16 U.S.C. 4601(4a) (43 CFR Part 8372).
 - Exchange of Federal lands for other property. 43 U.S.C. 1716 (43 CFR Parts 2200–2270).
 - Leases/transfers of public lands for a public airport. 43 U.S.C. 1721 and 49 U.S.C. 1115 (43 CFR Part 2840).
 - Sales/leases of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 808, or seq. for sales—43 CFR Part 2740; for leases—43 CFR Part 2812.
 - Permits for commercial recreational use of public lands. 43 U.S.C. 1701, or seq. (43 CFR Part 8370).
 - Bureau of Mines (mineral land assessment).
 - National Park Service (management of National Park System areas; units of the National Wild and Scenic Rivers System; National Trails System):
 - Permits, leases, and easements of rights-of-way and other uses of National Park System areas. 16 U.S.C. 1, or seq. (36 CFR Parts 9 and 14).
 - Permits for commercial operations on National Park System areas. 16 U.S.C. 1, or seq. (36 CFR Parts 7, 14, 30 and 51).
 - Permits for off-road vehicular use in National Park System areas. E.O. 11844 (30 CFR Part 7).
 - Consultations regarding use of and effect on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, or seq.
 - Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.
 - Consultation concerning the protection of park, recreation, and cultural resources which may be impacted by transportation projects. 49 U.S.C. 303.
 - Bureau of Reclamation (management of public water storage and delivery projects and recreational developments; irrigation and impacts of Federal land management of State water planning):
 - Sale or lease of project lands to a governmental entity or a non-profit group for recreational or other public purposes. 43 U.S.C. 393.
 - Lease of project lands for commercial recreational developments. 43 U.S.C. 391, or seq.
 - Department of Transportation**
 - Office of the Secretary (effects of transportation projects on Federal lands):
 - Approval of transportation programs and projects which use a publicly owned park and recreation area, wildlife or waterfowl refuge, or any historic site. 49 U.S.C. 305.
 - Federal Highway Administration (construction and management of Federal Lands Highways, including forest highways and National Park Service roads and parkways):
 - Federal Lands Highways Program. 23 U.S.C. 204 (23 CFR Parts 600 and 607).
 - Advisory Council on Historic Preservation (effects of Federal land management on historic properties).
 - Environmental Protection Agency (effects of Federal land management on pollution control and environmental quality; pesticide use and integrated pest management on public lands):
 - Underground injection control permits—Indian lands. 42 U.S.C. 300(f), or seq.
 - Air emissions from Federal facilities. 42 U.S.C. 7416.
 - Wastewater discharges from Federal facilities. 33 U.S.C. 1323.
 - Solid wastes and hazardous wastes from Federal facilities. 42 U.S.C. 6961.
 - Pesticide use of public lands. 7 U.S.C. 136.
 - For other jurisdictional responsibilities, see PART I.—POLLUTION CONTROL
 - Federal Emergency Management Agency** (effects of the National Flood Insurance Program and disaster relief assistance on Federal land management).
 - General Services Administration**
 - Public Buildings Service (management of public buildings and property).
 - Federal Property Resources Service (public land disposal).
 - National Aeronautics and Space Administration** (advanced technology for remote sensing of land use and land cover).
 - Tennessee Valley Authority** (TVA reservoir property, secondary use of reservoir property, and reservation planning).

C. Coastal Areas

 - Department of Agriculture**
 - Farmers Home Administration (housing, community, and business loan programs; and farm loan programs in coastal areas).
 - Forest Service (National Forests in coastal areas):
 - Consultations regarding uses and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, or seq.
 - Soil Conservation Service (coastal soil stabilization).
 - Department of Commerce**
 - National Oceanic and Atmospheric Administration (coastal and marine resources and protection):
 - Permits for activities in designated marine sanctuaries. 16 U.S.C. 145, or seq. (15 CFR Part 922).
 - Approval and funding of State coastal management programs. 16 U.S.C. 1451, or seq. (16 CFR Parts 923 and 930).
 - Establishment of estuarine sanctuaries. 16 U.S.C. 1401 (15 CFR Part 921).
 - Determinations to insure Federal development projects and federally permitted or funded projects are consistent with an approved State coastal zone management plan. 16 U.S.C. 1451 (15 CFR Part 930).
 - Grants and loans under Coastal Energy Impact Program. 16 U.S.C. 1450(a) (15 CFR Part 931).
 - Department of Defense**
 - Army Corps of Engineers (beach erosion and stabilization; dredge and fill permits; ocean dumping; Refuge Act permits):
 - For jurisdictional responsibilities, see PART I, B.—Water Quality.

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Department of Energy

- Office of Policy, Safety, and Environment (effects of energy policies, programs and projects on coastal areas).

Department of Housing and Urban Development

- Office of Housing and Office of Community Planning and Development (development in coastal areas; consistency with coastal zone management plans; consistency with Coastal Barrier Resources Act).

Department of the Interior

- Fish and Wildlife Service (effects of coastal land uses on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery System areas, and other fish and wildlife resources):

- Consultation regarding any Federal actions that may directly or indirectly affect a designated coastal barrier. 16 U.S.C. 1501. (For advisory guidelines, see 48 FR 45884 of Oct. 8, 1983).

- Consultation regarding Federal projects that may affect an estuarine area 16 U.S.C. 1524.

- Consultation regarding Federal or Federally permitted projects that affect fish and wildlife resources under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, *et seq.*

- U.S. Fish and Wildlife Service Mitigation Policy. 16 U.S.C. 661, *et seq.*; 742(a)-734 and 1001-1008 (48 FR 7044 of Jan. 23, 1983).

- Geological Survey (land use planning; geologic and hydrologic hazards; geologic, topographic, land use, and photographic mapping, including areas of the outer continental shelf and Exclusive Economic Zone).

- Bureau of Indian Affairs (Indian lands in coastal areas).

- Bureau of Land Management (public land management in coastal areas).

- Minerals Management Service (coastal zone planning and management; outer continental shelf lands):

- Oil, gas, and sulphur exploration, development, and production on the outer continental shelf. (30 CFR Part 288.34).

- National Park Service (effects of coastal land use on National Park System areas, park and recreation areas, and historical, archeological and architectural sites; barrier island ecology and coastal processes):

- Identifications and listing on the National Registry of Natural Landmarks of nationally significant natural areas in the United States. 16 U.S.C. 481 (30 CFR Part 63).

- Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

- Bureau of Reclamation (water development projects in coastal areas, effects of water developments and irrigation on estuarine areas).

Department of Transportation

- Coast Guard (bridges, pipelines and transmission lines crossing navigable waters; navigation and deep water ports):

- Permits for bridges and causeways over navigable waters. 33 U.S.C. 491, *et seq.*, 511, *et seq.*, 525, *et seq.*, and 535 (33 CFR Part 114, *et seq.*).

- Permits for waterfront facilities. 33 U.S.C. 1221, *et seq.* (33 CFR Parts 125 and 126).

- Deepwater port regulation and licensing. 33 U.S.C. 1300-1324 (33 CFR Parts 148-150).

- Maritime Administration (coastal land use in relation to ports).

- Advisory Council on Historic Preservation (effects of coastal land uses on historic properties).

- Environmental Protection Agency (effects of coastal land uses on pollution control and environmental quality):

- For jurisdictional responsibilities see PART I.B.—Water Quality.

- Federal Emergency Management Agency (National Flood Insurance Program; floodplain management; uses on sand dunes, mangrove forests and barrier islands; disaster relief assistance).

- Federal Energy Regulatory Commission (effects of natural gas transportation, storage, and sale on coastal areas).

- Marine Mammal Commission (conservation and protection of marine mammals and their habitat in coastal areas):

- Conservation and oversight responsibility for activities affecting marine mammals. 16 U.S.C. 1602.

- National Aeronautics and Space Administration (advanced technology for remote sensing of land use and land cover).

- D. Environmentally Sensitive Areas (Wilderness Areas, Wild and Scenic Rivers, Floodplains (see Executive Order 11988), Wetlands (see Executive Order 11988), Barrier Islands, Beaches and Fjords, Unstable Soils, Steep Slopes, Aquifer Recharge Areas, Tundra, etc.)

Department of Agriculture

- Agricultural Research Service (research activities to conserve and soil environmentally sensitive areas).

- Agricultural Stabilization and Conservation Service (commodity and land use programs; Water Bank).

- Farmers Home Administration (housing, community, and business loan programs; farmer loan programs in environmentally sensitive areas).

- Forest Service (management of environmentally sensitive areas on National Forest and Graceland System land— including fire management):

- Permits for use of wildland. 16 U.S.C. 472 and 561 (30 CFR Part 292).

- Consultations regarding land and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*

- Soil Conservation Service (conservation and protection of environmentally sensitive areas in rural regions).

Department of Commerce

- National Oceanic and Atmospheric Administration (management and protection of environmentally sensitive coastal and marine areas):

- Consultations concerning the protection of threatened and endangered marine species and their critical habitats. 16 U.S.C. 1531, *et seq.* (50 CFR Part 222).

- Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431, *et seq.* (15 CFR Part 622).

- Establishment of estuarine sanctuaries. 16 U.S.C. 1401 (15 CFR Part 621).

- Habitat Conservation Policy (48 FR 53142 of Nov. 25, 1983).

Department of Defense

- Army Corps of Engineers (protection of beaches, wetlands, floodplains, barrier islands):

- For jurisdictional responsibilities, see PART I.B.—Water Quality.

Department of Health and Human Services

- Public Health Service: Center for Disease Control (environmentally sensitive areas in relation to human health issues).

Department of Housing and Urban Development

- Office of Community Planning and Development (locational criteria for floodplain and wetland development; sole source aquifer and critical habitat; development affecting endangered species and their critical habitats).

- Office of Housing (developable slope and soils criteria).

Department of Interior

- Fish and Wildlife Service (protection of endangered species and their critical habitats; conservation of environmentally sensitive areas in National Wildlife Refuges and National Fish Hatcheries):

- Consultations regarding any Federal actions that may directly or indirectly affect a designated coastal barrier. 16 U.S.C. 1501 (For advisory guidelines, see 48 FR 45884 of Oct. 8, 1983).

- Consultations concerning the protection of endangered species and their critical habitats. 16 U.S.C. 1531-1543 (30 CFR Part 422).

- Determination of critical habitats for endangered and threatened species of fish and wildlife and plants. 16 U.S.C. 1533 (30 CFR Parts 17.432 and 434).

- Geological Survey (geologic and hydrologic assessments of sensitive areas, including energy and mineral resources in wilderness areas, earthquakes, volcanic and other natural hazards).

- Bureau of Indian Affairs (environmentally sensitive areas on Indian lands).

- Bureau of Land Management (environmentally sensitive areas on public lands; management of special areas):

- Leases, permits and licenses for mining in Wild and Scenic Rivers System areas. 16 U.S.C. 1289 (each area has special Federal Regulations).

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- Approval of plan of operations for a mining lease in a wilderness study area. 43 U.S.C. 1701, *et seq.*, and 1782-12 U.S.C. 1201 *et seq.* (43 CFR Part 1802).
- Permits for use of a designated "special area" as defined in 43 CFR Part 8372.0-5(g), 43 U.S.C. 1701, *et seq.*; 16 U.S.C. 460 (1-6a) and 670 (g-n) (43 CFR Part 8370 *et seq.*).
- Restrictions on use of "outstanding natural areas" and "primitive areas." 43 U.S.C. 1701, *et seq.* (43 CFR Subpart 8352).
- National Park Service (historical and recreational values; Wild and Scenic Rivers System; National Trails System; National Park System areas):
- Identification and listing on the National Registry of Natural Landmarks of nationally significant natural areas in the United States. 16 U.S.C. 461 (36 CFR Part 62).
- Leases, permits, and licenses for mining on National Park System lands involved in Wild and Scenic Rivers System. 16 U.S.C. 1280.
- Consultations regarding use of and effect on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
- Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1246.
- Bureau of Reclamation (water resource planning and water storage and delivery projects in environmentally sensitive areas; National Water Summary):
- Office of Surface Mining Reclamation and Enforcement (surface coal mining and reclamation operations in environmentally sensitive areas):
- Identification of lands considered unsuitable for all or certain stipulated methods of coal mining involving surface coal mining operations. 30 U.S.C. 1272(e) (30 CFR Chapter 7, Subchapter F).
- Protection of prime farmlands during surface coal mining and reclamation operations. 30 U.S.C. 1286 (30 CFR Parts 785.17 and 825).
- Department of Transportation**
- Office of Secretary (effects of all types of transportation projects on environmentally sensitive areas):
- Coast Guard (port facilities and bridges in environmentally sensitive areas):
- Establishment of port access routes in environmentally sensitive areas. 33 U.S.C. 1221.
- Federal Highway Administration (highways in environmentally sensitive areas):
- Mitigation of impacts to privately owned wetlands. 23 U.S.C. 108; Executive Order 11859 (23 CFR Part 777).
- Advisory Council on Historic Preservation** (effects of activities in sensitive areas on historic properties).
- Environmental Protection Agency** (pollution control and environmental effects on wetlands, floodplains, prime agricultural lands, and other environmentally sensitive areas):
- For jurisdictional responsibilities see PART I A—Air Quality, PART II—Water Quality, and PART C—Waste disposal on Land.
- Federal Emergency Management Agency** (National Flood Insurance Program; floodplain management uses on sand dunes, mangrove forests, and barrier islands; disaster relief assistance):
- National Science Foundation** (conservation of Antarctic animals, plants, and ecosystems):
- Permits for the taking or collecting of Antarctic animals and plants, and for entry into certain designated areas. 16 U.S.C. 2401, *et seq.* (45 CFR Part 670).
- Tennessee Valley Authority** (Protection and management of environmentally sensitive areas in the Tennessee Valley region).
- E. Outdoor Recreation**
- Department of Agriculture**
- Forest Service (recreation in National Forests and Grasslands):
- Use of recreation areas. (36 CFR Parts 281, 282 and 294).
- Permits for use of wilderness areas. 16 U.S.C. 472 and 551 (36 CFR Part 283).
- Conditions and requirements for use of National Forest road and trail system. 16 U.S.C. 537 (36 CFR Part 212).
- Permits for use of National Scenic Trails administered by Forest Service. 16 U.S.C. 1246.
- Permits for hunting and fishing in fish and wildlife refuge lands. 16 U.S.C. 551 and 603.
- Conditions and standards for off-road vehicle use on National Forest System lands. 16 U.S.C. 561; E.O. 11644 (36 CFR Part 289).
- Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
- Soil Conservation Service (recreation and watershed protection; planning assistance to private landowners):
- Assistance to State and local sponsors, through a Small Watershed Program grant, for reservoir and stream modification projects including development of basic public recreation facilities. 16 U.S.C. 1001, *et seq.*, and 33 U.S.C. 701-1.
- Department of Commerce**
- National Oceanic and Atmospheric Administration (marine recreational fishing; coastal access planning in State coastal zone management programs).
- Department of Defense**
- Army Corps of Engineers (recreational areas on Corps project lands):
- Permits for activities and developments on water resource development projects. 16 U.S.C. 460(d) (36 CFR Parts 313 and 327).
- Department of Health and Human Services**
- Public Health Service: Center for Disease Control (outdoor recreation and health).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (outdoor recreation in urban areas):
- Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part with an Open Space Land Program grant. 42 U.S.C. 1500-1500e.
- Department of the Interior**
- Fish and Wildlife Service (effects of recreation on endangered species and their critical habitats, and other fish and wildlife resources; recreation on National Wildlife Refuge and National Fish Hatchery System lands):
- Permits for special uses including concessions and other recreational facilities on National Wildlife Refuge System lands. 16 U.S.C. 666d, *et seq.* (50 CFR Part 23.41, *et seq.*).
- Permits for off-road vehicular use on National Wildlife Refuge System lands. E.O. 11844 (50 CFR Part 28.34).
- Consultation concerning the protection of fish and wildlife refuges which may be impacted by transportation projects. 49 U.S.C. 303.
- Geological Survey (effects of water quality and erosion on recreation):
- Bureau of Indian Affairs (outdoor recreation on Indian lands):
- Bureau of Land Management (outdoor recreation on public lands generally, including ORV use and river management):
- Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 668, *et seq.* (For sales—43 CFR Part 2740, for leases—43 CFR Part 2812).
- Conditions and standards for off-road vehicle use on BLM lands. 43 U.S.C. 1201; E.O. 11644 (43 CFR Part 6340).
- Permits for off-road vehicular use special events, i.e., tours and competitions. 43 U.S.C. 1708, *et seq.*, and 16 U.S.C. 460 (1-6a) (43 CFR Part 8372).
- Permits for use of a national trail, developed facility and a designated "special area" as defined in 43 CFR Part 8372.0-5(g), 43 U.S.C. 1701, *et seq.*; 16 U.S.C. 460 (1-6a) and 670 (g-n) (43 CFR Part 6370).
- Permits for commercial recreation use of public lands. 43 U.S.C. 1701, *et seq.* (43 CFR Part 6370).
- National Park Service (outdoor recreation, urban parks, Wild and Scenic Rivers System, National Trails System, recreation in National Park System areas):
- Assistance to State and local agencies, through Land and Water Conservation Fund Act grants, for the acquisition and/or development of park and recreation areas and/or facilities. 16 U.S.C. 4601.
- Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part with a Land and Water Conservation Fund Act grant. 16 U.S.C. 4601.
- Assistance to State and local agencies, through Urban Park and Recreation Recovery Act grants, for the development

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- and/or improvement of park and recreation areas. 16 U.S.C. 2504 (36 CFR Part 1228).
- Approval of a conversion to other than public recreation uses for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2504 (36 CFR Part 68).
- Consultations regarding use of and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1276, *et seq.*
- Permits for use of National Historic and National Scenic Trails administered by the National Park Service. 16 U.S.C. 1248.
- Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative Services Act of 1949. For (1)—16 U.S.C. 439 *et seq.*; for (2)—49 U.S.C. 404(k)(2) (41 CFR Part 101-47).
- Approval of a conversion to a non-designated use of abandoned railroad rights-of-way acquired by State and local governments under Section 208(b) of the Railroad Revitalization and Regulatory Reform Act of 1976. 49 U.S.C. 1a (36 CFR Part 64).
- Consultation concerning the protection of park, recreation, and cultural resources which may be impacted by transportation projects. 49 U.S.C. 303.
- Consultations about extent to which proposed recreational developments at hydroelectric projects conform to and are in accord with the Statewide Comprehensive Outdoor Recreation Plans. 16 U.S.C. 468.
- Permits for off-road vehicle use on National Park System lands. 16 U.S.C. 1, *et seq.*; E.O. 11644 (36 CFR Part 7).
- Bureau of Reclamation (recreation on water storage and delivery projects)
- Sale or lease of project lands to a governmental entity or a non-profit group for recreational purposes. 43 U.S.C. 509.
- Lease of project lands for commercial recreational developments. 43 U.S.C. 501, *et seq.*
- Permits for organized off-road vehicular events. (43 CFR Part 428.34).
- Office of Surface Mining Reclamation and Enforcement (use of abandoned mined lands for recreational purposes)
- Identification of park and recreation lands considered suitable for surface coal mining operations. 30 U.S.C. 1273(e) (30 CFR Chapter 7, Subchapter F).
- Department of Transportation**
- Office of the Secretary (general effects of transportation projects on parks and recreation areas)
- Approval of transportation programs or projects that require the use of or have significant impact on park and recreation areas. 49 U.S.C. 303.
- Coast Guard (recreational boating):
- Recreational boating regulations and permits. 46 U.S.C. 1451 (33 CFR Part 173, *et seq.*)
 - Federal Highway Administration (effects of highways on parks and recreation areas):
 - Special protection considerations for public park and recreation areas. 23 U.S.C. 138 and 49 U.S.C. 303 (23 CFR Part 771).
 - Access highways to public recreation areas on lakes. 23 U.S.C. 158.
- Advisory Council on Historic Preservation** (effects of recreational activities and development on historic properties).
- Environmental Protection Agency** (pollution control and environmental quality in relation to outdoor recreation):
- For jurisdictional responsibilities, see PART I—POLLUTION CONTROL.
- National Capital Planning Commission** (recreation in the Washington, D.C. area):
- Approval of land use plans and construction in the National Capital Region. 40 U.S.C. 74a (D.C. Code 8-404, D.C. Code 8-102); 49 U.S.C. 122 (D.C. Code 8-11, D.C. Code 5-432).
- Tennessee Valley Authority** (recreation on public lands and waters in Tennessee Valley Region).
- F. Community Development**
- Department of Agriculture**
- Agricultural Stabilization and Conservation Service (rural development and farm programs).
 - Extension Service (rural and community development programs).
 - Farmers Home Administration (rural and community development programs).
 - Forest Service (programs to assist in coordinating development of communities in and adjacent to National Forest System areas; urban forestry).
 - Soil Conservation Service (soil and related resource surveys; land conservation and utilization).
 - Soil, water, and related resource data. 7 U.S.C. 1676a.
 - Program for land conservation and utilization. 7 U.S.C. 1671(e).
- Department of Commerce**
- Economic Development Administration (community development programs in designated areas).
 - National Oceanic and Atmospheric Administration (energy development impacts on communities).
 - Approval and funding of State coastal zone management plans. 16 U.S.C. 1601, *et seq.* (16 CFR Parts 128 and 653).
- Department of Health and Human Services**
- Center for Disease Control (community health issues).
 - Office of Human Development Services (problems of handicapped, aged, children and Native Americans).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (community development effects on low income populations; economic revitalization in distressed areas; density and congestion mitigation, rehabilitation and urban homesteading):
 - Assurances that HUD assisted projects are located in a safe and healthful environment. 42 U.S.C. 1441, *et seq.*
 - Housing and Community Development Act of 1974. 42 U.S.C. 5301, *et seq.* (24 CFR Part 570).
 - Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with an Open Space Land Program grant. 42 U.S.C. 1509-1509a.
- Department of the Interior**
- Fish and Wildlife Service (effects of community developments on endangered species and their critical habitats, other fish and wildlife resources, and National Wildlife Refuge and National Fish Hatchery System areas):
 - Geological Survey (effects of development on water resources and erosion; geologic and hydrologic hazards, including lands, subsidence, sink holes, landslides, and earthquakes).
 - Bureau of Indian Affairs (community development for Indian peoples and on Indian lands).
 - Bureau of Land Management (community developments on public lands):
 - Leases and sale of Federal land to State and local agencies and non-profit groups for recreational and public purposes. 43 U.S.C. 502, *et seq.* (For sales—43 CFR Part 2749, for leases—43 CFR Part 2812).
 - Leases/transfers of public lands for a public airport. 49 U.S.C. 1115 (43 CFR Part 2849).
 - Leases of Federal lands for other purposes. 43 U.S.C. 1716 (43 CFR Part 2300-2779).
 - National Park Service (effects of community developments on natural and historic landmarks, archeological remains, outdoor recreation, urban parks, historic preservation, and National Park System areas):
 - Approval of a conversion to a non-designated use for State and local lands acquired or developed, in whole or in part, with a Land and Water Conservation Fund Act grant. 16 U.S.C. 689.
 - Approval of a conversion to other than a public recreation use for State and local areas developed or improved with an Urban Park and Recreation Recovery Act grant. 16 U.S.C. 2504 (36 CFR Part 68).
 - Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as park demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative Services Act of 1949. For (1)—16 U.S.C. 439 *et seq.*; for (2)—49 U.S.C. 404(k)(2) (41 CFR Part 101-47).
 - Approval of a conversion to a non-designated use of abandoned railroad rights-of-way acquired by State and local governments under Section 208(b) of the

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- Railroad Revitalization and Regulatory Reform Act of 1976** 49 U.S.C. 1a (36 CFR Part 661)
- Assistant for the acquisition, rehabilitation, restoration and reconstruction of historic properties. 16 U.S.C. 470, et seq. (36 CFR Parts 60.3 and 66).
 - Bureau of Reclamation (water storage, delivery, and irrigation systems for community development purposes):
 - Sales of farm units on Federal irrigation projects (Statutory jurisdiction appears in individual project authorizations).
 - Sale or lease of project lands to a governmental entity or nonprofit group for recreational or other public purposes. 43 U.S.C. 809.
 - Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation operations on community development).
- Department of Transportation**
- Federal Aviation Administration (effects of airport development and use on communities):
 - Approval of an airport noise compatibility program. 49 U.S.C. 2101, et seq. (14 CFR Part 150).
 - Federal Highway Administration (effects of highways on communities):
 - Relocation assistance in connection with highway projects. 42 U.S.C. 4801 et seq. (23 CFR Part 740 and 49 CFR Part 25).
 - Grants for economic growth center development highways. 23 U.S.C. 143.
 - Urban Mass Transportation Administration (effects of urban transportation systems on communities):
 - Grants for Urban Mass Transportation Act projects. 49 U.S.C. 1610, et seq.
- ACTION** (effects of community development on low income populations).
- Advisory Council on Historic Preservation** (effects of community development on historic properties).
- Environmental Protection Agency** (etc. noise, and water pollution control relating to community development):
- For jurisdictional responsibilities, see PART I--POLLUTION CONTROL.
- Federal Emergency Management Agency** (National Flood Insurance Program; disaster relief assistance; mitigation of natural hazards).
- General Services Administration**
- Public Building Service (building design, construction, and use).
 - Interstate Commerce Commission** (effects of rail line construction and abandonment on community development).
 - National Capital Planning Commission** (community developments in the Washington, D.C. area):
 - Approval of land use plans and construction in the National Capital Region. 49 U.S.C. 74a (DC Code 9-404, DC Code 9-102; 49 U.S.C. 122 (D.C. Code 9-111, DC Code 9-432).
 - National Endowment for the Arts** (effects of development on artistic values).
- G. Historic, Architectural, and Archeological Resources**
- Department of Agriculture**
- Office of the Secretary (protection of archeological resources):
 - Permits and procedures for the recovery and preservation of archeological resources on Department of Agriculture lands. 16 U.S.C. 470 aa-ll (36 CFR Part 229).
 - Agricultural Stabilization and Conservation Service (effects on historic and archeological resources from agriculture):
 - Farmers Home Administration (effects of housing, community, and business programs, and farmer programs on cultural resources).
 - Forest Service (protection of historic and archeological resources in National Forests and Grasslands):
 - Special-use permits, archeological permits, leases and easements. 16 U.S.C. 497 and 500(d); 43 U.S.C. 1701; 46 U.S.C. 341 (36 CFR Parts 231 and 281).
 - Soil Conservation Service (effects of agriculture on cultural resources).
- Department of Commerce**
- National Oceanic and Atmospheric Administration (areas for preservation and restoration under State coastal zone management programs):
 - National Marine Sanctuaries. 16 U.S.C. 1431 (15 CFR Part 822).
 - National Estuarine Sanctuaries. 16 U.S.C. 1461 (15 CFR Part 821).
- Department of Defense**
- Office of the Secretary (protection of archeological resources):
 - Permits/procedures for recovery and preservation of archeological resources on Department of Defense lands. 16 U.S.C. 470 aa-ll (32 CFR Part 229).
- Department of Housing and Urban Development**
- Office of Community Planning and Development (protection of historic and architectural resources in developed areas):
 - Housing and Community Development Act of 1974. 42 U.S.C. 5304(f) (24 CFR Part 56).
- Department of the Interior**
- Fish and Wildlife Service (cultural resource management on National Wildlife Refuge and National Fish Hatchery System lands, and effects of cultural resource management on endangered species and critical habitats):
 - Special use permit for antiquities search and collection activities—in addition to an antiquity permit. 16 U.S.C. 809(d), et seq. (50 CFR Part 28.41); also see 16 U.S.C. 470 aa-ll (43 CFR Part 7).
 - Geological Survey (paleontological resources in general):
 - Bureau of Indian Affairs (protection of historic and archeological resources on Indian and Native American lands):
 - Concurrence for issuance and supervision of antiquity permits on Indian lands. 16 U.S.C. 432 (25 CFR Part 201); also see 16 U.S.C. 470 aa-ll (43 CFR Part 7).
 - Protection of access to sacred sites, use and possession of sacred objects and other
- rights of the American Indian, Eskimo, Aleut, and Native Hawaiian. 42 U.S.C. 1986.
- Bureau of Land Management (cultural resource management on public lands):
 - Concurrence for issuance and supervision of antiquity permits. 16 U.S.C. 432 (43 CFR Part 3); also see 16 U.S.C. 470 aa-ll (43 CFR Part 7).
 - Minerals Management Service (protection of cultural resources on outer continental shelf lands):
 - Outer Continental Shelf Lands Act. 43 U.S.C. 1331 (30 CFR Parts 250 and 251).
 - National Park Service (protection of historic, archeological, architectural and paleontological properties; cultural resource management on National Park System lands):
 - Nominations to and determinations of eligibility of properties for inclusion in the National Register of Historic Places. 16 U.S.C. 470, et seq. (36 CFR Part 60 and 63).
 - Approval of procedures in State and local government historic preservation programs. 16 U.S.C. 470, et seq. (36 CFR Part 61).
 - National Historic Landmarks Program—nominations and designations. 16 U.S.C. 461, et seq. (36 CFR Part 66).
 - Historic Preservation Certifications pursuant to the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, and the Economic Recovery Tax Act of 1981. 16 U.S.C. 470, et seq.; 29 Stat. 1519; 92 Stat. 2828; 94 Stat. 3286; 99 Stat. 172 (36 CFR Part 67).
 - The Secretary of the Interior's Standards and Guidelines for Historic Preservation Projects. 16 U.S.C. 470, et seq.; Executive Order 11869 (36 CFR Part 68).
 - The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation pursuant to Sections 101 and 110 of the National Historic Preservation Act. 16 U.S.C. 470, et seq.; (46 FR 44718 of Sept. 28, 1982).
 - Waiver of Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act. 16 U.S.C. 470, et seq. (36 CFR Part 78).
 - Protection of the world's cultural and natural heritage: the World Heritage Convention. 16 U.S.C. 470a-1 and 2-2d (36 CFR Part 73).
 - Permits and procedures for the recovery and preservation of archeological resource on Department of the Interior lands. 16 U.S.C. 470 aa-ll (43 CFR Part 7).
 - Permits to examine ruins, excavate archeological sites and gather objects of antiquity on Federal and Indian lands (Antiquity permits issued by the Departmental Consulting Archeologist). 16 U.S.C. 432 (43 CFR Part 3; 36 CFR Parts 2.20 and 2.25); also see 16 U.S.C. 470 aa-ll (43 CFR Part 7).
 - Approval of a conversion to a non-designated use for lands deeded by the Federal government to State and local entities as part demonstration areas, recreation areas, wildlife conservation preserves and refuges and as historic monuments and properties under the (1) Recreation Demonstration Act of 1942 and (2) Federal Property and Administrative

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- Services Act of 1949. For (1)—16 U.S.C. 459 (1)-(2)—40 U.S.C. 4941(k)(2) (41 CFR Part 101-47).
- Consultation concerning the protection of any historic site which may be impacted by a transportation project. 49 U.S.C. 303.
 - Bureau of Reclamation (protection of cultural resources on water storage and delivery project lands):
 - Procedures for the administration and protection of cultural resources. E.O. 11563 (43 CFR Part 422).
 - Concurrence for issuance and supervision of antiquity permits. 16 U.S.C. 432 (43 CFR Part 3); also see 16 U.S.C. 470 aa-II (43 CFR Part 7).
 - Office of Surface Mining Reclamation and Enforcement (protection of important historic, cultural, scientific, and aesthetic resources in surface coal mining and reclamation operations):
 - Concurrence for issuance and the supervision of antiquity permits. 16 U.S.C. 432 (43 CFR Part 3); also see 16 U.S.C. 470 aa-II (43 CFR Part 7).
- Department of Transportation**
- Office of the Secretary (general effects of transportation projects on cultural resources):
 - Approval of transportation programs or projects that require the use of or have significant impacts on historic sites. 49 U.S.C. 303.
 - Coast Guard (effects of bridges on cultural resources):
 - Construction and alterations on bridges and causeways over navigable waters that are or require the use of or have significant impacts on historic sites. 33 U.S.C. 491, et seq., 511, et seq., 525, et seq., and 538 (33 CFR Part 114, et seq.).
 - Federal Aviation Administration (effects of airport developments and air traffic on cultural resources; sonic boom impacts).
 - Federal Highway Administration (effects of highway projects on cultural resources):
 - Approval of transportation programs or projects that require the use of or have significant impacts on historic sites. 23 U.S.C. 136 and 49 U.S.C. 303 (23 CFR Part 771).
 - Archaeological and paleontological salvage on Federal and Federal-aid highway projects. 23 U.S.C. 308.
 - Federal Railroad Administration (effects of railroad projects on cultural resources).
 - Urban Mass Transportation Administration (effects of urban transportation projects on architectural and historic resources).
 - Advisory Council on Historic Preservation (effects of development or other actions on historic properties):
 - Consultation concerning the effects of any Federal, federally assisted, or federally regulated activity on historic properties. 16 U.S.C. 478, et seq. (36 CFR Part 608).

