

DEPARTMENT OF THE INTERIOR**[516 DM 1-15]****National Environmental Policy Act Revised Implementing Procedures****AGENCY:** Department of the Interior.**ACTION:** Notice of proposed revised procedures.

SUMMARY: This notice proposes revised Departmental policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, Executive Order 11514, as amended, and the Council on Environmental Quality's regulations. This action is necessary to update these procedures and to make them available to the public on the Department's Internet site. When adopted, these procedures will be published in Part 516 of the Departmental Manual (DM) and will be added to the Electronic Library of Interior Policies (ELIPS). ELIPS is located at: <http://elips.doi.gov/>.

DATES: Submit comments on or before October 12, 2000.

ADDRESSES: Comments may be mailed to: Willie R. Taylor, Director, Office of Environmental Policy and Compliance; Mail Stop (MS) 2340; 1849 C Street, NW; Washington, DC 20240. Electronic comments may be submitted in WordPerfect or MicroSoft Word format to: Willie_R_Taylor@ios.doi.gov.

FOR FURTHER INFORMATION CONTACT: Terence N. Martin, Team Leader, Natural Resources Management; Office of Environmental Policy and Compliance; 1849 C Street, NW; Washington, DC 20240. Telephone: 202-208-5465. E-mail: Terry_Martin@ios.doi.gov.

SUPPLEMENTARY INFORMATION: These procedures address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA. They update our policies and procedures in order to stay current with changing environmental laws and programs of the Federal government. It is the intent of these procedures to continue to set forth one set of broad Departmental directives and instructions to all bureaus and offices of the Department to follow in their NEPA compliance activities. In previous publications of these chapters the Department's bureaus published appendices to Chapter 6 to further describe each bureau's special compliance program. In order to more efficiently handle these appendices in the ELIPS system, it has been decided to republish them as new chapters to this DM part. Therefore, this publication includes new Chapters 8 through 15

which represent the old bureau appendices. These chapters have already received public review and are final. Comments are not being requested on these chapters. In accordance with 1507.3 of the CEQ Regulations, this Department submitted these proposed revisions to CEQ for review. In a letter dated June 14, 1999, CEQ commented on the proposed revisions, and those comments have been addressed here.

Authority: NEPA, the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ Regulations 40 CFR 1507.3

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

Department of the Interior**Departmental Manual**

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 1: Protection and Enhancement of Environmental Quality

Originating Office: Office of Environmental Policy and Compliance

516 DM 1**1.1 Purpose**

This Chapter establishes the Department's policies for complying with Title I of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) (NEPA); Section 2 of Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991; and the regulations of the Council on Environmental Quality (CEQ) implementing the procedural provisions of NEPA (40 CFR 1500-1508; identified in Chapters 1-7 as the CEQ Regulations).

1.2 Policy

It is the policy of the Department:

A. To provide leadership in protecting and enhancing those aspects of the quality of the Nation's environment which relate to or may be affected by the Department's policies, goals, programs, plans, or functions in furtherance of national environmental policy;

B. To use all practicable means, consistent with other essential considerations of national policy, to improve, coordinate, and direct its policies, plans, functions, programs, and resources in furtherance of national environmental goals;

C. To interpret and administer, to the fullest extent possible, the policies, regulations, and public laws of the United States administered by the Department in accordance with the policies of NEPA;

D. To consider and give important weight to environmental factors, along with other essential considerations, in developing proposals and making decisions in order to achieve a proper balance between the development and utilization of natural, cultural, and human resources and the protection and enhancement of environmental quality;

E. To consult, coordinate, and cooperate with other Federal agencies and State, local, and Indian tribal governments in the development and implementation of the Department's plans and programs affecting environmental quality and, in turn, to provide to the fullest practicable extent, these entities with information concerning the environmental impacts of their own plans and programs;

F. To provide, to the fullest practicable extent, timely information to the public to better assist in understanding Departmental plans and programs affecting environmental quality and to facilitate their involvement in the development of such plans and programs; and

G. To cooperate with and assist the CEQ.

1.3 General Responsibilities

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

A. *Assistant Secretary—Policy, Management and Budget (PMB).*

(1) Is the Department's focal point on NEPA matters and is responsible for overseeing the Department's implementation of NEPA.

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

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

B. *Solicitor.* Is responsible for providing legal advice in the Department's compliance with NEPA.

C. *Assistant Secretaries.*

(1) Are responsible for compliance with NEPA, E.O. 11514, as amended, the CEQ Regulations, and this Part for bureaus and offices under their jurisdiction.

(2) Will insure that, to the fullest extent possible, the policies, regulations, and public laws of the

United States administered under their jurisdiction are interpreted and administered in accordance with the policies of NEPA.

D. Heads of Bureaus and Offices.

(1) Must comply with the provisions of NEPA, E.O. 11514, as amended, the CEQ Regulations and this Part.

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

(3) Will continue to review their statutory authorities, administrative regulations, policies, programs, and procedures, including those related to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the intent, purpose, and provisions of NEPA and, in consultation with the Solicitor and the Office of Congressional and Legislative Affairs shall take or recommend, as appropriate, corrective actions as may be necessary to bring these authorities and policies into conformance with the intent, purpose, and procedures of NEPA.

(4) Will monitor, evaluate, and control on a continuing basis their activities so as to protect and enhance the quality of the environment. Such activities will include those directed to controlling pollution and enhancing the environment and designed to accomplish other program objectives which may affect the quality of the environment. They will develop programs and measures to protect and enhance environmental quality and assess progress in meeting the specific objectives of such activities as they affect the quality of the environment.

1.4 Consideration of Environmental Values

A. In Departmental Management.

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

(2) Departmental project reports, program proposals, issue papers, and

other decision documents must carefully analyze the various objectives, resources, and constraints, and comprehensively and objectively evaluate the advantages and disadvantages of the proposed actions and their reasonable alternatives. Where appropriate, these documents will utilize and reference supporting and underlying economic, environmental, and other analyses.

(3) The underlying environmental analyses will factually, objectively, and comprehensively analyze the environmental effects of proposed actions and their reasonable alternatives. They will systematically analyze the environmental impacts of alternatives, and particularly those alternatives and measures which would reduce, mitigate or prevent adverse environmental impacts or which would enhance environmental quality. However, such an environmental analysis is not, in and of itself, a program proposal or the decision document, is not a justification of a proposal, and will not support or deprecate the overall merits of a proposal or its various alternatives.

B. In Internally Initiated Proposals.

Officials responsible for development or conduct of planning and decision making systems within the Department shall incorporate to the maximum extent necessary environmental planning as an integral part of these systems in order to insure that environmental values and impacts are fully considered and in order to facilitate any necessary documentation of those considerations.

C. In Externally Initiated Proposals.

Officials responsible for development or conduct of loan, grant, contract, lease, license, permit, or other externally initiated activities shall require applicants, to the extent necessary and practicable, to provide environmental information, analyses, and reports as an integral part of their applications. This will serve to encourage applicants to incorporate environmental considerations into their planning processes as well as provide the Department with necessary information to meet its own environmental responsibilities.

1.5 Consultation, Coordination, and Cooperation With Other Agencies and Organizations

A. Departmental Plans and Programs.

(1) Officials responsible for planning or implementing Departmental plans and programs will develop and utilize procedures to consult, coordinate, and cooperate with relevant State, local, and Indian tribal governments; other

bureaus and Federal agencies; and public and private organizations and individuals concerning the environmental effects of these plans and programs on their jurisdictions or interests.

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

B. Other Departmental Activities.

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

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

(3) Recognizing the worldwide and long-range character of environmental problems, where consistent with the foreign policy of the United States, appropriate support will be made available to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

C. Plans and Programs of Other Agencies and Organizations.

(1) Officials responsible for protecting, conserving, developing, or managing resources under the Department's jurisdiction shall coordinate and cooperate with State, local, and Indian tribal governments, other bureaus and Federal agencies, and public and private organizations and individuals, and provide them with timely information concerning the environmental effects of these entities' plans and programs.

(2) Bureaus and offices are encouraged to participate early in the planning processes of other agencies and organizations in order to insure full cooperation with and understanding of the Department's programs and interests in natural, cultural, and human resources.

(3) Bureaus and offices will utilize to the fullest extent possible, existing

Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

1.6 Public Involvement

Bureaus and offices, in consultation with the Office of Communications will develop and utilize procedures to insure the fullest practicable provision of timely public information and understanding of their plans and programs with environmental impact including information on the environmental impacts of alternative courses of action. These procedures will include, wherever appropriate, provision for public meetings or hearings in order to obtain the views of interested parties. Bureaus and offices will also encourage State and local agencies and Indian tribal governments to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment. (See also 301 DM 2.)

1.7 Mandate

A. This Part provides Department-wide instructions for complying with NEPA and Executive Orders 11514, as amended by 11991 (Protection and Enhancement of Environmental Quality) and 12114 (Environmental Effects Abroad of Major Federal Actions).

B. The Department hereby adopts the CEQ Regulations implementing the procedural provisions of NEPA (Sec. 102(2)(C)) except where compliance would be inconsistent with other statutory requirements. In the case of any apparent discrepancies between these procedures and the mandatory provisions of the CEQ Regulations, the regulations shall govern.

C. Instructions supplementing the CEQ Regulations are provided in Chapters 2–7 of this Part. Citations in brackets refer to the CEQ Regulations. Instructions specific to each bureau are currently found in Chapters 8 through 15. This portion of the manual may expand or contract depending on the number of bureaus existing at any particular time. In addition, bureaus may prepare a handbook(s) or other technical guidance for their personnel on how to apply this Part to principal programs.

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969

Chapter 2: Initiating the NEPA Process

Originating Office: Office of Environmental Policy and Compliance

516 DM 2

2.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ Regulations pertaining to initiating the NEPA process. The numbers in parentheses signify the appropriate citation in the CEQ Regulations.

2.2 Apply NEPA Early (1501.2)

A. Bureaus will initiate early consultation and coordination with other bureaus and any Federal agency having jurisdiction by law or special expertise with respect to any environmental impact involved, and with appropriate Federal, State, local and Indian tribal agencies authorized to develop and enforce environmental standards.

B. Bureaus will also consult early with interested private parties and organizations, including when the Bureau's own involvement is reasonably foreseeable in a private or non-Federal application.

C. Bureaus will revise or amend program regulations, requirements, or directives to insure that private or non-Federal applicants are informed of any environmental information required to be included in their applications and of any consultation with other Federal agencies, and State, local or Indian tribal governments required prior to making the application. A discussion and a list of these regulations, requirements, or directives are found in 516 DM 6.4 and 6.5. The specific regulations, requirements, or directives for each bureau are found in separate chapters of this part beginning with Chapter 8.