General Services Administration

 - Public Buildings Service (effects of development and pollution on architectural and historic resources in urban areas).
 - Interstate Commerce Commission (effects of rail line construction and abandonment on cultural resources).

National Capital Planning Commission (effects of development and pollution on architectural, historic and archeological resources in the Washington, D.C. area):

 - Approval of land use plans and construction in the National Capital Region. 40 U.S.C. 74a (D.C. Code 9-404, D.C. Code 8-102); 40 U.S.C. 122 (D.C. Code 8-111, D.C. Code 5-432).

Tennessee Valley Authority (effects of development and other actions on historic and archeological resources in the Tennessee Valley region):

 - Permits and procedures for the recovery and preservation of archeological resources on TVA lands. 16 U.S.C. 470 aa-II (18 CFR Part 1312).

IV. NATURAL RESOURCES MANAGEMENT

A. Weather Modification

Department of Agriculture

 - Forest Service (effects of weather modification on National Forests and Grasslands).
 - Soil Conservation Service (snow surveys and soil moisture monitoring).
 - World Agricultural Outlook Board (data relating to weather and agricultural commodities).

Department of Commerce

 - National Oceanic and Atmospheric Administration (weather research and development):
 - Records and reports on weather modification activities. 45 Stat. 735 (15 CFR Part 608).

Department of Defense

 - Department of the Air Force (fog dissipation).

Department of the Interior

 - Bureau of Indian Affairs (effects of weather modification on Indian Lands).
 - Bureau of Land Management (effects of weather modification on public lands).
 - Fish and Wildlife Service (effects of weather modification on endangered species and their critical habitats, other fish and wildlife resources, and National Wildlife Refuge and National Fish Hatchery System areas):
 - Geological Survey (effects of weather modification on water resources; paleontological studies).
 - National Park Service (effects of weather modification on National Park System resources).
 - Bureau of Reclamation (effects of weather modification on water storage and delivery projects; research in relation to water resources):
 - Programsman augmentation through cloud seeding. 43 U.S.C. 377.

Environmental Protection Agency (effects of weather modification on pollution control and environmental quality).

B. Marine Resources

Department of Commerce

 - National Oceanic and Atmospheric Administration (meteorological and oceanographic research and monitoring; management and protection of coastal and marine resources; marine pollution research and monitoring; ocean pollution; ocean mining; ocean dumping; seafood quality; regulation of marine fisheries):
 - Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR Part 921).
 - Permits for activities in designated marine sanctuaries. 16 U.S.C. 1451, et seq. (15 CFR Part 922).
 - Consultations regarding Federal or Federally permitted projects affecting fish and wildlife habitat in coastal and offshore areas under the Fish and Wildlife Coordination Act. 16 U.S.C. 661, et seq.
 - Consultations regarding projects which may affect any threatened or endangered marine species or its critical habitat. 16 U.S.C. 1531, et seq. (30 CFR Parts 222 and 402).
 - Permits for scientific research and display of marine mammals. 16 U.S.C. 1374 (50 CFR Parts 218.31, 220 and 618).
 - Permits to enhance the propagation or survival of endangered or threatened marine species. 16 U.S.C. 1531 (50 CFR Part 222.21).
 - Control of fishing by foreign and domestic vessels in the 3-300 mile Fishery Conservation Zone. 16 U.S.C. 1801, et seq. (50 CFR Chapter VI).
 - Permits for importing marine mammals or products thereof. 16 U.S.C. 1361 and 1371-74 (50 CFR Parts 18 and 218).
 - Licenses for siting, design, and operation of ocean-thermal energy facilities. 42 U.S.C. 9101, et seq. (15 CFR Part 981).
 - Licenses and permits for deep-sea hard mineral resource exploration or recovery. 30 U.S.C. 1491, et seq. (15 CFR Part 619).
 - Approval of fishery management plans. 16 U.S.C. 1801, et seq. (50 CFR Parts 601).
 - Permits for scientific research, propagation and survival of marine reptiles. 16 U.S.C. 1538 (50 CFR Part 222.23).
 - Permits for whaling for scientific and subsistence purposes. 16 U.S.C. 916 (50 CFR Part 216).

Department of Defense

 - Army Corps of Engineers (effects of activities in navigable waters on marine resources):
 - Regulation of artificial islands, installations and devices on the outer continental shelf. 43 U.S.C. 1327a-1 (33 CFR Part 100.25(b)).
 - For other jurisdictional responsibilities, see PART I, B.—Water Quality.
 - Department of the Navy (oceanography and hydrographic mapping, navigation).

Department of Energy

 - Office of Policy, Safety, and Environment (effects of energy programs on marine resources).

Department of Health and Human Services

 - Public Health Service (effects of marine pollution on health).
 - Food and Drug Administration (shellfish sanitation; contamination of fish and shellfish with toxins).

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Department of the Interior

- Fish and Wildlife Service (effects of marine pollution on endangered species and their critical habitats, estuarine areas, marine sanctuaries, sport fisheries, migratory waterfowl, barrier islands, and coastal National Wildlife Refuges);
 - Consultation regarding Federal projects that may affect an estuarine area. 15 U.S.C. 1224.
 - Habitat acquisition and improvement for designated marine mammals. 16 U.S.C. 138, *et seq.*
 - Geological Survey (marine geophysical surveys, including assessment of marine energy and mineral deposits; offshore geologic studies).
 - Minerals Management Service (emissions from outer continental shelf lease operations; effects of pollution from outer continental shelf mineral lease operations; protection of marine biological resources on outer continental shelf leases; management of outer continental shelf lands);
 - For jurisdictional responsibilities see PART II, B.—Oil and Gas and PART IV, C.—Non-energy Mineral Resources.
 - Bureau of Mines (pollution from ocean mining).
 - National Park Service (marine pollution affecting National Park System areas, especially National Seashores; marine recreational resources; historic and archeological sites in coastal areas and on the continental shelf).
 - Department of State (international aspects of water pollution and marine resources, including migratory birds and marine mammals).
- Department of Transportation**
- Coast Guard (ocean dumping enforcement and marine resource protection; discharges of toxic materials in navigable waters; recreational boating);
 - Transportation of hazardous materials by vessel. 46 U.S.C. 170, 375, 391(a) and 419(i); 46 U.S.C. 1855, 1855, 1854 and 1853(i); 33 U.S.C. 181 (33 CFR Parts 151, *et seq.*, and 165, *et seq.*; 46 CFR Chapter I).
 - Hazardous substance discharge to navigable waters. 33 U.S.C. 1321 (33 CFR Parts 25 and 151, *et seq.*; 46 CFR Part 542, *et seq.*).
 - Navigation and waterfront facility regulation. 33 U.S.C. 1221, *et seq.* (33 CFR Parts 125 and 126).
 - Outer continental shelf structures. 43 U.S.C. 1331 (33 CFR Part 140, *et seq.*).
 - Ports and waterways activity. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).
 - Deepwater port regulation and naming. 33 U.S.C. 1303-1324 (33 CFR Parts 140-150).
 - Recreational boating regulations. 46 U.S.C. 1451 (33 CFR Part 171, *et seq.*).
 - Maritime Administration (port, coastal, and ocean pollution; marine pollution from ships; destruction/treatment of waste at sea);
 - Merchant vessels: polluting, discharging and dumping. 46 U.S.C. 1101, *et seq.*
 - Port operations: polluting, discharging and dumping. 46 U.S.C. 807.

Advisory Commission on Historic Preservation (effects of activities in coastal and marine areas on historic properties)

Environmental Protection Agency (marine discharges, oil spills, ocean dumping, environmental effects, ocean disposal of radioactive waste and hazardous materials);

—For jurisdictional responsibilities, see PART I, B.—Water Quality.

Federal Maritime Commission (vessel certification with respect to liability for water pollution):

—Certificates of financial responsibility for water pollution. 33 U.S.C. 1321 (46 CFR Part 542); 42 U.S.C. 1843 (46 CFR Part 543); 43 U.S.C. 1815 (46 CFR Part 544).

Marine Mammal Commission

(conservation and protection of marine mammals and their habitat);

—Consultation and oversight responsibility for activities affecting marine mammals. 16 U.S.C. 1402.

—Review of permit applications for taking and importation of marine mammals and marine mammal products. 16 U.S.C. 1371(e).

National Aeronautics and Space Administration (advanced technology for remote sensing in oceanography and marine resource conservation).**Nuclear Regulatory Commission** (radioactive substances in the marine environment).**C. Water Resources Development and Regulation****Department of Agriculture**

- Agricultural Stabilization and Conservation Service (water resource conservation; Water Bank program).
- Animal and Plant Health Inspection Service (control of exotic noxious weeds in waterways and streams).
- Forest Service (effects of water resource developments on National Forests and Grasslands):
- Water resource development in wilderness areas. (36 CFR Part 228.15).
- Consultations regarding water resource development and effects on rivers established as units of the National Wild and Scenic Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1278, *et seq.*
- Agricultural Research Service (research on soil and water conservation).
- Soil Conservation Service (watershed protection; river basin studies, flood prevention, and habitat analysis):
- Assistance to State and local sponsors, through a Small Watershed Program grant, for watershed, reservoir, flood-control and drainage projects. 16 U.S.C. 1001, *et seq.*; 33 U.S.C. 701-1 and 42 U.S.C. 1882, *et seq.* (7 CFR Parts 638, *et seq.*, and 680).

Department of Commerce

• National Oceanic and Atmospheric Administration (estuarine and anadromous fish habitat; review of Federal permits affecting water resources and management; protection of coastal and marine resources; river and flood forecasting).

Department of Defense

- Army Corps of Engineers (water resource development and regulation activities in water of the United States);
- Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403, and 419 (33 CFR Part 322).
- Permits for discharges of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (33 CFR Part 322).
- Cuddles controlling the discharge of dredged or fill material in waters of the United States including wetlands. (40 CFR Part 220).
- Permits for uses at Corps reservoirs managed by a lakeshore management plan. 33 U.S.C. 1251.
- Permits for use of river or harbor improvements built by United States. 33 U.S.C. 408 (33 CFR Part 320.2(e)).
- For other jurisdictional responsibilities, see PART I, B.—Water Quality.

Department of Energy

• Office of Policy, Safety, and Environment (effect of energy policies, programs, and projects).

Department of the Interior

- Fish and Wildlife Service (effects of water resource developments on endangered species and their critical habitats, other fish and wildlife resources, and National Wildlife Refuge and National Fish Hatchery System areas);
- Consultation regarding Federal or Federally permitted projects which affect streams and water bodies. 16 U.S.C. 661, *et seq.*
- U. S. Fish and Wildlife Service Mitigation Policy. 16 U.S.C. 651-657(e), 742(e)-754 and 1001-1009 (46 FR 7944 of Jan. 23, 1981).
- Consultation regarding Federal projects that may affect an estuarine area under the Estuarine Protection Act. 15 U.S.C. 1224.
- Geological Survey (hydrologic research; collection, analysis, and dissemination of data on quantity and quality of surface and ground water; National Water Summary).
- Bureau of Indian Affairs (effects of water resource developments on Indian lands):
- Permits, easements, and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 380 (25 CFR Part 173).
- Bureau of Land Management (effects of water resource developments on public lands):
- Permits, leases, and easements for water control projects. 43 U.S.C. 1732(b) and 1761(a)(1) (43 CFR Part 2800).
- Bureau of Mines (effects of water resource developments and regulation on mineral resources, production and transportation).
- National Park Service (effects of water resource developments on Wild and Scenic River System, outdoor recreation areas, and National Park System areas);
- Consultations regarding water resource developments and effects on rivers established as units of the National Wild

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- and Santa Rivers System and on those rivers designated for study as potential additions to that System. 16 U.S.C. 1276, *et seq.*
- Consultations about extent to which proposed recreational developments at hydroelectric projects conform to and are in accord with the State Comprehensive Outdoor Recreation Plan. 16 U.S.C. 470.
 - Bureau of Reclamation (water storage and delivery projects and their effects; water policy analysis; impacts on State water management):
 - Construction and operation of works and structures for storage, diversion and development of waters, including flood control, navigation and river-flow regulation and control in the 17 contiguous western States. 43 U.S.C. 381 *et seq.*
 - Office of Surface Mining Reclamation and Enforcement (effects of water resource developments on surface coal mining and reclamation operations).
- Department of Transportation**
- Coast Guard (vessel, bridge, port, and waterway regulation and safety; navigational aids):
 - Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 180, *et seq.*).
 - Construction and alterations of bridges and causeways over navigable waters. 33 U.S.C. 481, *et seq.*; 511, *et seq.*; 525, *et seq.*; and 533 (33 CFR Part 114, *et seq.*).
 - Federal Highway Administration (effects of water resource developments on highways):
 - Approval of Federal-aid highway and bridge projects involving navigable waters and channel changes. 23 U.S.C. 144 (23 CFR Part 650).
 - Approval of toll bridge and ferry projects. 23 U.S.C. 128.
 - Saint Lawrence Seaway Development Corporation (Seaway regulation):
 - Construction, development, operation, and maintenance of the United States part of the Seaway. 33 U.S.C. 481-488 (33 CFR Parts 401-403).
- Advisory Council on Historic Preservation** (effects of water resource developments on historic properties).
- Delaware River Basin Commission** (management of water resources in the Delaware River basin):
- Review and approval of water resource projects. 73 Stat. 708 (16 CFR Parts 401-403).
- Environmental Protection Agency** (effects of water resource developments on pollution control):
- Review of permits for discharge of dredged or fill materials into waters of the United States. 33 U.S.C. 1344 (40 CFR Part 230).
 - Guidelines controlling the discharge of dredged or fill material in waters of the U.S. including wetlands. (40 CFR Part 230).
 - For other jurisdictional responsibilities, see PART I. B.—Water Quality.
- Federal Emergency Management Agency** (floodplain mapping and floodplain management; dam and levee safety; mitigation of natural hazards).
- Federal Energy Regulatory Commission** (effects of power projects):
- Regulation of development of water resources. 16 U.S.C. 791-825(r) (16 CFR Parts 4-25, 38, 131 and 141).
- International Boundary and Water Commission, United States Section** (maintenance, restoration and protection of banks of Rio Grande and Colorado River where they form the international boundary with Mexico; construction and operation of works and structures for storage and diversion of waters, including flood control on the Rio Grande and Colorado Rivers).
- National Capital Planning Commission** (water resource developments in Washington, D.C. area):
- Approval of taking lines and general development plans for parks in stream valleys in Maryland and Virginia tributaries to the Potomac and Anacostis Rivers. Act of May 28, 1900; 48 Stat. 432 as amended.
- Susquehanna River Basin Commission** (management of water resources in the Susquehanna River basin):
- Review and approval of water resource projects. 84 Stat. 1508 *et seq.* (16 CFR Parts 601-603).
- Tennessee Valley Authority** (water resource developments and regulation in the Tennessee Valley region):
- Construction of dams, appurtenant works, or other waterway improvement activities affecting navigation, flood control, public lands or reservations on the Tennessee River System. 16 U.S.C. 631(j)-1).
- D. Watershed Protection and Soil Conservation**
- Department of Agriculture**
- Agricultural Research Service (technical aspects of water and soil conservation).
 - Agricultural Stabilization and Conservation Service (soil conservation; cost-sharing farm and forest conservation programs):
 - Extension Service (extension programs in agricultural conservation).
 - Farmers Home Administration (effects of housing, community, and business programs, and farmer programs on soil and water conservation; conservation loan programs).
 - Forest Service (soil and water conservation, and their effects on National Forests and Grasslands; forest and range soil rehabilitation):
 - Emergency soil and water conservation programs. 16 U.S.C. 620, *et seq.*
 - Soil Conservation Service (soil surveys; technical assistance in areas of soil, water, and related resource conservation for landowners and landusers through several multi-functional programs):
 - Grants for Watershed Protection and Flood Prevention Act activities. 16 U.S.C. 1091, *et seq.* (7 CFR Part 620, *et seq.*, and 680).
 - Land conservation and land utilization program. 7 U.S.C. 1010, *et seq.*
- Department of Commerce**
- National Oceanic and Atmospheric Administration (weather research, river and flood forecasting).
- Department of Defense**
- Army Corps of Engineers (dredging, flood control, control of aquatic plants, shoreline stabilization):
 - For jurisdictional responsibilities, see PART I. D.—Water Quality.
- Department of Energy**
- Office of Policy, Safety, and Environment (effects of energy policies, programs and projects on watersheds).
- Department of the Interior**
- Fish and Wildlife Service (effects of soil erosion and watershed protection on endangered species and critical habitats, and on fish and wildlife resources in general):
 - Consultation regarding small watershed projects of the Soil Conservation Service under the Watershed Protection and Flood Prevention and Flood Prevention Act. 16 U.S.C. 1008.
 - Geological Survey (geology and hydrology in general; National Water Summary; erosion and sedimentation; engineering geology):
 - Bureau of Indian Affairs (soil conservation and watershed protection on Indian lands).
 - Bureau of Land Management (watershed protection and soil conservation on public lands):
 - Bureau of Mines (hydraulic impacts of mining; revegetation and reclamation after mining).
 - National Park Service (watershed protection and soil conservation on National Park System lands):
 - Special use permits, grazing permits, permits to collect soil, rock, water, and plant specimens. 16 U.S.C. 1, *et seq.* (36 CFR Parts 1, 2 and 7).
 - Bureau of Reclamation (soil and moisture conservation; hydrology; erosion control on public lands; water storage and delivery project; water resources research; analysis of Federal role in groundwater management):
 - Office of Surface Mining Reclamation and Enforcement (effects of surface coal mining and reclamation operations on erosion, aquifers and alluvial valley floors).
- Department of Transportation**
- Federal Highway Administration (erosion control on highway projects; vegetation management on highway rights-of-way; highway drainage problems on watersheds).
- Advisory Council on Historic Preservation** (effects of watershed protection activities on historic properties).
- Environmental Protection Agency** (watershed protection and soil conservation in relation to pollution control).
- Federal Emergency Management Agency** (floodplain mapping and management; mitigation of natural hazards).
- Federal Energy Regulatory Commission** (effects of power projects):
- Regulation of development of water resources. 16 U.S.C. 791-825(r) (16 CFR Parts 4-25, 38, 131 and 141).

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National Aeronautics and Space Administration (advanced technology for remote sensing of watersheds and soils).
Tennessee Valley Authority (watershed protection and soil conservation in the Tennessee Valley region).

E. Forest, Range, and Vegetative Resources (includes Development, Production, Harvest and Transport of These Renewable Resources)

Department of Agriculture

- *Agricultural Research Service* (forest and range management).

- *Agricultural Stabilization and Conservation Service* (renewable resource conservation programs; Forestry Incentives Program; Water Bank Program).

- *Economic Research Service* and *Statistical Reporting Service* (economic and statistical data on renewable resources).

- *Extension Service* (rural extension programs in renewable resource conservation and management).

- *Farmers Home Administration* (resource conservation and development loan programs).

- *Forest Service* (forest and grassland productivity in general; fire management; timber sale, fire use of timber and other renewable resources; timber management activities and grazing habitat management in National Forests and Grasslands):

- Timber management. 16 U.S.C. 672, 675-691 and 1800-1814 (36 CFR Part 222).

- Grazing permits. 43 U.S.C. 1801 (36 CFR Part 222).

- Management and disposal of wild free-roaming horses and burros. 16 U.S.C. 1331-1348 (36 CFR Part 222, Subpart B).

- *Soil Conservation Service* (watershed resources protection; soil conservation technology).

Department of Commerce

- *National Oceanic and Atmospheric Administration* (coastal and marine resources management and development).

Department of Defense

- *Army Corps of Engineers* (effects of activities in the waters of the U.S. on renewable resources):

- For jurisdictional responsibilities, see PART I, B.—Water Quality.

Department of Energy

- *Bonneville Power Administration* (renewable resource development in the Pacific Northwest):

- Regional planning and conservation. 16 U.S.C. 638, et seq.

Department of the Interior

- *Fish and Wildlife Service* (effects of agriculture, forestry, and other renewable resource activities on endangered species and their critical habitats, National Wildlife Refuges and National Fish Hatchery systems, and other fish and wildlife resources).

- *Geological Survey* (effects of renewable resource activities on water resources and creates remote sensing of vegetation).

- *Bureau of Indian Affairs* (forest, range, and vegetative resources on Indian lands):

- Permits for grazing on Indian lands and on Federal lands under BIA jurisdiction. 5 U.S.C. 301; 25 U.S.C. 178, 345, 380, 383-384, 397, 402-403 and 413 (25 CFR Parts 168-188).

- Sale of timber from tribal and allotted lands. 25 U.S.C. 408-407, 413 and 488 (25 CFR Part 162).

- Permits, concessions, and leases on lands withdrawn or acquired in connection with Indian irrigation projects. 25 U.S.C. 380 (25 CFR Part 173).

- Leases for farming and other uses on Federal lands under BIA jurisdiction. 5 U.S.C. 301; 25 U.S.C. 380, 383-385, 387, 402-403, 413, 415, 477 and 635 (25 CFR Part 162).

- *Bureau of Land Management* (forest, range and vegetative resources on public lands):

- Permits for use of rangelands. 43 U.S.C. 315 (43 CFR Group 4100).

- Sale by contract of timber and other forest products. 30 U.S.C. 601, et seq.; 43 U.S.C. 315, 423, and 118(a) (43 CFR Group 5400).

- Permits for free use of timber. 16 U.S.C. 604, et seq.; 36 U.S.C. 188; 46 U.S.C. 423 (43 CFR Part 5610).

- Management and control of wild free-roaming horses and burros and agreements for their adoption. 16 U.S.C. 1331-1348 (43 CFR Group 4700).

- *National Park Service* (effects of forest, range, and other vegetative resource activities on historical and recreational values and on National Park System areas):

- Permits for farming and grazing. 16 U.S.C. Chapter 1, et seq. (36 CFR Parts 1, 2 and 7).

- *Bureau of Reclamation* (water storage and delivery projects and irrigation projects in relation to forest, range, and other vegetative resource activities; evaluation of water policy alternatives):

- Sale of farm units on Federal irrigation projects (statutory authority appears in individual project authorizations).

- *Office of Surface Mining Reclamation and Enforcement* (effects of surface coal mining and reclamation operations on renewable resources):

- Protection of prime farmlands during surface coal mining and reclamation operations. 30 U.S.C. 1285 (36 CFR Parts 785.17 and 825).

Department of Transportation

- *Federal Highway Administration* (development of forest land and access roads, effects of highway projects on forest, range, and other vegetative resources).

- *Advisory Council on Historic Preservation* (effects of renewable resource activities on historic properties).

- *Environmental Protection Agency* (effects of pollution, pesticides, and other environmental quality controls on forest, range, and other vegetative resources).

- *Interstate Commerce Commission* (bright-line rules for renewable resources).

- *Tennessee Valley Authority* (effects of hydro-electric and other power developments on forest, range, and other vegetative resources; biomass production and use).

F. Fish and Wildlife**Department of Agriculture**

- *Agricultural Research Service* (basic and applied research in animal and plant protection).

- *Agricultural Stabilization and Conservation Service* (fish and wildlife in relation to agricultural conservation and the Water Bank Program).

- *Animal and Plant Health Inspection Service* (animal and plant health in general; control of pests and diseases):

- Prevention of importation or exportation of diseased livestock or poultry. 21 U.S.C. 102-106, 111 and 132(a)-134(f).

- *Farmers Home Administration* (effects of farm housing, community, and business programs on fish and wildlife; conservation loan programs).

- *Forest Service* (fish and wildlife habitat management in National Forests and Grasslands; use of fire in habitat management):

- Fish and wildlife management (36 CFR Part 219.10).

- Management and disposal of wild free-roaming horses and burros. 16 U.S.C. 1331-1348 (36 CFR Part 222, Subpart B).

- Permits for hunting and fishing in refuge areas. 16 U.S.C. 581 and 682.

- *Soil Conservation Service* (fish and wildlife habitat, fish ponds, and raceways):

- Assistance to State and local sponsors, through a Small Watershed Program grant, for reservoir developments and stream modification projects including specific fish and wildlife habitat improvements. 16 U.S.C. 1001, et seq., and 33 U.S.C. 701-1.

Department of Commerce

- *National Oceanic and Atmospheric Administration* (endangered species and critical habitats; coastal fish and wildlife management and protection):

- Approval and funding of State coastal zone management programs. 16 U.S.C. 1481, et seq. (16 CFR Parts 623 and 697).

- For other jurisdictional responsibilities, see PART IV, B.—Marine Resources.

Department of Defense

- *Army Corps of Engineers* (fish and wildlife mitigation measures at public works and navigable waterway projects, dredge and fill permits):

- For jurisdictional responsibilities, see PART I, B.—Water Quality.

- *Department of the Air Force* (bird/aircraft strike hazard reduction).

Department of Energy

- *Bonneville Power Administration* (fish and wildlife management and enhancement on power projects in the Pacific Northwest):

- Regional planning and conservation. 16 U.S.C. 638, et seq.

Department of the Interior

- *Fish and Wildlife Service* (endangered species and their critical habitats; management of effects on fish and wildlife in general):

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- Permits to take bald and golden eagles for scientific, religious and other purposes. 16 U.S.C. 669(a) (50 CFR Part 22).
 - Permits for the taking and importation of marine mammals. 16 U.S.C. 1361, *et seq.* (50 CFR Part 18).
 - Permits to export/import and to take for scientific and other purposes endangered or threatened wildlife and plants. 16 U.S.C. 1531, *et seq.* (50 CFR Part 17).
 - Permits for the importation of injurious mammals, birds, fish and other wildlife. 16 U.S.C. 42-44 (40 CFR Part 16.22).
 - Permits for export/import and interstate transportation of wildlife. 16 U.S.C. 42, *et seq.* (50 CFR Part 14).
 - Permits for the banding and marking of migratory birds. 16 U.S.C. 703-711 (50 CFR Part 21.22).
 - Consultations regarding Federal projects that may affect an estuarine area. 16 U.S.C. 1224.
 - Permits to perform taxidermy services on migratory birds, nests and eggs for commercial users. 16 U.S.C. 704 (50 CFR Part 21.24).
 - Permits for special purpose uses of migratory birds. 16 U.S.C. 701, *et seq.* (50 CFR Part 21.27).
 - Certificates or permits of exception to Convention on International Trade in Endangered Species. 16 U.S.C. 1531-1543 (50 CFR Part 23).
 - Consultations regarding projects which may affect any threatened or endangered species or its critical habitats. 16 U.S.C. 1531, *et seq.* (50 CFR Part 402).
 - Determination of critical habitats for endangered and threatened species of fish, wildlife, and plants. 16 U.S.C. 1531, *et seq.* (50 CFR Parts 17, 402 and 424).
 - Endangered species exemption process. 16 U.S.C. 1531, *et seq.* (50 CFR Parts 408-433).
 - Consultation regarding Federal or federally permitted projects which affect fish and wildlife resources under the Fish and Wildlife Coordination Act. 16 U.S.C. 691, *et seq.*
 - U.S. Fish and Wildlife Service Mitigation Policy. 16 U.S.C. 691-697(e), 742(a)-754 and 1001-1009 (see 48 FR 7944 of Jan. 25, 1983).
 - Restoration and enhancement of anadromous fishery resources through grants for fish ladders, new anadromous fish hatcheries, new fishways, etc. 16 U.S.C. 742(a)-742(j) (50 CFR Part 408).
 - Improvement of sport fishery resources through grants to States under the Dingell-Johnson (D-J) Program. 16 U.S.C. 777-777(h) (50 CFR Part 85).
 - Restoration and enhancement of wildlife populations and resources through grants to States under the Pittman-Robertson (P-R) Program. 16 U.S.C. 888, *et seq.* (50 CFR Part 85).
 - Approval of conversion of use for State lands acquired, developed or improved with grants under the (1) Pittman-Robertson Act, (2) Dingell-Johnson Act, (3) Endangered Species Act and/or (4) Anadromous Fish Conservation Act. For (1)—16 U.S.C. 889 (50 CFR Parts 85.4 and 85.14); for (2)—16 U.S.C. 777 (50 CFR Parts 85.4 and 85.14); (3)—16 U.S.C. 1533; and for (4)—16 U.S.C. 737 (a) and (b).
 - Land acquisition, management, and other activities for endangered and threatened species through grants to States. 16 U.S.C. 1531-1543 (50 CFR Part 81).
 - Consultation concerning the protection of fish and wildlife refuges which may be impacted by transportation projects. 49 U.S.C. 303
 - Geological Survey (water quality and quantity in relation to fish and wildlife resources).
 - Bureau of Indian Affairs (fish and wildlife resource management on Indian lands; off-reservation treaty fishing).
 - Bureau of Land Management (fish and wildlife management on public lands; wild horses and burros; endangered species and raptors; effects on fish and wildlife of power lines and other major projects crossing public lands).
 - Management and disposal of wild free-roaming horses and burros. 16 U.S.C. 1331-1340 (43 CFR Part 4700).
 - National Park Service (fishing, hunting and other outdoor recreational pursuits, fish and wildlife management in National Park System areas);
 - Permits for collecting animal specimens from National Park System areas. 16 U.S.C. 1, *et seq.* (50 CFR Part 2).
 - Licenses and permits for sport or commercial fishing in certain National Park System areas. (50 CFR Part 2).
 - Disposition of surplus animals from National Park System areas. (50 CFR Part 10).
 - Bureau of Reclamation (fish and wildlife management on water storage and delivery projects; hunting and fishing on project lands; mitigation measures; limnology).
 - Office of Surface Mining Reclamation and Enforcement (effects of surface mining and reclamation operations on fish and wildlife).
- Department of Health and Human Services**
- Public Health Service: Centers for Disease Control (fish and wildlife in relation to human health); Food and Drug Administration (contamination of fish and shellfish with toxics).
- Department of State** (international issues concerning fish and wildlife, including migratory birds and marine mammals).
- Department of Transportation**
- Office of the Secretary (general effects of transportation projects on fish and wildlife refuges);
 - Approval of transportation programs or projects that require the use of or have a significant impact on wildlife and waterfowl refuges.
 - Federal Highway Administration (effects of highway projects on fish and wildlife habitat, and wildlife and waterfowl refuges);
 - Preservation of park and recreation areas, and wildlife and waterfowl refuges. 23 U.S.C. 138 (50 CFR Part 771).
 - Federal Aviation Administration (bird-aircraft strike hazard reduction).
 - Coast Guard (enforcement of laws affecting Fishery Management Zones).
- Environmental Protection Agency** (effects of pollution control and water quality on fish and wildlife).
- Marine Mammal Commission** (conservation and protection of marine mammals and their habitat):
- Consultation and oversight responsibility for activities affecting marine mammals 16 U.S.C. 1402.
 - Review of permit applications for taking and importation of marine mammals and marine mammal products. 16 U.S.C. 1371(a).
- National Science Foundation** (conservation of antarctic animals, plants, and ecosystems):
- Permits for the taking or collecting of Antarctic animals and plants, and for entry into certain designated areas. 16 U.S.C. 2401, *et seq.* (43 CFR Part 670)
- Tennessee Valley Authority** (fish and wildlife management and conservation in the Tennessee Valley).
- G. Non-Energy Mineral Resources**
- Department of Agriculture**
- Forest Service (mineral resources development in National Forests and Grasslands; reclamation of disturbed lands);
 - Permits and rights-of-way on National Forest System lands. 16 U.S.C. 471-472, 478, 487-498, 528, 529, 531-538, 551, 572 and 589 (50 CFR Parts 212, 251 and 281).
 - Surface use of public domain lands under U.S. mining laws. 16 U.S.C. 478 and 551 (30 CFR Part 228).
 - Mineral development on acquired lands. For solid (hardrock) minerals—16 U.S.C. 520 (43 CFR Part 3300); for phosphate, sodium, potassium and sulphur—30 U.S.C. 351, *et seq.*
 - Soil Conservation Service (abandoned mine land and mine reclamation).
- Department of Commerce**
- National Oceanic and Atmospheric Administration (air and water pollution from mining; offshore and coastal mining; port planning; management and protection of coastal and marine resources);
 - Approval of licenses for deep seabed hard mineral exploration and development. 30 U.S.C. 1492, *et seq.* (15 CFR Part 870).
- Department of Defense**
- Army Corps of Engineers (effects of mineral development on navigable waters);
 - For jurisdictional responsibilities, see PART I, B.—Water Quality.
- Department of Housing and Urban Development**
- Office of Housing (subsidence from mining operations and soil factors related to housing).
- Department of the Interior**
- Fish and Wildlife Service (effects of mineral development on endangered species and their critical habitats, National Wildlife Refuge and National Fish Hatchery Systems, and other fish and wildlife resources);
 - Easements/permits for transmission line, pipelines and other rights-of-way across National Wildlife Refuge and National Fish Hatchery System land. For refuges—16 U.S.C. 669 *et seq.*; for hatcheries—43

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- U.S.C. 931 c and (50 CFR Parts 25.41 and 29.21).
- Permits for rights-of-way across National Wildlife Monuments (Alaska only). 16 U.S.C. 432, 460(k-3) and 742(f) (50 CFR Part 98).
- Geological Survey (mineral resources in general, with emphasis on strategic and critical minerals; mineral resources assessment on public lands).
 - Bureau of Indian Affairs (effects on Indian lands of mineral operations):
 - Leases and permits on Indian lands. 25 U.S.C. 360, 393-395, 397, 402-403, 413, 415, 477 and 633 (25 CFR Part 162).
 - Rights-of-way over Indian lands. 25 U.S.C. 311-321 and 323-328 (25 CFR Part 169).
 - Mining leases on Indian lands. 25 U.S.C. 356, 396, 476-477 and 508 (25 CFR Parts 211-215 and 228-227).
 - Permits for surface exploration and reclamation. 25 U.S.C. 355, 396, 473 and 501-502 (25 CFR Part 218).
 - Bureau of Land Management (mineral development on public lands):
 - Easements/leases/permits for use, occupancy and development of public lands. 43 U.S.C. 1732 (43 CFR Subchapters 2000 and 3000).
 - Exploration licenses for leaseable minerals on unleased land. 30 U.S.C. 181, *et seq.* and 201(b) (43 CFR Parts 3400 and 3480).
 - Leases for phosphate, sodium, potassium, etc., exploration and mining. 30 U.S.C. 181, *et seq.* (43 CFR Group 3500 and Part 3570).
 - Permits for sand, stone and gravel. 30 U.S.C. 601 and 602.
 - Leases, permits and licenses for mining in Wild and Scenic River System areas. 16 U.S.C. 1280 (each area has special Federal Regulations).
 - Concurrence for placer mining use of the surface of public lands withdrawn or reserved for power development or for a power site. 30 U.S.C. 621 (43 CFR Part 3730).
 - Leases and permits for sulfur in Louisiana and New Mexico. 30 U.S.C. 271, *et seq.* (43 CFR Group 3800).
 - Easements/permits for rights-of-way. 30 U.S.C. 185 and 43 U.S.C. 1701, *et seq.* (43 CFR Parts 2800-2897).
 - Minerals Management Service (mineral development on the outer continental shelf):
 - Leases for minerals on the outer continental shelf. 43 U.S.C. 1331-1343 (30 CFR Parts 250, 251, 252 and 258).
 - Permits for exploration and development activities on Federal leases on the outer continental shelf. 43 U.S.C. 1331, *et seq.* (30 CFR Parts 250 and 251).
 - Permits for geological and geophysical exploration on the outer continental shelf. 43 U.S.C. 1334 (30 CFR Part 251).
 - Approval of geological geophysical exploration plans. 43 U.S.C. 1340 (30 CFR Part 251).
 - Permits for artificial islands, platforms, and other fixed structures on any Federal or State outer continental shelf lease. 43 U.S.C. 1334-1335 (30 CFR 250.18 and 250.19).
 - Bureau of Mines (mining, milling, and mineral land assessments):
 - Agreements to dispose of helium of the United States. 43 U.S.C. 1201 and 30 U.S.C. 180, *et seq.* (43 CFR Part 18).
 - National Park Service (effects of mineral development on public park, recreation and cultural/historical resources and values, and on National Park System areas):
 - Permits, leases and easements for rights-of-way, grazing and other uses on National Park System areas. 16 U.S.C. 1, *et seq.* (36 CFR Parts 9 and 14).
 - Leases, permits and licenses for mining on National Park System lands involved in National Wild and Scenic Rivers System. 16 U.S.C. 1280.
 - Access permits for mining activity within the National Park System. 16 U.S.C. 1902 and 1906; 30 U.S.C. 21, *et seq.* (36 CFR Part 9).
 - Bureau of Reclamation (effects of mineral development on water storage and delivery projects):
 - Easements/permits for access, pipeline, and other rights-of-way. 43 U.S.C. 3871.

Department of Labor

 - Mining Safety and Health Administration (safety and health issues in mining operations).
 - Occupational Safety and Health Administration (general worker safety and health issues).

Department of State (international aspects of mineral development):

 - Facilities for export/import of minerals. Executive Order 11423.

Department of Transportation

 - Coast Guard (vessel transport of minerals):
 - Ports and waterways safety. 33 U.S.C. 1221 (33 CFR Part 160, *et seq.*).
 - Maritime Administration (dry bulk shipping of coal and other minerals in the inland waterways, domestic ocean, Great Lakes, and U.S. foreign trades).
 - Advisory Council on Historic Preservation (effects of mineral development activities on historic properties).
 - Environmental Protection Agency (pollution control and other environmental effects of minerals development):
 - For jurisdictional responsibilities, see PART I—POLLUTION CONTROL.

H. Natural Resources Conservation

Department of Agriculture

 - Agricultural Stabilization and Conservation Service (natural resource conservation programs; Forestry Incentives Program; Water Bens Program).
 - Agricultural Research Service (research in technical aspects of soil and water conservation and forest and range management).
 - Extension Service (rural area extension programs in conservation).
 - Farmers Home Administration (farmer loan programs related to natural resource conservations).
 - Forest Service (conservation of forest and rangeland resources; use of fire as a management tool).
 - Soil Conservation Service (soil water and related resources conservation technology):
 - Land conservation and utilization program. 7 U.S.C. 1010, *et seq.*
 - Watershed protection, conservation and utilization of land and water resources. 16 U.S.C. 1001, *et seq.*
 - Soil and water resources conservation. 16 U.S.C. 2001, *et seq.*

Department of Commerce

 - National Oceanic and Atmospheric Administration (coastal and marine resources management and protection; national estuarine and marine sanctuaries; coastal energy facility planning and siting in State coastal zone management programs)

Department of Energy

 - Bonneville Power Administration (resource conservation in the Pacific Northwest):
 - Regional planning and conservation. 16 U.S.C. 839, *et seq.*
 - Office of Policy, Safety, and Environment (general energy policies, programs and projects in relation to conservation).

Department of the Interior

 - Fish and Wildlife Service (conservation of, and effects of conservation on, endangered species and their critical habitats, and other fish and wildlife resources; conservation in National Wildlife Refuge and National Fish Hatchery System areas):
 - Geological Survey (conservation of water and mineral resources).
 - Bureau of Indian Affairs (conservation of Indian lands):
 - Bureau of Land Management (conservation on public lands):
 - Minerals Management Service (conservation in relation to minerals management activities on the outer continental shelf):
 - Bureau of Mines (conservation of mineral resources and land, air, and water resources associated with mineral deposits).
 - National Park Service (conservation in relation to urban parks, outdoor recreation, historical and cultural resources, National Trails Systems, Wild and Scenic Rivers System, and the National Park System).
 - Bureau of Reclamation (conservation in relation to water storage and delivery projects, water resources, and desalinization. Soil and Moisture Conservation Program; development of water policy options; National Water Summary).
 - Office of Surface Mining Reclamation and Enforcement (conservation in relation to surface coal mining and reclamation operations).
 - Environmental Protection Agency (resource recovery from wastes; pollution and other environmental controls):
 - Solid Waste Disposal Act permits. 42 U.S.C. 3251 *et seq.* and 9601, *et seq.* (40 CFR Parts 122, 123 and 124).
 - Guidelines on solid waste collection and storage for Federal assistance. 42 U.S.C. 9807 (40 CFR Part 243).

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- Resource recovery facilities. 42 U.S.C. 6907 (40 CFR Part 243).
- Materials recovery and solid waste management guidelines for source separation. 42 U.S.C. 6907 (40 CFR Part 246).
- Solid waste management guidelines for beverage containers. 42 U.S.C. 6907 (40 CFR Part 244).

Federal Energy Regulatory Commission
(relation of conservation to hydroelectric power development and natural gas facilities).

National Science Foundation (conservation of entartic animals, plants, and ecosystems):
-Permits for the taking or collecting of entartic animals and plants, and for entry into certain designated areas. 16 U.S.C. 2401, et seq. (45 CFR Part 670).

Tennessee Valley Authority (soil and other natural resource conservation in the Tennessee Valley region).

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

63.1 - List of Federal and Federal-State Agencies for Distribution Purposes. See exhibit 1 for distribution of environmental impact statements to Federal and Federal-State agencies.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

EIS List for Federal and Federal-State Agencies

	Number of Copies
<u>ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)</u>	
Office of Architectural and Environmental Preservation Advisory Council on Historic Preservation 1100 Pennsylvania Ave., NW, Rm. 809 Washington, DC 20004 202-786-0503	1
<u>AGRICULTURE, U.S. DEPARTMENT OF (USDA)</u>	
Director's Office Animal & Plant Health Inspection Service PPQ (APHIS) U.S. Department of Agriculture, Rm. 648 Federal Building Hyattsville, MD, FP 20782 301-436-8261	1
Office of Equal Opportunity (OEO) U.S. Department of Agriculture, Rm. 102-W Washington, DC 20250 202-447-5681	1
Rural Electrification Administration (REA) Environmental Policy Office, Rm. 1257 Washington, DC 20250 (For copies of Regional and Forest Plans only) 202-382-0097	1

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
<u>AGRICULTURE, U.S. DEPARTMENT OF (USDA) CONTINUED</u>	
Rural Electrification Administration (REA) Assistant Administrator for Management U.S. Department of Agriculture, Rm. 4063 Washington, DC 20250 202-447-5923	1
Soil Conservation Service (SCS) Environmental Coordinator of Ecological Sciences Division U.S. Department of Agriculture, Rm. 6155 Washington, DC 20250 202-447-4912	1

COMMERCE, U.S. DEPARTMENT OF (DOC)

For EIS's having the potential to affect (1) the ocean, estuaries, the Great Lakes, coastal locations, or streams in which anadromous fish may spawn (2) living marine resources (3) the ocean, the Great Lakes, or extreme weather events such as hurricanes (4) airborne pollution emissions affecting atmospheric processes (5) riverine flooding as with flood control systems (6) the earth's surface by having an impact upon the national geodetic horizontal and vertical control networks:

NOAA Ecology and Conservation Division Room 6800 Herbert Hoover Bldg. Washington, DC 20230 202-377-5181	1
--	---

A courtesy copy of a draft EIS should be sent to the appropriate regional unit of the Department of Commerce's National Marine Fisheries Service listed below.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

COMMERCE, U.S. DEPARTMENT OF (DOC) (CONTINUED)

SEND ONLY TO APPROPRIATE FIELD OFFICE

National Marine Fisheries Service
Habitat Conservationists Division
Northeast Region
14 Elm Street, Federal Building
Gloucester, MA 01930

National Marine Fisheries Service
Habitat Conservationists Division
Southeast Region
9450 Koger Boulevard
St. Petersburg, FL 33702

National Marine Fisheries Service
Habitat Conservationists Division
Northwest Region
80047 NE 19th Ave., 3rd Floor
Portland, OR 97232

National Marine Fisheries Service
Habitat Conservationists Division
Southwest Region
300 S. Fairy Street
Terminal Island, CA 90731

FOR PROJECTS IN ALASKA ONLY

National Marine Fisheries Service
Habitat Conservationists Division
Alaska Region, Box 1668
Juneau, AK 99802

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
<u>DEFENSE, U.S. DEPARTMENT OF (DOD)</u>	
Deputy Assistant Secretary of Defense M, RA and L, Installations Room 3D833, Pentagon Washington, DC 20301 202-695-7820	2
U.S. Air Force (USAF) Department for Environment & Safety (SAF/MIQ) Washington, DC 20330 202-697-0800	1
Chairman, Department of Defense Explosives Safety Board 2461 Eisenhower Avenue Alexandria, VA 22331 703-352-0969 or 0891	1
Army Corps of Engineers (COE) Headquarters, A11: DAEN-ZCE Washington, DC 20310 202-694-3434	2
U.S. Navy (USN) Office of Chief of Navy Operations Environment Protection Division OP-45, Room BD766, Pentagon Washington, DC 20350 202-697-3689	1
Naval Oceanography Division U.S. Naval Observatory 952 D, 34th & Mass. Ave., NW Washington, DC 20390 202-653-1616	3

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
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Head Environment Unit Delaware River Basins Commission P.O. Box 7360 West Trenton, NJ 08628 609-883-9500 ext. 270	1
<u>ECONOMIC OPPORTUNITY, OFFICE OF (OEO)</u>	
Office of the Deputy General Counsel Equal Employment Opportunity Commission 2401 E Street, NW Washington, DC 20506 202-634-6400	1
<u>ENERGY, U.S. DEPARTMENT OF (DOE)</u>	
Director, Office of Environmental Compliance U.S. Department of Energy 1000 Independence Ave., SW Mail Code EP-36, Rm. 4G085 Washington, DC 20585 202-252-4699	3
<u>ENVIRONMENTAL PROTECTION AGENCY (EPA)</u>	
For EIS's pertaining to national programs, regulatory actions, legislation, or programmatic actions, EIS's should also be transmitted to the EPA headquarters office listed below. This is in addition to the five (5) copies transmitted for filing purposes.	
Assistant Director Resource Liaison Development Staff Office of Environmental Review Mail Code A-104, Rm. 2119 401 M Street, SW Washington, DC 20460	5

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--ContinuedENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

In order to fulfill the requirements under Section 309 of the Clean Air Act, five (5) copies of each EIS must be transmitted to each appropriate EPA Regional Office simultaneously with the official filing.

	<u>States</u>
EIS Review Coordinator Environmental Protection Agency Region I John F. Kennedy Federal Bldg. Room 2303 Boston, MA 02203	Connecticut Maine Massachusetts Rhode Island Vermont New Hampshire
EIS Review Coordinator Environmental Protection Agency Region II 26 Federal Plaza, Rm. 908 New York, NY 10007	New Jersey New York Puerto Rico Virgin Islands
EIS Review Coordinator Environmental Protection Agency Region III Curtis Bldg., 6th Floor Philadelphia, PA 19106	Delaware District/Columbia Maryland Pennsylvania Virginia West Virginia
EIS Review Coordinator Environmental Protection Agency Region IV 345 Courtland Street, NE Atlanta, GA 30365	Alabama Florida Georgia Kentucky Mississippi No. Carolina So. Carolina Tennessee

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--ContinuedENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

	<u>States</u>
EIS Review Coordinator Environmental Protection Agency Region V 230 South Dearborn Street Chicago, IL 60604	Illinois Indiana Michigan Minnesota Ohio Wisconsin
EIS Review Coordinator (6ASAF) Environmental Protection Agency Region VI 1201 Elm Street Dallas, TX 75270	Arkansas Louisiana New Mexico Texas Oklahoma
EIS Review Coordinator Environmental Protection Agency Region VII 324 E. 11th Street Kansas City, MO 64105	Iowa Kansas Missouri Nebraska
EIS Review Coordinator Environmental Protection Agency Region VIII 1860 Lincoln Street Denver, CO 80203	Colorado Montana No. Dakota So. Dakota Utah Wyoming
EIS Review Coordinator Environmental Protection Agency Region IX 215 Fremont Street San Francisco, CA 94105	AM. Samoa Arizona California Guam Hawaii Nevada Trust Terr. of Pacific Islands Wake Island

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--ContinuedENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

	<u>States</u>
EIS Review Coordinator	Alaska
Environmental Protection Agency	Idaho
Region X	Oregon
1200 6th Avenue	Washington
Seattle, WA 98101	

Number of
Copies

FEDERAL ENERGY REGULATORY COMMISSION (FERC)

Advisor on Environmental Quality	DEIS 3 FEIS 2
Federal Energy Regulatory Commission	
825 North Capital Street, NE	
Washington, DC 20406	
202-357-8118	

GENERAL SERVICES ADMINISTRATION (GSA)

Environmental Staff	2
General Services Administration	
18th and F Streets, NW	
Washington, DC 20405	
202-566-1025	

HEALTH AND HUMAN SERVICES, U.S. DEPARTMENT OF (HHS)

Departmental Environmental Office	1
U.S. Department of Health and Human Services	
200 Independence Ave., SW, Rm. 542F	
Washington, DC 20201	
202-245-7354	

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--ContinuedHOUSING & URBAN DEVELOPMENT, U.S. DEPARTMENT OF (HUD)

Statements regarding legislative proposals, regulations, or policy documents of national significance or national or multi-State programmatic EIS's.

	Number of Copies
Director, Office of Environment and Energy U.S. Department of Housing & Urban Development Room 7154 Washington, DC 20410 202-755-7894	2
Other statements:	
Regional Administrator I Environmental Officer U.S. Department of Housing & Urban Development John F. Kennedy Federal Bldg., Rm. 800 Boston, MA 02203 617-22-4066	2
Regional Administrator II Environmental Officer U.S. Department of Housing & Urban Development 20 Federal Plaza New York, NY 10007 212-264-8068	2
Regional Administrator III Environmental Officer U.S. Department of Housing & Urban Development Curtis Bldg., 6th & Walnut Streets Philadelphia, PA 19106 215-597-2560	2

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
<u>HOUSING & URBAN DEVELOPMENT (CONTINUED)</u>	
Regional Administrator IV Environmental Officer U.S. Department of Housing & Urban Development Richard B. Russell Bldg. 75 Spring Street, SW Atlanta, GA 30303 404-221-5136	2
Regional Administrator V Environmental Officer U.S. Department of Housing & Urban Development 300 South Wacker Drive Chicago, IL 60606 312-353-5680	2
Regional Administrator VI Environmental Officer U.S. Department of Housing & Urban Development 221 W. Lancaster, P.O. Box 2905 Fort Worth, TX 76113 817-870-5431	2
Regional Administrator VII Environmental Officer U.S. Department of Housing & Urban Development Professional Bldg. 1103 Grand Avenue Kansas City, MO 64106 816-374-2651	2

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
<u>HOUSING & URBAN DEVELOPMENT (CONTINUED)</u>	
Regional Administrator VIII Environmental Officer U.S. Department of Housing & Urban Development 1405 Curtis Street Executive Tower Bldg. Denver, CO 80202 303-837-4513	2
Regional Administrator IX Environmental Officer U.S. Department of Housing & Urban Development 450 Golden Gate Avenue P.O. Box 36003 San Francisco, CA 94102 415-556-4752	2
Regional Administrator X Environmental Officer U.S. Department of Housing & Urban Development Arcade Plaza Bldg. 1321 Second Avenue Seattle, WA 98101 206-442-5414	2
<u>INTERIOR, U.S. DEPARTMENT OF THE (USDI)</u>	
For projects east of Mississippi	12
For projects west of Mississippi	18
Director, Environmental Project Review U.S. Department of the Interior Interior Bldg., Rm. 4256 Washington, DC 20240 202-343-3891	

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
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Chief, Section of Energy and Environment Interstate Commerce Commission, Rm. 4141 Washington, DC 20423 202-275-3363	1
<u>LABOR, U.S. DEPARTMENT OF</u>	
Assistant Secretary of Policy Evaluation and Research Occupational Safety & Health, Rm. N-3673 U.S. Department of Labor Washington, DC 20210 202-523-6076	1
<u>MISSOURI RIVER BASINS COMMISSION</u>	
For statements affecting lands within their geographical area	
Executive Secretary Missouri River Basins Commission 10050 Regency Circle, Suite 403 Omaha, NB 68114	1
<u>NATIONAL ENDOWMENT FOR THE ARTS</u>	
Design Arts Program National Endowment for the Arts Old Post Office Building 1100 Pennsylvania Ave., NW, Rm. 625 Washington, DC 20506 202-682-5437	1

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

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<u>OHIO RIVER BASINS COMMISSION</u>	
Ohio River Basins Commission P.O. Box 11910, Iron Works Pike Lexington, KY 40578 606-252-2291	1
<u>TENNESSEE VALLEY AUTHORITY (TVA)</u>	
Director, Environmental Quality Staff 201 Summer Place Building Tennessee Valley Authority TVA Mailroom Knoxville, TN 37902 FTS-856-6578	18
<u>TRANSPORTATION, U.S. DEPARTMENT OF (DOT)</u>	
Assistant Secretary for Policy and International Affairs U.S. Department of Transportation Environmental Division (P-37), Rm. 10223 400 7th Street, SW Washington, DC 20590 202-426-4366	2

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

	Number of Copies
<u>TRANSPORTATION, U.S. DEPARTMENT OF (DOT) (CONTINUED)</u>	
U.S. Coast Guard (USCG) Environmental Impact Branch Marine Environmental and Systems G-WEP-47/73 2100 2nd Street, SW Washington, DC 20593 202-426-3300	2
Federal Aviation Administration (FAA: 202-426-8058)	
Send two (2) copies of EIS's to appropriate Region(s) only	
Central Region Office of the Regional Director Federal Aviation Administration 601 E. 12th Street Kansas City, MO 64106	
Eastern Region Office of the Regional Director Federal Aviation Administration Federal Bldg., JFK International Airport Jamaica, NY 11430	2
Great Lakes Region Office of the Regional Director Federal Aviation Administration 2300 East Devon Avenue Des Plaines, IL 60018	
New England Region Office of the Regional Director Federal Aviation Administration 112 New England Executive Park Burlington, MA 01803	

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

Federal Aviation Administration (Continued)

Northwest Region
Office of the Regional Director
Federal Aviation Administration
17900 Pacific Hwy., So. C-68966
Seattle, WA 98168

Southern Region
Office of the Regional Director
Federal Aviation Administration
P.O. Box 20636
3400 Norman Berry Drive
East Point, GA 30320

Southwest Region
Office of the Regional Director
Federal Aviation Administration
P.O. Box 1689, 4400 Blue Mound Road
Fort Worth, TX 76101

Western Region
Office of the Regional Director
Federal Aviation Administration
P.O. Box 92007, 1500 Aviation Blvd.
Worldway Postal Center
Hawthorne, CA 90009

Federal Highway Administration (FHA-202-426-0660)

Send one copy to appropriate Region(s)

Region 1, Regional Administrator
Federal Highway Administration
Leo W. O'Brien Federal Bldg., Rm. 729
Clinton Avenue & No. Pearl Street
Albany, NY 12207

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

Federal Highway Administration (Continued)

Region 3, Regional Administrator
Federal Highway Administration
George H. Fallon Federal Bldg.
31 Hopkins Plaza, Rm. 1633
Baltimore, MD 21201

Region 4, Regional Administrator
Federal Highway Administration
1720 Peachtree Road, NW, Suite 200
Atlanta, GA 30367

Region 5, Regional Administrator
Federal Highway Administration
18209 Dixie Highway
Homewood, IL 60430

Region 6, Regional Administrator
Federal Highway Administration
819 Taylor Street
Fort Worth, TX 76102

Region 7, Regional Administrator
Federal Highway Administration
Country Club Station, P.O. Box 19715
Kansas City, MO 64141

Region 8, Regional Administrator
Federal Highway Administration
Denver Federal Center, Bldg. 40, Rm. 242
555 Zang Street, P.O. Box B. 25246
Denver, CO 80225

Region 9, Regional Administrator
Federal Highway Administration
2 Embarcadero Center, Suite 530
San Francisco, CA 94111

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

Federal Highway Administration (Continued)

Region 10, Regional Administrator
Federal Highway Administration
Mohawk Bldg., Rm. 412
222 SW Morrison Street
Portland, OR 97204

Federal Railroad Administration (FRA-202-426-0881)

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Office of Policy and Plans
Federal Railroad Administration
400 7th Street, SW
Washington, DC 20590

Office of Hazardous Materials Safety Division
Federal Railroad Administration
400 7th Street, SW
Washington, DC 20590

Office of Pipeline Safety
Federal Railroad Administration
400 7th Street, SW
Washington, DC 20590

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

64 - LAWS

64.1 - The National Environmental Policy Act of 1969, As Amended. See exhibit 1.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

NEPA

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 aesthetically 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.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

(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 532 of title 5, United States Code, and shall accompany the proposal through the existing agency review process;

(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 participation in such preparation,
- (iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and
- (iv) after January 1, 1970, 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 thereof 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 statement of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibility 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.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

(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

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

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. 5313).

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-

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

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.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

64.2 - The Environmental Quality Improvement Act of 1970.
See exhibit 1.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

The Environmental Quality Improvement Act of 1970

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, 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.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

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.

64.3--1

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64.3 - Clean Air Act, Section 309. See exhibit 1.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

Clean Air Act, Section 309

§ 1857h-7. 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 Act 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 102(2)(C) of Public Law 91-190 [42 USCS § 4332(2)(c)] 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, Title III, § 309, as added Dec. 31, 1970, P. L. 91-604, § 12, 84 Stat. 1709.)

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

65 - REGULATIONS AND SUPPLEMENTARY INFORMATION

65.1 - Council on Environmental Quality (CEQ) Regulations.
(40 CFR 1500-1508.28). See exhibit 1.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1

CEQ NEPA Regulations

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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PART 1500—PURPOSE, POLICY, AND MANDATE

1500.1 Purpose.
 1500.2 Policy.
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 1500.4 Reducing paperwork.
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 1500.6 Agency authority.

ATTORNEY: 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 11901, 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 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-

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

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).

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(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).

§ 1509.5 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.

§ 1509.6 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.

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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 308 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11814, Protection and Enhancement of Environmental Quality (March 8, 1970, as amended by Executive Order 11901, 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 those 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:

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Exhibit 1--Continued

(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 § 1508.8.

(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 arcwide 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.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

(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 30 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 30 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 § 1507.7).

(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 (§ 1506.22) 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(e). An agency may give notice in accordance with § 1506.6.

(2) Determine the scope (§ 1506.25) 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

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

(§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 make 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.

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(vi) 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.
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1502.9 Draft, Final, and Supplemental Statements.
1502.10 Recommended Format.
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1502.14 Alternatives Including the Proposed Action.
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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 302 of the Clean Air Act, as amended (42 U.S.C. 1609), and Executive Order 11814, Protection and Enhancement of Environmental Quality (March 6, 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

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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 (§ 1508.1).

(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 and (§ 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 (§ 1508.28) 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 1502.3). 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

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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) 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 procedures for legislation as provided in § 1502.6 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

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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

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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 sec. 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 ir-

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 (§ 1506.8).

(b) Indirect effects and their significance (§ 1506.8).

(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 recreation 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 shall not exceed two pages.

§ 1502.18 Appendix.

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

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(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.

§ 1502.15 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 an additional time to comment on the time for that request or 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

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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 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 11814, Protection and Enhancement of Environmental Quality (March 8, 1970, as amended by Executive Order 11901, 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 comments of any Federal agency which has jurisdic-

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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-85 (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

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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 11391, 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 rational 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 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.

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(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 matter 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 hearings 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

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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).

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.

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 11814, Protection and Enhancement of Environmental Quality (March 8, 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

§ 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

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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.

§ 1506.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (§ 1506.2(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.
 1506.13 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 11814, Protection and Enhancement of Environmental Quality (March 8, 1970, as amended by Executive Order 11901, May 24, 1977).

§ 1506.1 Limitations on actions during NEPA process.

(a) Until an agency issues a record of decision as provided in § 1506.2 (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

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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.

§ 1504.2 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.

§ 1504.3 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.

§ 1504.4 Combining documents.

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

§ 1504.5 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

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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 OMT Circular A-98 (Revised).

(ii) Notice to Indian tribes where 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

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private 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 (§ 1506.17) 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.

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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 § 1506.3 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

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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 8, 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

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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), 1506.1, 1506.6(e), and 1506.4.

(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 (§ 1506.4)).

(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-

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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.

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PART 1506—TERMINOLOGY AND INDEX

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ABSTRACT: 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 11814, Protection and Enhancement of Environmental Quality (March 8, 1970, as amended by Executive Order 11991, May 24, 1977).

§ 1506.1 Terminology.

The terminology of this part shall

be uniform throughout the Federal Government.

§ 1506.2 Act.

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

§ 1506.3 Affecting.

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

§ 1506.4 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 § 1506.9 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.

§ 1506.5 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.

§ 1506.6 Council.

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

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Exhibit 1--Continued**§ 1500.7 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.

§ 1500.8 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.

§ 1500.9 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 an 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.

§ 1500.10 Environmental document.

"Environmental document" includes the documents specified in § 1500.9 (environmental assessment), § 1500.11 (environmental impact statement), § 1500.13 (finding of no significant impact), and § 1500.22 (notice of intent).

§ 1500.11 Environmental impact statement.

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

§ 1500.12 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.

§ 1500.13 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 (§ 1500.4), 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)(8)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

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Exhibit 1--Continued**§ 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 (§§ 1508.8, 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.

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Exhibit 1--Continued**§ 1500.19 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.

§ 1500.20 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.

§ 1500.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of Section 3 and Title I of NEPA.

§ 1500.22 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.

§ 1500.23 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.

§ 1500.24 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.

§ 1500.25 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 1500.23). 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:

(i) 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.

(i) 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

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Exhibit 1--Continued

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.

§ 1500.26 Special expertise.

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

§ 1500.27 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.

§ 1500.28 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

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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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65.11 - Council on Environmental Quality Supplementary Information. See exhibit 1 for Council on Environmental Quality Supplementary Information (excerpt from the November 29, 1978, Federal Register (43 FR 55978)).

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Exhibit 1

CEQ's Supplementary Information

COUNCIL ON ENVIRONMENTAL QUALITY
 [40 CFR Parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508]
 NATIONAL ENVIRONMENTAL POLICY ACT--REGULATIONS

Implementation of Procedural Provisions

AGENCY: Council on Environmental Quality, Executive Office of
 the President

ACTION: Final Regulations

SUMMARY: These final regulations establish uniform procedures for implementing the procedural provisions of the National Environmental Policy Act. The regulations would accomplish three principal aims: to reduce paperwork, to reduce delays, and to produce better decisions. The regulations were issued in draft form in 43 Fed. Reg. 25230-25247 (June 9, 1978) for public review and comment and reflect changes made as a result of this process.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place, N.W., Washington, D.C. 20006 (telephone number 202-633-7032 or 202-395-5750).

SUPPLEMENTARY INFORMATION:

1. PURPOSE

We are publishing these final regulations to implement the procedural provisions of the National Environmental Policy Act. Their purpose is to provide all Federal agencies with efficient, uniform procedures for translating the law into practical action. We expect the new regulations to accomplish three principal aims: to reduce paperwork, to reduce delays, and at the same time to produce better decisions which further the national policy to protect and enhance the quality of the human environment.

The Council on Environmental Quality is responsible for overseeing Federal efforts to comply with the National Environmental Policy Act ("NEPA"). In 1970, the Council issued Guidelines for the preparation of environmental impact statements (EIS) under Executive Order 11514 (1970). The 1973 revised Guidelines are now in effect. Although the Council conceived the Guidelines as non-discretionary standards for agency decision making, some agencies viewed them as advisory only. Similarly, courts differed over the weight which should be accorded the Guidelines in evaluating agency compliance with the statute.

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The result has been an evolution of inconsistent agency practices and interpretations of the law. The lack of a uniform, government-wide approach to implementing NEPA has impeded Federal coordination and made it more difficult for those outside government to understand and participate in the environmental review process. It has also caused unnecessary duplication, delay and paperwork.

Moreover, by the terms of Executive Order 11514, the Guidelines were confined to Subsection (C) of Section 102(2) of NEPA — the requirement for environmental impact statements. The Guidelines did not address Section 102(2)'s other important provisions for agency planning and decisionmaking. Consequently, the environmental impact statement has tended to become an end in itself, rather than a means to making better decisions. Environmental impact statements have often failed to establish the link between what is learned through the NEPA process and how the information can contribute to decisions which further national environmental policies and goals.

To correct these problems, the President issued Executive Order 11991 on May 24, 1977 directing the Council to issue the regulations. The Executive Order was based on the President's Constitutional and statutory authority, including NEPA, the Environmental Quality Improvement Act, and Section 309 of the Clean Air Act. The President has a constitutional duty to insure that the laws are faithfully executed (U.S. Const. art. II, sec. 3), which may be delegated to appropriate officials. (Title 3 U.S.C., Sec. 301). In signing Executive Order 11991, the President delegated this authority to the agency created by NEPA, the Council on Environmental Quality.

In accordance with this directive, the Council's regulations are binding on all Federal agencies, replace some seventy different sets of agency regulations, and provide uniform standards applicable throughout the Federal government for conducting environmental reviews. The regulations also establish formal guidance from the Council on the requirements of NEPA for use by the courts in interpreting this law. The regulations address all nine subdivisions of Section 102(2) of the Act, rather than just the EIS provision covered by the Guidelines. Finally, as mandated by President Carter's Executive Order, the regulations are

"...designed to make the environmental impact statement more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of superfluous background data, in order to emphasize the need to focus on real environmental issues and alternatives."

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2. SUMMARY OF MAJOR INNOVATIONS IN THE REGULATIONS

Following this mandate in developing the new regulations, we have kept in mind the threefold objective of less paperwork, less delay, and better decisions.