2.3 Whether to prepare an EIS (1501.4)

A. Categorical Exclusions (CX) (1508.4).

(1) The following criteria will be used to determine actions to be categorically excluded from the NEPA process: (a) The action or group of actions would have no significant effect on the quality of the human environment; and (b) The action or group of actions would not involve unresolved conflicts concerning alternative uses of available resources.

(2) Based on the above criteria, the classes of actions listed in Appendix 1 to this Chapter are categorically excluded, Department-wide, from the NEPA process. A list of CX specific to Bureau programs will be found in the bureau chapters beginning with Chapter 8.

(3) The exceptions listed in Appendix 2 to this Chapter apply to individual actions within CX. Environmental documents must be prepared for any actions involving these exceptions when such actions would cause material impacts.

(4) Notwithstanding the criteria, exclusions and exceptions above, extraordinary circumstances may dictate or a responsible Departmental or Bureau official may decide to prepare an environmental document.

B. Environmental Assessment (EA) (1508.9). See 516 DM 3.

C. *Finding of No Significant Impact (FONSI)* (1508.13). A FONSI will be prepared as a separate covering document based upon a review of an EA. Accordingly, the words *include(d)* in Section 1508.13 should be interpreted as *attach(ed)*.

D. *Notice of Intent (NOI)* (1508.22.). An NOI will be prepared as soon as practicable after a decision to prepare an environmental assessment or an environmental impact statement and shall be published in the **Federal Register**, with a copy to the Office of Environmental Policy and Compliance (OEPC) and made available to the affected public in accordance with Section 1506.6. Publication of an NOI may be delayed if there is proposed to be more than three (3) months between the decision to prepare an environmental impact statement and the time preparation is actually initiated. The notice, at a minimum, identifies key personnel, sets forth a schedule, and invites early comment. Scoping requests generally announce a schedule for scoping meetings where the agencies and the public can participate in the formal scoping process. These notices are also usually published in the **Federal Register** and may contain the text of a draft scoping document. The draft scoping document may also be made available upon request to a contact usually named in the notice.

E. *Environmental Impact Statement (EIS)* (1508.11). See 516 DM 4. Decisions/actions which would normally require the preparation of an EIS will be identified in each bureau chapter beginning with Chapter 8.

2.4 Lead Agencies (1501.5)

A. The Assistant Secretary—Policy, Management and Budget (PMB) will designate lead Bureaus within the Department when Bureaus under more than one Assistant Secretary are involved and will represent the Department in consultations with CEQ or other Federal agencies in the resolution of lead agency determinations.

B. Bureaus will inform the of any agreements to assume lead agency status.

C. To eliminate duplication with State and local procedures, a non-Federal agency may be designated as a joint lead agency when it has a duty to comply with State or local requirements that are comparable to the NEPA requirements. In general, bureaus will not become joint lead agencies with another Federal agency but will utilize the cooperating agency mechanism outlined in 40 CFR 1501.6.

2.5 Cooperating Agencies (1501.6)

A. The will assist Bureaus and coordinate requests from non-Interior agencies in determining cooperating agencies.

B. Bureaus will inform the of any agreements to assume cooperating agency status or any declinations pursuant to Section 1501.6(c).

C. Any non-Federal agency may be a cooperating agency by agreement and bureaus are urged to utilize this process. Bureaus will consult with the Solicitor's Office in cases where such non-Federal agencies are also applicants before the Department to determine relative lead/cooperating agency responsibilities.

2.6 Scoping (1501.7)

A. The invitation requirement in Section 1501.7(a)(1) may be satisfied by including such an invitation in the NOI.

B. Scoping is a process which continues throughout the planning and early stages of preparation of an EIS. Scoping is encouraged by bureaus to engage the public in the early identification of concerns, potential impacts, and possible alternative actions.

C. If scoping meetings are held, it should be made clear that the lead agency is ultimately responsible for the scope of an EIS and that suggestions obtained during scoping are considered to be advisory.

2.7 Time Limits (1501.8)

When time limits are established they should reflect the availability of personnel and funds.

Chapter 2; Appendix 1

Departmental Categorical Exclusions

The following actions are categorical exclusions (CX) pursuant to 516 DM 2.3A(2). However, environmental documents will be prepared for individual actions within these CX if the exceptions listed in 516 DM 2, Appendix 2, apply.

1.1 Personnel actions and investigations and personnel services contracts.

1.2 Internal organizational changes and facility and office reductions and closings.

1.3 Routine financial transactions including such things as salaries and expenses, procurement contracts, guarantees, financial assistance, income transfers, audits, fees, bonds and royalties.

1.4 Departmental legal activities including but not limited to such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are already excluded in 40 CFR 1508.18(a).

1.5 Regulatory and enforcement actions, including inspections, assessments, administrative hearings and decisions; when the regulations themselves or the instruments of regulations (leases, permits, licenses, etc.) have previously been covered by the NEPA process or are exempt from it.

1.6 Nondestructive data collection, inventory (including field, aerial and satellite surveying and mapping), study, research and monitoring activities.

1.7 Routine and continuing government business, including such things as supervision, administration, operations, maintenance and replacement activities having limited context and intensity; *e.g.*, limited size and magnitude or short-term effects.

1.8 Management, formulation, allocation, transfer and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)

1.9 Legislative proposals of an administrative or technical nature, including such things as changes in authorizations for appropriations, and minor boundary changes and land transactions; or having primarily economic, social, individual or institutional effects; and comments and reports on referrals of legislative proposals.

1.10 Policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.

1.11 Activities which are educational, informational, advisory or consultative to other agencies, public and private entities, visitors, individuals or the general public.

Chapter 2; Appendix 2

Exceptions to Categorical Exclusions

The following exceptions apply to individual actions within categorical exclusions (CX). Environmental documents must be prepared for actions which may:

2.1 Have material adverse effects on public health or safety.

2.2 Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, national natural landmarks, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, and ecologically significant or critical areas.

2.3 Have highly controversial environmental effects.

2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

2.6 Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.

2.7 Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.

2.8 Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.

2.9 Have material adverse effects on resources requiring compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.

2.10 Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

2.11 Involve unresolved conflicts concerning alternative uses of available resources (NEPA Sec. 102(2)(E)).

2.12 Have a disproportionate, significant adverse effect on low income or minority populations (EO 12898).

2.13 Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (EO 13007).

2.14 Contribute to the introduction, continued existence or spread of Federally listed noxious weeds (Federal Noxious Weed Control Act).

2.15 Contribute to the introduction, continued existence or spread of non-

native invasive species or actions that may promote the introduction, growth, or expansion of the range of non-native invasive species (EO 13112).

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 3: Environmental Assessments

Originating Office: Office of Environmental Policy and Compliance

516 DM 3

3.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ Regulations pertaining to environmental assessments (EA).

3.2 When To Prepare (1501.3)

A. An EA will be prepared for all actions, except those covered by a categorical exclusion, covered sufficiently by an earlier environmental document, or for those actions for which a decision has already been made to prepare an EIS. The purpose of such an EA is to allow the responsible official to determine whether to prepare an EIS.

B. In addition, an EA may be prepared on any action at any time in order to assist in planning and decision making.

3.3 Public Involvement

A. Public notification must be provided and, where appropriate, the public involved in the EA process (1506.6).

B. The scoping process may be applied to an EA (1501.7).

3.4 Content

A. At a minimum, an EA will include brief discussions of the need for the proposal, of alternatives as required by Section 102(2)(E) of NEPA, of the environmental impacts of the proposed action and such alternatives, and a listing of agencies and persons consulted (1508.9(b)).

B. In addition, an EA may be expanded to describe the proposal, a broader range of alternatives, and proposed mitigation measures if this facilitates planning and decision making.

C. The level of detail and depth of impact analysis should normally be limited to that needed to determine whether there are significant environmental effects.

D. An EA will contain objective analyses which support its

environmental impact conclusions. It will not, in and of itself, conclude whether or not an EIS will be prepared. This conclusion will be made upon review of the EA by the responsible official and documented in either an NOI or FONSI.

3.5 Format

A. An EA may be prepared in any format useful to facilitate planning and decision making.

B. An EA may be combined with any other planning or decision making document; however, that portion which analyzes the environmental impacts of the proposal and alternatives will be clearly and separately identified and not spread throughout or interwoven into other sections of the document.

3.6 Adoption

A. An EA prepared for a proposal before the Department by another agency, entity or person, including an applicant, may be adopted if, upon independent evaluation by the responsible official, it is found to comply with this Chapter and relevant provisions of the CEQ Regulations.

B. When appropriate and efficient, a responsible official may augment such an EA when it is essentially but not entirely in compliance in order to make it so.

C. If such an EA or augmented EA is adopted, responsible officials must prepare their own NOI or FONSI which also acknowledges the origin of the EA and takes full responsibility for its scope and content.

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 4: Environmental Impact Statements

Originating Office: Office of Environmental Policy and Compliance

516 DM 4

4.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ regulations pertaining to environmental impact statements (EIS).

4.2 Statutory Requirements (1502.3)

NEPA requires that an EIS be prepared by the responsible Federal official. This official is normally the lowest-level official who has overall responsibility for formulating,

reviewing, or proposing an action or, alternatively, has been delegated the authority or responsibility to develop, approve, or adopt a proposal or action. Preparation at this level will insure that the NEPA process will be incorporated into the planning process and that the EIS will accompany the proposal through existing review processes.

4.3 Timing (1502.5)

A. The feasibility analysis (go/no-go) stage, at which time an EIS is to be completed, is to be interpreted as the stage prior to the first point of major commitment to the proposal. For example, this would normally be at the authorization stage for proposals requiring Congressional authorization, the location or corridor stage for transportation, transmission, and communication projects, and the leasing stage for mineral resources proposals.

B. An EIS need not be commenced until an application is essentially complete; e.g., any required environmental information is submitted, any consultation required with other agencies has been conducted, and any required advance funding is paid by the applicant.

4.4 Page Limits (1502.7)

Where the text of an EIS for a complex proposal or group of proposals appears to require more than the normally prescribed limit of 300 pages, bureaus will insure that the length of such statements is no greater than necessary to comply with NEPA, the CEQ regulations, and this Chapter.

4.5 Supplemental Statements (1502.9)

A. Supplements are only required if such changes in the proposed action or alternatives, new circumstances, or resultant significant effects are not adequately analyzed in the previously prepared EIS.

B. A bureau and/or the appropriate program Assistant Secretary will consult with the Office of Environmental Policy and Compliance (OEPC) and the Office of the Solicitor prior to proposing to CEQ to prepare a final supplement without preparing an intervening draft.

C. If, after a decision has been made based on a final EIS, a described proposal is further defined or modified and if its changed effects are minor or still within the scope of the earlier EIS, an EA and FONSI may be prepared for subsequent decisions rather than a supplement.