A. Reducing Paperwork

These regulations reduce paperwork requirements on agencies of government. Neither NEPA nor these regulations impose paperwork requirements on the public.

i. Reducing the length of environmental impact statements. Agencies are directed to write concise EISs (Sec. 1502.2(c)), which normally shall be less than 150 pages, or, for proposals of unusual scope or complexity, 300 pages (Sec. 1502.7).

ii. Emphasizing real alternatives. The regulations stress that the environmental analysis is to concentrate on alternatives, which are the heart of the process (Secs. 1502.14, 1502.16); to treat peripheral matters briefly (Sec. 1502.2(b)); and to avoid accumulating masses of background data which tend to obscure the important issues (Secs. 1502.1, 1502.15).

iii. Using an early "scoping" process to determine what the important issues are. A new "scoping" procedure is established to assist agencies in deciding what the central issues are, how long the EIS shall be, and how the responsibility for the EIS will be allocated among the lead agency and cooperating agencies (Sec. 1501.7). The scoping process is to begin as early in the NEPA process as possible — in most cases, shortly after the decision to prepare an EIS — and shall be integrated with other planning.

iv. Using plain language. The regulations strongly advocate writing in plain language (Sec. 1502.8).

v. Following a clear format. The regulations recommend a standard format intended to eliminate repetitive discussion, stress the major conclusions, highlight the areas of controversy, and focus on the issues to be resolved (Sec. 1502.10).

vi. Requiring summary of environmental impact statements. The regulations are intended to make the document more usable by more people (Sec. 1502.12). With some exceptions, a summary may be circulated in lieu of the environmental impact statement if the latter is unusually long (Sec. 1502.19).

vii. Eliminating duplication. Under the regulations Federal agencies may prepare EISs jointly with State and local units of government which have "little NEPA" requirements (Sec. 1506.2). They may also adopt another Federal agency's EIS (Sec. 1506.3).

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viii. Consistent terminology. The regulations provide uniform terminology for the implementation of NEPA (Sec. 1508.1). For instance, the CEQ term "environmental assessment" will replace the following (nonexhaustive) list of comparable existing agency procedures: "survey" (Corps of Engineers), "environmental analysis" (Forest Service), "normal or special clearance" (HUD), "environmental analysis report" (Interior), and "marginal impact statement" (HEW) (Sec. 1508.9).

ix. Incorporation by reference. Agencies are encouraged to incorporate material by reference into the environmental impact statement when the material is not of central importance and when it is readily available for public inspection (Sec. 1502.21).

x. Specific comments. The regulations require that comments on environmental impact statements be as specific as possible to facilitate a timely and informative exchange of views among the lead agency and other agencies and the public (Sec. 1503.3).

xi. Simplified procedures for making minor changes in environmental impact statements. If comments on a draft environmental impact statement require only minor changes or factual corrections, an agency may circulate the comments, responses thereto, and the changes from language in the draft statement, rather than rewriting and circulating the entire document as a final environmental impact statement (sec 1506.4).

xii. Combining documents. Agencies may combine environmental impact statements and other environmental documents with any other document used in agency planning and decisionmaking (Sec. 1506.4).

xiii. Reducing paperwork involved in reporting requirements. The regulations will reduce the paperwork involved in reporting requirements as summarized below. In comparing the requirements under the existing Guidelines and the new CEQ regulations, it should be kept in mind that the regulations cover Sections 102(2)(A) through (I) of NEPA, while the Guidelines cover only Section 102(2)(C) (environmental impact statements). CEQ's new regulations will also replace more than 70 different existing sets of individual agency regulations. (Under the new regulations each agency will only issue implementing procedures to explain how the regulations apply to its particular policies and programs (Sec. 1507.3).)

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<u>Existing Requirements</u> (Applicable Guidelines sections are noted.)	<u>New Requirements</u> (Applicable regulations sections are noted.)
<u>Assessment</u> (optional under Guidelines on a case-by-case basis; currently re- quired, however, by most major agencies in practice or in procedures) Sec. 1500.6	<u>Assessment</u> (limited requirement: not required where there would not be environmental effects or where an EIS will be required. Secs. 1501.3, .4
<u>Notice of intent</u> to prepare impact statement Sec. 1500.6	<u>Notice of intent</u> to prepare EIS and commence scoping process Sec. 1501.7
<u>Quarterly list</u> of notices of intent Sec. 1500.6	Requirement abolished
<u>Negative determination</u> (decision not to prepare impact statement) Sec. 1500.6	<u>Finding of no significant impact</u> Sec. 1501.4
<u>Quarterly list</u> of negative determinations Sec. 1500.6	Requirement abolished
<u>Draft EIS</u> Sec. 1500.7	<u>Draft EIS</u> Sec. 1501.5
<u>Final EIS</u> Sec. 1500.6, .10	<u>Final EIS</u> Sec. 1502.9
<u>EISs on non-agency legislative reports</u> ("agency reports on legislation initiated elsewhere") Sec. 1500.5(a)(1)	Requirement abolished
<u>Agency report</u> to CEQ on implementation experience Sec. 1500.14(b)	Requirement abolished
<u>Agency report</u> to CEQ on substantive guidance Secs. 1500.6(c), .14	Requirement abolished
<u>Record of decision</u> (no Guideline provision but required by many agencies' own procedures and in a wide range of cases generally under the Administrative Procedure Act and OMB Circular A-95, Part I, Sec. 6(c) and (d), Part II, Sec. 5(b)(4))	<u>Record of decision</u> (brief explanation of decision based in part on EIS that was prepared; no continuation requirement) Sec. 1505.2

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3. Reducing Delay

The measures to reduce delay are listed below.

- i. Time limits on the NEPA process. The regulations encourage lead agencies to set time limits on the NEPA process and require that time limits be set when requested by an applicant (Secs. 1501.7(b)(2), 1501.8).
- ii. Integrating EIS requirements with other environmental review requirements. Often the NEPA process and the requirements of other laws proceed separately, causing delay. The regulations provide for all agencies with jurisdiction over a proposal to cooperate so that all reviews may be conducted simultaneously (Secs. 1501.7, 1502.25).
- iii. Integrating the NEPA process into early planning. If environmental review is tacked on to the end of the planning process, then the process is prolonged, or else the EIS is written to justify a decision that has already been made and genuine consideration may not be given to environmental factors. The regulations require agencies to integrate the NEPA process with other planning at the earliest possible time (Sec. 1501.2).
- iv. Emphasizing interagency cooperation before the EIS is drafted. The regulations emphasize that other agencies should begin cooperating with the lead agency before the EIS is prepared in order to encourage early resolution of differences (Sec. 1501.6). We hope that early cooperation among affected agencies in preparing a draft EIS will produce a better draft and will reduce delays caused by unnecessarily late criticism.
- v. Swift and fair resolution of lead agency disputes. When agencies differ as to who shall take the lead in preparing an EIS, or when none is willing to take the lead, the regulations provide a means for prompt resolution of the dispute (Sec. 1501.5).
- vi. Preparing EISs on programs and not repeating the same material in project specific EISs. Material common to many actions may be covered in a broad EIS, and then through "tiering" may be summarized and incorporated by reference rather than reiterated in each subsequent EIS (Secs. 1502.4, 1502.20, 1502.27, 1508.28).
- vii. Legal delays. The regulations provide that litigation, if any, should come at the end rather than in the middle of the process. (Sec. 1500.3).

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viii. Accelerated procedures for legislative proposals. The regulations provide accelerated, simplified procedures for environmental analysis of legislative proposals, to fit better with Congressional schedules (Sec. 1506.8).

ix. Categorical exclusions. Under the regulations, categories of actions which do not individually or cumulatively have a significant effect on the human environment may be excluded from environmental review requirements (Sec. 1508.4).

x. Finding of no significant impact. If an action has not been categorically excluded from environmental review under Section 1508.4, but nevertheless will not significantly affect the quality of the human environment, the agency will issue a finding of no significant impact as a basis for not preparing an EIS (Sec. 1508.13).

C. Better Decisions

Most of the features described above will help to improve decision-making. This, of course, is the fundamental purpose of the NEPA process, the end to which the EIS is a means. Section 101 of NEPA sets forth the substantive requirements of the Act, the policy to be implemented by the "action-forcing" procedures of Section 102. These procedures must be tied to their intended purpose, otherwise they are indeed useless paperwork and wasted time.

i. Recording in the decision how the EIS was used. The new regulations require agencies to produce a concise public record, indicating how the EIS was used in arriving at the decision (Sec. 1505.2). This record of decision must indicate which alternative (or alternatives) considered in the EIS is preferable on environmental grounds. Agencies may also discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. Agencies should identify those "essential considerations of national policy", including factors not related to environmental quality, which were balanced in making the decision.

ii. Insure follow-up of agency decisions. When an agency requires environmentally protective mitigation measures in its decisions, the regulations provide for means to ensure that these measures are implemented and monitored (Sec. 1505.3).

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iii. Securing more accurate, professional documents. The regulations require accurate documents as the basis for sound decisions. As provided by Section 102(2)(A) of NEPA, the documents must draw upon all the appropriate disciplines from the natural and social sciences, plus the environmental design arts (Sec. 1502.6). The lead agency is responsible for the professional integrity of environmental documents and requirements are established to ensure this result, such as special provisions regarding the use of data provided by an applicant (Sec. 1506.5). A list of people who helped prepare documents, and their professional qualifications, shall be included in the EIS to encourage professional responsibility and ensure that an interdisciplinary approach was followed (Sec. 1502.17).

The regulations establish a streamlined process, and one which has a broader purpose than the Guidelines they replace. The Guidelines emphasized a single document, the EIS, while the regulations emphasize the entire NEPA process, from early planning through assessment and EIS preparation through decisions and provisions for follow-up. They are designed to gear means to ends -- to ensure that the action-forcing procedures of Section 102(2) of NEPA are used by agencies to fulfill the requirements of the Congressionally mandated policy set out in Section 101 of the Act. Furthermore, the regulations are uniform, applying in the same way to all Federal agencies, although each agency will develop its own procedures for implementing the regulations. With these new regulations we seek to carry out as faithfully as possible the original intent of Congress in enacting NEPA.

3. BACKGROUND

The Council was greatly assisted by the hundreds of people who responded to our call for suggestions on how to make the NEPA process work better. In all, the Council sought the views of almost 12,000 private organizations, individuals, State and local agencies, and Federal agencies. In public hearings which we held in June 1977, we invited testimony from a broad array of public officials, organizations, and private citizens, affirmatively involving NEPA's critics as well as its friends.

Among those represented were the U.S. Chamber of Commerce, which coordinated testimony from business; the Building and Construction Trades Department of the AFL-CIO, which did so for labor; the National Conference of State Legislatures, for State and local governments; and the Natural Resources Defense Council, for environmental groups. Scientists, scholars, and the general public were also represented.

There was broad consensus among these diverse witnesses. All, without exception, expressed the view that NEPA benefited the public.

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Equally widely shared was the view that the process had become needlessly cumbersome and should be streamlined. Witness after witness said that the length and detail of EISs made it difficult to distinguish the important from the trivial. The degree of unanimity about the good and bad points of the NEPA process was such that at one point an official spokesperson for the oil industry rose to say that he adopted in its entirety the presentation of the President of the Sierra Club.

After the hearings we culled the record to organize both the problems and the solutions proposed by witnesses into a 38-page "NEPA Hearing Questionnaire." The questionnaire was sent to all witnesses, every State governor, all Federal agencies, and everyone who responded to an invitation in the Federal Register. We received more than 300 replies, from a broad cross section of groups and individuals. By the comments we received from respondents we gauged our success in faithfully presenting the results of the public hearings. One commenter, an electric utility official, said that for the first time in his life he knew the government was listening to him, because all the suggestions made at the hearing turned up in the questionnaire. We then collated all the responses for use in drafting the regulations.

We also met with every agency of the Federal government to discuss what should be in the regulations. Guided by these extensive interactions with government agencies and the public, we prepared draft regulations which were circulated for comment to all Federal agencies in December, 1977. We then studied agency comments in detail, and consulted numerous Federal officials with special experience in implementing the Act. Informal redrafts were circulated to the agencies with greatest experience in preparing environmental impact statements.

At the same time that Federal agencies were reviewing the early draft, we continued to meet with, listen to, and brief members of the public, including representatives of business, labor, State and local governments, environmental groups, and others. Their views were considered during this early stage of the rulemaking. We also considered seriously and proposed in our regulations virtually every major recommendation made by the Commission on Federal Paperwork and the General Accounting Office in their recent studies on the environmental impact statement process. The studies by these two independent bodies were among the most detailed and informed reviews of the paperwork abuses in the impact statement process. In many cases, such as streamlining intergovernmental coordination, the proposed regulations go further than their recommendations.

On June 9, 1978 the regulations were proposed in draft form (43 Federal Register at pages 25230-25247) and the Council announced that the period for public review of and comment on the draft regulations

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would extend for two months until August 11, 1978. During this period, the Council received almost 500 written comments on the draft regulations, most of which contained specific and detailed suggestions for improving them. These comments were again broadly representative of the various interests which are involved in the NEPA process.

The Council carefully reevaluated the regulations in light of the comments we received. The Council's staff read and analyzed each of the comments and developed recommendations for responding to them. A clear majority of the comments were favorable and expressed strong support for the draft regulations as a major improvement over the existing Guidelines. Some comments suggested further improvements through changes in the wording of specific provisions. A smaller number expressed more general concerns about the approach and direction taken by the regulations. In continuing efforts to resolve issues raised during the review, staff members conducted numerous meetings with individuals and groups who had offered comments and with representatives of affected Federal agencies. This process continued until most concerns with the proposals were alleviated or satisfied.

When, after discussions and review the Council determined that the comments raised valid concerns, we altered the regulations accordingly. When we decided that reasons supporting the regulations were stronger than those for challenging them, we left the regulations unchanged. Part 4 of the Preamble describes section by-section the more significant comments we received, and how we responded to them.

4. COMMENTS AND THE COUNCIL'S RESPONSE

PART 1500 -- PURPOSE, POLICY AND MANDATE

Comments on Section 1500.3: Mandate

Section 1500.3 of the draft regulations stated that it is the Council's intention that judicial review of agency compliance with the regulations not occur before an agency has filed the final environmental impact statement, causes irreparable injury, or has made a finding of no significant impact. Some comments expressed concern that court action might be commenced under this provision following a finding of no significant impact which was only tentative and did not represent a final determination that an environmental impact statement would not be prepared.

The Council made two changes in response to this concern: First, the word "final" was inserted before the phrase "finding of no significant impact." Thus, the Council eliminated the possibility of interpreting this phrase to mean a preliminary or tentative determination. Second, a

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clarification was added to this provision to indicate the Council's intention that judicial review would be appropriate only where the finding of no significant impact would lead to action affecting the environment.

Several comments on Section 1500.3 expressed concern that agency action could be invalidated in court proceedings as the result of trivial departures from the requirements established by the Council's regulations. This is not the Council's intention. Accordingly, a sentence was added to indicate the Council's intention that a trivial departure from the regulations not give rise to an independent cause of action under law.

PART 1501 -- NEPA AND AGENCY PLANNING

Comments on Section 1501.2: Apply NEPA Early in Process

Section (d)(1) of Section 1501.2 stated that Federal agencies should take steps to ensure that private parties and state and local entities initiate environmental studies as soon as Federal involvement in their proposals can be foreseen. Several commenters raised questions concerning the authority of a Federal agency to require that environmental studies be initiated by private parties, for example, even before that agency had become officially involved in the review of the proposal.

The Council's intention in this provision is to ensure that environmental factors are considered at an early stage in the planning process. The Council recognizes that the authority of Federal agencies may be limited before their duty to review proposals initiated by parties outside the Federal government officially begins. Accordingly, the Council altered subsection (d)(1) of Section 1501.2 to require that in such cases Federal agencies must ensure that "[p]olicies or designated staff are available to advise potential applicants of studies or other information foreseeably required by later Federal action." The purpose of the amended provision is to assure the full cooperation and support of Federal agencies for efforts by private parties and State and local entities in making an early start on studies for proposals that will eventually be reviewed by the agencies.

Comments on Section 1501.3: When to Prepare an Environmental Assessment

One commenter asked whether an environmental assessment would be required where an agency had already decided to prepare an environmental impact statement. This is not the Council's intention. To clarify this point, the Council added a sentence to this provision stating that an assessment is not necessary if the agency has decided to prepare an environmental impact statement.

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Comments on Section 1501.5: Lead Agencies

The Council's proposal was designed to insure the swift and fair resolution of lead agency disputes. Section 1501.3 of the draft regulations established procedures for resolving disagreements among agencies over which of them must take the lead in preparing an environmental impact statement. Under subsection (d) of this section, persons and governmental entities substantially affected by the failure of Federal agencies to resolve this question may request these agencies in writing to designate a lead agency forthwith. If this request has not been met "within a reasonable period of time," subsection (e) authorizes such persons and governmental entities to petition the Council for a resolution of this issue.

Several comments objected to the phrase "within a reasonable time" because it was vague, and left it uncertain when concerned parties could file a request with the Council. The comments urged that a precise time period be fixed instead. The Council adopted this suggestion and substituted 45 days for the phrase "within a reasonable period of time." With this change, the regulations require that a lead agency be designated, if necessary by the Council, within a fixed period following a request from concerned parties that this be done.

Several commenters suggested that the Council take responsibility for designating lead agencies in every case to reduce delay. The commenters recommended that all preliminary steps be dropped in favor of immediate Council action whenever the lead agency issue arose.

The Council determined, however, that individual agencies are in the best position to decide these questions and should be given the opportunity to do so. In view of its limited resources, the Council does not have the capability to make lead agency designations for all proposals. As a result of these factors, the Council determined not to alter this provision.

Several commenters opposed the concept of joint lead agencies authorized by subsection (b) of this section, particularly where two or more of the agencies are Federal. These commenters expressed doubt that Federal agencies could cooperate in such circumstances and stated their view that the environmental review process will only work where one agency is given primary responsibility for conducting it.

In the Council's judgment, however, the designation of joint lead agencies may be the most efficient way to approach the NEPA process where more than one agency plays a significant role in reviewing proposed actions. The Council believes that Federal agencies should have the option to become joint lead agencies in such cases.

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Comments on Section 1501.6: Cooperating Agencies

The Council developed proposals to emphasize interagency cooperation before the environmental impact statement was prepared rather than comments on a completed document. Section 1501.6 stated that agencies with jurisdiction by law over a proposal would be required to become "cooperating agencies" in the preparation of an EIS should the lead agency request that they do so. Under subsection (b) of this provision, "cooperating agencies" could be required to assume responsibility for developing information and analysis within their special competence and to make staff support available to enhance the interdisciplinary capability of the lead agency.

Several comments pointed out that principal authority for environmental matters resides in a small number of agencies in the Federal government. Concern was expressed that these few agencies could be inundated with requests for cooperation in the preparation of EISs and, if required to meet these requests in every case, drained of resources required to fulfill other statutory mandates.

The Council determined that this was a valid concern. Accordingly, it added a new subsection (c) to this section which authorizes a cooperating agency to decline to participate or otherwise limit its involvement in the preparation of an EIS where existing program commitments preclude more extensive cooperation.

Subsection (b)(5) of this section provided that a lead agency shall finance the major activities or analyses it requests from cooperating agencies to the extent available funds permit. Several commenters expressed opposition to this provision on grounds that a lead agency should conserve its funds for the fulfillment of its own statutory mandate rather than disburse funds for analyses prepared by other agencies.

The same considerations apply, however, to cooperating agencies. All Federal agencies are subject to the mandate of the National Environmental Policy Act. This provision of the regulations allows a lead agency to facilitate compliance with this statute by funding analyses prepared by cooperating agencies "to the extent available funds permit." In the Council's view, this section will enhance the ability of a lead agency to meet all of its obligations under law.

Section 1501.7: Scoping

The new concept of "scoping" was intended by the Council and perceived by the great preponderance of the commenters as a means for early identification of what are and what are not the important issues deserving of study in the EIS. Section 1501.7 of the draft regulations established a formal mechanism for agencies, in consultation with affected

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parties, to identify the significant issues which must be discussed in detail in an EIS, to identify the issues that do not require detailed study, and to allocate responsibilities for preparation of the document. The section provided that a scoping meeting must be held when practicable. One purpose of scoping is to encourage affected parties to identify the crucial issues raised by a proposal before an environmental impact statement is prepared in order to reduce the possibility that matters of importance will be overlooked in the early stages of a NEPA review. Scoping is also designed to ensure that agency resources will not be spent on analysis of issues which none concerned believe are significant. Finally, since scoping requires the lead agency to allocate responsibility for preparing the EIS among affected agencies and to identify other environmental review and consultation requirements applicable to the project, it will set the stage for a more timely, coordinated, and efficient Federal review of the proposal.

The concept of scoping was one of the innovations in the proposed regulations most uniformly praised by members of the public ranging from business to environmentalists. There was considerable discussion of the details of implementing the concept. Some commenters objected to the formality of the scoping process, expressing the view that compliance with this provision in every case would be time-consuming, would lead to legal challenges by citizens and private organizations with objections to the agency's way of conducting the process, and would lead to paperwork since every issue raised during the process would have to be addressed to some extent in the environmental impact statement. These commenters stated further that Federal agencies themselves were in the best position to determine matters of scope, and that public participation in these decisions was unnecessary because any scoping errors that were made by such agencies could be commented upon when the draft EIS was issued (as was done in the past) and corrected in the final document. These commenters urged that scoping at least be more open-ended and flexible and that agencies be merely encouraged rather than required to undertake the process.

Other commenters said that the Council had not gone far enough in imposing uniform requirements. These commenters urged the Council to require that a scoping meeting be held in every case, rather than only when practicable; that a scoping document be issued which reflected the decisions reached during the process; and that formal procedures be established for the resolution of disagreements over scope that arise during the scoping process. These commenters felt that more stringent requirements were necessary to ensure that agencies did not avoid the process.

In developing Section 1501.7, the Council sought to ensure that the benefits of scoping would be widely realized in Federal decisionmaking, but without significant disruptions for existing procedures. The Council

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made the process itself mandatory to guarantee that early cooperation among affected parties would be initiated in every case. However, Section 1501.7 left important elements of scoping to agency discretion. After reviewing the recommendations for more flexibility on the one hand, and more formality on the other, and while making several specific changes in response to specific comments, the Council determined that the proper balance had been struck in Section 1501.7 and did not change the basic outline of this provision. The Council did accept amendments to make clear that scoping meetings were permissive and that an agency might make provision for combining its scoping process with its environmental assessment process.

Comments on Section 1501.8: Time Limits

Reducing delay and uncertainty by the use of time limits is one of the Council's principal changes. Section 1501.8 of the draft regulations established criteria for setting time limits for completion of the entire NEPA process or any part of the process. These criteria include the size of the proposal and its potential for environmental harm, the state of the art, the number of agencies involved, the availability of relevant information and the time required to obtain it. Under this section, if a private applicant requests a lead agency to set time limits for an EIS review, the agency must do so provided that the time limits are consistent with the purposes of NEPA and other essential considerations of national policy. If a Federal agency is the sponsor of a proposal for major action, the lead agency is encouraged to set a timetable for the EIS review.

Several commenters objected to the concept of time limits for the NEPA process. In their opinion, the uncertainties involved in an EIS review and competing demands for limited Federal resources could make it difficult for agencies to predict how much time will be required to complete environmental impact statements on major proposals. These commenters were concerned that time limits could prompt agencies to forego necessary analysis in order to meet deadlines. In their view, the concept of time limits should be dropped from the regulations in favor of more flexible "targets" or "goals" which would be set only after consultation with all concerned parties.

On the other side of the question, the Council received several comments that the provision for time limits was not strict enough. These comments expressed concern that the criteria contained in the draft regulations were vague and would not serve effectively to encourage tight timetables for rapid completion of environmental reviews. The Council was urged to strengthen this section by including definite time limits for the completion of the EIS process in every case or by providing that CEQ itself set such limits for every environmental review, and by setting time limits for the establishment of time limits.

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A primary goal of the Council's regulations is to reduce delays in the EIS process. The Council recognizes the difficulties of evaluating in advance the time required to complete environmental reviews. Nevertheless, the Council believes that a provision for time limits is necessary to concentrate agencies' attention on the timely completion of environmental impact statements and to provide private applicants with reasonable certainty as to how long the NEPA process will take. Section 1501.7(c) of the regulations allows revision of time limits if significant new circumstances (including information) arise which bear on the proposal or its impacts.

At the same time, the Council believes that precise time limits to apply uniformly across government would be unrealistic. The factors which determine the time needed to complete an environmental review are various, including the state of the art, the size and complexity of the proposal, the number of Federal agencies involved, and the presence of sensitive ecological conditions. These factors may differ significantly from one proposal to the next. The same law that applies to a Trans-Alaska pipeline may also apply to a modest federally funded building in an historic district. In the Council's judgment, individual agencies are in the best position to perform this function. The Council does not have the resources to weigh these factors for each proposal. Accordingly, the Council determined not to change these provisions of Section 1501.8 of the regulations.

PART 1502 -- ENVIRONMENTAL IMPACT STATEMENT

Comments on Section 1502.9: Timing

Several commenters noted that it has become common practice in informal rulemaking for Federal agencies to issue required draft environmental impact statements at the same time that rules are issued in proposed form. These commenters expressed the view that this procedure was convenient, time-saving and consistent with NEPA, and urged that the regulations provide for it. The Council added a new subsection (d) to Section 1502.9 on informal rulemaking stating that this procedure shall normally be followed.

Comments on Section 1502.7: Page Limits

A principal purpose of these regulations is to turn bulky, often unused EISs into short, usable documents which are in fact used. Section 1502.7 of the draft regulations provided that final environmental impact statements shall normally be less than 150 pages long and, for proposals of unusual scope or complexity, shall normally be less than 300 pages. Numerous commenters expressed strong support for the Council's decision to establish page limits for environmental impact statements.

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Several commenters objected to the concept of page limits for environmental impact statements on grounds that it could constrain the thoroughness of environmental reviews. Some said that the limits were too short and would preclude essential analysis; others contended that they were too long and would encourage the inclusion of unnecessary detail. One commenter proposed a "sliding scale" for page limits; another suggested that a limitation on the number of words would be more effective than a limitation on the number of pages. A number of commenters urged that page limits be simply recommended rather than established as standards that should normally be met.

The usefulness of the NEPA process to decisionmakers and the public has been jeopardized in recent years by the length and complexity of environmental impact statements. In accordance with the President's directive, a primary objective of the regulations is to ensure that these documents are clear, concise, and to the point. Numerous provisions in the regulations underscore the importance of focusing on the major issues and real choices facing Federal decisionmakers and excluding less important matters from detailed study. Other sections in the regulations provide that certain technical and background materials developed during the environmental review process may be appended but need not be presented in the body of an EIS.

The Council recognizes the tension between the requirement of a thorough review of environmental issues and a limitation on the number of pages that may be devoted to the analysis. The Council believes that the limits set in the regulations are realistic and will help to achieve the goal of more succinct and useful environmental documents. The Council also determined that a limitation on the number of words in an EIS was not required for accomplishing the objective of this provision. The inclusion of the term "normally" in this provision accords Federal agencies latitude if abnormal circumstances exist.

Others suggested that page limits might result in conflict with judicial precedents on adequacy of EISs, that the proverbial kitchen sink may have to be included to insure an adequate document, whatever the length. The Council trusts and intends that this not be the case. Based on its day-to-day experience in overseeing the administration of NEPA throughout the Federal government, the Council is acutely aware that in many cases bulky EISs are not read and are not used by decisionmakers. An unread and unused document quite simply cannot achieve the purpose Congress set for it. The only way to give greater assurance that EISs will be used is to make them usable and that means making them shorter. By way of analogy, judicial opinions are themselves often models of compact treatment of complex subjects. Departmental opinion documents often provide brief coverage of complicated decisions. Without sacrifice of analytical rigor, we see no reason why the material

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to be covered in an EIS cannot normally be covered in 150 pages (or 300 pages in extraordinary circumstances).

Comments on Section 1502.10: Recommended Format

Section 1502.10 stated that agencies shall normally use a standard format for environmental impact statements. This provision received broad support from those commenting on the draft regulations.

As part of the recommended format, environmental impact statements would be required to describe the environmental consequences of a proposed action before they described the environment that would be affected. Many commenters felt that these elements of the EIS should be reversed so that a description of the environmental consequences of a proposal would follow rather than precede a description of the affected environment. The commenters stated their view that it would be easier for the reader to appreciate the nature and significance of environmental consequences if a description of the affected environment was presented first. The Council concurs in this view and adopted the suggested change.

Comments on Section 1502.13: Purpose and Need

This section of the draft regulations provided that agencies shall briefly specify — normally in one page or less — the underlying purpose and need to which the agency is responding in proposing alternatives for action. Many commenters stated that in some cases this analysis would require more than one page. The Council responded to these comments by deleting the one page limitation.

Comments on Section 1502.14: Alternatives Including The Proposed Action

Subsection (a) of this section of the draft regulations provided, among other things, that agencies shall rigorously explore and objectively evaluate all reasonable alternatives. This provision was strongly supported by a majority of those who commented on the provision.

A number of commenters objected to the phrase "all reasonable alternatives" on the grounds that it was unduly broad. The commenters suggested a variety of ways to narrow this requirement and to place limits on the range and type of alternatives that would have to be considered in an EIS.

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The phrase "all reasonable alternatives" is firmly established in the case law interpreting NEPA. The phrase has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed. Accordingly, the Council determined not to alter this subsection of the regulations.

Subsection (c) requires Federal agencies to consider reasonable alternatives not within the jurisdiction of the lead agency. Subsection (d) requires consideration of the no action alternative. A few commenters inquired into the basis for these provisions. Subsections (c) and (d) are declaratory of existing law.

Subsection (e) of this section required Federal agencies to designate the "environmentally preferable alternative (or alternatives, if two or more are equally preferable)" and the reasons for identifying it. While the purpose of NEPA is better environmental decisionmaking, the process itself has not always successfully focused attention on this central goal. The objective of this requirement is to ensure that Federal agencies consider which course of action available to them will most effectively promote national environmental policies and goals. This provision was strongly supported in many comments on the regulations.

Some commenters noted that a wide variety of decisionmaking procedures are employed by agencies which are subject to NEPA and recommended flexibility to accommodate these diverse agency practices. In particular, the commenters recommended that agencies be given latitude to determine at what stage in the NEPA process -- from the draft EIS to the record of decision -- the environmentally preferable alternative would be designated.

The Council adopted this recommendation and deleted this requirement from the EIS portion of the regulations (Sec. 1502.14), while leaving it in Section 1505.2 regarding the record of decision. Nothing in these regulations would preclude Federal agencies from choosing to identify the environmentally preferable alternative or alternatives in the environmental impact statement.

Comments on Section 1502.15: Environmental Consequences

Subsection (e) of this section requires an environmental impact statement to discuss energy requirements and conservation potential of various alternatives and mitigation measures. One commenter asked whether the subsection would require agencies to analyze total energy costs, including possible hidden or indirect costs, and total energy benefits of proposed actions. The Council intends that the subsection be interpreted in this way.

Several commenters suggested that the regulations expressly mention the quality of the urban environment as an environmental consequence to be

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discussed in an environmental impact statement. The Council responded by adding a new subsection (g) to this section requiring that EISs include a discussion of 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. Section 1502.15 has been renumbered as Section 1502.16.

Comments on Section 1502.17: List of Preparers

Section 1502.17 provided that environmental impact statements shall identify and describe the qualifications and professional disciplines of those persons who were primarily involved in preparing the document and background analyses. This section has three principal purposes: First, Section 102(2)(A) of NEPA requires Federal agencies 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 decisionmaking which may have an impact on man's environment." The list of preparers will provide a basis for evaluating whether such a "systematic interdisciplinary approach" was used in preparing the EIS. Second, publication of a list of preparers increases accountability for the analyses appearing in the EIS and thus tends to encourage professional competence among those preparing them. Finally, publication of the list will enhance the professional standing of the preparers by giving proper attribution to their contributions, and making them a recognized part of the literature of their disciplines. This provision received broad support from those commenting on the regulations.

Some commenters felt that a list of preparers would be used as a list of witnesses by those challenging the adequacy of an EIS in court proceedings. However, this information would ordinarily be available anyway through normal discovery proceedings.

Section 1502.17 was also criticized for failing expressly to mention expertise and experience as "qualifications" for preparing environmental impact statements. The Council added these two terms to this section to insure that the term "qualifications" would be interpreted in this way.

Some commenters suggested that the list of preparers should also specify the amount of time that was spent on the EIS by each person identified. These commenters felt that such information was required as a basis for accurately evaluating whether an interdisciplinary approach had been employed. While the Council felt there was much to be said for this suggestion, it determined that the incremental benefits gained from this information did not justify the additional agency efforts that would be required to provide it.

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Comments on Section 1502.19: Circulation of The Environmental Impact Statement

If an EIS is unusually long, Section 1502.19 provided, with certain exceptions, that a summary can be circulated in lieu of the entire document. Several commenters suggested that private applicants sponsoring a proposal should receive the entire environmental impact statement in every case in view of their interest and probable involvement in the NEPA process. The Council concurs and altered this provision accordingly.

Comments on Section 1502.20: Tiering

Section 1502.20 encouraged agencies to tier their environmental impact statements to eliminate repetitive discussions and to focus on the actual issues ripe for decision at each level of environmental review. Some commenters objected to tiering on grounds that it was not required by NEPA and would add an additional unauthorized layer to the environmental review process.

Section 1502.20 authorizes tiering of EISs; it does not require that it be done. In addition, the purpose of tiering is to simplify the EIS process by providing that environmental analysis completed at a broad program level not be duplicated for site-specific project reviews. Many agencies have already used tiering successfully in their decision-making. In view of these and other considerations, the Council determined not to alter this provision.

Comments on Section 1502.22: Incomplete or Unavailable Information

Section 1502.22 provided, among other things, that agencies prepare a worst case analysis of the risk and severity of possible adverse environmental impacts when it proceeds with a proposal in the face of uncertainty. This provision received strong support from many commenters.

Several commenters expressed concern that this requirement would place undue emphasis on the possible occurrence of adverse environmental consequences regardless of how remote the possibility might be. In response, the Council added a phrase designed to ensure that the improbability as well as the probability of adverse environmental consequences would be discussed in worst case analyses prepared under this section.

Section 1502.22 stated that if information is essential to a reasoned choice among alternatives and is not known and the costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement. Some commenters inquired into the meaning of the term "costs." The Council intends for this word to be interpreted as including financial and other costs and adopted the phrase "overall costs" to convey this meaning.

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PART 1503 -- COMMENTING

Comments on Section 1503.1: Inviting Comments

Section 1503.1 set forth the responsibility of Federal agencies to solicit comments on environmental impact statements. Several commenters observed that many Federal agencies solicit comments from State and local environmental agencies through procedures established by Office of Management and Budget Circular A-95 and suggested that the Council confirm this approach in the regulations. The Council adopted this suggestion by adding an appropriate paragraph to the section.

Comments on Section 1503.2: Duty to Comment

Section 1503.2 set forth the responsibilities of Federal agencies to comment on environmental impact statements. Several commenters suggested reinforcing the requirement that Federal agencies are subject to the same time limits as those outside the Federal government in order to avoid delays. The Council concurred in this suggestion and amended the provision accordingly. The Council was constrained from further changes by the requirement of Section 102(2)(C) of NEPA that agencies "consult with and obtain" the comments of specified other agencies.

Comments on Section 1503.3: Specificity of Comments

Section 1503.3 of the draft regulations elaborated upon the responsibilities of Federal agencies to comment specifically upon draft environmental impact statements prepared by other agencies. Several commenters suggested that cooperating agencies should assume a particular obligation in this regard. They noted that cooperating agencies which are themselves required independently to evaluate and/or approve the proposal at some later stage in the Federal review process are uniquely qualified to advise the lead agency of what additional steps may be required to facilitate these actions. In the opinion of these commenters, cooperating agencies should be required to provide this information to lead agencies when they comment on draft EISs so that the final EIS can be prepared with further Federal involvement in mind.

The Council adopted this suggestion and amended Section 1503.3 through the addition of new subsections (c) and (d). The new subsections require cooperating agencies, in their comments on draft EISs, to specify what additional information, if any, is required for them to fulfill other applicable environmental review and consultation requirements, and to comment adequately on the site-specific effects to be expected from issuance of subsequent Federal approvals for the proposal. In addition, if a cooperating agency criticizes the proposed action, this section now requires that it specify the mitigation measures which would be necessary in order for it to approve the proposal under its independent statutory authority.

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Comments on Section 1504.3: Procedure for Referrals and Response

Several commenters noted that Section 1504.3 did not establish a role for members of the public or applicants in the referral process. The Council determined that such persons and organizations were entitled to a role and that their views would be helpful in reaching a proper decision on the referral. Accordingly, the Council added subsection (e) to this section, authorizing interested persons including the applicant to submit their views on the referral, and any response to the referral, in writing to the Council.

Subsection (d) of this section provided that the Council may take one of several actions within 25 days after the referral and agency responses to the referral, if any, are received. Several commenters observed, however, that this subsection did not establish a deadline for final action by the Council in cases where additional discussions, public meetings, or negotiations were deemed appropriate. These commenters expressed concern that the absence of a deadline could lead to delays in concluding the referral process. The Council concurred. Accordingly, the Council added subsection (g) to this section which requires that specified actions be completed within 60 days.

Several commenters noted that the procedures established by Section 1504.3 may be inappropriate for referrals which involve agency determinations required by statute to be made on the record after opportunity for public hearing. The Council agrees. The Council added subsection (h) to this section requiring referrals in such cases to be conducted in a manner consistent with 5 U.S.C. 557(d). Thus, communications to agency officials who made the decision which is the subject of the referral must be made on the public record and after notice to all parties to the referral proceeding. In other words, ex parte contacts with agency decisionmakers in such cases are prohibited.

PART 1505 -- NEPA AND AGENCY DECISIONMAKING

Comments on Section 1505.1: Agency Decisionmaking Procedures

Some commenters asked whether this or other sections of the regulations would allow Federal agencies to place responsibility for compliance with NEPA in the hands of those with decisionmaking authority at the field level. Nothing in the regulations would prevent this arrangement. By delegating authority in this way, agencies can avoid multiple approvals of environmental documents and enhance the role of those most directly involved in their preparation and use. For policy oversight and quality control, an environmental quality review office at the national level can, among other things, establish general procedures and guidance for

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NEPA compliance, monitor agency performance through periodic review of selected environmental documents, and facilitate coordination among agency subunits involved in the NEPA process.

Comments on Section 1505.2: Record of Decision in Those Cases Requiring Environmental Impact Statements

Section 1505.2 provided that in cases where an environmental statement was prepared, the agency shall prepare a concise public record stating what its final decision was. If an environmentally preferable alternative was not selected, Section 1505.2 required the record of decision to state why other specific considerations of national policy overrode those alternatives.

This requirement was the single provision most strongly supported by individuals and organizations commenting on the regulations. These commenters stated, among other things, that the requirement for a record of decision would be the most significant improvement over the existing process, would procedurally link NEPA's documentation to NEPA's policy, would relate the EIS process to agency decisionmaking, would ensure that EISs are actually considered by Federal decisionmakers, and was required as sound administrative practice.

As noted above, the Council decided that agencies shall identify the environmentally preferable alternative and the reasons for identifying it in the record of decision. See Comments on Section 1502.14. The Council's decision does not involve the preparation of additional analysis in the EIS process; it simply affects where the analysis will be presented.

Some commenters objected to the concept of a public record of decision on actions subject to NEPA review. In the Council's opinion, however, a public record of decision is essential for the effective implementation of NEPA. As previously noted, environmental impact statement preparation has too often become an end in itself with no necessary role in agency decisionmaking. One serious problem with the administration of NEPA has been the separation between an agency's NEPA process and its decisionmaking process. In too many cases bulky EISs have been prepared and transmitted but not used by the decisionmaker. The primary purpose of requiring that a decisionmaker concisely record his or her decision in those cases where an EIS has been prepared is to tie means to ends, to see that the decisionmaker considers and pays attention to what the NEPA process has shown to be an environmentally sensitive way of doing things. Other factors may, on balance, lead the decisionmaker to decide that other policies outweigh the environmental ones, but at least the record of decision will have achieved the original Congressional purpose of ensuring that environmental factors are integrated into the agency's decisionmaking.

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Some commenters expressed the opinion that it could be difficult for Federal agencies to identify the environmentally preferable alternative or alternatives because of the multitude of factors that would have to be weighed in any such determination and the subjective nature of the balancing process. By way of illustration, commenters asked: Is clean water preferable to clean air, or the preservation of prime farmland in one region preferable to the preservation of wildlife habitat in another?

In response, the Council has amended the regulations to permit agencies to identify more than one environmentally preferable alternative, regardless of whether they are "equally" preferable, as originally proposed. Moreover, the "environmentally preferable alternative" will be that alternative which best promotes the national environmental policy as expressed in Section 101 of NEPA and most specifically in Section 101(b). Section 101(a) stresses that the policy is concerned with man and nature, to see that they exist in productive harmony and that the social, economic, and other requirements of present and future generations of Americans are fulfilled. Section 101(c) recognizes the need for a healthy environment and each person's responsibility to contribute to it. Section 101(b) contemplates Federal actions which will enable the Nation to fulfill the responsibilities of each generation as trustee for the environment for succeeding generations; to attain the widest range of beneficial uses of the environment; to preserve important historic, cultural and natural aspects of our national heritage; and to accomplish other important goals. The Council recognizes that the identification of the environmentally preferable alternative or alternatives may involve difficult assessments in some cases. The Council determined that the benefits of ensuring that decisionmakers consider and take account of environmental factors outweigh these difficulties. To assist agencies in developing and determining environmentally preferable alternatives, commenters on impact statements may choose to provide agencies with their views on this matter.

Several commenters expressed concern that the regulations did not authorize Federal agencies to express preferences based on factors other than environmental quality. In the opinion of these commenters, this emphasis on environmental considerations was misplaced and not consistent with the factors that agencies are expected to consider in decisionmaking.

The Council responded to these comments by reference to the statute, recognizing that Title II of NEPA and especially Section 101 clearly contemplate balancing of essential considerations of national policy. We provided that agencies may discuss preferences they have among alternatives based on relevant factors, including economic and technical considerations and agency statutory mission. Agencies should identify these considerations, including factors unrelated to environmental quality, which were balanced in making the decision. Nothing in the final regulations precludes Federal agencies from choosing to discuss these preferences and identifying these factors in the environmental impact statement.

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Some commenters objected to the word "overrode" in this provision. The language of the Act and its legislative history make clear that Federal agencies must act in an environmentally responsible fashion and not merely consider environmental factors. NEPA requires that each Federal agency use "all practicable means and measures" to protect and improve the environment "consistent with other essential considerations of national policy." Section 101(b). The Council determined to tie this provision of the regulations to NEPA's statutory provision in place of the "overrode" language.

Several commenters expressed concern that the phrase "national policy" would not allow agencies to refer to state and local policies in the record of decision. "National policy" is the phrase used by Congress in NEPA. However, in many cases specific statutory provisions require that Federal agencies adhere to or pay heed to State and local policies.

Finally, some commenters expressed concern that the requirement for a concise record of decision would involve additional agency efforts. The intention is not to require new efforts, but to see that environmental considerations are built into existing processes. Preparing such decision records is recognized as good administrative practice and the benefits of this requirement outweigh the difficulties of building environmental considerations into the decisionmaking process.

Subsection (c) of Section 1505.2 states that for any mitigation adopted a monitoring and enforcement program where applicable shall be adopted and summarized in the record of decision. One commenter asked what the term "summarized" was intended to mean in this context. The Council intends this word to be interpreted as requiring a brief and concise statement describing the monitoring and enforcement program which has been adopted.

Comments on Section 1505.3: Implementing the Decision

Section 1505.3 provides for mitigation of adverse environmental effects. Several commenters expressed concern that this provision would grant broad authority to the lead agency for mandating that other agencies undertake and monitor mitigation measures without their consent. This is not the Council's intention and the language of the provision does not support this interpretation.

PART 1506 -- OTHER REQUIREMENTS OF NEPA

Comments on Section 1506.1: Limitations on Actions During NEPA Process

Section 1506.1 placed limitations on actions which can be taken before completion of the environmental review process because of the possibility of prejudicing or foreclosing important choices. Some

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commenters expressed concern that these limitations would impair the ability of those outside the Federal government to develop proposals for agency review and approval. Accordingly, the Council added a new paragraph (d) to this Section which authorizes certain limited activities before completion of the environmental review process.

Comments on Section 1506.2: Elimination of Duplication With State And Local Procedures

This section received strong support from many commenters. Several commenters sought clarification of the procedures established by this section. It provides for coordination among Federal, State and local agencies in several distinct situations. First, subsection (a) of this section simply confirms that Federal agencies funding State programs have been authorized by Section 102(2)(D) of NEPA to cooperate with certain State agencies with statewide jurisdiction in conducting environmental reviews. Second, subsection (b) provides generally for Federal cooperation with all States in environmental reviews such as joint planning processes, joint research, joint public hearings, and joint environmental assessments. Third, subsection (c) specifically provides for Federal cooperation with those States and localities which administer "little NEPA's." The Federal agencies are directed to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements. Approximately half the states now have some sort of environmental impact statement requirement either legislatively adopted or administratively promulgated. In these circumstances, Federal agencies are required to cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws. Finally, subsection (d) provides that Federal agencies generally shall in environmental impact statements discuss any inconsistency between a proposed action and any approved State or local plan or laws, regardless of whether the latter are Federally sanctioned.

Comments on Section 1506.3: Adoption

Section 1506.3 authorized one Federal agency to adopt an environmental impact statement prepared by another in prescribed circumstances, provided that the statement is circulated for public comment in the same fashion as a draft EIS. Several commenters stated their view that recirculation was unnecessary if the actions contemplated by both agencies were substantially the same. The Council concurs and added a new paragraph (b) which provides that recirculation is not required in these circumstances.

Comments on Section 1506.4: Combining Documents

Section 1506.4 provided for the combination of environmental documents with other agency documents. Some commenters expressed the view that this section should enumerate the types of agency documents which could be combined under this provision. The Council concluded that such a

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list was not necessary and that such matters were better left to agency discretion. Thus, agencies may choose to combine a regulatory analysis review document, an urban impact analysis, and final decision or option documents with environmental impact statements.

Comments on Section 1506.5: Agency Responsibility

NEPA is a law which imposes obligations on Federal agencies. This provision is designed to insure that those agencies meet those obligations and to minimize the conflict of interest inherent in the situation of those outside the government coming to the government for money, leases or permits while attempting impartially to analyze the environmental consequences of their getting it. Section 1506.5 set forth the responsibility of Federal agencies for preparing environmental documents, and addressed the role of those outside the Federal government. As proposed, subsection (b) of this section provided that environmental impact statements shall be prepared either by Federal agencies or by parties under contract to and chosen solely by Federal agencies. The purpose of this provision is to ensure the objectivity of the environmental review process.

Some commenters expressed the view that requiring Federal agencies to be a formal party to every contract for the preparation of an environmental impact statement was not necessary to ensure objectivity so long as the contractor was chosen solely by Federal agencies. These commenters contended that a requirement for formal Federal involvement in all such contracts could cause delay. The Council concurs and deleted the phrase "under contract" from this provision.

Several commenters noted that the existing procedures for a few Federal programs are not consistent with Section 1506.5. The Council recognizes that this provision will in a few cases require additional agency efforts where, for example, agencies have relied on applicants for the preparation of environmental impact statements. The Council determined that such efforts were justified by the goal of this provision.

Several commenters expressed concern that environmental information provided by private applicants would not be adequately evaluated by Federal agencies before it was used in environmental documents. Other commenters wanted to insure that applicants were free to submit information to the agencies. Accordingly, the Council amended subsection (b) to allow receipt of such information while requiring Federal agencies to independently evaluate the information submitted and to be responsible for its accuracy. In cases where the information is used in an environmental impact statement, the persons responsible for that evaluation must be identified in the list of preparers required by Section 1502.17.

Several commenters expressed the view that applicants should be allowed to prepare environmental assessments. These commenters noted that the number of assessments prepared each year is far greater than

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the number of environmental impact statements; that such authority was necessary to ensure environmental sensitivity was built into actions, which while ultimately Federal were planned outside the Federal government; that assessments are much shorter and less complex than EISs; and that it would be considerably less difficult for Federal agencies independently to evaluate the information submitted for an environmental assessment than for an environmental impact statement.

The Council concurs and has added a new subsection (b) to this section which authorizes the preparation of environmental assessments by applicants. The Council intends that this provision enable private and State and local applicants to build the environment into their own planning processes, while the Federal agency retains the obligation for the ultimate EIS. The Council emphasizes, however, that Federal agencies must independently evaluate the information submitted for environmental assessments and assume responsibility for its accuracy; make their own evaluation of environmental issues; and take responsibility for the scope and content of environmental assessments.

Comments on Section 1506.6: Public Involvement

Subsection (b)(3) of this section listed several means by which Federal agencies might provide notice of actions which have effects primarily of local concern. Several commenters urged that such notices be made mandatory, rather than permissive; other commenters felt these methods of public notice should not be listed at all. Some commenters suggested that additional methods be included in this subsection; others urged that one or more methods be deleted.

Subsection (b) of this section required agencies to provide public notice by means calculated to inform those persons and agencies who may be interested or affected. Paragraph 3 of the subsection merely identified alternative techniques that might be used for this purpose at the local level. Paragraph 3 is not intended to provide an exhaustive list of the means of providing adequate public notice. Nor are the measures it lists mandatory in nature. On the basis of these considerations, the Council determined not to alter this provision.

As proposed, subsection (f) of this section required Federal agencies to make comments on environmental impact statements available to the public. This subsection repeated the existing language on the subject that has been in the Guidelines since 1973 (49 F.R. Sec. 1500.11(d)) relative to the public availability of comments. On the basis of comments received, the Council altered this provision to state that intra-agency documents need not be made available when the Freedom of Information Act allows them to be withheld.

Several commenters observed that subsection (f) did not establish limitations on charges for environmental impact statements as the Council's Guidelines had. Accordingly, the Council incorporated the standard of

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the Guidelines into this subsection. The standard provides that such documents shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs incurred.

Comments on Section 1506.8: Proposals For Legislation

Section 1506.8 established modified procedures for the preparation of environmental impact statements on legislative proposals. Except in prescribed circumstances, this section provided for the transmittal of a single legislative EIS to the Congress and to Federal, State and local agencies and the public for review and comment. No revised EIS is required in such cases.

A few commenters objected to these procedures and urged that draft and final environmental impact statements be required for all legislative proposals. These commenters said that the conventional final environmental impact statement, including an agency's response to comments, was no less important in this context than in a purely administrative setting.

However, the Council views legislative proposals as different from proposed actions to be undertaken by agencies, in several important respects. Unlike administrative proposals, the timing of critical steps (hearings, votes) is not under the control of the administrative agency. Congress will hold its hearings or take its votes when it chooses, and if an EIS is to influence those actions, it must be there in time. Congress may request Federal agencies to provide any additional environmental information it needs following receipt of a legislative EIS. Administrative proposals are considered alongside other proposals introduced by members of Congress and the final product, if any, may be substantially different from the proposal transmitted by the Federal agency. Congress may hold hearings on legislative proposals and invite testimony on all aspects of proposed legislation including its environmental impacts. On the basis of these considerations, the Council determined that it would be overly burdensome and unproductive to require draft and final legislative environmental impact statements for all legislation, wherever it originates.

Several commenters also expressed concern about the requirement that the legislative environmental impact statement actually accompany legislative proposals when they are transmitted to Congress. These commenters noted that such proposals are often transmitted on an urgent basis without advance warning. Accordingly, the Council amended this section to provide for a period of thirty days for transmittal of legislative environmental impact statements, except that agencies must always transmit such EISs before the Congress begins formal deliberations on the proposal.

Comments on Section 1506.10: Timing of Agency Action

Subsection (c) of this section provided that agencies shall allow not less than 45 days for comments on draft environmental impact statements. Several commenters felt that this period was too long; others thought it too short.

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The Council recognizes that a balance must be struck between an adequate period for public comment on draft EISs and timely completion of the environmental review process. In the Council's judgment, 45 days has proven to be the proper balance. This period for public comment was established by the Guidelines in 1973, and the Council determined not to alter it. Subsection (e) of this section authorizes the Environmental Protection Agency to reduce time periods for agency action for compelling reasons of national policy.

Comments on Section 1506.11: Emergencies

Section 1506.11 provided for agency action in emergency circumstances without observing the requirements of the regulations. The section required the Federal agency "proposing to take the action" to consult with the Council about alternative arrangements.

Several commenters expressed concern that use of the phrase "proposing to take the action" would be interpreted to mean that agencies consult with the Council before emergency action was taken. In the view of these commenters, such a requirement might be impractical in emergency circumstances and could defeat the purpose of the section. The Council concurs and substituted the phrase "taking the action" for "proposing to take the action." Similarly, the Council amended the section to provide for consultation "as soon as feasible" and not necessarily before emergency action.

PART 1507 — AGENCY COMPLIANCE

Comments on Section 1507.2: Agency Capability to Comply

Section 1507.2 provided, among other things, that a Federal agency shall itself have "sufficient capability" to evaluate any analysis prepared for it by others. Several commenters expressed concern that this could be interpreted to mean that each agency must employ the full range of professionals including geologists, biologists, chemists, botanists and others to gain sufficient capability for evaluating work prepared by others. This is not the Council's intention. Agency staffing requirements will vary with the agency's mission and needs including the number of EISs for which they are responsible.

Comments on Section 1507.3: Agency Procedures

Subsection (a) of Section 1507.3 provided that agencies shall adopt procedures for implementation of the regulations within eight months after the regulations are published in the Federal Register. Several commenters noted that State and local agencies participating in NEPA

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process under certain statutory highway and community development programs would also require implementing procedures but could not finally begin to develop them until the relevant Federal agencies had completed this task. Accordingly, the Council amended this provision to allow such state and local agencies an additional four months for the adoption of implementing procedures.

Several commenters suggested that agencies with similar programs should establish similar procedures, especially for the submission of information by applicants. The Council concurs and added a new sentence to subsection (a) stating that agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants.

Several commenters suggested that a committee be established to review agency compliance with these regulations. Under subsection (a), the Council will review agency implementing procedures for conformity with the Act and the regulations. Moreover, the Council regularly consults with Federal agencies regarding their implementation of NEPA and conducts periodic reviews on how the process is working. On the basis of these considerations, the Council determined that a committee for the review of agency compliance with NEPA should not be established.

PART 1508 -- TERMINOLOGY AND INDEX

Comments on Section 1508.8: Effects

Several commenters urged that the term "effects" expressly include aesthetic, historic and cultural impacts. The Council adopted this suggestion and altered this provision accordingly.

Comments on Section 1508.12: Federal Agency

Several commenters urged that States and units of general local government assuming NEPA responsibilities under Section 104(h) of the Housing and Community Development Act of 1974 be expressly recognized as Federal agencies for purposes of these regulations. The Council adopted this suggestion and amended this provision accordingly.

Comments on Section 1508.14: Human Environment

In its proposed form, Section 1508.14 stated that the term "human environment" shall be interpreted comprehensively to include the natural and physical environment and the interaction of people with that environment. A few commenters expressed concern that this definition could be interpreted as being limited to the natural and physical aspects of the environment. This is not the Council's intention. See Section 1508.8 (relating to effects) and our discussion of the environment in the portion of this Preamble relating to Section 1505.2. The full scope of the environment is set out in Section 101 of NEPA. Human beings are central to that concept. In Section 1508.14 the Council replaced the word "interaction" with the word "relationship" to ensure that the definition is interpreted as being inclusive of the human environment.

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The only line we draw is one drawn by the cases. Section 1508.14 stated that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. A few commenters sought further explanation of this provision. This provision reflects the Council's determination, which accords with the case law, that NEPA was not intended to require an environmental impact statement where the closing of a military base, for example, only affects such things as the composition of the population or the level of personal income in a region.

Comments on Section 1508.16: Legislation

Section 1508.16 defined legislation to exclude requests for appropriations. Some commenters felt that this exclusion was inappropriate. Others noted that environmental reviews for requests for appropriations had not been conducted in the eight years since NEPA was enacted. On the basis of traditional concepts relating to appropriations and the budget cycle, considerations of timing and confidentiality, and other factors, the Council decided not to alter the scope of this provision. The Council is aware that this is the one instance in the regulations where we assert a position opposed to that in the predecessor Guidelines. Quite simply, the Council in its experience found that preparation of EISs is ill-suited to the budget preparation process. Nothing in the Council's determination, however, relieves agencies of responsibility to prepare statements when otherwise required on the underlying program or other actions. (We note that a petition for certiorari on this issue is now pending before the Supreme Court.) This section was renumbered as Section 1508.17.

Comments on Section 1508.17: Major Federal Action

Section 1508.17 of the draft regulations addressed the issue of NEPA's application to federal programs which are delegated or otherwise transferred to State and local government. Some commenters said that the application of NEPA in such circumstances is a highly complicated issue; that its proper resolution depends on a variety of factors that may differ significantly from one program to the next and should be weighed on a case-by-case basis; and that agencies themselves should be accorded latitude in resolving this issue, subject to judicial review. The Council concurs and determined not to address this issue in this context at the present time. This determination should not be interpreted as a decision one way or the other on the merits of the issue.

Section 1508.17 also stated that the term "major" reinforces but does not have a meaning independent of the term "significantly" in NEPA's phrase "major Federal action significantly affecting the quality of the human environment." A few commenters noted that courts have differed over whether these terms should have independent meaning under NEPA. The Council determined that any Federal action which significantly affects the quality of the human environment is "major" for purposes of

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NEPA. The Council's view is in accord with Minnesota PIRG v. Butz, 498 F.2d 1314 (8th Cir., 1974).

Section 1508.17 was renumbered as Section 1508.18.

Comments on Section 1508.22: Proposal

Section 1508.22 stated that a proposal exists when an agency is "actively considering" alternatives and certain other factors are present. Several commenters expressed the view that this phrase could be interpreted to mean that a proposal exists too early in planning and decisionmaking, before there is any likelihood that the agency will be making a decision on the matter. In response to this concern, and to emphasize the link between EISs and actual agency decisions, the Council deleted the phrase "actively considering" and replaced it with the phrase "actively preparing to make a decision on" alternatives. The Council does not intend the change to detract from the importance of integrating NEPA with agency planning as provided in Section 1501.2 of the regulations.

This section was renumbered as Section 1508.23.

OTHER COMMENTS

Comments on The Application of NEPA Abroad

Several commenters urged that the question of whether NEPA applies abroad be resolved by these regulations. However, the President has publicly announced his intention to address this issue in an Executive Order. The Executive Order, when issued, will represent the position of the Administration on that issue.

Comments on the Role of Indian Tribes in the NEPA Process

Several commenters stated that the regulations should clarify the role of Indian Tribes in the NEPA process. Accordingly, the Council expressly identified Indian Tribes as participants in the NEPA process in Sections 1501.2(d)(2), 1501.7(a)(1), 1502.15(c) and 1503.1(a)(2)(ii).

Comments on the Council's Special Environmental Assessment for the NEPA Regulations

The Council prepared a special environmental assessment for these regulations and announced in the preamble to the draft regulations that the document was available to the public upon request. Some commenters expressed the view that it did not contain an adequate evaluation of the effects of the regulations. For the reasons set out in the assessment, and the preamble to the proposed regulations, the Council reaffirmed its earlier determination that the special environmental assessment did provide an adequate evaluation for these procedural regulations.

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Comments on the President's Authority to Issue Executive Order 11991 and the Council's Authority to Issue Regulations

A few commenters questioned the authority of the President to issue Executive Order 11991, and the authority of the Council to issue the regulations. The President is empowered to issue regulations implementing the procedural provisions of NEPA by virtue of the authority vested in him as President of the United States under Article II, Section 3 of the Constitution and other provisions of the Constitution and laws of the United States. The President is empowered to delegate responsibility for performing this function to the Council on Environmental Quality under Section 301 of Title 3 of the United States Code and other laws of the United States.

Comments on The Responsibilities of Federal Agencies in the NEPA Process

Agency responsibilities under the regulations often depend upon whether they have "jurisdiction by law" or "special expertise" with respect to a particular proposal. Several commenters noted that these terms were not defined in the regulations and could be subject to varying interpretations. Accordingly, the Council added definitions for these terms in Sections 1508.15 and 1508.26.

Comments on the Role of State and Area-wide Clearinghouses

At the request of several States, the Council recognized the role of state and area-wide clearinghouses in distributing Federal documents to appropriate recipients. See e.g. Section 1501.4(e)(2), 1503.1(2)(iii), and 1506.6(b)(3)(i).

Comments on the Concept of a National Data Bank

When the Council issued the proposed regulations, it invited comment on the concept of a national data bank. The purpose of a data bank would be to provide for the storage and recall of information developed in one EIS for use in subsequent EISs. Most commenters expressed reservations about the idea on grounds of cost and practicality. The Council, while still intrigued by the concept, did not change its initial conclusion that the financial and other resources that would be required are beyond the benefits that might be achieved.

Comments on Federal Funding of Public Comments on EISs

The Council also invited comment on a proposal for encouraging Federal agencies to fund public comments on EISs when an important viewpoint would otherwise not be presented. Several commenters supported this proposal on grounds that it would broaden the range and improve the quality of public comments on EISs. Others doubted that the expenditure of Federal funds for this purpose would be worthwhile. Some felt that

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Congress should decide the question. The Council determined not to address the issue of Federal funding for public comments on EISs in the regulations, but to leave the matter to individual agencies' discretion.

5. REGULATORY ANALYSES

The final regulations implement the policy and other requirements of Executive Order 12044 to the fullest extent possible. We intend agencies in implementing these regulations to minimize burdens on the public. The determinations required by Section 2(d) of the Order have been made by the Council and are available on request.

It is our intention that a Regulatory Analysis required by Section 3 of the Order be undertaken concurrently with and, where appropriate, integrated with an environmental impact statement required by NEPA and these regulations.

6. CONCLUSION

We could not, of course, adopt every suggestion that was made on the regulations. We have tried to respond to the major concerns that were expressed. In the process, we have changed 76 of the 92 sections, making a total of 340 amendments to the regulations. We are confident that any issues which arise in the future can be resolved through a variety of mechanisms that exist for improving the NEPA process.

We appreciate the efforts of the many people who participated in developing the regulations and look forward to their cooperation as the regulations are implemented by individual agencies.

CHARLES WARREN
Chairman

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65.12 - Council on Environmental Quality Forty (40) Most Asked Questions. See exhibit 1 (excerpt from the March 23, 1981, Federal Register (46 FR 18026)).

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Exhibit 1

CEQ Forty Most Asked Questions

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COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1506, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508

Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations

March 17, 1981.

Agency: Council on Environmental Quality, Executive Office of the President.**Action:** Information Only: Publication of Memorandum to Agencies Containing Answers to 40 Most Asked Questions on NEPA Regulations.

SUMMARY: The Council on Environmental Quality, as part of its oversight of implementation of the National Environmental Policy Act, held meetings in the ten Federal regions with Federal, State, and local officials to discuss administration of the implementing regulations. The forty most asked questions were compiled in a memorandum to agencies for the information of relevant officials. In order efficiently to respond to public inquiries this memorandum is reprinted in this issue of the Federal Register.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Yost, General Counsel, Council on Environmental Quality, 723 Jackson Place NW., Washington, D.C. 20008; 202-395-4790.

March 18, 1981.

Memorandum for Federal NEPA Liaisons, Federal, State, and Local Officials and Other Persons Involved in the NEPA Process

Subject: Questions and Answers About the NEPA Regulations

During June and July of 1980 the Council on Environmental Quality, with the assistance and cooperation of EPA's EIS Coordinators from the ten EPA regions, held one-day meetings with federal, state and local officials in the ten EPA regional offices around the country. In addition, on July 16, 1980, CEQ conducted a similar meeting for the Washington, D.C. NEPA Liaisons and persons involved in the NEPA process. At these meetings CEQ discussed (a) the results of its 1980 review of Draft EISs issued since the July 30, 1979 effective date of the NEPA regulations, (b) agency compliance with the Record of Decision requirements in Section 1506 of the NEPA regulations, and (c) CEQ's preliminary findings on how the scoping process is working. Participants at these meetings received copies of materials prepared by CEQ summarizing its oversight and findings.

These meetings also provided NEPA liaisons and other participants with an opportunity to ask questions about NEPA and the practical application of the NEPA regulations. A number of these questions were answered by CEQ representatives at the regional meetings. In response to the many requests from the agencies and other participants, CEQ has compiled forty of the most important or most frequently asked questions and their answers and reduced them to writing. The answers were prepared by the General Counsel of CEQ in consultation with the Office of Federal Activities of EPA. These answers, of course, do not impose any additional requirements beyond those of the NEPA regulations. This document does not represent new guidance under the NEPA regulations, but rather makes generally available to concerned agencies and private individuals the answers which CEQ has already given at the 1980 regional meetings. The answers also reflect the advice which the Council has given over the past two years to aid agency staff and consultants in their day-to-day application of NEPA and the regulations.

CEQ has also received numerous inquiries regarding the scoping process. CEQ hopes to issue written guidance on scoping later this year on the basis of its special study of scoping, which is nearing completion.

Nicholas C. Yost,
General Counsel

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Questions and Answers About the NEPA Regulations (1981)

1a. Q. What is meant by "range of alternatives" as referred to in Sec. 1506.1(e)?