4.6 Format (1502.10)

A. Proposed departures from the standard format described in the CEQ

regulations and this Chapter must be approved by the OEPC.

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

C. The section listing the distribution of the EIS will also briefly describe the consultation and public involvement processes utilized in planning the proposal and in preparing the EIS, if this information is not discussed elsewhere in the document.

D. If CEQ's standard format is not used or if the EIS is combined with another planning or decision making document, the section which analyzes the environmental consequences of the proposal and its alternatives will be clearly and separately identified and not interwoven into other portions of or spread throughout the document.

4.7 Cover Sheet (1502.11)

The cover sheet will also indicate whether the EIS is intended to serve any other environmental review or consultation requirements pursuant to Section 1502.25.

4.8 Summary (1502.12)

The emphasis in the summary should be on those considerations, controversies, and issues which significantly affect the quality of the human environment.

4.9 Purpose and Need (1502.13)

This section may introduce a number of factors, including economic and technical considerations and Departmental or bureau statutory missions, which may be beyond the scope of the EIS. Care should be taken to insure an objective presentation and not a justification.

4.10 Alternatives Including the Proposed Action (1502.14)

A. As a general rule, the following guidance will apply:

(1) For internally initiated proposals; *i.e.*, for those cases where the Department conducts or controls the planning process, both the draft and final EIS shall identify the bureaus' proposed action.

(2) For externally initiated proposals; *i.e.*, for those cases where the Department is reacting to an application or similar request, the draft and final EIS shall identify the applicant's proposed action and the bureau's preferred alternative unless another law prohibits such an expression.

(3) Proposed departures from this guidance must be approved by the OEPC and the Office of the Solicitor.

B. Mitigation measures are not necessarily independent of the proposed action and its alternatives and should be incorporated into and analyzed as a part of the proposal and appropriate alternatives. Where appropriate, major mitigation measures may be identified and analyzed as separate alternatives in and of themselves where the environmental consequences are distinct and significant enough to warrant separate evaluation.

4.11 Appendix (1502.18)

If an EIS is intended to serve other environmental review or consultation requirements pursuant to Section 1502.25, any more detailed information needed to comply with these requirements may be included as an appendix.

4.12 Incorporation by Reference (1502.21)

Citations of specific topics will include the pertinent page numbers. All literature references will be listed in the bibliography.

4.13 Incomplete or Unavailable Information (1502.22)

The references to overall costs in this section are not limited to market costs, but include other costs to society such as social costs due to delay.

4.14 Methodology and Scientific Accuracy (1502.24)

Conclusions about environmental effects will be preceded by an analysis that supports that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public.

4.15 Environmental Review and Consultation Requirements (1502.25)

A. A list of related environmental review and consultation requirements is available from the OEPC.

B. If the EIS is intended to serve as the vehicle to fully or partially comply with any of these requirements, the associated analyses, studies, or surveys will be identified as such and discussed in the text of the EIS and the cover sheet will so indicate. Any supporting analyses or reports will be referenced or included as an appendix and shall be sent to reviewing agencies as appropriate in accordance with applicable regulations or procedures.

4.16 Inviting Comments (1503.1)

A. Comments from State agencies will be requested through procedures established by the Governor pursuant to Executive Order 12372, and may be requested from local agencies through

these procedures to the extent that they include the affected local jurisdictions. See 511 DM and the current OEPC guidance on this topic.

B. When the proposed action may affect the environment of an Indian reservation, comments will be requested from the Indian tribe through the tribal governing body, unless the tribal governing body has designated an alternate review process.

C. The comments of other Departmental bureaus and offices must also be requested. In order to do this, the preparing bureau must furnish copies of the environmental document to the other bureaus in quantities sufficient to allow simultaneous review. Guidance is found in the Environmental Statement Memoranda Series (ESM) periodically updated by the OEPC.

4.17 Response to Comments (1503.4)

A. Preparation of a final EIS need not be delayed in those cases where a Federal agency, from which comments are required to be obtained (1503.1(a)(1)), does not comment within the prescribed time period. Informal attempts will be made to determine the status of any such comments and every reasonable attempt should be made to include the comments and a response in the final EIS.

B. When other commentors are late, their comments should be included in the final EIS to the extent practicable.

C. For those EISs requiring the approval of the Assistant Secretary—Policy, Management and Budget (PMB) pursuant to 516 DM 6.3, bureaus will consult with the OEPC when they propose to prepare an abbreviated final EIS (1503.4(c)).

4.18 Elimination of Duplication With State and Local Procedures (1506.2)

Bureaus will incorporate in their appropriate program regulations provisions for the preparation of an EIS by a State agency to the extent authorized in Section 102(2)(D) of NEPA. Eligible programs are listed in Appendix I to this Chapter.

4.19 Combining Documents (1506.4)

See 516 DM 4.6D.

4.20 Departmental Responsibility (1506.5)

Following the responsible official's preparation or independent evaluation of and assumption of responsibility for an environmental document, an applicant may print it provided the applicant is bearing the cost of the document pursuant to other laws.

4.21 Public Involvement (1506.6)

See 516 DM 1.6 and 301 DM 2.

4.22 Further Guidance (1506.7)

The OEPC may provide further guidance concerning NEPA pursuant to its organizational responsibilities (110 DM 22) and through supplemental directives (381 DM 4.5B)

4.23 Proposals for Legislation (1506.8)

The Office of Congressional and Legislative Affairs, in consultation with the OEPC, shall:

A. Identify in the annual submittal to OMB of the Department's proposed legislative program any requirements for and the status of any environmental documents.

B. When required, insure that a legislative EIS is included as a part of the formal transmittal of a legislative proposal to the Congress.

4.24 Time Periods (1506.10)

A. The minimum review period for a draft EIS will be forty-five (45) days from the date of publication by the Environmental Protection Agency of the notice of availability.

B. For those EISs requiring the approval of the Assistant Secretary—PMB pursuant to 516 DM 6.3, the OEPC will be responsible for consulting with the Environmental Protection Agency and/or CEQ about any proposed reductions in time periods or any extensions of time periods proposed by those agencies.

Chapter 4, Appendix 1

Programs of Grants to States in Which Agencies Having Statewide Jurisdiction May Prepare EISs

1.1 Fish and Wildlife Service.

A. Anadromous Fish Conservation (=15.600).

B. Fish Restoration (=15.605).

C. Wildlife Restoration (=15.611).

D. Endangered Species Conservation (=15.612).

E. Marine Mammal Grant Program (=15.613).

1.2 Bureau of Land Management.

A. Wildlife Habitat Management Technical Assistance (=15.219).

1.3 National Park Service.

A. Historic Preservation Grants-in-Aid (=15.904).

B. Outdoor Recreation-Acquisition Development and Planning (=15.916).

1.4 Bureau of Reclamation.

A. National Water Research and Development Program (=15.505).

1.5 Office of Surface Mining.

A. Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (=15.250).

B. Abandoned Mine Land Reclamation (AMLR) Program (=15.252).

1.6 Office of Territorial and International Affairs.

A. Economic and Political Development of the Territories and the Trust Territory of the Pacific Islands (=15.875).

Note.—Citations in parentheses refer to the Catalog of Federal Domestic Assistance. Office of Management and Budget. 1983.

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969

Chapter 5: Relationship to Decision Making

Originating Office: Office of Environmental Policy and Compliance

516 DM 5

5.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ Regulations pertaining to decision making.

5.2 Predecision Referrals to CEQ [1504.3]

A. Upon receipt of advice that another Federal agency intends to refer a Departmental matter to CEQ, the lead bureau will immediately meet with that Federal agency to attempt to resolve the issues raised and expeditiously notify its Assistant Secretary and the Office of Environmental Policy and Compliance (OEPC).

B. Upon any referral of a Departmental matter to CEQ by another Federal agency, the OEPC will be responsible for coordinating the Department's role with CEQ. The lead bureau will be responsible for developing and presenting the Department's position at CEQ including preparation of briefing papers and visual aids.

5.3 Decision Making Procedures [1505.1]

A. Procedures for decisions by the Secretary/Deputy Secretary are specified in 301 DM 1. Assistant Secretaries should follow a similar process when an environmental document accompanies a proposal for their decision.

B. Bureaus will incorporate in their formal decision making procedures and NEPA handbooks provisions for consideration of environmental factors and relevant environmental documents. The major decision points for principal programs likely to have significant environmental effects will be identified in the bureau chapters on "Managing the NEPA Process" beginning with Chapter 8 of this Part.

C. Relevant environmental documents, including supplements, will

be included as part of the record in formal rulemaking or adjudicatory proceedings.

D. Relevant environmental documents, comments, and responses will accompany proposals through existing review processes so that Departmental officials use them in making decisions.

E. The decision maker will consider the environmental impacts of the alternatives described in any relevant environmental document and the range of these alternatives must encompass the alternatives considered by the decision maker.

5.4 Record of Decision [1505.2]

A. Any decision documents prepared pursuant to 301 DM 1 for proposals involving EIS may incorporate all appropriate provisions of Section 1505.2(b) and (c).

B. If a decision document incorporating these provisions is made available to the public following a decision, it will serve the purpose of a record of decision.

5.5 Implementing the Decision [1505.3]

The terms "monitoring" and "conditions" will be interpreted as being related to factors affecting the quality of the human environment.

5.6 Limitations on Actions [1506.1]

A bureau will notify its Assistant Secretary, the Solicitor, and the OEPC of any situations described in Section 1506.1(b).

5.7 Timing of Actions [1506.10]

For those EISs requiring the approval of the Assistant Secretary—Policy, Management and (PMB) pursuant to 516 DM 6.3, the responsible official will consult with the OEPC before making any request for reducing the time period before a decision or action.

5.8 Emergencies [1506.11]

In the event of an unanticipated emergency situation, a bureau will immediately take any necessary action to prevent or reduce risks to public health or safety or serious resource losses then expeditiously consult with its Assistant Secretary, the Solicitor, OEPC, and CEQ about compliance with NEPA. Upon learning of the emergency situation, the OEPC will immediately notify CEQ. During followup activities OEPC and the bureau will jointly be responsible for consulting with CEQ. Additional guidance is available in the OEPC Environmental Statement Memoranda Series periodically updated by and available from OEPC.

Department of the Interior Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 6: Managing the NEPA Process

Originating Office: Office of Environmental Policy and Compliance

516 DM 6

6.1 Purpose

This Chapter provides supplementary instructions for implementing those provisions of the CEQ Regulations pertaining to procedures for implementing and managing the NEPA process.

6.2 Organization for Environmental Quality

A. *Office of Environmental Policy and Compliance.* The Director, Office of Environmental Policy and Compliance (OEPC), reporting to the Assistant Secretary—Policy, Management and Budget (PMB), is responsible for providing advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with NEPA, E.O. 11514, the CEQ Regulations, and this Part. (See also 110 DM 22.)