A. The phrase "range of alternatives" refers to the alternatives discussed in environmental documents. It includes all reasonable alternatives, which must be rigorously explored and objectively evaluated, as well as those other alternatives, which are eliminated from detailed study with a brief discussion of the reasons for eliminating them. Section 1506.14. A decisionmaker must not consider alternatives beyond the range of alternatives discussed in the relevant environmental documents. Moreover, a decisionmaker must, in fact, consider all the alternatives discussed in an EIS. Section 1506.1(e).

1b. Q. How many alternatives have to be discussed when there is an infinite number of possible alternatives?

¹ References throughout the document are to the Council on Environmental Quality's Regulations For Implementing The Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500-1508.

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A. For some proposals there may exist a very large or even an infinite number of possible reasonable alternatives. For example, a proposal to designate wilderness areas within a National Forest could be said to involve an infinite number of alternatives from 0 to 100 percent of the forest. When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS. An appropriate series of alternatives might include dedicating 0, 10, 20, 50, 70, 90, or 100 percent of the Forest to wilderness. What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case.

2a. Q. If an EIS is prepared in connection with an application for a permit or other federal approval, must the EIS rigorously analyze and discuss alternatives that are outside the capability of the applicant or can it be limited to reasonable alternatives that can be carried out by the applicant?

A. Section 1502.14 requires the EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.

2b. Q. Must the EIS analyze alternatives outside the jurisdiction or capability of the agency or beyond what Congress has authorized?

A. An alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable. A potential conflict with local or federal law does not necessarily render an alternative unreasonable, although such conflicts must be considered. Section 1502.14(d). Alternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable, because the EIS may serve as the basis for modifying the Congressional approval or funding in light of NEPA's goals and policies. Section 1502.14(e).

3. Q. What does the "no action" alternative include? If an agency is under a court order or legislative command to act, must the EIS discuss the "no action" alternative?

A. Section 1502.14(d) requires the alternatives analysis in the EIS to "include the alternative of no action."

There are two distinct interpretations of "no action" that must be considered, depending on the nature of the proposal being evaluated. The first situation might involve an action such as updating a land management plan where ongoing programs initiated under existing legislation and regulations will continue, even as new plans are developed. In these cases "no action" is "no change" from current management direction or level of management intensity. To construct an alternative that is based on no management at all would be a useless academic exercise. Therefore, the "no action" alternative may be thought of in terms of continuing with the present course of action until that action is changed. Consequently, projected impacts of alternative management schemes would be compared in the EIS to those impacts projected for the existing plan. In this case, alternatives would include management plans of both greater and lesser intensity, especially greater and lesser levels of resource development.

The second interpretation of "no action" is illustrated in instances involving federal decisions on proposals for projects. "No action" in such cases would mean the proposed activity would not take place, and the resulting environmental effects from taking no action would be compared with the effects of permitting the proposed activity or an alternative activity to go forward.

Where a choice of "no action" by the agency would result in predictable actions by others, this consequence of the "no action" alternative should be included in the analysis. For example, if denial of permission to build a railroad to a facility would lead to construction of a road and increased truck traffic, the EIS should analyze this consequence of the "no action" alternative.

In light of the above, it is difficult to think of a situation where it would not be appropriate to address a "no action" alternative. Accordingly, the regulations require the analysis of the no action alternative even if the agency is under a court order or legislative command to act. This analysis provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives. It is also an example of a reasonable alternative outside the jurisdiction of the agency which must be analyzed. Section 1502.14(c). See Question 2 above. Inclusion of such an analysis in the EIS is necessary to inform the Congress, the public, and the President as intended by NEPA. Section 1502.14(e).

4a. Q. What is the "agency's preferred alternative"?

A. The "agency's preferred alternative" is the alternative which the agency believes would fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors. The concept of the "agency's preferred alternative" is different from the "environmentally preferable alternative," although in some cases one alternative may be both. See Question 6 below. It is identified so that agencies and the public can understand the lead agency's orientation.

4b. Q. Does the "preferred alternative" have to be identified in the Draft EIS and the Final EIS or just in the Final EIS?

A. Section 1502.14(e) requires the section of the EIS on alternatives to "identify the agency's preferred alternative if one or more exists, in the draft statement, and identify such alternative in the final statement . . ." This means that if the agency has a preferred alternative at the Draft EIS stage, that alternative must be labeled or identified as such in the Draft EIS. If the responsible federal official in fact has no preferred alternative at the Draft EIS stage, a preferred alternative need not be identified there. By the time the Final EIS is filed, Section 1502.14(e) presumes the existence of a preferred alternative and requires its identification in the Final EIS "unless another law prohibits the expression of such a preference."

4c. Q. Who recommends or determines the "preferred alternative"?

A. The lead agency's official with lead responsibility for preparing the EIS and assuring its adequacy is responsible for identifying the agency's preferred alternative(s). The NEPA regulations do not dictate which official in an agency shall be responsible for preparation of EISs, but agencies can identify this official in their implementing procedures, pursuant to Section 1507.3. Even though the agency's preferred alternative is identified by the EIS preparer in the EIS, the statement must be objectively prepared and not slanted to support the choice of the agency's preferred alternative over the other reasonable and feasible alternatives.

5a. Q. Is the "proposed action" the same thing as the "preferred alternative"?

A. The "proposed action" may be, but is not necessarily, the agency's "preferred alternative." The proposed action may be a proposal in its earliest form before undergoing analysis in the EIS process. If the proposed action is

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internally generated, such as preparing a land management plan, the proposed action might end up as the agency's preferred alternative. On the other hand the proposed action may be granting an application to a non-federal entity for a permit. The agency may or may not have a "preferred alternative" at the Draft EIS stage (see Question 4 above). In that case the agency may decide at the Final EIS stage, on the basis of the Draft EIS and the public and agency comments, that an alternative other than the proposed action is the agency's "preferred alternative."

5b. Q. Is the analysis of the "proposed action" in an EIS to be treated differently from the analysis of alternatives?

A. The degree of analysis devoted to each alternative in the EIS is to be substantially similar to that devoted to the "proposed action." Section 1502.14 is titled "Alternatives including the proposed action" to reflect such comparable treatment. Section 1502.14(b) specifically requires "substantial treatment" in the EIS of each alternative including the proposed action. This regulation does not dictate an amount of information to be provided, but rather, prescribes a *level of treatment*, which may in turn require varying amounts of information, to enable a reviewer to evaluate and compare alternatives.

6a. Q. What is the meaning of the term "environmentally preferable alternative" as used in the regulations with reference to Records of Decision? How is the term "environment" used in the phrase?

A. Section 1502.2(b) requires that, in cases where an EIS has been prepared, the Record of Decision (ROD) must identify all alternatives that were considered, "... specifying the alternative or alternatives which were considered to be environmentally preferable." The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources.

The Council recognizes that the identification of the environmentally preferable alternative may involve difficult judgments, particularly when one environmental value must be balanced against another. The public and other agencies reviewing a Draft EIS can assist the lead agency to develop and determine environmentally

preferable alternatives by providing their views in comments on the Draft EIS. Through the identification of the environmentally preferable alternative, the decisionmaker is clearly faced with a choice between that alternative and others, and must consider whether the decision accords with the Congressionally declared policies of the Act.

6b. Q. Who recommends or determines what is environmentally preferable?

A. The agency EIS staff is encouraged to make recommendations of the environmentally preferable alternative(s) during EIS preparation. In any event the lead agency official responsible for the EIS is encouraged to identify the environmentally preferable alternative(s) in the EIS. In all cases, commentors from other agencies and the public are also encouraged to address this question. The agency must identify the environmentally preferable alternative in the ROD.

7. Q. What is the difference between the sections in the EIS on "alternatives" and "environmental consequences"? How do you avoid duplicating the discussion of alternatives in preparing these two sections?

A. The "alternatives" section is the heart of the EIS. This section rigorously explores and objectively evaluates all reasonable alternatives including the proposed action. Section 1502.14. It should include relevant comparisons on environmental and other grounds. The "environmental consequences" section of the EIS discusses the specific environmental impacts or effects of each of the alternatives including the proposed action. Section 1502.15. In order to avoid duplication between these two sections, most of the "alternatives" section should be devoted to describing and comparing the alternatives. Discussion of the environmental impacts of these alternatives should be limited to a concise descriptive summary of such impacts in a comparative form, including charts or tables, thus sharply defining the issues and providing a clear basis for choice among options. Section 1502.14. The "environmental consequences" section should be devoted largely to a scientific analysis of the direct and indirect environmental effects of the proposed action and of each of the alternatives. It forms the analytic basis for the concise comparison in the "alternatives" section.

8. Q. Section 1501.2(d) of the NEPA regulations requires agencies to provide for the early application of NEPA to cases where actions are planned by

private applicants or non-Federal entities and are, at some stage, subject to federal approval of permits, loans, loan guarantees, insurance or other actions. What must and can agencies do to apply NEPA early in these cases?

A. Section 1501.2(d) requires federal agencies to take steps toward ensuring that private parties and state and local entities initiate environmental studies as soon as federal involvement in their proposals can be foreseen. This section is intended to ensure that environmental factors are considered at an early stage in the planning process and to avoid the situation where the applicant for a federal permit or approval has completed planning and eliminated all alternatives to the proposed action by the time the EIS process commences or before the EIS process has been completed.

Through early consultation, business applicants and approving agencies may gain better appreciation of each other's needs and foster a decisionmaking process which avoids later unexpected confrontations.

Federal agencies are required by Section 1507.3(b) to develop procedures to carry out Section 1501.2(d). The procedures should include an "outreach program", such as a means for prospective applicants to conduct pre-application consultations with the lead and cooperating agencies. Applicants need to find out, in advance of project planning, what environmental studies or other information will be required, and what mitigation requirements are likely, in connection with the later federal NEPA process. Agencies should designate staff to advise potential applicants of the agency's NEPA information requirements and should publicize their pre-application procedures and information requirements in newsletters or other media used by potential applicants.

Complementing Section 1501.2(d), Section 1502.5(a) requires agencies to assist applicants by outlining the types of information required in those cases where the agency requires the applicant to submit environmental data for possible use by the agency in preparing an EIS.

Section 1502.5(b) allows agencies to authorize preparation of environmental assessments by applicants. Thus, the procedures should also include a means for anticipating and utilizing applicants' environmental studies or "early corporate environmental assessments" to fulfill some of the federal agency's NEPA obligations. However, in such cases the agency must still evaluate independently the environmental issues

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and take responsibility for the environmental assessment.

These provisions are intended to encourage and enable private and other non-federal entities to build environmental considerations into their own planning processes in a way that facilitates the application of NEPA and avoids delay.

9. Q. To what extent must an agency inquire into whether an applicant for a federal permit, funding or other approval of a proposal will also need approval from another agency for the same proposal or some other related aspect of it?

A. Agencies must integrate the NEPA process into 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. Specifically, the agency must "provide for cases where actions are planned by . . . applicants," so that designated staff are available to advise potential applicants of studies or other information that will foreseeably be required for the later federal action; the agency shall consult with the applicant if the agency foresees its own involvement in the proposal; and it shall insure that the NEPA process commences at the earliest possible time. Section 1501.2(d). (See Question 8.)

The regulations emphasize agency cooperation early in the NEPA process. Section 1501.6. Section 1501.7 on "scoping" also provides that all affected Federal agencies are to be invited to participate in scoping the environmental issues and to identify the various environmental review and consultation requirements that may apply to the proposed action. Further, Section 1502.23(b) requires that the draft EIS list all the federal permits, licenses and other entitlements that are needed to implement the proposal.

These provisions create an affirmative obligation on federal agencies to inquire early, and to the maximum degree possible, to ascertain whether an applicant is or will be seeking other federal assistance or approval, or whether the applicant is waiting until a proposal has been substantially developed before requesting federal aid or approval.

Thus, a federal agency receiving a request for approval or assistance should determine whether the applicant has filed separate requests for federal approval or assistance with other federal agencies. Other federal agencies that are likely to become involved should then be contacted, and the NEPA process coordinated, to insure an early and comprehensive analysis of the

direct and indirect effects of the proposal and any related actions. The agency should inform the applicant that action on its application may be delayed unless it submits all other federal applications (where feasible to do so), so that all the relevant agencies can work together on the scoping process and preparation of the EIS.

10a. Q. What actions by agencies and/or applicants are allowed during EIS preparation and during the 30-day review period after publication of a final EIS?

A. No federal decision on the proposed action shall be made or recorded until at least 30 days after the publication by EPA of notice that the particular EIS has been filed with EPA. Sections 1506.2 and 1508.18. Section 1508.2 requires this decision to be stated in a public Record of Decision.

Until the agency issues its Record of Decision, no action by an agency or an applicant concerning the proposal shall be taken which would have an adverse environmental impact or limit the choice of reasonable alternatives. Section 1508.1(a). But this does not preclude preliminary planning or design work which is needed to support an application for permits or assistance. Section 1508.1(d).

When the impact statement in question is a program EIS, no major action concerning the program may be taken which may significantly affect the quality of the human environment, unless the particular action is justified independently of the program, is accompanied by its own adequate environmental impact statement and will not prejudice the ultimate decision on the program. Section 1508.1(c).

10b. Q. Do these limitations on action (described in Question 10a) apply to state or local agencies that have statutorily delegated responsibility for preparation of environmental documents required by NEPA, for example, under the HUD Block Grant program?

A. Yes, these limitations do apply, without any variation from their application to federal agencies.

11. Q. What actions must a lead agency take during the NEPA process when it becomes aware that a non-federal applicant is about to take an action within the agency's jurisdiction that would either have an adverse environmental impact or limit the choice of reasonable alternatives (e.g., prematurely commit money or other resources towards the completion of the proposal)?

A. The federal agency must notify the applicant that the agency will take strong affirmative steps to insure that the objectives and procedures of NEPA

are fulfilled. Section 1508.1(b). These steps could include seeking injunctive measures under NEPA, or the use of sanctions available under either the agency's permitting authority or statutes setting forth the agency's statutory mission. For example, the agency might advise an applicant that if it takes such action the agency will not process its application.

12a. Q. What actions are subject to the Council's new regulations, and what actions are grandfathered under the old guidelines?

A. The effective date of the Council's regulations was July 20, 1978 (except for certain HUD programs under the Housing and Community Development Act, 42 U.S.C. 5304(h), and certain state highway programs that qualify under Section 102(2)(D) of NEPA for which the regulations became effective on November 30, 1979). All the provisions of the regulations are binding as of that date, including those covering decisionmaking, public participation, referrals, limitations on actions, EIS supplements, etc. For example, a Record of Decision would be prepared even for decisions where the draft EIS was filed before July 20, 1978.

But in determining whether or not the new regulations apply to the preparation of a particular environmental document, the relevant factor is the date of filing of the draft of that document. Thus, the new regulations do not require the redrafting of an EIS or supplement if the draft EIS or supplement was filed before July 20, 1978. However, a supplement prepared after the effective date of the regulations for an EIS issued in final before the effective date of the regulations would be controlled by the regulations.

Even though agencies are not required to apply the regulations to an EIS or other document for which the draft was filed prior to July 20, 1978, the regulations encourage agencies to follow the regulations "to the fullest extent practicable." I.e., if it is feasible to do so, in preparing the final document. Section 1508.12(a).

12b. Q. Are projects authorized by Congress before the effective date of the Council's regulations grandfathered?

A. No. The date of Congressional authorization for a project is not determinative of whether the Council's regulations or former Guidelines apply to the particular proposal. No incomplete projects or proposals of any kind are grandfathered in whole or in part. Only certain environmental documents, for which the draft was issued before the effective date of the regulations, are grandfathered and

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subject to the Council's former Guidelines.

12c. Q. Can a violation of the regulations give rise to a cause of action?

A. While a trivial violation of the regulations would not give rise to an independent cause of action, such a cause of action would arise from a substantial violation of the regulations. Section 1500.3.

13. Q. Can the scoping process be used in connection with preparation of an environmental assessment, i.e., before both the decision is processed with an EIS and publication of a notice of intent?

A. Yes. Scoping can be a useful tool for discovering alternatives to a proposal, or significant impacts that may have been overlooked. In cases where an environmental assessment is being prepared to help an agency decide whether to prepare an EIS, useful information might result from early participation by other agencies and the public in a scoping process.

The regulations state that the scoping process is to be preceded by a Notice of Intent (NOI) to prepare an EIS. But that is only the minimum requirement.

Scoping may be initiated earlier, as long as there is appropriate public notice and enough information available on the proposal so that the public and relevant agencies can participate effectively.

However, scoping that is done before the assessment, and in aid of its preparation, cannot substitute for the normal scoping process after publication of the NOI, unless the earlier public notice stated clearly that this possibility was under consideration, and the NOI expressly provides that written comments on the scope of alternatives and impacts will still be considered.

14a. Q. What are the respective rights and responsibilities of lead and cooperating agencies? What letters and memoranda must be prepared?

A. After a lead agency has been designated (Sec. 1501.5), that agency has the responsibility to solicit cooperation from other federal agencies that have jurisdiction by law or special expertise on any environmental issue that should be addressed in the EIS being prepared. Where appropriate, the lead agency should seek the cooperation of State or local agencies of similar qualifications. When the proposal may affect an Indian reservation, the agency should consult with the Indian tribe. Section 1508.5. The request for cooperation should come at the earliest possible time in the NEPA process.

After discussions with the candidate cooperating agencies, the lead agency and the cooperating agencies are to

determine by letter or by memorandum which agencies will undertake cooperating responsibilities. To the extent possible at this stage, responsibilities for specific issues should be assigned. The allocation of responsibilities will be completed during scoping. Section 1501.7(a)(4).

Cooperating agencies must assume responsibility for the development of information and the preparation of environmental analyses at the request of the lead agency. Section 1501.6(b)(3). Cooperating agencies are now required by Section 1501.6 to devote staff resources that were normally primarily used to critique or comment on the Draft EIS after its preparation, much earlier in the NEPA process—primarily at the scoping and Draft EIS preparation stages. If a cooperating agency determines that its resource limitations preclude any involvement, or the degree of involvement (amount of work) requested by the lead agency, it must so inform the lead agency in writing and submit a copy of this correspondence to the Council. Section 1501.6(d).

In other words, the potential cooperating agency must decide early if it is able to devote any of its resources to a particular proposal. For this reason the regulation states that an agency may reply to a request for cooperation 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." (Emphasis added). The regulation refers to the "action," rather than to the EIS, to clarify that the agency is taking itself out of all phases of the federal action, not just draft EIS preparation. This means that the agency has determined that it cannot be involved in the later stages of EIS review and comment, as well as decisionmaking on the proposed action. For this reason, cooperating agencies with jurisdiction by law (those which have permitting or other approval authority) cannot opt out entirely of the duty to cooperate on the EIS. See also Question 15, relating specifically to the responsibility of EPA.

14b. Q. How are disputes resolved between lead and cooperating agencies concerning the scope and level of detail of analysis and the quality of data in impact statements?

A. Such disputes are resolved by the agencies themselves. A lead agency, of course, has the ultimate responsibility for the content of an EIS. But it is supposed to use the environmental analysis and recommendations of cooperating agencies with jurisdiction by law or special expertise to the maximum extent possible, consistent

with its own responsibilities as lead agency. Section 1501.6(a)(2).

If the lead agency leaves out a significant issue or ignores the advice and expertise of the cooperating agency, the EIS may be found later to be inadequate. Similarly, where cooperating agencies have their own decisions to make and they intend to adopt the environmental impact statement and base their decisions on it, one document should include all of the information necessary for the decisions by the cooperating agencies. Otherwise they may be forced to duplicate the EIS process by issuing a new, more complete EIS or Supplemental EIS, even though the original EIS could have sufficed if it had been properly done at the outset. Thus, both lead and cooperating agencies have a stake in producing a document of good quality. Cooperating agencies also have a duty to participate fully in the scoping process to ensure that the appropriate range of issues is determined early in the EIS process.

Because the EIS is not the Record of Decision, but instead constitutes the information and analysis on which to base a decision, disagreements about conditions to be drawn from the EIS need not inhibit agencies from issuing a joint document, or adopting another agency's EIS, if the analysis is adequate. Thus, if each agency has its own "preferred alternative," both can be identified in the EIS. Similarly, a cooperating agency with jurisdiction by law may determine in its own ROD that alternative A is the environmentally preferable action, even though the lead agency has decided in its separate ROD that Alternative B is environmentally preferable.

14c. Q. What are the specific responsibilities of federal and state cooperating agencies to review draft EISs?

A. Cooperating agencies (i.e., agencies with jurisdiction by law or special expertise) and agencies that are authorized to develop or enforce environmental standards, must comment on environmental impact statements within their jurisdiction, expertise or authority. Sections 1503.2, 1508.5. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should simply comment accordingly. Conversely, if the cooperating agency determines that a draft EIS is incomplete, inadequate or inaccurate, or it has other comments, it should promptly make such comments, conforming to the requirements of specificity in section 1503.5.

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14d. Q. How is the lead agency to treat the comments of another agency with jurisdiction by law or special expertise which has failed or refused to cooperate or participate in scoping or EIS preparation?

A. A lead agency has the responsibility to respond to all substantive comments raising significant issues regarding a draft EIS. Section 1503.4. However, cooperating agencies are generally under an obligation to raise issues or otherwise participate in the EIS process during scoping and EIS preparation if they reasonably can do so. In practical terms, if a cooperating agency fails to cooperate at the outset, such as during scoping, it will find that its comments at a later stage will not be as persuasive to the lead agency.

15. Q. Are EPA's responsibilities to review and comment on the environmental effects of agency proposals under Section 309 of the Clean Air Act independent of its responsibility as a cooperating agency?

A. Yes. EPA has an obligation under Section 309 of the Clean Air Act to review and comment in writing on the environmental impact of any matter relating to the authority of the Administrator contained in proposed legislation, federal construction projects, other federal actions requiring EISs, and new regulations. 42 U.S.C. Sec. 7608. This obligation is independent of its role as a cooperating agency under the NEPA regulations.

16. Q. What is meant by the term "third party contracts" in connection with the preparation of an EIS? See Section 1508.5(c). When can "third party contracts" be used?

A. As used by EPA and other agencies, the term "third party contract" refers to the preparation of EISs by contractors paid by the applicant. In the case of an EIS for a National Pollution Discharge Elimination System (NPDES) permit, the applicant, aware in the early planning stages of the proposed project of the need for an EIS, contracts directly with a consulting firm for its preparation. See 40 C.F.R. 4.804(g). The "third party" is EPA which, under Section 1508.5(c), must select the consulting firm, even though the applicant pays for the cost of preparing the EIS. The consulting firm is responsible to EPA for preparing an EIS that meets the requirements of the NEPA regulations and EPA's NEPA procedures. It is in the applicant's interest that the EIS comply with the law so that EPA can take prompt action on the NPDES permit application. The "third party contract" method under EPA's NEPA procedure is purely voluntary, though most applicants have

found it helpful in expediting compliance with NEPA.

If a federal agency uses "third party contracting," the applicant may undertake the necessary paperwork for the solicitation of a field of candidates under the agency's direction, so long as the agency complies with Section 1508.5(c). Federal procurement requirements do not apply to the agency because it incurs no obligations or costs under the contract, nor does the agency procure anything under the contract.

17a. Q. If an EIS is prepared with the assistance of a consulting firm, the firm must execute a disclosure statement. What criteria must the firm follow in determining whether it has any "financial or other interest in the outcome of the project" which would cause a conflict of interest?

A. Section 1508.5(c), which specifies that a consulting firm preparing an EIS must execute a disclosure statement, does not define "financial or other interest in the outcome of the project." The Council interprets this term broadly to cover any known benefits other than general enhancement of professional reputation. This includes any financial benefit such as a promise of future construction or design work on the project, as well as indirect benefits the consultant is aware of (e.g., if the project would aid proposals sponsored by the firm's other clients). For example, completion of a highway project may encourage construction of a shopping center or industrial park from which the consultant stands to benefit. If a consulting firm is aware that it has such an interest in the decision on the proposal, it should be disqualified from preparing the EIS, to preserve the objectivity and integrity of the NEPA process.

When a consulting firm has been involved in developing initial data and plans for the project, but does not have any financial or other interest in the outcome of the decision, it need not be disqualified from preparing the EIS. However, a disclosure statement in the draft EIS should clearly state the scope and extent of the firm's prior involvement to expose any potential conflicts of interest that may exist.

17b. Q. If the firm in fact has no promise of future work or other interest in the outcome of the proposal, may the firm later bid in competition with others for future work on the project if the proposed action is approved?

A. Yes.

18. Q. How should uncertainties about indirect effects of a proposal be addressed, for example, in cases of disposal of federal lands, when the

identity or plans of future landowners is unknown?

A. The EIS must identify all the indirect effects that are known, and make a good faith effort to explain the effects that are not known but are "reasonably foreseeable." Section 1508.6(b). In the example, if there is total uncertainty about the identity of future land owners or the nature of future land uses, then of course, the agency is not required to engage in speculation or contemplation about their future plans. But, in the ordinary course of business, people do make judgments based upon reasonably foreseeable occurrences. It will often be possible to consider the likely purchasers and the development trends in that area or similar areas in recent years; or the likelihood that the land will be used for an energy project, shopping center, subdivision, farm or factory. The agency has the responsibility to make an informed judgment, and to estimate future impacts on that basis, especially if trends are ascertainable or potential purchasers have made themselves known. The agency cannot ignore these uncertain, but probable, effects of its decisions.

18a. Q. What is the scope of mitigation measures that must be discussed?

A. The mitigation measures discussed in an EIS must cover the range of impacts of the proposal. The measures must include such things as design alternatives that would decrease pollution emissions, construction impacts, aesthetic intrusion, as well as relocation assistance, possible land use controls that could be enacted, and other possible efforts. Mitigation measures must be considered even for impacts that by themselves would not be considered "significant." Once the proposal itself is considered as a whole to have significant effects, all of its specific effects on the environment (whether or not "significant") must be considered, and mitigation measures must be developed where it is feasible to do so. Sections 1502.14(f), 1502.18(h), 1508.14.

18b. Q. How should an EIS treat the subject of available mitigation measures that are (1) outside the jurisdiction of the lead or cooperating agencies, or (2) unlikely to be adopted or enforced by the responsible agency?

A. All relevant, reasonable mitigation measures that could improve the project are to be identified, even if they are outside the jurisdiction of the lead agency or the cooperating agencies, and they would not be committed as part of the RODs of those agencies. Sections 1502.16(h), 1508.5(c). This will serve to

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alert agencies or officials who can implement these extra measures, and will encourage them to do so. Because the EIS is the most comprehensive environmental document, it is an ideal vehicle in which to lay out not only the full range of environmental impacts but also the full spectrum of appropriate mitigation.

However, to ensure that environmental effects of a proposed action are fairly assessed, the probability of the mitigation measures being implemented must also be discussed. Thus the EIS and the Record of Decision should indicate the likelihood that such measures will be adopted or enforced by the responsible agencies. Sections 1502.10(h), 1506.2. If there is a history of nonenforcement or opposition to such measures, the EIS and Record of Decision should acknowledge such opposition or nonenforcement. If the necessary mitigation measures will not be ready for a long period of time, this fact, of course, should also be recognized.

20a. Q. When must a worst case analysis be included in an EIS?

A. If there are gaps in relevant information or scientific uncertainty pertaining to an agency's evaluation of significant adverse impacts on the human environment, an agency must make clear that such information is lacking or that the uncertainty exists. An agency must include a worst case analysis of the potential impacts of the proposal and an indication of the probability or improbability of their occurrence if (a) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining the information are exorbitant, or (b) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known.

NEPA requires that impact statements, at a minimum, contain information to alert the public and Congress to all known possible environmental consequences of agency action. Thus, one of the federal government's most important obligations is to present to the fullest extent possible the spectrum of consequences that may result from agency decisions, and the details of their potential consequences for the human environment.

20b. Q. What is the purpose of a worst case analysis? How is it formulated and what is the scope of the analysis?

A. The purpose of the analysis is to carry out NEPA's mandate for full disclosure to the public of the potential consequences of agency decisions, and

to cause agencies to consider those potential consequences when acting on the basis of scientific uncertainties or gaps in available information. The analysis is formulated on the basis of available information, using reasonable projections of the worst possible consequences of a proposed action.

For example, if there are scientific uncertainty and gaps in the available information concerning the numbers of juvenile fish that would be entrained in a cooling water facility, the responsible agency must disclose and consider the possibility of the loss of the commercial or sport fishery.

In addition to an analysis of a low probability/catastrophic impact event, the worst case analysis should also include a spectrum of events of higher probability but less drastic impact.

21. Q. Where an EIS or an EA is combined with another project planning document (sometimes called "piggybacking"), to what degree may the EIS or EA refer to and rely upon information in the project document to satisfy NEPA's requirements?

A. Section 1502.23 of the regulations requires that draft EISs be prepared concurrently and integrated with environmental analyses and related surveys and studies required by other federal statutes. In addition, Section 1506.4 allows any environmental document prepared in compliance with NEPA to be combined with any other agency document to reduce duplication and paperwork. However, these provisions were not intended to authorize the preparation of a short summary or outline EIS, attached to a detailed project report or land use plan containing the required environmental impact data. In such circumstances, the reader would have to refer constantly to the detailed report to understand the environmental impacts and alternatives which should have been found in the EIS itself.

The EIS must stand on its own as an analytical document which fully informs decisionmakers and the public of the environmental effects of the proposal and those of the reasonable alternatives. Section 1502.23, but as long as the EIS is clearly identified and is self-supporting, it can be physically included in or attached to the project report or land use plan, and may use attached report material as technical backup.

Forest Service environmental impact statements for forest management plans are drafted in this manner. The EIS identifies the agency's preferred alternative, which is developed in detail as its proposed management plan. The detailed proposed plan accompanies the EIS through the review process, and the

documents are appropriately cross-referenced. The proposed plan is useful for EIS readers as an example to show how one choice of management options translates into effects on natural resources. This procedure permits initiation of the 90-day public review of proposed forest plans, which is required by the National Forest Management Act.

All the alternatives are discussed in the EIS, which can be read as an independent document. The details of the management plan are not repeated in the EIS, and vice versa. This is a reasonable functional separation of the documents: the EIS contains information relevant to the choice among alternatives; the plan is a detailed description of proposed management activities suitable for use by the land managers. This procedure provides for concurrent compliance with the public review requirements of both NEPA and the National Forest Management Act.

Under some circumstances, a project report or management plan may be totally merged with the EIS, and the one document labeled as both "EIS" and "management plan" or "project report." This may be reasonable where the documents are short, or where the EIS format and the regulations for clear, analytical EISs also satisfy the requirements for a project report.

22. Q. May state and federal agencies serve as joint lead agencies? If so, how do they resolve law, policy and resource conflicts under NEPA and the relevant state environmental policy act? How do they resolve differences in perspective where, for example, national and local needs may differ?

A. Under Section 1501.3(b), federal, state or local agencies, as long as they include at least one federal agency, may act as joint lead agencies to prepare an EIS. Section 1506.2 also strongly urges state and local agencies and the relevant federal agencies to cooperate fully with each other. This should cover joint research and studies, planning activities, public hearings, environmental assessments and the preparation of joint EISs under NEPA and the relevant "little NEPA" state laws, so that one document will satisfy both laws.

The regulations also recognize that certain inconsistencies may exist between the proposed federal action and any approved state or local plan or law. The joint document should discuss the extent to which the federal agency would reconcile its proposed action with such plan or law. Section 1506.2(d). (See Question 23).

Because there may be differences in perspective as well as conflicts among

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federal, state and local goals for resources management, the Council has advised participating agencies to adopt a flexible, cooperative approach. The joint EIS should reflect all of their interests and missions, clearly identified as such. The final document would then indicate how state and local interests have been accommodated, or would identify conflicts in goals (e.g., how a hydroelectric project, which might induce second home development, would require new land use controls). The EIS must contain a complete discussion of scope and purpose of the proposal, alternatives, and impacts so that the discussion is adequate to meet the needs of local, state and federal decisionmakers.

23a. Q. How should an agency handle potential conflicts between a proposal and the objectives of Federal, state or local land use plans, policies and controls for the area concerned? See Sec. 1502.10(c).

A. The agency should first inquire of other agencies whether there are any potential conflicts. If there would be immediate conflicts, or if conflicts could arise in the future when the plans are finished (see Question 23(b) below), the EIS must acknowledge and describe the extent of those conflicts. If there are any possibilities of resolving the conflicts, these should be explained as well. The EIS should also evaluate the seriousness of the impact of the proposal on the land use plans and policies, and whether, or how much, the proposal will impair the effect... of land use control mechanisms for the area. Comments from officials of the affected area should be solicited early and should be carefully acknowledged and answered in the EIS.

23b. Q. What constitutes a "land use plan or policy" for purposes of this discussion?