B. *Bureaus and Offices.* Heads of bureaus and offices will designate organizational elements or individuals, as appropriate, at headquarters and regional levels to be responsible for overseeing matters pertaining to the environmental effects of the bureau's plans and programs. The individuals assigned these responsibilities should have management experience or potential, understand the bureau's planning and decision making processes, and be well trained in environmental matters, including the Department's policies and procedures so that their advice has significance in the bureau's planning and decisions. These organizational elements will be identified in Chapters 8–15 which contain all bureau NEPA requirements.

6.3 Approval of EISs

A. A program Assistant Secretary is authorized to approve an EIS in those cases where the responsibility for the decision for which the EIS has been prepared rests with the Assistant Secretary or below. The Assistant Secretary may further assign the authority to approve the EIS if he or she chooses. The Assistant Secretary—PMB will make certain that each program Assistant Secretary has adequate

safeguards to assure that the EISs comply with NEPA, the CEQ Regulations, and the Departmental Manual.

B. The Assistant Secretary—PMB is authorized to approve an EIS in those cases where the decision for which the EIS has been prepared will occur at a level in the Department above an individual program Assistant Secretary.

6.4 List of Specific Compliance Responsibilities

A. Bureaus and offices shall:

(1) Prepare NEPA handbooks providing guidance on how to implement NEPA in principal program areas.

(2) Prepare program regulations or directives for applicants.

(3) Propose categorical exclusions.

(4) Prepare and approve EAs.

(5) Decide whether to prepare an EIS.

(6) Prepare and publish NOIs and FONSI.

(7) Prepare and, when assigned, approve EISs.

B. Assistant Secretaries shall:

(1) Approve bureau handbooks.

(2) Approve regulations or directives for applicants.

(3) Approve categorical exclusions.

(4) Approve EISs pursuant to 516 DM 6.3.

C. The Assistant Secretary—PMB shall:

(1) Concur with regulations or directives for applicants.

(2) Concur with categorical exclusions.

(3) Approve EISs pursuant to 516 DM 6.3.

6.5 Bureau Requirements

A. Requirements specific to bureaus appear as separate chapters beginning with Chapter 8 of this Part and include the following:

(1) Identification of officials and organizational elements responsible for NEPA compliance.

(2) List of program regulations or directives which provide information to applicants.

(3) Identification of major decision points in principal programs for which an EIS is normally prepared.

(4) List of categorical exclusions.

B. Bureau requirements are found in the following chapters for the current bureaus:

(1) Fish and Wildlife Service (Chapter 8; formerly Appendix 1).

(2) Geological Survey (Chapter 9; formerly Appendix 2).

(3) Bureau of Indian Affairs (Chapter 10; formerly Appendix 4).

(4) Bureau of Land Management (Chapter 11; formerly Appendix 5).

(5) National Park Service (Chapter 12; formerly Appendix 7).

(6) Office of Surface Mining (Chapter 13; formerly Appendix 8).

(7) Bureau of Reclamation (Chapter 14; formerly Appendix 9).

(8) Minerals Management Service (Chapter 15; formerly Appendix 10).

C. The Office of the Secretary and other Departmental Offices do not have separate chapters but must comply with this Part and will consult with the OEPC about compliance activities.

6.6 Information About the NEPA Process

The OEPC will publish periodically a Departmental list of contacts where information about the NEPA process and the status of EISs may be obtained.

Department of the Interior Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 7: Review of Environmental Impact Statements and Project Proposals Prepared by Other Federal Agencies

Originating Office: Office of Environmental Policy and Compliance

516 DM 7

7.1 Purpose

A. These procedures implement the policy and directives of Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190, 83 Stat. 852, January 1, 1970, NEPA); Section 2(f) of Executive Order No. 11514 (March 5, 1970); the CEQ Regulations (43 F.R. 55990, November 28, 1978; CEQ); Bulletin No. 72–6 of the Office of Management and Budget (September 14, 1971); and provide guidance to bureaus and offices of the Department in the review of environmental impact statements prepared by and for other Federal agencies.

B. In accordance with 112 DM 4.1F, these procedures further govern the Department's environmental review of non-Interior proposals such as regulations, applications, plans, reports, and other environmental documents which affect the interests of the Department. Such proposals are prepared, circulated, and reviewed under a wide variety of statutes and regulations. These procedures assure that the Department responds to these review requests with coordinated comments and recommendations under Interior's various authorities.

7.2 Policy

The Department considers it a priority to provide competent and timely review comments on environmental impact statements and other project review documents prepared by other Federal agencies for their major actions which significantly affect the quality of the human environment. All such documents are hereinafter referred to as "environmental review documents." The term "environmental review document" or "environmental document" as used in this chapter is separate from and broader than the same term found in 40 CFR 1508.10 of the CEQ Regulations. These reviews are predicated on the Department's jurisdiction by law or special expertise with respect to the environmental impact involved and shall provide constructive comments to other Federal agencies to assist them in meeting their environmental responsibilities.

7.3 Responsibilities

A. *The Assistant Secretary—Policy, Management and Budget (PMB)*: Shall be the Department's contact point for the receipt of requests for reviews of environmental documents prepared by or for other Federal agencies. This authority shall be carried out through the Director, Office of Environmental Policy and Compliance (OEPC).

B. *Director, Office of Environmental Policy and Compliance*

(1) Shall determine whether such review requests are to be answered by a Secretarial Officer, the Director, OEPC, or by a Regional Environmental Officer, and determine which bureaus and/or offices shall perform such reviews;

(2) Shall prepare, or where appropriate, shall designate a lead bureau responsible for preparing the Department's review comments. The lead bureau may be a bureau, Secretarial office, other Departmental office, or task force and shall be that organizational entity with the most significant jurisdiction or environmental expertise in regard to the requested review;

(3) Shall establish review schedules and target dates for responding to review requests and monitor their compliance;

(4) Shall review, sign, and transmit the Department's review comments to the requesting agency;

(5) Shall consult with the requesting agency on the Department's review comments on an "as needed" basis to ensure resolution of the Department's concerns; and

(6) Shall consult with the Legislative Counsel and the Solicitor when environmental reviews pertain to legislative or legal matters, respectively.

C. *The Legislative Counsel*: Shall ensure that requests for reviews of environmental documents prepared by other Federal agencies that accompany or pertain to legislative proposals are immediately referred to the Assistant Secretary—PMB.

D. *Regional Environmental Officers*: When designated by the Director, OEPC, shall review, sign, and transmit the Department's review comments to the requesting agency.

E. *Assistant Secretaries and Heads of Bureaus and Offices*:

(1) Shall designate officials and organizational elements responsible for the coordination and conduct of environmental reviews and report this information to the Director, OEPC;

(2) Shall provide the Director, OEPC with appropriate information and material concerning their delegated jurisdiction and special environmental expertise in order to assist in assigning review responsibilities;

(3) Shall conduct reviews based upon their areas of jurisdiction or special environmental expertise and provide comments to the designated lead bureau or office assigned responsibilities for preparing Departmental comments;

(4) When designated lead bureau by the Director, OEPC, shall prepare and forward the Department's review comments as instructed;

(5) Shall assure that review schedules for discharging assigned responsibilities are met and promptly inform other concerned offices if established target dates cannot be met and when they will be met;

(6) Shall provide a single, unified bureau response to the lead bureau, as directed;

(7) Shall assure that the policies of 516 DM 7.2 regarding competency and timeliness are carried out; and

(8) Shall provide the necessary authority to those designated in E.1 above to carry out all the requirements of 516 DM 7.

7.4 Types of Reviews

A. *Descriptions of Proposed Actions*:

(1) Descriptions of proposed actions are not substitutes for environmental statements. Federal agencies and applicants for Federal assistance may circulate such descriptions, for the purpose of soliciting information concerning environmental impact in order to determine whether or not to prepare environmental impact statements.

(2) Requests for reviews of descriptions of proposed actions are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and

offices, with the Regional Environmental Officer or Director, OEPC being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

B. *Environmental Assessments or Reports*:

(1) Environmental assessments or reports are not substitutes for environmental statements. These assessments or reports may be prepared by Federal agencies, their consultants, or applicants for Federal assistance. They are prepared either to provide information in order to determine whether or not an environmental statement should be prepared, or to provide input into an environmental statement. If they are separately circulated, it is generally for the purpose of soliciting additional information concerning environmental impact.

(2) Requests for reviews of environmental assessments or reports are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

C. *Findings of No Significant Impact*:

(1) Findings of No Significant Impact are prepared in lieu of environmental statements by Federal agencies and, in some cases, by applicants for Federal assistance. A Finding of No Significant Impact is a statement for the record by the proponent Federal agency that it has reviewed the environmental impact of its proposed action (generally in an environmental assessment), that it determines that the action will not significantly affect the quality of the human environment, and that an environmental statement is not required. Such findings are not normally circulated.

(2) Findings of No Significant Impact are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices and shall concur or not concur with the requesting agency. If a bureau or office does not concur, the Regional Environmental Officer or Director, OEPC will be advised promptly by copy of the comments with a copy of the Finding of No Significant Impact attached.

D. Notices of Intent and Scoping Requests:

(1) Notices of intent and scoping requests mark the beginning of the formal review process. Notices of intent are published in the **Federal Register** and announce that an agency plans to prepare an environmental compliance document under NEPA. Often the notice of intent and notice of scoping meetings and/or requests are combined into one **Federal Register** notice.

(2) Reviews of notices of intent and scoping requests are processed through the OEPC with instructions to bureaus to comment directly to the requesting agency. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

E. Preliminary, Proposed, or Working Draft Environmental Impact Statements:

(1) Preliminary, proposed, or working draft environmental impact statements are sometimes prepared and circulated by Federal agencies and applicants for Federal assistance for consultative purposes.

(2) Requests for reviews of these types of draft environmental impact statements are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices with the Regional Environmental Officer or Director, OEPC being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

F. Draft Environmental Impact Statements:

(1) Draft environmental impact statements are prepared by Federal agencies under the provisions of Section 102(2)(C) of NEPA and provisions of the CEQ Regulations. They are filed with the Environmental Protection Agency and officially circulated to other Federal agencies for review from their jurisdiction by law or special environmental expertise.

(2) All requests from other Federal agencies for review of draft environmental impact statements shall be made through the Director, OEPC. Review comments shall be handled in accordance with the provisions of this chapter and guidance memoranda issued and updated by the OEPC. This guidance is found in the Environmental Review Memoranda Series (ERM) periodically updated by the OEPC.

G. Final Environmental Impact Statements:

(1) Final environmental impact statements are prepared by Federal agencies following receipt and consideration of review comments. They are filed with the Environmental Protection Agency and are generally circulated for information purposes and sometimes for comment.