A. The term "land use plans," includes all types of formally adopted documents for land use planning, zoning and related regulatory requirements. Local general plans are included, even though they are subject to future change. Proposed plans should also be addressed if they have been formally prepared by the appropriate government body in a written form, and are being actively pursued by officials of the jurisdiction. Staged plans, which must go through phases of development such as the Water Resources Council's Level A, B and C planning process should also be included even though they are incomplete.

The term "policies" includes formally adopted statements of land use policy as embodied in laws or regulations. It also includes proposals for action such as the

initiation of a planning process, or a formally adopted policy statement of the local, regional or state executive branch, even if it has not yet been formally adopted by the local, regional or state legislative body.

23c. Q. What options are available for the decisionmaker when conflicts with such plans or policies are identified?

A. After identifying any potential land use conflicts, the decisionmaker must weigh the significance of the conflicts, among all the other environmental and non-environmental factors that must be considered in reaching a rational and balanced decision. Unless precluded by other law from causing or contributing to any inconsistency with the land use plans, policies or controls, the decisionmaker retains the authority to go forward with the proposal, despite the potential conflict. In the Record of Decision, the decisionmaker must explain what the decision was, how it was made, and what mitigation measures are being imposed to lessen adverse environmental impacts of the proposal, among the other requirements of Section 1502.2. This provision would require the decisionmaker to explain any decision to override land use plans, policies or controls for the area.

24a. Q. When are EISs required on policies, plans or programs?

A. An EIS must be prepared if an agency proposes to implement a specific policy, to adopt a plan for a group of related actions, or to implement a specific statutory program or executive directive. Section 1502.15. In addition, the adoption of official policy in the form of rules, regulations and interpretations pursuant to the Administrative Procedure Act, treaties, conventions, or other formal documents establishing governmental or agency policy which will substantially alter agency programs, could require an EIS. Section 1502.15. In all cases, the policy, plan, or program must have the potential for significantly affecting the quality of the human environment in order to require an EIS. It should be noted that a proposal "may exist in fact as well as by agency declaration that one exists." Section 1502.23.

24b. Q. When is an area-wide or overview EIS appropriate?

A. The preparation of an area-wide or overview EIS may be particularly useful when similar actions, viewed with other reasonably foreseeable or proposed agency actions, share common timing or geography. For example, when a variety of energy projects may be located in a single watershed, or when a series of new energy technologies may be developed through federal funding, the overview or area-wide EIS would serve

as a valuable and necessary analysis of the affected environment and the potential cumulative impacts of the reasonably foreseeable actions under that program or within that geographical area.

24c. Q. What is the function of tiering in such cases?

A. Tiering is a procedure which allows an agency to avoid duplication of paperwork through the incorporation by reference of the general discussions and relevant specific discussions from an environmental impact statement of broader scope into one of lesser scope or vice versa. In the example given in Question 24b, this would mean that an overview EIS would be prepared for all of the energy activities reasonably foreseeable in a particular geographic area or resulting from a particular development program. This impact statement would be followed by site-specific or project-specific EISs. The tiering process would make each EIS of greater use and meaning to the public as the plan or program develops, without duplication of the analysis prepared for the previous impact statement.

25a. Q. When is it appropriate to use appendices instead of including information in the body of an EIS?

A. The body of the EIS should be a succinct statement of all the information on environmental impacts and alternatives that the decisionmaker and the public need, in order to make the decision and to ascertain that every significant factor has been examined. The EIS must explain or summarize methodologies of research and modeling, and the results of research that may have been conducted to analyze impacts and alternatives.

Lengthy technical discussions of modeling methodology, baseline studies, or other work are best reserved for the appendix. In other words, if only technically trained individuals are likely to understand a particular discussion then it should go in the appendix, and a plain language summary of the analysis and conclusions of that technical discussion should go in the text of the EIS.

The final statement must also contain the agency's responses to comments on the draft EIS. These responses will be primarily in the form of changes in the document itself, but specific answers to each significant comment should also be included. These specific responses may be placed in an appendix. If the comments are especially voluminous, summaries of the comments and responses will suffice. (See Question 29 regarding the level of detail required for responses to comments.)

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25b. Q. How does an appendix differ from incorporation by reference?

A. First, if at all possible, the appendix accompanies the EIS, whereas the material which is incorporated by reference does not accompany the EIS. Thus the appendix should contain information that reviewers will be likely to want to examine. The appendix should include material that pertains to preparation of a particular EIS. Research papers directly relevant to the proposal, lists of affected species, discussion of the methodology of models used in the analysis of impacts, extremely detailed responses to comments, or other information, would be placed in the appendix.

The appendix must be complete and available at the time the EIS is filed. Five copies of the appendix must be sent to EPA with five copies of the EIS for filing. If the appendix is too bulky to be circulated, it instead must be placed in conveniently accessible locations or furnished directly to commentators upon request. If it is not circulated with the EIS, the Notice of Availability published by EPA must so state, giving a telephone number to enable potential commentators to locate or request copies of the appendix promptly.

Material that is not directly related to preparation of the EIS should be incorporated by reference. This would include other EISs, research papers in the general literature, technical background papers or other material that someone with technical training could use to evaluate the analysis of the proposal. These must be made available, either by citing the literature, furnishing copies to central locations, or sending copies directly to commentators upon request.

Care must be taken in all cases to ensure that material incorporated by reference, and the occasional appendix that does not accompany the EIS, are in fact available for the full minimum public comment period.

25c. Q. How detailed must an EIS index be?

A. The EIS index should have a level of detail sufficient to focus on areas of the EIS of reasonable interest to any reader. It cannot be restricted to the most important topics. On the other hand, it need not identify every conceivable term or phrase in the EIS. If an agency believes that the reader is reasonably likely to be interested in a topic, it should be included.

26. Q. Is a keyword index required?
A. No. A keyword index is a relatively short list of descriptive terms that identifies the key concepts or subject areas in a document. For example it could consist of 20 terms which describe

the most significant aspects of an EIS that a future researcher would need type of proposal, type of impacts, type of environment, geographical area, sampling or modeling methodologies used. This technique permits the compilation of EIS data banks, by facilitating quick and inexpensive access to stored materials. While a keyword index is not required by the regulations, it could be a useful addition for several reasons. First, it can be useful as a quick index for reviewers of the EIS, helping to focus on areas of interest. Second, if an agency keeps a listing of the keyword indexes of the EISs it produces, the EIS preparers themselves will have quick access to similar research data and methodologies to aid their future EIS work. Third, a keyword index will be needed to make an EIS available to future researchers using EIS data banks that are being developed. Preparation of such an index now when the document is produced will save a later effort when the data banks become operational.

27a. Q. If a consultant is used in preparing an EIS, must the list of preparers identify members of the consulting firm as well as the agency NEPA staff who were primarily responsible?

A. Section 1502.17 requires identification of the names and qualifications of persons who were primarily responsible for preparing the EIS or significant background papers, including basic components of the statement. This means that members of a consulting firm preparing material that is to become part of the EIS must be identified. The EIS should identify those individuals even though the consultant's contribution may have been modified by the agency.

27b. Q. Should agency staff involved in reviewing and editing the EIS also be included in the list of preparers?

A. Agency personnel who wrote basic components of the EIS or significant background papers must, of course, be identified. The EIS should also list the technical editors who reviewed or edited the statements.

27c. Q. How much information should be included on each person listed?

A. The list of preparers should normally not exceed two pages. Therefore, agencies must determine which individuals had primary responsibility and need not identify individuals with minor involvement. The list of preparers should include a very brief identification of the individuals involved, their qualifications (expertise, professional disciplines) and the specific portion of the EIS for which they are responsible. This may be done in tabular

form to cut down on length. A line or two for each person's qualifications should be sufficient.

28. Q. May an agency file xerox copies of an EIS with EPA pending the completion of printing the document?

A. Xerox copies of an EIS may be filed with EPA prior to printing only if the xerox copies are simultaneously made available to other agencies and the public. Section 1508.5 of the regulations, which governs EIS filing, specifically requires Federal agencies to file EISs with EPA no earlier than the EIS is distributed to the public. However, this section does not prohibit xeroxing as a form of reproduction and distribution. When an agency chooses xeroxing as the reproduction method, the EIS must be clear and legible to permit ease of reading and ultimate microfiling of the EIS. Where color graphs are important to the EIS, they should be reproduced and circulated with the xeroxed copy.

28a. Q. What response must an agency provide to a comment on a draft EIS which states that the EIS's methodology is inadequate or inadequately explained? For example, what level of detail must an agency include in its response to a simple postcard comment making such an allegation?

A. Appropriate responses to comments are described in Section 1508.4. Normally the responses should result in changes in the text of the EIS, not simply a separate answer at the back of the document. But, in addition, the agency must state what its response was, and if the agency decides that no substantive response to a comment is necessary, it must explain briefly why.

An agency is not under an obligation to issue a lengthy reiteration of its methodology for any portion of an EIS if the only comment addressing the methodology is a simple complaint that the EIS methodology is inadequate. But agencies must respond to comments, however brief, which are specific in their criticism of agency methodology. For example, if a commentator on an EIS said that an agency's air quality dispersion analysis or methodology was inadequate, and the agency has included a discussion of that analysis in the EIS, little if anything need be added in response to such a comment.

However, if the commentator said that the dispersion analysis was inadequate because of its use of a certain computational technique, or that a dispersion analysis was inadequately explained because computational techniques were not included or referenced, then the agency would have to respond in a substantive and meaningful way to such a comment.

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If a number of comments are identical or very similar, agencies may group the comments and prepare a single answer for each group. Comments may be summarized if they are especially voluminous. The comments or summaries must be attached to the EIS regardless of whether the agency believes they merit individual discussion in the body of the final EIS.

29b. Q. How must an agency respond to a comment on a draft EIS that raises a new alternative not previously considered in the draft EIS?

A. This question might arise in several possible situations. First, a commentator on a draft EIS may indicate that there is a possible alternative which, in the agency's view, is not a reasonable alternative. Section 1502.14(a). If that is the case, the agency must explain why the comment does not warrant further agency response, citing authorities or reasons that support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response. Section 1503.4(a). For example, a commentator on a draft EIS on a coal fired power plant may suggest the alternative of using synthetic fuel. The agency may reject the alternative with a brief discussion (with authorities) of the unavailability of synthetic fuel within the time frame necessary to meet the need and purpose of the proposed facility.

A second possibility is that an agency may receive a comment indicating that a particular alternative, while reasonable, should be modified somewhat, for example, to achieve certain mitigation benefits, or for other reasons. If the modification is reasonable, the agency should include a discussion of it in the final EIS. For example, a commentator on a draft EIS on a proposal for a pumped storage power facility might suggest that the applicant's proposed alternative should be enhanced by the addition of certain reasonable mitigation measures, including the purchase and retention of a wildlife preserve to substitute for the tract to be destroyed by the project. The modified alternative including the additional mitigation measures should be included by the agency in the final EIS.

A third possibility is that a commentator on a draft EIS may raise an alternative which is a minor variation of one of the alternatives discussed in the draft EIS, but the variation was not given any consideration by the agency in such a case, the agency should develop and evaluate the new alternative, if it is reasonable, in the final EIS. If it is qualitatively within the spectrum of

alternatives that were discussed in the draft, a supplemental draft will not be needed. For example, a commentator on a draft EIS to designate a wilderness area within a National Forest might reasonably identify a specific tract of the forest, and urge that it be considered for designation. If the draft EIS considered designation of a range of alternative tracts which encompassed forest area of similar quality and quantity, no supplemental EIS would have to be prepared. The agency could fulfill its obligation by addressing that specific alternative in the final EIS.

As another example, an EIS on an urban housing project may analyze the alternatives of constructing 2,000, 4,000, or 6,000 units. A commentator on the draft EIS might urge the consideration of constructing 3,000 units utilizing a different configuration of buildings. This alternative is within the spectrum of alternatives already considered, and, therefore, could be addressed in the final EIS.

A fourth possibility is that a commentator points out an alternative which is not a variation of the proposal or of any alternative discussed in the draft impact statement, and is a reasonable alternative that warrants serious agency response. In such a case, the agency must issue a supplement to the draft EIS that discusses this new alternative. For example, a commentator on a draft EIS on a nuclear power plant might suggest that a reasonable alternative for meeting the projected need for power would be through peak load management and energy conservation programs. If the permitting agency has failed to consider that approach in the Draft EIS, and the approach cannot be dismissed by the agency as unreasonable, a supplement to the Draft EIS, which discusses that alternative, must be prepared. (If necessary, the same supplement should also discuss substantial changes in the proposed action or significant new circumstances or information, as required by Section 1502.9(c)(1) of the Council's regulations.)

If the new alternative was not raised by the commentator during scoping, but could have been, commentators may find that they are unresponsive in their efforts to have their suggested alternative analyzed in detail by the agency. However, if the new alternative is discovered or developed later, and it could not reasonably have been raised during the scoping process, then the agency must address it in a supplemental draft EIS. The agency is, in any case, ultimately responsible for

preparing an adequate EIS that considers all alternatives.

30. Q. When a cooperating agency with jurisdiction by law intends to adopt a lead agency's EIS and it is not satisfied with the adequacy of the document, may the cooperating agency adopt only the part of the EIS with which it is satisfied? If so, would a cooperating agency with jurisdiction by law have to prepare a separate EIS or EIS supplement covering the areas of disagreement with the lead agency?

A. Generally, a cooperating agency may adopt a lead agency's EIS without recirculating it if it concludes that its NEPA requirements and its comments and suggestions have been satisfied. Section 1508.3(a), (c). If necessary, a cooperating agency may adopt only a portion of the lead agency's EIS and may reject that part of the EIS with which it disagrees, stating publicly why it did so. Section 1508.3(a).

A cooperating agency with jurisdiction by law (e.g., an agency with independent legal responsibilities with respect to the proposal) has an independent legal obligation to comply with NEPA. Therefore, if the cooperating agency determines that the EIS is wrong or inadequate, it must prepare a supplement to the EIS, replacing or adding any needed information, and must circulate the supplement as a draft for public and agency review and comment. A final supplemental EIS would be required before the agency could take action. The adopted portions of the lead agency EIS should be circulated with the supplement. Section 1508.3(b). A cooperating agency with jurisdiction by law will have to prepare its own Record of Decision for its action, in which it must explain how it reached its conclusions. Each agency should explain how and why its conclusions differ, if that is the case, from those of other agencies which issued their Records of Decision earlier.

An agency that did not cooperate in preparation of an EIS may also adopt an EIS or portion thereof, but this would arise only in rare instances, because an agency adopting an EIS for use in its own decision normally would have been a cooperating agency. If the proposed action for which the EIS was prepared is substantially the same as the proposed action of the adopting agency, the EIS may be adopted as long as it is recirculated as a final EIS and the agency announces what it is doing. This would be followed by the 30-day review period and issuance of a Record of Decision by the adopting agency. If the proposed action by the adopting agency is not substantially the same as that in

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the EIS (i.e., if an EIS on one action is being adapted for use in a decision on another action), the EIS would be treated as a draft and circulated for the normal public comment period and other procedures. Section 1508.3(b).

31a. Q. Do the Council's NEPA regulations apply to independent regulatory agencies like the Federal Energy Regulatory Commission (FERC) and the Nuclear Regulatory Commission?

A. The statutory requirements of NEPA's Section 102 apply to "all agencies of the federal government." The NEPA regulations implement the procedural provisions of NEPA as set forth in NEPA's Section 102(f) for all agencies of the federal government. The NEPA regulations apply to independent regulatory agencies, however, they do not direct independent regulatory agencies or other agencies to make decisions in any particular way or in a way inconsistent with an agency's statutory charter. Sections 1500.3, 1500A, 1507.1, and 1507.3.

31b. Q. Can an Executive Branch agency like the Department of the Interior adopt an EIS prepared by an independent regulatory agency such as FERC?

A. If an independent regulatory agency such as FERC has prepared an EIS in connection with its approval of a proposed project, an Executive Branch agency (e.g., the Bureau of Land Management in the Department of the Interior) may, in accordance with Section 1508.3, adopt the EIS or a portion thereof for its use in considering the same proposal. In such a case the EIS must, to the satisfaction of the adopting agency, meet the standards for an adequate statement under the NEPA regulations (including scope and quality of analysis of alternatives) and must satisfy the adopting agency's comments and suggestions. If the independent regulatory agency fails to comply with the NEPA regulations, the cooperating or adopting agency may find that it is unable to adopt the EIS, thus forcing the preparation of a new EIS or EIS Supplement for the same action. The NEPA regulations were made applicable to all federal agencies in order to avoid this result, and to achieve maximum application and efficiency of the NEPA process.

32. Q. Under what circumstances do old EISs have to be supplemented before taking action on a proposal?

A. As a rule of thumb, if the proposal has not yet been implemented, or if the EIS concerns an ongoing program, EISs that are more than 5 years old should be carefully reexamined to determine if the

criteria in Section 1502.9 compel preparation of an EIS supplement.

If an agency has made a substantial change in a proposed action that is relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, a supplemental EIS must be prepared for an old EIS so that the agency has the best possible information to make any necessary substantive changes in its decisions regarding the proposal. Section 1502.9(c).

33a. Q. When must a referral of an interagency disagreement be made to the Council?

A. The Council's referral procedure is a pre-decision referral process for interagency disagreements. Hence, Section 1504.3 requires that a referring agency must deliver its referral to the Council not later than 23 days after publication by EPA of notice that the final EIS is available (unless the lead agency grants an extension of time under Section 1504.3(b)).

33b. Q. May a referral be made after the issuance of a Record of Decision?

A. No, except for cases where agencies provide an internal appeal procedure which permits simultaneous filing of the final EIS and the record of decision (ROD). Section 1508.10(b)(2). Otherwise, as stated above, the process is a pre-decision referral process. Referrals must be made within 23 days after the notice of availability of the final EIS, whereas the final decision (ROD) may not be made or filed until after 30 days from the notice of availability of the EIS. Sections 1504.3(b), 1508.10(b). If a lead agency has granted an extension of time for another agency to take action on a referral, the ROD may not be issued until the extension has expired.

34a. Q. Must Records of Decision (RODs) be made public? How should they be made available?

A. Under the regulations, agencies must prepare a "concise public record of decision," which contains the elements specified in Section 1508.3. This public record may be integrated into any other decision record prepared by the agency, or it may be separate if decision documents are not normally made public. The Record of Decision is intended by the Council to be an environmental document (even though it is not explicitly mentioned in the definition of "environmental document" in Section 1508.10). Therefore, it must be made available to the public through appropriate public notice as required by Section 1508.6(b). However, there is no specific requirement for publication of

the ROD itself, either in the Federal Register or elsewhere.

34b. Q. May the summary section in the final Environmental Impact Statement substitute for or constitute an agency's Record of Decision?

A. No. An environmental impact statement is supposed to inform the decisionmaker before the decision is made. Sections 1502.1, 1508.2. The Council's regulations provide for a 30-day period after notice is published that the final EIS has been filed with EPA before the agency may take final action. During that period, in addition to the agency's own internal final review, the public and other agencies can comment on the final EIS prior to the agency's final action on the proposal. In addition, the Council's regulations make clear that the requirements for the summary in an EIS are not the same as the requirements for a ROD. Sections 1508.12 and 1508.2.

34c. Q. What provisions should Records of Decision contain pertaining to mitigation and monitoring?

A. Lead agencies "shall include appropriate conditions (including mitigation measures and monitoring and enforcement programs) in grants, permits or other approvals" and shall "condition funding of actions on mitigation." Section 1508.3. Any such measures that are adopted must be explained and committed in the ROD.

The reasonable alternative mitigation measures and monitoring programs should have been addressed in the draft and final EIS. The discussion of mitigation and monitoring in a Record of Decision must be more detailed than a general statement that mitigation is being required, but not so detailed as to duplicate discussion of mitigation in the EIS. The Record of Decision should contain a concise summary identification of the mitigation measures which the agency has committed itself to adopt.

The Record of Decision must also state whether all practicable mitigation measures have been adopted, and if not, why not. Section 1508.3(c). The Record of Decision must identify the mitigation measures and monitoring and enforcement programs that have been selected and plainly indicate that they are adopted as part of the agency's decision. If the proposed action is the issuance of a permit or other approval, the specific details of the mitigation measures shall then be included as appropriate conditions in whatever grants, permits, funding or other approvals are being made by the federal agency. Section 1508.3 (a), (b). If the proposal is to be carried out by the

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federal agency itself, the Record of Decision should delineate the mitigation and monitoring measures in sufficient detail to constitute an enforceable commitment, or incorporate by reference the portions of the EIS that do so.

34d. Q. What is the enforceability of a Record of Decision?

A. Pursuant to generally recognized principles of federal administrative law, agencies will be held accountable for preparing Records of Decision that conform to the decisions actually made and for carrying out the actions set forth in the Records of Decision. This is based on the principle that an agency must comply with its own decisions and regulations once they are adopted. Thus, the terms of a Record of Decision are enforceable by agencies and private parties. A Record of Decision can be used to compel compliance with or execution of the mitigation measures identified therein.

35. Q. How long should the NEPA process take to complete?

A. When an EIS is required, the process obviously will take longer than when an EA is the only document prepared. But the Council's NEPA regulations encourage streamlined review, adoption of deadlines, elimination of duplicative work, circulating suggested alternatives and other comments early through cooperative cooperation among agencies, and consultation with applicants during project planning. The Council has advised agencies that under the new NEPA regulations even large complex energy projects would require only about 12 months for the completion of the entire EIS process. For most major actions, this period is well within the planning time that is required in any event, apart from NEPA.

The time required for the preparation of program EISs may be greater. The Council also recognizes that some projects will entail difficult long-term planning and/or the acquisition of certain data which of necessity will require more time for the preparation of the EIS. Indeed, some projects should be given more time for the successful preparation of an EIS and the completion of a decision which fulfills the substantive goals.

For cases in which only an environmental assessment will be prepared, the NEPA process should take no more than 3 months. In many cases substantially less. The normal analysis and approval process for the action.

36a. Q. How long and detailed must an environmental assessment (EA) be?

A. The environmental assessment is a concise public document which has

three defined functions. (1) It briefly provides sufficient evidence and analysis for determining whether to prepare an EIS; (2) it aids an agency's compliance with NEPA when an EIS is necessary, i.e., it helps to identify better alternatives and mitigation measures; and (3) it facilitates preparation of an EIS when one is necessary. Section 1508.9(a).

Since the EA is a concise document, it should not contain long descriptions or detailed data which the agency may have gathered. Rather, it should contain a brief discussion of the need for the proposal, alternatives to the proposal, the environmental impacts of the proposed action and alternatives, and a list of agencies and persons consulted. Section 1508.9(b).

While the regulations do not contain page limits for EA's, the Council has generally advised agencies to keep the length of EA's to not more than approximately 10-15 pages. Some agencies expressly provide page guidelines (e.g., 10-15 pages in the case of the Army Corps). To avoid undue length, the EA may incorporate by reference background data to support its concise discussion of the proposal and relevant issues.

36b. Q. Under what circumstances is a lengthy EA appropriate?

A. Agencies should avoid preparing lengthy EA's except in unusual cases, where a proposal is so complex that a concise document cannot meet the goals of Section 1508.9 and where it is extremely difficult to determine whether the proposal could have significant environmental effects. In most cases, however, a lengthy EA indicates that an EIS is needed.

37a. Q. What is the level of detail of information that must be included in a finding of no significant impact (FONSI)?

A. The FONSI is a document in which the agency briefly explains the reasons why an action will not have a significant effect on the human environment and, therefore, why an EIS will not be prepared. Section 1508.12. The finding itself need not be detailed, but must succinctly state the reasons for deciding that the action will have no significant environmental effects, and, if relevant, must show which factors were weighted most heavily in the determination. In addition to this statement, the FONSI must include, summarize, or attach and incorporate by reference, the environmental assessment.

37b. Q. What are the criteria for deciding whether a FONSI should be made available for public review for 30 days before the agency's final

determination whether to prepare an EIS?

A. Public review is necessary, for example, (a) if the proposal is a borderline case, i.e., when there is a reasonable argument for preparation of an EIS; (b) if it is an unusual case, a new kind of action, or a precedent setting case such as a first intrusion of even a minor development into a pristine area; (c) when there is either scientific or public controversy over the proposal; or (d) when it involves a proposal which is or is closely similar to one which normally requires preparation of an EIS. Sections 1501.4(a)(2), 1508.27. Agencies also must allow a period of public review of the FONSI if the proposed action would be located in a floodplain or wetland. E.O. 11988, Sec. 2(a)(4); E.O. 11988, Sec. 2(b).

38. Q. Must (EA's) and FONSI's be made public? If so, how should this be done?

A. Yes, they must be available to the public. Section 1508.6 requires agencies to involve the public in implementing their NEPA procedures, and this includes public involvement in the preparation of EA's and FONSI's. These are public "environmental documents" under Section 1508.6(b), and, therefore, agencies must give public notice of their availability. A combination of methods may be used to give notice, and the methods should be tailored to the needs of particular cases. Thus, a Federal Register notice of availability of the documents, coupled with notices in national publications and mailed to interested national groups might be appropriate for proposals that are national in scope. Local newspaper notices may be more appropriate for regional or site-specific proposals.

The objective, however, is to notify all interested or affected parties. If this is not being achieved, then the methods should be reevaluated and changed. Repeated failure to reach the interested or affected public would be interpreted as a violation of the regulations.

39. Q. Can an EA and FONSI be used to impose enforceable mitigation measures, monitoring programs, or other requirements, even though there is no requirement in the regulations in such cases for a formal Record of Decision?

A. Yes, in cases where an environmental assessment is the appropriate environmental document, there still may be mitigation measures or alternatives that would be desirable to consider and adopt even though the impacts of the proposal will not be "significant." In such cases, the EA should include a discussion of these measures or alternatives to "assist

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agency planning and decisionmaking" and to "aid an agency's compliance with [NEPA] when no environmental impact statement is necessary." Section 1501.3(b), 1508.5(a)(2). The appropriate mitigation measures can be imposed as enforceable permit conditions, or adopted as part of the agency final decision in the same manner mitigation measures are adopted in the formal Record of Decision that is required in EIS cases.

40. Q. If an environmental assessment indicates that the environmental effects of a proposal are significant but that, with mitigation, those effects may be reduced to less than significant levels, may the agency make a finding of no significant impact rather than prepare an EIS? Is that a legitimate function of an EA and scoping?

A. Mitigation measures may be relied upon to make a finding of no significant impact only if they are imposed by statute or regulation, or submitted by an applicant or agency as part of the original proposal. As a general rule, the regulations contemplate that agencies should use a broad approach in defining significance and should not rely on the possibility of mitigation as an excuse to avoid the EIS requirement. Sections 1508.5, 1508.27.

If a proposal appears to have adverse effects which would be significant, and certain mitigation measures are then developed during the scoping or EA stages, the existence of such possible mitigation does not obviate the need for an EIS. Therefore, if scoping or the EA identifies certain mitigation possibilities without altering the nature of the overall proposal itself, the agency should continue the EIS process and submit the proposal, and the potential mitigation, for public and agency review and comment. This is essential to ensure that the final decision is based on all the relevant factors and that the full NEPA process will result in enforceable mitigation measures through the Record of Decision.

In some instances, where the proposal is so integrated with mitigation from the beginning that it is impossible to define the proposal without including the mitigation, the agency may then rely on the mitigation measures in determining the overall effects would not be significant (e.g., where an application for a permit for a small hydro dam is based on a standing commitment to build fish ladders, to permit adequate down stream flow, and to replace any lost wetlands, wildlife habitat and recreational potential). In those instances, agencies should make the FONSI and EA available for 30 days of

public comment before taking action. Section 1501.4(e)(2).

Similarly, scoping may result in a redefinition of the entire project, as a result of mitigation proposals. In that case, the agency may alter its previous decision to do an EIS, as long as the agency or applicant resubmits the entire proposal and the EA and FONSI are available for 30 days of review and comment. One example of this would be where the size and location of a proposed industrial park are changed to avoid affecting a nearby wetland area.

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65.13 - Council on Environmental Quality Scoping Guidance.
See exhibit 1.

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Exhibit 1

CEQ Scoping Guidance

I. IntroductionA. 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.

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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.

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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.

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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

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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

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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

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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.

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

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, 1400 16th St., N.W., Washington, D.C. 20036, \$4.00.

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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

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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 black board, 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 rankings. 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 "downsize" 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

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Exhibit 1--Continued

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 and practical way 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.

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Exhibit 1--Continued

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.

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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 CEO 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

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Exhibit 1--Continued

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 the 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

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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

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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.

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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:

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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.

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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.

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65.14 - Council on Environmental Quality Guidance Regarding NEPA Regulations. See exhibit 1 for CEQ Guidance regarding scoping, categorical exclusions, adoption procedures, contracting provisions, selection of alternatives in licensing and permitting situations, and tiering.

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Exhibit 1

CEQ Guidance Regarding NEPA Regulations

EXECUTIVE OFFICE OF THE PRESIDENT
 COUNCIL ON ENVIRONMENTAL QUALITY
 725 JACKSON PLACE, N.W.
 WASHINGTON, D. C. 20503

July 22, 1983

MEMORANDUM

FOR: HEADS OF FEDERAL AGENCIES
 FROM: A. ALAN HILL *A. Alan Hill*
 CHAIRMAN
 RE: GUIDANCE REGARDING NEPA REGULATIONS

The Council on Environmental Quality (CEQ) regulations implementing the National Environmental Policy Act (NEPA) were issued on November 29, 1978. These regulations became effective for, and binding upon, most federal agencies on July 30, 1979, and for all remaining federal agencies on November 30, 1979.

As part of the Council's NEPA oversight responsibilities it solicited through an August 14, 1981, notice in the Federal Register public and agency comments regarding a series of questions that were developed to provide information on the manner in which federal agencies were implementing the CEQ regulations. On July 12, 1982, the Council announced the availability of a document summarizing the comments received from the public and other agencies and also identifying issue areas which the Council intended to review. On August 12, 1982, the Council held a public meeting to address those issues and hear any other comments which the public or other interested agencies might have about the NEPA process. The issues addressed in this guidance were identified during this process.

There are many ways in which agencies can meet their responsibilities under NEPA and the 1978 regulations. The purpose of this document is to provide the Council's guidance on various ways to carry out activities under the regulations.

Attachment

ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

Exhibit 1--Continued

July, 1983

GUIDANCE: NEPA REGULATIONS

SCOPING

The Council on Environmental Quality (CEQ) regulations direct federal agencies which have made a decision to prepare an environmental impact statement to engage in a public scoping process. Public hearings or meetings, although often held, are not required; instead the manner in which public input will be sought is left to the discretion of the agency.

The purpose of this process is to determine the scope of the EIS so that preparation of the document can be effectively managed. Scoping is intended to ensure that problems are identified early and properly studied, that issues of little significance do not consume time and effort, that the draft EIS is thorough and balanced, and that delays occasioned by an inadequate draft EIS are avoided. The scoping process should identify the public and agency concerns; clearly define the environmental issues and alternatives to be examined in the EIS including the elimination of nonsignificant issues; identify related issues which originate from separate legislation, regulation, or Executive Order (e.g. historic preservation or endangered species concerns); and identify state and local agency requirements which must be addressed. An effective scoping process can help reduce unnecessary paperwork and time delays in preparing and processing the

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Exhibit 1--Continued

EIS by clearly identifying all relevant procedural requirements.

In April, 1981, the Council issued a "MEMORANDUM FOR GENERAL COUNSELS, NEPA LIAISONS AND PARTICIPANTS IN SCOPING" on the subject of Scoping Guidance. The purpose of this guidance was to give agencies suggestions as to how to more effectively carry out the CEQ scoping requirement. The availability of this document was announced in the Federal Register at 46 F.R. 25461. It is still available upon request from the CEQ General Counsel's office.

The concept of lead agency (§1508.16) and cooperating agency (§1508.5) can be used effectively to help manage the scoping process and prepare the environmental impact statement. The lead agency should identify the potential cooperating agencies. It is incumbent upon the lead agency to identify any agency which may ultimately be involved in the proposed action, including any subsequent permitting actions. Once cooperating agencies have been identified they have specific responsibility under the NEPA regulations (40 C.F.R. 1501.6). Among other things cooperating agencies have responsibilities to participate in the scoping process and to help identify issues which are germane to any subsequent action it must take on the proposed action. The ultimate goal of this combined agency effort is to produce an EIS which in addition to fulfilling the basic intent of NEPA, also encompasses to the maximum extent possible all the environmental and public involvement requirements of

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Exhibit 1--Continued

state and federal laws, Executive Orders, and administrative policies of the involved agencies. Examples of these requirements include the Fish and Wildlife Coordination Act, the Clean Air Act, the Endangered Species Act, the National Historic Preservation Act, the Wild and Scenic Rivers Act, the Farmland Protection Policy Act, Executive Order 11990 (Protection of Wetlands), and Executive Order 11998 (Floodplain Management).

It is emphasized that cooperating agencies have the responsibility and obligation under the CEQ regulations to participate in the scoping process. Early involvement leads to early identification of significant issues, better decisionmaking, and avoidance of possible legal challenges. Agencies with "jurisdiction by law" must accept designation as a cooperating agency if requested (40 C.F.R. 1501.6).

One of the functions of scoping is to identify the public involvement/public hearing procedures of all appropriate state and federal agencies that will ultimately act upon the proposed action. To the maximum extent possible, such procedures should be integrated into the EIS process so that joint public meetings and hearings can be conducted. Conducting joint meetings and hearings eliminates duplication and should significantly reduce the time and cost of processing an EIS and any subsequent approvals. The end result will be a more informed public cognizant of all facets of the proposed action.

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Exhibit 1--Continued

It is important that the lead agency establish a process to properly manage scoping. In appropriate situations the lead agency should consider designating a project coordinator and forming an interagency project review team. The project coordinator would be the key person in monitoring time schedules and responding to any problems which may arise in both scoping and preparing the EIS. The project review team would be established early in scoping and maintained throughout the process of preparing the EIS. This review team would include state and local agency representatives. The review team would meet periodically to ensure that the EIS is complete, concise, and prepared in a timely manner.

A project review team has been used effectively on many projects. Some of the more important functions this review team can serve include: 1) a source of information, 2) a coordination mechanism, and 3) a professional review group. As an information source, the review team can identify all federal, state, and local environmental requirements, agency public meeting and hearing procedures, concerned citizen groups, data needs and sources of existing information, and the significant issues and reasonable alternatives for detailed analysis, excluding the non-significant issues. As a coordination mechanism, the team can ensure the rapid distribution of appropriate information or environmental studies, and can reduce the time required for formal consultation on a number of issues (e.g., endangered species

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Exhibit 1--Continued

or historic preservation). As a professional review group the team can assist in establishing and monitoring a tight time schedule for preparing the EIS by identifying critical points in the process, discussing and recommending solutions to the lead agency as problems arise, advising whether a requested analysis or information item is relevant to the issues under consideration, and providing timely and substantive review comments on any preliminary reports or analyses that may be prepared during the process. The presence of professionals from all scientific disciplines which have a significant role in the proposed action could greatly enhance the value of the team.

The Council recognizes that there may be some problems with the review team concept such as limited agency travel funds and the amount of work necessary to coordinate and prepare for the periodic team meetings. However, the potential benefits of the team concept are significant and the Council encourages agencies to consider utilizing interdisciplinary project review teams to aid in EIS preparation. A regularly scheduled meeting time and location should reduce coordination problems. In some instances, meetings can be arranged so that many projects are discussed at each session. The benefits of the concept are obvious: timely and effective preparation of the EIS, early identification and resolution of any problems which may arise, and elimination, or at least reduction of, the need for additional environmental studies subsequent to the approval of the EIS.

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Exhibit 1--Continued

Since the key purpose of scoping is to identify the issues and alternatives for consideration, the scoping process should "end" once the issues and alternatives to be addressed in the EIS have been clearly identified. Normally this would occur during the final stages of preparing the draft EIS and before it is officially circulated for public and agency review.

The Council encourages the lead agency to notify the public of the results of the scoping process to ensure that all issues have been identified. The lead agency should document the results of the scoping process in its administrative record.

The NEPA regulations place a new and significant responsibility on agencies and the public alike during the scoping process to identify all significant issues and reasonable alternatives to be addressed in the EIS. Most significantly, the Council has found that scoping is an extremely valuable aid to better decisionmaking. Thorough scoping may also have the effect of reducing the frequency with which proposed actions are challenged in court on the basis of an inadequate EIS. Through the techniques identified in this guidance, the lead agency will be able to document that an open public involvement process was conducted, that all reasonable alternatives were identified, that significant issues were identified and non-significant issues eliminated, and that the environmental public involvement requirements of all agencies were met, to the extent possible, in a single "one-stop" process.

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Exhibit 1--Continued

CATEGORICAL EXCLUSIONS

Section 1507 of the CEQ regulations directs federal agencies when establishing implementing procedures to identify those actions which experience has indicated will not have a significant environmental effect and to categorically exclude them from NEPA review. In our August 1981 request for public comments, we asked the question "Have categorical exclusions been adequately identified and defined?".

The responses the Council received indicated that there was considerable belief that categorical exclusions were not adequately identified and defined. A number of commentators indicated that agencies had not identified all categories of actions that meet the categorical exclusion definition (§1508.4) or that agencies were overly restrictive in their interpretations of categorical exclusions. Concerns were expressed that agencies were requiring too much documentation for projects that were not major federal actions with significant effects and also that agency procedures to add categories of actions to their existing lists of categorical exclusions were too cumbersome.

The National Environmental Policy Act and the CEQ regulations are concerned primarily with those "major federal actions significantly affecting the quality of the human environment" (42 U.S.C. §§ 4332). Accordingly, agency procedures, resources, and efforts should focus on

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Exhibit 1--Continued

determining whether the proposed federal action is a major federal action significantly affecting the quality of the human environment. If the answer to this question is yes, an environmental impact statement must be prepared. If there is insufficient information to answer the question, an environmental assessment is needed to assist the agency in determining if the environmental impacts are significant and require an EIS. If the assessment shows that the impacts are not significant, the agency must prepare a finding of no significant impact. Further stages of this federal action may be excluded from requirements to prepare NEPA documents.

The CEQ regulations were issued in 1978 and most agency implementing regulations and procedures were issued shortly thereafter. In recognition of the experience with the NEPA process that agencies have had since the CEQ regulations were issued, the Council believes that it is appropriate for agencies to examine their procedures to insure that the NEPA process utilizes this additional knowledge and experience. Accordingly, the Council strongly encourages agencies to re-examine their environmental procedures and specifically those portions of the procedures where "categorical exclusions" are discussed to determine if revisions are appropriate. The specific issues which the Council is concerned about are (1) the use of detailed lists of specific activities for categorical exclusions; (2) the excessive use of environmental assessments/findings of no significant impact and (3) excessive documentation.

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Exhibit 1--Continued

The Council has noted some agencies have developed lists of specific activities which qualify as categorical exclusions. The Council believes that if this approach is applied narrowly it will not provide the agency with sufficient flexibility to make decisions on a project-by-project basis with full consideration to the issues and impacts that are unique to a specific project. The Council encourages the agencies to consider broadly defined criteria which characterize types of actions that, based on the agency's experience, do not cause significant environmental effects. If this technique is adopted, it would be helpful for the agency to offer several examples of activities frequently performed by that agency's personnel which would normally fall in these categories. Agencies also need to consider whether the cumulative effects of several small actions would cause sufficient environmental impact to take the actions out of the categorically excluded class.

The Council also encourages agencies to examine the manner in which they use the environmental assessment process in relation to their process for identifying projects that meet the categorical exclusion definition. A report¹ to the Council indicated that some agencies have a very high ratio of findings of no significant impact to environmental assessments each year while producing only a handful of EIS's. Agencies should examine their decisionmaking process to ascertain if some of these actions

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Exhibit 1--Continued

do not, in fact, fall within the categorical exclusion definition, or, conversely, if they deserve full EIS treatment.

As previously noted, the Council received a number of comments that agencies require an excessive amount of environmental documentation for projects that meet the categorical exclusion definition. The Council believes that sufficient information will usually be available during the course of normal project development to determine the need for an EIS and further that the agency's administrative record will clearly document the basis for its decision. Accordingly, the Council strongly discourages procedures that would require the preparation of additional paperwork to document that an activity has been categorically excluded.

Categorical exclusions promulgated by an agency should be reviewed by the Council at the draft stage. After reviewing comments received during the review period and prior to publication in final form, the Council will determine whether the categorical exclusions are consistent with the NEPA regulations.

ADOPTION PROCEDURES

During the recent effort undertaken by the Council to review the current NEPA regulations, several participants indicated federal agencies were not utilizing the adoption

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Exhibit 1--Continued

procedures as authorized by the CEQ regulations. The concept of adoption was incorporated into the Council's NEPA Regulations (40 CFR 1506.3) to reduce duplicative EISs prepared by Federal agencies. The experiences gained during the 1970's revealed situations in which two or more agencies had an action relating to the same project; however, the timing of the actions were different. In the early years of NEPA implementation, agencies independently approached their activities and decisions. This procedure lent itself to two or even three EISs on the same project. In response to this situation the CEQ regulations authorized agencies, in certain instances, to adopt environmental impact statements prepared by other agencies.

In general terms, the regulations recognize three possible situations in which adoption is appropriate. One is where the federal agency participated in the process as a cooperating agency. (40 CFR 1506.3(c)). In this case, the cooperating agency may adopt a final EIS and simply issue its record of decision.² However, the cooperating agency must independently review the EIS and determine that its own NEPA procedures have been satisfied.

A second case concerns the federal agency which was not a cooperating agency, but is, nevertheless, undertaking an activity which was the subject of an EIS. (40 CFR 1506.3(b)). This situation would arise because an agency did not anticipate that it would be involved in a project which was the subject of another agency's EIS. In this

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Exhibit 1--Continued

instance where the proposed action is substantially the same as that action described in the EIS, the agency may adopt the EIS and recirculate (file with EPA and distribute to agencies and the public) it as a final EIS. However, the agency must independently review the EIS to determine that it is current and that its own NEPA procedures have been satisfied. When recirculating the final EIS the agency should provide information which identifies what federal action is involved.

The third situation is one in which the proposed action is not substantially the same as that covered by the EIS. In this case, any agency may adopt an EIS or a portion thereof by circulating the EIS as a draft or as a portion of the agency's draft and preparing a final EIS. (40 CFR 1506.3(a)). Repetitious analysis and time consuming data collection can be easily eliminated utilizing this procedure.

The CEQ regulations specifically address the question of adoption only in terms of preparing EIS's. However, the objectives that underly this portion of the regulations -- i.e., reducing delay and eliminating duplication -- apply with equal force to the issue of adopting other environmental documents. Consequently, the Council encourages agencies to put in place a mechanism for adopting environmental assessments prepared by other agencies. Under such procedures the agency could adopt the environmental assessment and prepare a Finding of No Significant Impact

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Exhibit 1--Continued

based on that assessment. In doing so, the agency should be guided by several principles:

— First, when an agency adopts such an analysis it must independently evaluate the information contained therein and take full responsibility for its scope and content.

— Second, if the proposed action meets the criteria set out in 40 CFR 1501.4(e)(2), a Finding of No Significant Impact would be published for 30 days of public review before a final determination is made by the agency on whether to prepare an environmental impact statement.

CONTRACTING PROVISIONS

Section 1506.5(c) of the NEPA regulations contains the basic rules for agencies which choose to have an environmental impact statement prepared by a contractor. That section requires the lead or cooperating agency to select the contractor, to furnish guidance and to participate in the preparation of the environmental impact statement. The regulation requires contractors who are employed to prepare an environmental impact statement to sign a disclosure statement stating that they have no financial or other interest in the outcome of the project. The responsible federal official must independently evaluate the statement prior to its approval and take responsibility for its scope and contents.

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Exhibit 1--Continued

During the recent evaluation of comments regarding agency implementation of the NEPA process, the Council became aware of confusion and criticism about the provisions of Section 1506.5(c). It appears that a great deal of misunderstanding exists regarding the interpretation of the conflict of interest provision. There is also some feeling that the conflict of interest provision should be completely eliminated.³

Applicability of Section 1506.5(c)

This provision is only applicable when a federal lead agency determines that it needs contractor assistance in preparing an EIS. Under such circumstances, the lead agency or a cooperating agency should select the contractor to prepare the EIS.⁴

This provision does not apply when the lead agency is preparing the EIS based on information provided by a private applicant. In this situation, the private applicant can obtain its information from any source. Such sources could include a contractor hired by the private applicant to do environmental, engineering, or other studies necessary to provide sufficient information to the lead agency to prepare an EIS. The agency must independently evaluate the information and is responsible for its accuracy.

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Exhibit 1--ContinuedConflict of Interest Provisions

The purpose of the disclosure statement requirement is to avoid situations in which the contractor preparing the environmental impact statement has an interest in the outcome of the proposal. Avoidance of this situation should, in the Council's opinion, ensure a better and more defensible statement for the federal agencies. This requirement also serves to assure the public that the analysis in the environmental impact statement has been prepared free of subjective, self-serving research and analysis.

Some persons believe these restrictions are motivated by undue and unwarranted suspicion about the bias of contractors. The Council is aware that many contractors would conduct their studies in a professional and unbiased manner. However, the Council has the responsibility of overseeing the administration of the National Environmental Policy Act in a manner most consistent with the statute's directives and the public's expectations of sound government. The legal responsibilities for carrying out NEPA's objectives rest solely with federal agencies. Thus, if any delegation of work is to occur, it should be arranged to be performed in as objective a manner as possible.

Preparation of environmental impact statements by parties who would suffer financial losses if, for example, a "no action" alternative were selected, could easily lead to a public perception of bias. It is important to maintain the public's faith in the integrity of the EIS process, and avoidance of

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Exhibit 1--Continued

conflicts in the preparation of environmental impact statements is an important means of achieving this goal.

The Council has discovered that some agencies have been interpreting the conflicts provision in an overly burdensome manner. In some instances, multidisciplinary firms are being excluded from environmental impact statements preparation contracts because of links to a parent company which has design and/or construction capabilities. Some qualified contractors are not bidding on environmental impact statement contracts because of fears that their firm may be excluded from future design or construction contracts. Agencies have also applied the selection and disclosure provisions to project proponents who wish to have their own contractor for providing environmental information. The result of these misunderstandings has been reduced competition in bidding for EIS preparation contracts, unnecessary delays in selecting a contractor and preparing the EIS, and confusion and resentment about the requirement. The Council believes that a better understanding of the scope of Section 1506.5(c) by agencies, contractors and project proponents will eliminate these problems.

Section 1506.5(c) prohibits a person or entity entering into a contract with a federal agency to prepare an EIS when that party has at that time and during the life of the contract pecuniary or other interests in the outcomes of the proposal. Thus, a firm which has an agreement to prepare an EIS for a construction project cannot, at the same time, have an agreement to perform the construction, nor could it be the owner of the

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Exhibit 1--Continued

construction site. However, if there are no such separate interests or arrangements, and if the contract for EIS preparation does not contain any incentive clauses or guarantees of any future work on the project, it is doubtful that an inherent conflict of interest will exist. Further, Section 1506.5(c) does not prevent an applicant from submitting information to an agency. The lead federal agency should evaluate potential conflicts of interest prior to entering into any contract for the preparation of environmental documents.

SELECTION OF ALTERNATIVES
IN
LICENSING AND PERMITTING SITUATIONS

Numerous comments have been received questioning an agency's obligation, under the National Environmental Policy Act, to evaluate alternatives to a proposed action developed by an applicant for a federal permit or license. This concern arises from a belief that projects conceived and developed by private parties should not be questioned or second-guessed by the government. There has been discussion of developing two standards to determining the range of alternatives to be evaluated: the "traditional" standard for projects which are initiated and developed by a Federal agency, and a second standard of evaluating only those alternatives presented by an applicant for a permit or license.

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Exhibit 1--Continued

Neither NEPA nor the CEQ regulations make a distinction between actions initiated by a Federal agency and by applicants. Early NEPA case law, while emphasizing the need for a rigorous examination of alternatives, did not specifically address this issue. In 1981, the Council addressed the question in its document, "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations".⁵ The answer indicated that the emphasis in determining the scope of alternatives should be on what is "reasonable". The Council said that, "Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense rather than simply desirable from the standpoint of the applicant."

Since issuance of that guidance, the Council has continued to receive requests for further clarification of this question. Additional interest has been generated by a recent appellate court decision. Roosevelt Campobello International Park Commission v. E.P.A.⁶ dealt with EPA's decision of whether to grant a permit under the National Pollutant Discharge Elimination System to a company proposing a refinery and deep-water terminal in Maine. The court discussed both the criteria used by EPA in its selecting of alternative sites to evaluate, and the substantive standard used to evaluate the sites. The court determined that EPA's choice of alternative sites was "focused by the primary objectives of the permit applicant . . ." and that EPA had limited its consideration of sites to only those sites which were considered feasible, given the applicant's stat

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Exhibit 1--Continued

goals. The court found that EPA's criteria for selection of alternative sites was sufficient to meet its NEPA responsibilities.

This decision is in keeping with the concept that an agency's responsibilities to examine alternative sites has always been "bounded by some notion of feasibility" to avoid NEPA from becoming "an exercise in frivolous boilerplate".⁷ NEPA has never been interpreted to require examination of purely conjectural possibilities whose implementation is deemed remote and speculative. Rather, the agency's duty is to consider "alternatives as they exist and are likely to exist."⁸ In the Roosevelt Campobello case, for example, EPA examined three alternative sites and two alternative modifications of the project at the preferred alternative site. Other factors to be developed during the scoping process -- comments received from the public, other government agencies and institutions, and development of the agency's own environmental data -- should certainly be incorporated into the decision of which alternatives to seriously evaluate in the EIS. There is, however, no need to disregard the applicant's purposes and needs and the common sense realities of a given situation in the development of alternatives.

TIERING

Tiering of environmental impact statements refers to the process of addressing a broad, general program, policy or

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Exhibit 1--Continued

proposal in an initial environmental impact statement (EIS), and analyzing a narrower site-specific proposal, related to the initial program, plan or policy in a subsequent EIS. The concept of tiering was promulgated in the 1978 CEQ regulations; the preceding CEQ guidelines had not addressed the concept. The Council's intent in formalizing the tiering concept was to encourage agencies, "to eliminate repetitive discussions and to focus on the actual issues ripe for decisions at each level of environmental review."⁹

Despite these intentions, the Council perceives that the concept of tiering has caused a certain amount of confusion and uncertainty among individuals involved in the NEPA process. This confusion is by no means universal; indeed, approximately half of those commenting in response to our question about tiering¹⁰ indicated that tiering is effective and should be used more frequently. Approximately one-third of the commentators responded that they had no experience with tiering upon which to base their comments. The remaining commentators were critical of tiering. Some commentators believed that tiering added an additional layer of paperwork to the process and encouraged, rather than discouraged, duplication. Some commentators thought that the inclusion of tiering in the CEQ regulations added an extra legal requirement to the NEPA process. Other commentators said that an initial EIS could be prepared when issues were too broad to analyze properly for any meaningful consideration. Some commentators believed that the concept was simply not applicable to the types of projects with which they worked; others were

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Exhibit 1--Continued

concerned about the need to supplement a tiered EIS. Finally, some who responded to our inquiry questioned the courts' acceptance of tiered EISs.

The Council believes that misunderstanding of tiering and its place in the NEPA process is the cause of much of this criticism. Tiering, of course, is by no means the best way to handle all proposals which are subject to NEPA analysis and documentation. The regulations do not require tiering; rather, they authorize its use when an agency determines it is appropriate. It is an option for an agency to use when the nature of the proposal lends itself to tiered EIS(s).

Tiering does not add an additional legal requirement to the NEPA process. An environmental impact statement is required for proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. In the context of NEPA, "major Federal actions" include adoption of official policy, formal plans, and programs as well as approval of specific projects, such as construction activities in a particular location or approval of permits to an outside applicant. Thus, where a Federal agency adopts a formal plan which will be executed throughout a particular region, and later proposes a specific activity to implement that plan in the same region, both actions need to be analyzed under NEPA to determine whether they are major actions which will significantly affect the environment. If the answer is yes in both cases, both actions will be subject to the EIS requirement, whether tiering is used or not. The agency then has one of two alternatives:

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Exhibit 1--Continued

either preparation of two environmental impact statements, with the second repeating much of the analysis and information found in the first environmental impact statement, or tiering the two documents. If tiering is utilized, the site-specific EIS contains a summary of the issues discussed in the first statement and the agency will incorporate by reference discussions from the first statement. Thus, the second, or site-specific statement, would focus primarily on the issues relevant to the specific proposal, and would not duplicate material found in the first EIS. It is difficult to understand, given this scenario, how tiering can be criticized for adding an unnecessary layer to the NEPA process; rather, it is intended to streamline the existing process.

The Council agrees with commentators who stated that there are stages in the development of a proposal for a program, plan or policy when the issues are too broad to lend themselves to meaningful analysis in the framework of an EIS. The CEQ regulations specifically define a "proposal" as existing at, "that stage in the development of an action when an agency subject to [NEPA] has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing the goal and the effects can be meaningfully evaluated."¹¹ Tiering is not intended to force an agency to prepare an EIS before this stage is reached; rather, it is a technique to be used once meaningful analysis can be performed. An EIS is not required before that stage in the development of a proposal, whether tiering is used or not.

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Exhibit 1--Continued

The Council also realizes that tiering is not well suited to all agency programs. Again, this is why tiering has been established as an option for the agency to use, as opposed to a requirement.

A supplemental EIS is required when an agency makes substantial changes in the proposed action relevant to environmental concerns, or when there are significant new circumstances or information relevant to environmental concerns bearing on the proposed action, and is optional when an agency otherwise determines to supplement an EIS.¹² The standard for supplementing an EIS is not changed by the use of tiering; there will no doubt be occasions when a supplement is needed, but the use of tiering should the number of those occasions.

Finally, some commentators raised the question of courts' acceptability of tiering. This concern is understandable, given several cases which have reversed agency decisions in regard to a particular programmatic EIS. However, these decisions have never invalidated the concept of tiering, as stated in the CEQ regulations and discussed above. Indeed, the courts recognized the usefulness of the tiering approach in case law before the promulgation of the tiering regulation. Rather, the problems appear when an agency determines not to prepare a site-specific EIS based on the fact that a programmatic EIS was prepared. In this situation, the courts carefully examine the analysis contained in the programmatic EIS. A court may or may not find that the programmatic EIS contains appropriate analysis of impacts and alternatives to meet the adequacy test for the

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Exhibit 1--Continued

site-specific proposal. A recent decision by the Ninth Circuit Court of Appeals¹³ invalidated an attempt by the Forest Service to make a determination regarding wilderness and non-wilderness designations on the basis of a programmatic EIS for this reason. However, it should be stressed that this and other decisions are not a repudiation of the tiering concept. In these instances, in fact, tiering has not been used; rather, the agencies have attempted to rely exclusively on programmatic or "first level" EISs which did not have site-specific information. No court has found that the tiering process as provided for in the CEQ regulations is an improper manner of implementing the NEPA process.

In summary, the Council believes that tiering can be a useful method of reducing paperwork and duplication when used carefully for appropriate types of plans, programs and policies which will later be translated into site-specific projects. Tiering should not be viewed as an additional substantive requirement, but rather a means of accomplishing the NEPA requirements in an efficient manner as possible.

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Exhibit 1--Continued

FOOTNOTES:

1. Environmental Law Institute, NEPA In Action Environmental Offices in Nineteen Federal Agencies, A Report To the Council on Environmental Quality, October 1981.
2. Records of decision must be prepared by each agency responsible for making a decision, and cannot be adopted by another agency.
3. The Council also received requests for guidance on effective management of the third-party environmental impact statement approach. However, the Council determined that further study regarding the policies behind this technique is warranted, and plans to undertake that task in the future.
4. There is no bar against the agency considering candidates suggested by the applicant, although the Federal agency must retain its independence. If the applicant is seen as having a major role in the selection of the contractor, contractors may feel the need to please both the agency and the applicant. An applicant's suggestion, if any, to the agency regarding the choice of contractors should be one of many factors involved in the selection process.
5. 46 Fed. Reg. 18026 (1981)
6. 684 F.2d 1041 (1st Cir. 1982)
7. Vermont-Yankee Nuclear Power Corp. v. NRDC, 435 U.S. 519, 551 (1978).
8. Monarch Chemical Works, Inc. v. Exxon, 466 F.Supp. 639, 650 (1979), quoting Carolina Environmental Study Group v. U.S., 510 F.2d 796, 801 (1975).
9. Preamble, Fed. Reg., Vol. 43, No. 230, p. 55984, 11/29/78.
10. "Is tiering being used to minimize repetition in an environmental assessment and in environmental impact statements?", 46 Fed. Reg. 41131, August 14, 1981.
11. 40 C.F.R. 1508.23 (emphasis added).
12. 40 C.F.R. 1502.9(c)
13. California v. Aetna, 18 ERC 1149 (1982).

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65.2 - Department of Agriculture NEPA Policies and Procedures. (7 CFR Part 1b). See exhibit 1 (excerpted from the March 18, 1983, Federal Register, 48 FR 11403).

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Exhibit 1

Department of Agriculture NEPA Policies and Procedures

Federal Register / Vol. 48, No. 54 / Friday, March 18, 1983 / Rules and Regulations

11403

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Parts 1b and 1c

National Environmental Policy Act
(NEPA) Policies and Procedures

Agency: Agriculture Department.

Action: Final rule.

SUMMARY: This rule prescribes the Department of Agriculture (USDA) policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR Parts 1500-1508). It has been determined that effective NEPA implementation can best be achieved by reliance on individual USDA agency NEPA regulations for detailed implementation procedures. It has been further determined that a Departmental statement of policy regarding NEPA is an effective means of assisting agency implementation. This regulation sets forth this policy.

EFFECTIVE DATE: March 18, 1983.

FOR FURTHER INFORMATION CONTACT: Peter F. Smith, Executive Secretary of the Environmental Issues Working Group, Room 6134 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 447-5188.

SUPPLEMENTARY INFORMATION: On September 27, 1982, (47 FR 42384) the USDA proposed rules setting forth policies and procedures for compliance with NEPA and the CEQ implementing regulations (40 CFR Parts 1500-1508). This action constitutes final rulemaking stemming from that proposed rule. The final rule provides a USDA policy statement regarding NEPA and environmental matters, including responsibilities for environmental effects abroad; a list of USDA actions categorically excluded from the preparation of environmental assessments and environmental impact statements; and a list of USDA agencies which have been excluded from the requirements to prepare implementing procedures.

The final rule repeals and replaces the previous regulation, eliminating certain procedural requirements which were

formerly performed by the Office of Environmental Quality.

This final rule has been reviewed under procedures established in Secretary's Memorandum 1312-1 and Executive Order 12291 and has been classified as nonmajor. The rule will not have—

- (a) An annual effect on the economy of \$100 million or more; or
- (b) Any increased costs or prices to consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or
- (c) A significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action will not have a significant economic impact on a substantial number of small entities because it imposes no direct or indirect costs on small entities. It requires no paperwork or recordkeeping. It does not affect the competitive position of small entities in relation to large entities. It does not affect the cash flow or liquidity of small entities. It does not affect the ability of a small entity to stay in the market, and it does not require that small entities obtain professional assistance to meet regulatory requirements.

During the 60-day comment period, one comment was received and it was considered in developing the final rule. The principal point raised in the comment was the suggestion that a distinction be made between compliance policies for NEPA and Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions." This comment has been incorporated by establishing a new subsection to discuss separate policies for Executive Order 12114 compliance.

List of Subjects in 7 CFR Parts 1b and 1c

Environmental policy statements, Historic preservation, Foreign relations.

Accordingly, Title 7 of the Code of Federal Regulations, is amended as follows:

1. A new Part 1b, Subtitle A, is added to read as follows:

PART 1b—NATIONAL ENVIRONMENTAL POLICY ACT

- Sec.
- 1b.1 Purpose.
- 1b.2 Policy.
- 1b.3 Categorical exclusions.
- 1b.4 Exclusion of agencies.

Authority: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 et seq.; E.O. 11814, 34 FR 4367, as amended by

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Exhibit 1--Continued

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E.O. 11891, 42 FR 5887; E.O. 12114, 44 FR 1867; 5 U.S.C. 301; 40 CFR 1507.3

§ 1b.1 Purpose.

(a) This subpart supplements the regulations for implementation of the National Environmental Policy Act (NEPA), for which regulations were published by the Council of Environmental Quality (CEQ) in 40 CFR Parts 1500 through 1508. The subpart incorporates and adopts those regulations.

(b) This subpart sets forth Departmental policy concerning NEPA, establishes categorical exclusions of actions carried out by the Department and its agencies, and sets forth those USDA agencies which are excluded from the requirement to prepare procedures implementing NEPA.

§ 1b.2 Policy.

(a) USDA agencies carry out programs for the purpose of encouraging sufficient and efficient production of food, fiber, and forest products; proper management and conservation of the Nation's natural resources; and the protection of consumers through inspection services. Programs to meet this mission are carried out through research; education; technical and financial assistance to landowners and operators, producers, and consumers; and management of the National Forest System.

(b) All policies and programs of the various USDA agencies shall be planned, developed, and implemented so as to achieve the goals and to follow the procedures declared by NEPA in order to assure responsible stewardship of the environment for present and future generations.

(c) Each USDA agency is responsible for compliance with the provisions of this subpart, the regulations of CEQ, and the provisions of NEPA. Compliance will include the preparation and implementation of specific procedures and processes relating to the programs and activities of the individual agency, as necessary.

(d) The Assistant Secretary, Natural Resources and Environment (NR&E), is responsible for ensuring that agency implementing procedures are consistent with CEQ's NEPA regulations and for coordinating NEPA compliance for the Department (7 CFR 2.16(b)). The Assistant Secretary, through the USDA Natural Resources and Environment Committee, will develop the necessary processes to be used by the Office of the Secretary in reviewing, implementing, and planning its NEPA activities, determinations, and policies.

(e) In connection with the policies and requirements set forth in this subpart, all

USDA agencies are responsible for compliance with Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions." Compliance will include the preparation and implementation of specific procedures and processes relative to the programs and activities of the individual agencies, as necessary. Agencies shall consult with the Department of State; the Council on Environmental Quality; and the Assistant Secretary, NR&E, prior to placing procedures and processes in effect.

§ 1b.3 Categorical exclusions.

(a) The following are categories of activities which have been determined not to have a significant individual or cumulative effect on the human environment and are excluded from the preparation of environmental assessment (EA's) or environmental impact statement (EIS's), unless individual agency procedures prescribed otherwise.

(1) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions;

(2) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds;

(3) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity;

(4) Educational and informational programs and activities;

(5) Civil and criminal law enforcement and investigative activities;

(6) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counseling and representation;

(7) Activities related to trade representation and market development activities abroad.

(b) Agencies will identify in their own procedures the activities which normally would not require an environmental assessment or environmental impact statement.

(c) Notwithstanding the exclusions listed above and in 1b.4, or identified in agency procedures, agency heads may determine that circumstances dictate the need for preparation of an EA or EIS for a particular action. Agencies shall continue to scrutinize their activities to determine continued eligibility for categorical exclusion.

§ 1b.4 Exclusions of agencies.

(a) The USDA agencies listed below carry out programs and activities which have been found to have no individual or cumulative effect on the human environment. These agencies are excluded from the requirements to prepare implementing procedures. Actions of these agencies are categorically excluded from the preparation of an EA or EIS unless the agency head determines that an action may have a significant environmental effect.

- (1) Agricultural Cooperative Service.
- (2) Agricultural Marketing Service.
- (3) Extension Service.
- (4) Economic Research Service.
- (5) Federal Crop Insurance Corporation.
- (6) Federal Grain Inspection Service.
- (7) Food and Nutrition Service.
- (8) Food Safety and Inspection Service.
- (9) Foreign Agricultural Service.
- (10) Office of Transportation.
- (11) Packers and Stockyards Administration.
- (12) Statistical Reporting Service.
- (13) Office of General Counsel.
- (14) Office of Inspector General.
- (15) National Agricultural Library.

2-A new Part 1c, Subtitle A, is added and reserved to read as follows:

PART 1c—CULTURAL RESOURCES (RESERVED)

Subparts A and B—(Removed)

3. Subpart A—(Reserved) and Subpart B—National Environmental Policy Act of Part 3100, Subtitle B are revoked and removed.

John B. Crowl, Jr.,
Assistant Secretary, Natural Resources and Environment

March 14, 1983.

(FR Doc. 83-728 Filed 3-17-83; 8:45 am)
GILLES CODE 3470-01-01

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66 - EXECUTIVE ORDERS

66.1 - E.O. 11514--Protection and Enhancement of Environmental Quality. See exhibit 1.

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Exhibit 1

Protection and Enhancement of Environmental Quality

Executive Order 11514, March 5, 1970

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

As amended by Executive Order 11991, (Secs. 2(g) and (3(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:

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Exhibit 1--Continued

(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

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Exhibit 1--Continued

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".

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67 - FEDERAL REGISTER DOCUMENT REQUIREMENTS. Follow these procedures in preparing and submitting documents to the Office of the Federal Register (OFR).

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c. If the notice is longer than one page, center page numbers 1 inch from the bottom of the page, beginning with page two.

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a. Send original and two copies to the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408.

b. To obtain confirmation of the publication date, attach a note to the notice document giving the name of the Forest Service official and the FTS telephone number the OFR staff is to call, or include this information in a transmittal letter. Exhibit 1, section 41.1, illustrates a properly prepared notice of intent.