(2) The Director, OEPC shall review final environmental impact statements to determine whether they reflect adequate consideration of the Department's comments. Bureaus and offices shall not comment independently on final environmental impact statements, but shall inform the Director, OEPC of their views. Any review comments shall be handled in accordance with the instructions of the OEPC.

H. License and Permit Applications:

(1) The Department receives draft and final environmental review documents associated with applications for other Federal licenses and permits. This activity largely involves the regulatory program of the Corps of Engineers and the hydroelectric and natural gas pipeline licensing programs of the Federal Energy Regulatory Commission.

(2) Environmental review of applications is generally handled in the same manner as for draft and final environmental impact statements. Additional review guidance may be made available as necessary through the ERM to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

I. Project Plans and Reports without Associated Environmental Documents:

(1) The Department receives draft and final project plans and reports under various authorities which do not have environmental documents circulated with them. This may be because NEPA compliance has been completed or will be completed on a slightly different schedule or because NEPA does not apply.

(2) Environmental review of these documents is handled in the same manner as for draft and final environmental impact statements. Additional review guidance may be made available as necessary through the ERM to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

J. Federal Regulations:

(1) The Department circulates and controls the review of advance notices of proposed rulemaking, proposed rulemaking, and final rulemaking which are environmental in nature and may

impact the Department's natural resources and programs.

(2) Environmental review of these documents is handled in the same manner as for draft and final environmental impact statements. Additional review guidance may be made available as necessary through the ERM to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

K. Documents Prepared Pursuant to Other Environmental Statutes:

(1) The Department receives draft and final project plans prepared pursuant to other environmental statutes [e.g., Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Resource Conservation and Recovery Act (RCRA), and the Oil Pollution Act (OPA)], which may not have environmental documents circulated with them.

(2) Environmental review of these documents is handled consistently with the policies and provisions of this part, and in accordance with further guidance from the Director, OEPC. Additional review guidance may be made available as necessary through the ERM to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

L. Section 4(f) Documents:

(1) Under Section 4(f) of the Department of Transportation Act, the Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if there is no prudent and feasible alternative to using that land and the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(2) Environmental review of Section 4(f) documents is handled in the same manner as for draft and final environmental impact statements. Additional review guidance may be made available as necessary through the ERM to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

7.5 Content of Comments on Environmental Documents

A. Departmental Comments:

(1) Departmental comments on environmental documents prepared by other Federal agencies shall be based upon the Department's jurisdiction by law or special expertise with respect to the environmental impact of the proposed action or alternatives to the action. The adequacy of the document in regard to applicable statutes is the responsibility of the agency that prepared the document and any comments on its adequacy shall be limited to the Department's jurisdiction or environmental expertise.

(2) Reviews shall be conducted in sufficient detail to ensure that both potentially beneficial and adverse environmental effects of the proposed action and alternatives, including cumulative and secondary effects, are adequately identified. Wherever possible, and within the Department's competence and resources, other agencies will be advised on ways to avoid or minimize adverse impacts of the proposed action and alternatives, and on alternatives to the proposed action that may have been overlooked or inadequately treated.

(3) Review comments should not capsule or restate the environmental review document, but should provide clear, concise, substantive, fully justified, and complete comments on the stated or unstated environmental impacts of the proposed action and, if appropriate, on alternatives to the action. Comments, either positive or negative, shall be objective and constructive.

(4) Departmental review comments shall be organized as follows:

(a) *Control Number.*

The Departmental review control number shall be typed in the upper lefthand corner below the Departmental seal on the letterhead page of the comments.

(b) *Introduction.*

The introductory paragraph shall reference the other Federal agency's review request, including the date, the type of review requested, the subject of the review; and, where appropriate, the geographic location of the subject and the other agency's control number.

(c) *General Comments, if any.*

This section will include those comments of a general nature and those which occur throughout the review which ought to be consolidated in order to avoid needless repetition.

(d) *Detailed Comments.*

The format of this section shall follow the organization of the other agency's environmental document. These comments shall not approve, disapprove, support, or object to proposed actions of other Federal

agencies, but shall constructively and objectively comment on the environmental impact of the proposed action, and on the adequacy of the statement in describing the environmental impacts of the action, the alternatives, and the impacts of the alternatives. Comments shall specify any corrections, additions, or other changes required to make the statement adequate.

(e) *Summary Comments, if any.*

In general, the Department will not take a position on the proposed action of another Federal agency, but will limit its comments to those above. However, in those cases where the Department has jurisdiction by statute, executive order, memorandum of agreement, or other authority the Department may comment on the proposed action. These comments shall be provided in this section and may take the form of support for, concurrence with, concern over, or objection to the proposed action and/or the alternatives.

B. *Bureau and Office Comments:*

Bureau and office reviews of environmental impact statements prepared by other Federal agencies are considered informal inputs to the Department's comments and their content will generally conform to paragraph 7.5A of this chapter with the substitution of the bureau's or office's delegated jurisdiction or special environmental expertise for that of the Department.

C. *Relationship to Other Concurrent Reviews:*

(1) Where the Department, because of other authority or agreement, is concurrently requested to review a proposal as well as its environmental impact statement, the Department's comments on the proposal shall be separately identified and precede the comments on the environmental impact statement. A summary of the Department's position, if any, on the proposal and its environmental impact shall be separately identified and follow the review comments on the environmental impact statement.

(2) Where another Federal agency elects to combine other related reviews into the review of the environmental impact statement by including additional or more specific information into the statement, the introduction to the Department's review comments will acknowledge the additional review request and the review comments will be incorporated into appropriate parts of the combined statement review. A summary of the Department's position, if any, on the environmental impacts of the proposal and any alternatives shall be separately identified and follow the

detailed review comments on the combined statement.

(3) In some cases, the concurrent review is not an integral part of the environmental compliance review but is being processed within weeks of the environmental review. If there is also an environmental review being processed by the OEPC, there is potential for two sets of conflicting comments to reach the requesting agency within days. Bureaus must recognize that this possibility exists and must check with the Regional Environmental Officer to determine the status of any environmental review prior to forwarding the concurrent review comments to the requesting agency. Any conflicts must be resolved before the separate comments may be filed. One review may be held up pending completion of the concurrent review and consideration of filing a single comment letter. A time extension may be necessary and must be obtained if a review is to be held up pending completion of a concurrent review.

(4) The Department's intervention in another agency's adjudicatory process is also a concurrent review. Such reviews are governed by 452 DM 2 which must be consulted in applicable cases. The most common cases involve the Department's review of hydroelectric and natural gas applications to the Federal Energy Regulatory Commission. In these cases, it is recommended that bureaus consult frequently with the appropriate attorney of record in the Office of the Solicitor.

7.6 Availability of Review Comments

A. Prior to the public availability of another Federal agency's final environmental impact statement, the Department shall not independently release to the public its comments on that agency's draft environmental impact statement. In accordance with Section 1506.6(f) of the CEQ Regulations, the agency that prepared the statement is responsible for making the comments available to the public, and requests for copies of the Department's comments shall be referred to that agency. Exceptions to this procedure shall be made by the OEPC.

B. Various internal Departmental memoranda, such as the review comments of bureaus, offices, task forces, and individuals, which are used as inputs to the Department's review comments are generally available to the public in accordance with the Freedom of Information Act (5 U.S.C. Section 552) and the Departmental procedures established by 43 C.F.R. 2. Upon receipt of such requests and in addition to

following the procedures above in A., the responsible bureau or office shall notify and consult their bureau Freedom of Information Act Officer and the OEPC to coordinate any responses.

7.7 Procedures for Processing Environmental Reviews

A. General Procedures:

(1) All requests for reviews of environmental documents prepared by or for other Federal agencies shall be received and controlled by the Director, OEPC.

(2) If a bureau or office, whether at headquarters or field level, receives an environmental document for review directly from outside of the Department, it should ascertain whether the document is a preliminary, proposed, or working draft circulated for technical assistance or input in order to prepare a draft document or whether the document is in fact a draft environmental document being circulated for official review.

(a) If the document is a preliminary, proposed, or working draft, the bureau or office should handle independently and provide whatever technical assistance possible, within the limits of their resources, to the requesting agency. The response should clearly indicate the type of assistance being provided and state that it does not represent the Department's review of the document. Each bureau or office should provide the Regional Environmental Officer and the Director, OEPC copies of any comments involving significant or controversial issues.

(b) If the document is a draft or final environmental document circulated for official review, the bureau or office should inform the requesting agency of the Department's procedures in subparagraph (1) above and promptly refer the request and the document to the Director, OEPC for processing.

(3) All bureaus and offices processing and reviewing environmental documents of other Federal agencies will do so within the time limits specified by the Director, OEPC. From thirty (30) to forty-five (45) days are normally available for responding to other Federal agency review requests. Whenever possible the Director, OEPC shall seek a forty-five (45) day review period. Further extensions shall be handled in accordance with paragraph 7.7B(3) of this chapter.

(4) The Department's review comments on other Federal agencies' environmental documents shall reflect the full and balanced interests of the Department in the protection and enhancement of the environment. Lead bureaus shall be responsible for

resolving any intra-Departmental differences in bureau or office review comments submitted to them. The OEPC is available for guidance and assistance in this regard. In cases where agreement cannot be reached, the matter shall be referred through channels to the Assistant Secretary—PMB with attempts to resolve the disagreement at each intervening management level. The OEPC will assist in facilitating this process.

B. Processing Environmental Reviews:

(1) The OEPC shall secure and distribute sufficient copies of environmental documents for Departmental review. Bureaus and offices should keep the OEPC informed as to their needs for review copies, which shall be kept to a minimum, and shall develop internal procedures to efficiently and expeditiously distribute environmental documents to reviewing offices.

(2) Reviewing bureaus and offices which cannot meet the review schedule shall so inform the lead bureau and shall provide the date that the review will be delivered. The lead bureau shall inform the OEPC in cases of headquarters-level response, or the Regional Environmental Officer in cases of field-level response, if it cannot meet the schedule, why it cannot, and when it will. The OEPC or the Regional Environmental Officer shall be responsible for informing the other Federal agency of any changes in the review schedule.

(3) Reviewing offices shall route their review comments through channels to the lead bureau, with a copy to the OEPC. When, in cases, of headquarters-level response, review comments cannot reach the lead bureau within the established review schedule, reviewing bureaus and offices shall send a copy marked "Advance Copy" directly to the lead bureau. Review comments shall also be sent to the lead bureau by electronic means to facilitate meeting the requesting agency's deadline.

(4) In cases of headquarters-level response:

(a) The lead bureau shall route the completed comments through channels to the OEPC in both paper copy and electronic wordprocessor format. Copies shall be prepared and attached for all bureaus and offices from whom review comments were requested, for the OEPC, and for the Regional Environmental Officer when the review pertains to a project within a regional jurisdiction. In addition, original copies of all review comments received or documentation that none were provided shall accompany the Department's

comments through the clearance process and shall be retained by the OEPC.

(b) The OEPC shall review, secure any necessary additional surnames, surname, and either sign the Department's comments or transmit the Department's comments to another appropriate Secretarial Officer for signature. Upon signature, the OEPC shall transmit the comments to the requesting agency.

(5) In cases of field-level response:

(a) The lead bureau shall provide the completed comments to the appropriate Regional Environmental Officer in both paper-copy and electronic wordprocessor format. In addition, original copies of all review comments received or documentation that none were provided shall be attached to the paper copy.

(b) The Regional Environmental Officer shall review, sign, and transmit the Department's comments to the agency requesting the review. In addition they shall reproduce and send the Department's comments to the regional bureau reviewers. The entire completed package including the bureau review comments shall be sent to the OEPC for recording and filing.

(c) If the Regional Environmental Officer determines that the review involves policy matters of Secretarial significance, they shall not sign and transmit the comments as provided in subparagraph (b) above, but shall forward the review to the OEPC in headquarters for final disposition.

C. Referrals of Environmentally Unsatisfactory Proposals to the Council on Environmental Quality:

(1) Referral to CEQ is a formal process provided for in the CEQ Regulations (40 CFR 1504). It is used sparingly and only when all other administrative processes have been exhausted in attempting to resolve issues between the project proponent and one or more other Federal agencies. These issues must meet certain criteria (40 CFR 1504.2), and practice has shown that these issues generally involve resource concerns of national importance to the Department.

(2) A bureau or office intending to recommend referral of a proposal to CEQ must, at the earliest possible time, advise the proponent Federal agency that it considers the proposal to be a possible candidate for referral. If not expressed at an earlier time, this advice must be outlined in the Department's comments on the draft environmental impact statement.

(3) CEQ referral is a high level activity that must be conducted in an extremely short time frame. A referring bureau or office has 25 days after the final environmental impact statement has

been made available to the Environmental Protection Agency in which to file the referral. The referral documents must be signed by the Secretary of the Interior.

(4) Additional review guidance may be made available as necessary through the ERMs to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

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Departmental Manual

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Chapter 8: Managing the NEPA

Process—Fish and Wildlife Service

Originating Office: Office of
Environmental Policy and
Compliance

516 DM 8

8.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Fish and Wildlife Service. This Chapter is referenced in 516 DM 6.5.

8.2 NEPA Responsibility

A. The Director is responsible for NEPA compliance for Fish and Wildlife Service (Service) activities, including approving recommendations to the Assistant Secretary (FW) for proposed referrals to the Council on Environmental Quality (CEQ) of other agency actions under 40 CFR 1504.

B. Each Assistant Director (Refuges and Wildlife, Fisheries, International Affairs, External Affairs, and Ecological Services) is responsible for general guidance and compliance in their respective areas of responsibility.

C. The Assistant Director for Ecological Services has been delegated oversight responsibility for Service NEPA compliance.

D. The Division of Habitat Conservation (DHC—Washington), which reports to the Assistant Director for Ecological Services, is responsible for internal control of the environmental review and analysis of documents prepared by other agencies and environmental statements prepared by the various Service Divisions. This office is also responsible for preparing Service NEPA procedures, guidelines, and instructions, and for supplying technical assistance and specialized training in NEPA compliance, in cooperation with the Service Office of Training and Education, to Service

entities. The Washington Office Environmental Coordinator, who reports to DHC, provides staff assistance on NEPA matters to the Director, Assistant Directors, and their divisions and offices, and serves as the Service NEPA liaison to the CEQ, the Department's Office of Environmental Policy and Compliance (OEPC), and NEPA liaisons in other Federal agencies, in accordance with 516 DM 6.2.

E. Each Regional Director is responsible for NEPA compliance in his/her area of responsibility. The Regional Director should ensure that Service decisionmakers in his/her area of responsibility contact affected Federal agencies and State, Tribal and local governments when initiating an action subject to an EA or EIS. An individual in each Regional Office, named by title and reporting to the Assistant Regional Director for Ecological Services, other appropriate Assistant Regional Director, or the Regional Director, will have NEPA coordination duties with all program areas at the Regional level similar to those of the Washington Office Environmental Coordinator, in accordance with 516 DM 6.2.

8.3 General Service Guidance

Service guidance on internal NEPA matters is found in 30 AM 2–3 (organizational structure and internal NEPA compliance), 550 FW 1–3 (in preparation), 550 FW 3 (documenting and implementing Service decisions on Service actions), and 550 FW 1–2 (replacement to 30 AM 2–3 in preparation). These guidance documents encourage Service participation as a cooperating agency with other Federal agencies, encourage early coordination with other agencies and the public to resolve issues in a timely manner, and provide techniques for streamlining the NEPA process and integrating the NEPA process with other Service programs, environmental laws, and executive orders. Some Service programs have additional NEPA compliance information related to specific program planning and decisionmaking activities. Service program guidance on NEPA matters must be consistent with the Service Manual on NEPA guidance and Departmental NEPA procedures. For example, additional NEPA guidance is found in the Federal Aid Handbook (521–523 FW), refuge planning guidance (602 FW 1–3), Handbook for Habitat Conservation Planning and Incidental Take Processing, and North American Wetlands Conservation Act Grant Application Instructions.

8.4 Guidance to Applicants

A. Service Permits. The Service has responsibility for issuing permits to Federal and State agencies and private parties for actions which would involve certain wildlife species and/or use of Service-administered lands. When applicable, the Service may require permit applicants to provide additional information on the proposal and on its environmental effects as may be necessary to satisfy the Service's requirements to comply with NEPA, other Federal laws, and executive orders.

(1) Permits for the Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, or Importation of Certain Wildlife Species. The Code of Federal Regulations, Part 13, Title 50 (50 CFR 13) contains regulations for General Permit Procedures. Section 13.3 lists types of permits and the pertinent Parts of 50 CFR. These include: Importation, Exportation, and Transportation of Wildlife (Part 14); Exotic Wild Bird Conservation (Part 15); Injurious Wildlife (Part 16); Endangered and Threatened Wildlife and Plants (Part 17); Marine Mammals (Part 18); Migratory Bird Hunting (Part 20); Migratory Bird Permits (Part 21); Eagle Permits (Part 22); Endangered Species Convention (Part 23); and Importation and Exportation of Plants (Part 24). Potential permit applicants should request information from the appropriate Regional Director, or the Office of Management Authority, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, as outlined in the applicable regulation.

(2) Federal Lands Managed by the Service. Service lands are administered under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee), the Refuge Recreation Act of 1962 (16 U.S.C. 460k-460k-4), and the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 410hh-3233, 43 U.S.C. 1602–1784). Inherent in these acts is the requirement that only those uses that are compatible with the purposes of the refuge system unit may be allowed on Service lands. The Service also complies with Executive Order 12996, signed March 25, 1996, entitled "Management and General Public Use of the National Wildlife Refuge System." This Executive Order identifies general public uses that will be given priority consideration in refuge planning and management, subject to meeting the compatibility requirement and if adequate funding is available to administer the use. Detailed procedures regarding comprehensive management

planning and integration with NEPA are found in the Service Manual (602 FW 1–3). Reference to this and other National Wildlife Refuge System requirements are found in the Code of Federal Regulations, Title 50 parts 25–29, 31–36, 60, and 70–71. Under these regulations, these protections are extended to all Service-administered lands, including the National Fish Hatchery System.

B. Federal Assistance to States, Local or Private Entities.

(1) Federal Assistance Programs. The Service administers financial assistance (grants and/or cooperative agreements) to State, local, and private entities under the Anadromous Fish Conservation Act (CFDA #15.600); North American Wetlands Conservation Act; Fish and Wildlife Act of 1956; Migratory Bird Conservation Act; Food Security Act of 1985; Food, Agriculture, Conservation and Trade Act of 1990; Partnerships for Wildlife Act of 1992; and Consolidated Farm and Rural Development Act. The Service administers financial assistance to States under the Sport Fish Restoration Act (CFDA #15.605), Wildlife Restoration Act (CFDA #15.611), Endangered Species Act (CFDA #15.612 and 15.615), Coastal Wetlands Planning Protection and Restoration Act (CFDA #15.614), and Clean Vessel Act of 1992 (CFDA #15.616).

(2) Program Information and NEPA Compliance. Information on how State, local, and private entities may request funds and assist the Service in NEPA compliance relative to the Anadromous Fish Conservation Act may be obtained through the Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Arlington Square Building, Room 840, Washington, D.C. 20240. Similar information regarding the North American Wetlands Conservation Act may be obtained through the North American Waterfowl and Wetlands Office, U.S. Fish and Wildlife Service, Department of the Interior, Arlington Square Building, Room 110, Washington, D.C. 20240. All other requests for information on how funds may be obtained and guidance on how to assist the Service in NEPA compliance may be obtained through the Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Department of the Interior, Arlington Square Building, Room 140, Washington, D.C. 20240.

8.5 Categorical Exclusions

Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on

the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the departmental categorical exclusions cannot be used. In addition to the actions listed in the departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, the following Service actions are designated categorical exclusions unless the action is an exception to the categorical exclusion.

A. General.

(1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.

(2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.

(3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.

(4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

B. Resource Management. Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, Tribal, and local governments.

(1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.

(2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.

(a) The installation of fences.

(b) The construction of small water control structures.

(c) The planting of seeds or seedlings and other minor revegetation actions.

(d) The construction of small berms or dikes.

(e) The development of limited access for routine maintenance and management purposes.

(4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.

(5) Fire management activities, including prevention and restoration measures, when conducted in accordance with departmental and Service procedures.

(6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.

(7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.

(8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.

(9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.

(10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.

(11) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible

change in the use of the affected areas is planned.

C. Permit and Regulatory Functions.

(1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.

(2) The issuance of ESA section 10(a)(1)(B) "low-effect" incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.

(3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.

(4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (*i.e.*, facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.

(5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.

(6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.

(7) Activities directly related to the enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:

(a) Assessment of civil penalties.
(b) Forfeiture of property seized or subject to forfeiture.

(c) The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.

(8) Actions where the Service has concurrence or coapproval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.

D. Recovery Plans. Issuance of recovery plans under section 4(f) of the ESA.

E. Financial Assistance.

(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.

(2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.

8.6 Actions Normally Requiring an EA

A. Proposals to establish most new refuges and fish hatcheries; and most additions and rehabilitations to existing installations.

B. Any habitat conservation plan that does not meet the definition of "low-effect" in the Section 10(a)(1)(B) Handbook.

C. If, for any of the above proposals, the EA determines that the proposal is a major Federal action significantly affecting the quality of the human environment, an EIS will be prepared. The determination to prepare an EIS will be made by a notice of intent in the **Federal Register** and by other appropriate means to notify the affected public.

8.7 Major Actions Normally Requiring an EIS

A. The following Service proposals, when determined to be a major Federal action significantly affecting the quality of the human environment, will normally require the preparation of an EIS.

(1) Major proposals establishing new refuge system units, fish hatcheries, or major additions to existing installations, which involve substantive conflicts over existing State and local land use, significant controversy over the environmental effects of the proposal, or the remediation of major on-site sources of contamination.

(2) Master or comprehensive conservation plans for major new installations, or for established installations, where major new developments or substantial changes in management practices are proposed.

B. If, for any of the above proposals it is initially determined that the proposal is not a major Federal action significantly affecting the quality of the

human environment, an EA will be prepared and handled in accordance with 40 CFR 1501.4(e)(2). If the EA subsequently indicates the proposed action will cause significant impacts, an EIS will be prepared.

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Chapter 9: Managing the NEPA

*Process—*Geological Survey

Originating Office: Office of Environmental Policy and Compliance

516 DM 9

9.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Geological Survey. This Chapter is referenced in 516 DM 6.5.

9.2 NEPA Responsibility

A. The Director of the U.S. Geological Survey (USGS) is responsible for National Environmental Policy Act (NEPA) compliance for USGS activities.

B. The Assistant Director for Engineering Geology produces policy guidance, direction and oversight for environmental activities including implementation of NEPA, and approves Environmental Impact Statements (EIS) prepared by the USGS. The Assistant Director is also responsible for approving USGS reviews of environmental documents, regulations or rules proposed by other agencies.

C. The Chief, Environmental Affairs Program (Reston, VA), is the focal point for NEPA matters and develops NEPA-related policy and guidance for the USGS. The Chief is responsible for: assuring the quality control of USGS environmental documents; monitoring USGS-wide activities to ensure NEPA compliance, reviewing and commenting on other bureaus' and agencies' environmental documents; managing the assignment of USGS personnel to assist other agencies in developing EISs; and assisting in the performance of specialized studies to support environmental analyses. Information about USGS environmental documents or the NEPA process can be obtained by contacting the Environmental Affairs Program.

D. The Chiefs of the Divisions or Independent Offices are responsible within their respective organizations for ensuring compliance with NEPA and applicable consultation requirements.

9.3 Guidance to Applicants

Because the USGS does not have any regulatory responsibilities in this area, the USGS has no applicable programs requiring guidance to applicants.

9.4 Actions Normally Requiring an EIS or Environmental Assessment (EA)

A. Approval of construction of major new USGS research centers or test facilities normally will require the preparation of an EIS.

B. An EA will be prepared to aid in deciding whether a finding of no significant impact is appropriate, or whether an EIS is required prior to implementing any action. The EA will be prepared in accordance with guidance provided in 516 DM 3.1. Specifically, an EA is required for all actions which are: (a) Not categorically excluded; (b) listed as exceptions to the Departmental categorical exclusions in 516 DM 2 Appendix 2; (c) not being addressed by an EIS.

9.5 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions specified in Appendix 1 of 516 DM 2, many of which the USGS also performs, the following USGS actions are designated categorical exclusions unless the action qualifies as an exemption from the Department's categorical exclusions under Appendix 2 of 516 DM 2. The exclusions shall apply to internal program initiatives performed in the United States and its Trust Territories and Possessions, including Federal lands and the Outer Continental Shelf (OCS).

A. Topographic, land use and land cover, geological, mineralogic, resources evaluation, and hydrologic mapping activities, including aerial topographic surveying, photography, and geophysical surveying.

B. Collation of data and samples for geologic, paleontologic, hydrologic, mineralogic, geochemical and surface or subsurface geophysical investigations, and resource evaluation, including contracts therefor.

C. Acquisition of existing geological, hydrological or geophysical data from private exploration ventures.

D. Well logging, aquifer response testing, digital modeling, inventory of existing wells and water supplies, water-sample collection.

E. Operation, construction and installation of: (a) Water-level or waterquality recording devices in wells; (b) pumps in wells; (c) surface-water flow measuring equipment such as weirs and stream-gaging stations, and (d) telemetry systems, including contracts therefor.

F. Routine exploratory or observation groundwater well drilling operations which do not require a special access road, and which use portable tanks to recycle and remove drilling mud, and create no significant surface disturbance.

G. Test or exploration drilling and downhole testing, including contracts therefor.

H. Establishment of survey marks, placement and operation of field instruments, and installation of any research/monitoring devices.

I. Digging of exploratory trenches requiring less than 20 cubic yards of excavation.

J. Establishment of seasonal and temporary field camps.

K. Off-road travel to drilling, data collection or observation sites which does not impact ecologically sensitive areas such as wilderness areas, wetlands, or areas of critical habitat for listed endangered or threatened species.

L. Hydraulic fracturing of rock formations for the singular purpose of in situ stress measurements.

M. Reports to Surface Management Agencies, or any State, Territorial, Commonwealth or Federal Agencies concerning mineral and water resources appraisals.

N. Other actions where USGS has concurrence or coapproval with another Department of the Interior bureau and the action is a categorical exclusion for that bureau.

O. Minor, routine, or preventive maintenance activities at USGS facilities and lands, and geological, hydrological, or geophysical data collection stations.

P. Minor activities required to gain or prepare access to sites selected for completion of exploration drilling operations or construction of stations for hydrologic, geologic, or geophysical data collection.

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Chapter 10: Managing the NEPA Process—Bureau of Indian Affairs
Originating Office: Office of Environmental Policy and Compliance

516 DM 10

10.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Bureau of Indian Affairs. This Chapter is referenced in 516 DM 6.5.

10.2 NEPA Responsibility

A. Deputy Commissioner of Indian Affairs is responsible for NEPA compliance of Bureau of Indian Affairs (BIA) activities and programs.

B. Director, Office of Trust Responsibilities (OTR) is responsible for oversight of the BIA program for achieving compliance with NEPA, program direction, and leadership for BIA environmental policy, coordination and procedures.

C. Environmental Services Staff, reports to the Director (OTR). This office is the Bureau-wide focal point for overall NEPA policy and guidance and is responsible for advising and assisting Area Offices, Agency Superintendents, and other field support personnel in their environmental activities. The office also provides training and acts as the Central Office's liaison with Indian tribal governments on NEPA and other environmental compliance matters. Information about BIA NEPA documents or the NEPA process can be obtained by contacting the Environmental Services Staff.

D. Other Central Office Directors and Division Chiefs are responsible for ensuring that the programs and activities within their jurisdiction comply with NEPA.

E. Area Directors and Project Officers are responsible for assuring NEPA compliance with all activities under their jurisdiction and providing advice and assistance to Agency Superintendents and consulting with the Indian tribes on environmental matters related to NEPA. Area Directors and Project Officers are also responsible for assigning sufficient trained staff to ensure NEPA compliance is carried out. An Environmental Coordinator is located at each Area Office.

F. Agency Superintendents and Field Unit Supervisors are responsible for NEPA compliance and enforcement at the Agency or field unit level.

10.3 Guidance to Applicants and Tribal Governments

A. Relationship with Applicants and Tribal Governments.

(1) Guidance to Applicants.

(a) An "applicant" is an entity which proposes to undertake any activity which will at some point require BIA action. These may include tribal governments, private entities, state and local governments or other Federal agencies. BIA compliance with NEPA is Congressionally mandated. Compliance is initiated when a BIA action is necessary in order to implement a proposal.

(b) Applicants should contact the BIA official at the appropriate level for

assistance. This will be the Agency Superintendent, Area Director or the Director, Office of Trust Responsibilities.

(c) If the applicant's proposed action will affect or involve more than one tribal government, one government agency, one BIA Agency, or where the action may be of State-wide or regional significance, the applicant should contact the respective Area Director(s). The Area Director(s), using sole discretion, may assign the lead NEPA compliance responsibilities to one Area Office or, as appropriate, to one Agency Superintendent. From that point, the Applicant will deal with the designated lead office.

(d) Since much of the applicant's planning may take place outside the BIA system, it is the applicant's responsibility to prepare a milestone chart for BIA use at the earliest possible stage in order to coordinate the efforts of both parties. Early communication with the responsible BIA office will expedite determination of the appropriate type of NEPA documentation required. Other matters such as the scope, depth and sources of data for an environmental document will also be expedited and will help lead to a more efficient and more timely NEPA compliance process.

(2) Guidance to Tribal Governments.

(a) Tribal governments may be applicants, and/or be affected by a proposed action of BIA or another Federal agency. Tribal governments affected by a proposed action shall be consulted during the preparation of environmental documents and, at their option, may cooperate in the review or preparation of such documents. Notwithstanding the above, the BIA retains sole responsibility and discretion in all NEPA compliance matters.

(b) Any proposed tribal actions that do not require BIA or other Federal approval, funding or "actions" are not subject to the NEPA process.

B. Prepared Program Guidance. BIA has implemented regulations for environmental guidance for surface mining in 25 CFR Part 216 (Surface Exploration, Mining and Reclamation of Lands.) Environmental guidance for Forestry activities is found in 25 CFR 163.27 and 53 BIAM Supplements 2 and 3.

C. Other Guidance. Programs under 25 CFR for which BIA has not yet issued regulations or directives for environmental information for applicants are listed below. These programs may or may not require environmental documents and could involve submission of applicant

information to determine NEPA applicability. Applicants for these types of programs should contact the appropriate BIA office for information and assistance:

(1) Partial payment construction charges on Indian irrigation projects (25 CFR Part 134).

(2) Construction assessments, Crow Indian irrigation project (25 CFR Part 135).

(3) Fort Hall Indian irrigation project, Idaho (25 CFR Part 136).

(4) Reimbursement of construction costs, San Carlos Indian irrigation project, Arizona (25 CFR Part 137).

(5) Reimbursement of construction costs, Ahtanum Unit, Wapato Indian irrigation project, Washington (25 CFR Part 138).

(6) Reimbursement of construction costs, Wapato-Satus Unit, Wapato Indian Irrigation project, Washington (25 CFR Part 139).

(7) Land acquisitions (25 CFR Part 151).

(8) Leasing and permitting (Lands) (25 CFR Part 162).

(9) Sale of lumber and other forest products produced by Indian enterprises from the forests on Indian reservation (25 CFR Part 164).

(10) Sale of forest products, Red Lake Indian Reservation, Minn. (25 CFR Part 165).

(11) General grazing regulations (25 CFR Part 166).

(12) Navajo grazing regulations (25 CFR Part 167).

(13) Grazing regulations for the Hopi partitioned lands (25 CFR Part 168).

(14) Rights-of-way over Indian lands (25 CFR Part 169).

(15) Roads of the Bureau of Indian Affairs (25 CFR Part 170).

(16) Concessions, permits and leases on lands withdrawn or acquired in connection with Indian irrigation projects (25 CFR Part 173).

(17) Indian Electric Power Utilities (25 CFR Part 175).

(18) Resale of lands within the badlands Air Force Gunnery Range (Pine Ridge Aerial Gunnery Range) (25 CFR Part 178).

(19) Leasing of tribal lands for mining (25 CFR Part 211).

(20) Leasing of allotted lands for mining (25 CFR Part 212).

(21) Leasing of restricted lands of members of Five Civilized Tribes, Oklahoma, for mining (25 CFR Part 213).

(22) Leasing of Osage Reservation lands, Oklahoma, for mining, except oil and gas (25 CFR Part 214).

(23) Lead and zinc mining operations and leases, Quapaw Agency (25 CFR Part 215).

(24) Leasing of Osage Reservation lands for oil and gas mining (25 CFR Part 226).

(25) Leasing of certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining (25 CFR Part 227).

(26) Indian fishing in Alaska (25 CFR Part 241).

(27) Commercial fishing on Red Lake Indian Reservation (25 CFR Part 242).

(28) Use of Columbia River in-lieu fishing sites (25 CFR Part 248).

(29) Off-reservation treaty fishing (25 CFR Part 249).

(30) Indian fishing—Hoopa Valley Indian Reservation (25 CFR Part 150).

(31) Housing Improvement Program (25 CFR Part 256).

(32) Contracts under Indian Self-Determination Act (25 CFR Part 271).

(33) Grants under Indian Self-Determination Act (25 CFR Part 272).

(34) School construction or services for tribally operated previously private schools (25 CFR Part 274).

(35) Uniform administration requirements for grants (25 CFR 276).

(36) School construction contracts for public schools (25 CFR Part 277).

10.4 Major Actions Normally Requiring an EIS

A. The following BIA actions normally require the preparation of an Environmental Impact Statement (EIS):

(1) Proposed mining contracts (for other than oil and gas), or the combination of a number of smaller contracts comprising a mining unit for:

(a) New mines of 640 acres or more, other than surface coal mines.

(b) New surface coal mines of 1,280 acres or more, or having an annual full production level of 5 million tons or more.

(2) Proposed water development projects which would, for example, inundate more than 1,000 acres, or store more than 30,000 acre-feet, or irrigate more than 5,000 acres of undeveloped land.

(3) Construction of a treatment, storage or disposal facility for hazardous waste or toxic substances.

(4) Construction of a solid waste facility for commercial purposes.

B. If, for any of these actions, it is proposed not to prepare an EIS, an Environmental Assessment (EA) will be developed in accordance with 40 CFR 1501.4(a)(2).

10.5 Categorical Exclusions

In addition to the actions listed in the Department's categorical exclusions in Appendix 1 of 516 DM 2, many of which the BIA also performs, the following BIA actions are hereby designated as categorical exclusions

unless the action qualifies as an exception under Appendix 2 of 516 DM 2. These activities are single, independent actions not associated with a larger, existing or proposed, complex or facility. If cases occur that involve larger complexes or facilities, an EA or supplement should be accomplished.

A. Operation, maintenance, and replacement of existing facilities. Examples are normal renovation of buildings, road maintenance and limited rehabilitation of irrigation structures.

B. Transfer of Existing Federal Facilities to Other Entities. Transfer of existing operation and maintenance activities of Federal facilities to tribal groups, water user organizations, or other entities where the anticipated operation and maintenance activities are agreed to in a contract, follow BIA policy, and no change in operations or maintenance is anticipated.

C. Human resources programs. Examples are social services, education services, employment assistance, tribal operations, law enforcement and credit and financing activities not related to development.

D. Administrative actions and other activities relating to trust resources. Examples are: Management of trust funds (collection and distribution), budget, finance, estate planning, wills and appraisals.

E. Self-Determination and Self-Governance.

(1) Self-Determination Act contracts and grants for BIA programs listed as categorical exclusions, or for programs in which environmental impacts are adequately addressed in earlier NEPA analysis.

(2) Self-Governance compacts for BIA programs which are listed as categorical exclusions or for programs in which environmental impacts are adequately addressed in earlier NEPA analysis.

F. Rights-of-Way.

(1) Rights-of-Way inside another right-of-way, or amendments to rights-of-way where no deviations from or additions to the original right-of-way are involved and where there is an existing NEPA analysis covering the same or similar impacts in the right-of-way area.

(2) Service line agreements to an individual residence, building or well from an existing facility where installation will involve no clearance of vegetation from the right-of-way other than for placement of poles, signs (including highway signs), or buried power/cable lines.

(3) Renewals, assignments and conversions of existing rights-of-way where there would be essentially no

change in use and continuation would not lead to environmental degradation.

G. Minerals.

(1) Approval of permits for geologic mapping, inventory, reconnaissance and surface sample collecting.

(2) Approval of unitization agreements, pooling or communitization agreements.

(3) Approval of mineral lease adjustments and transfers, including assignments and subleases.

(4) Approval of royalty determinations such as royalty rate adjustments of an existing lease or contract agreement.

H. Forestry.

(1) Approval of free-use cutting, without permit, to Indian owners for on-reservation personal use of forest products, not to exceed 2,500 feet board measure when cutting will not adversely affect associated resources such as riparian zones, areas of special significance, etc.

(2) Approval and issuance of cutting permits for forest products not to exceed \$5,000 in value.

(3) Approval and issuance of paid timber cutting permits or contracts for products valued at less than \$25,000 when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

(4) Approval of annual logging plans when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

(5) Approval of Fire Management Planning Analysis detailing emergency fire suppression activities.

(6) Approval of emergency forest and range rehabilitation plans when limited to environmental stabilization on less than 10,000 acres and not including approval of salvage sales of damaged timber.

(7) Approval of forest stand improvement projects of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

(8) Approval of timber management access skid trail and logging road construction when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

(9) Approval of prescribed burning plans of less than 2000 acres when in compliance with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

(10) Approval of forestation projects with native species and associated

protection and site preparation activities on less than 2000 acres when consistent with policies and guidelines established by a current management plan addressed in earlier NEPA analysis.

I. Land Conveyance and Other Transfers. Approvals or grants of conveyances and other transfers of interests in land where no change in land use is planned.

J. Reservation Proclamations. Lands established as or added to a reservation pursuant to 25 U.S.C. 467, where no change in land use is planned.

K. Waste Management.

(1) Closure operations for solid waste facilities when done in compliance with other federal laws and regulations and where cover material is taken from locations which have been approved for use by earlier NEPA analysis.

(2) Activities involving remediation of hazardous waste sites if done in compliance with applicable federal laws such as the Resource Conservation and Recovery Act (P.L. 94-580), Comprehensive Environmental Response, Compensation, and Liability Act (P.L. 96-516) or Toxic Substances Control Act (P.L. 94-469).

L. Roads and Transportation.

(1) Approval of utility installations along or across a transportation facility located in whole within the limits of the roadway right-of-way.

(2) Construction of bicycle and pedestrian lanes and paths adjacent to existing highways and within the existing rights-of-way.

(3) Activities included in a "highway safety plan" under 23 CFR 402.

(4) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(5) Emergency repairs under 23 U.S.C. 125.

(6) Acquisition of scenic easements.

(7) Alterations to facilities to make them accessible for the elderly or handicapped.

(8) Resurfacing a highway without adding to the existing width.

(9) Rehabilitation, reconstruction or replacement of an existing bridge structure on essentially the same alignment or location (e.g. widening, adding shoulders or safety lanes, walkways, bikeways or guardrails).

(10) Approvals for changes in access control within existing right-of-ways.

(11) Road construction within an existing right-of-way which has already been acquired for a HUD housing project and for which earlier NEPA analysis has already been prepared.

M. Other.

(1) Data gathering activities such as inventories, soil and range surveys, timber cruising, geological, geophysical, archeological, paleontological and cadastral surveys.

(2) Establishment of non-disturbance environmental quality monitoring programs and field monitoring stations including testing services.

(3) Actions where BIA has concurrence or co-approval with another Bureau and the action is categorically excluded for that Bureau.

(4) Approval of an Application for Permit to Drill for a new water source or observation well.

(5) Approval of conversion of an abandoned oil well to a water well if water facilities are established only near the well site.

(6) Approval and issuance of permits under the Archaeological Resources Protection Act (16 U.S.C. 470aa-ll) when the permitted activity is being done as a part of an action for which a NEPA analysis has been, or is being prepared.

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 11: Managing the NEPA Process—Bureau of Land Management
Originating Office: Office of Environmental Policy and Compliance

516 DM 11

11.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Bureau of Land Management. This Chapter is referenced in 516 DM 6.5.

11.2 NEPA Responsibility

A. The Director/Deputy Director are responsible for National Environmental Policy Act compliance for Bureau of Land Management activities.

B. The Assistant Director, Support Services, is responsible for policy interpretation, program direction, leadership, and line management for Bureau environmental policy, coordination and procedures. The Division of Planning and Environmental Coordination (P&EC) which reports to the Assistant Director, Support Services, has Bureauwide environmental compliance responsibilities. These responsibilities include program direction for environmental compliance and ensuring the incorporation and integration of the NEPA compliance

process into Bureau environmental documents.

C. The Assistant Directors, Renewable Resources, Energy and Minerals Resources, and Management Services are responsible for cooperating with the Assistant Director, Support Services, to ensure that the environmental compliance process operates as prescribed within their areas of responsibility. This includes managing and ensuring the quality of environmental analyses, assigned environmental documents and records of decisions.

D. The State Directors are responsible to the Director/Deputy Director for overall direction and integration of the NEPA process into their activities and for NEPA compliance in their States. The P&EC unit provides major staff support and is the key focal point for NEPA matters at the State level.

(1) The District Managers are responsible for implementing the NEPA process at the District level. The P&EC unit provides major support and is the key focal point for NEPA matters at the District level.

(2) The Area Managers are responsible for implementing the NEPA process at the resource area level.

11.3 Guidance to Applicants

A. General.

(1) Applicants should make initial contact with the line manager (Area Manager, District Manager or State Director) of the office where the affected public lands are located.

(2) If the application will affect responsibilities of more than one State Director, an applicant may contact any State Director whose jurisdiction is involved. In such cases, the Director may assign responsibility to the Headquarters Office or to one of the State offices. From that point, the applicant will deal with the designated lead office.

(3) Potential applicants may secure from State Directors a list of program regulations or other directives/guidance providing advice or requirements for submission of environmental information. The purpose of making these regulations known to potential applicants, in advance, is to assist them in presenting a detailed, adequate and accurate description of the proposal and alternatives when they file their application and to minimize the need to request additional information. This is a minimum list and additional requirements may be identified after detailed review of the formal submission and during scoping.

(4) Since much of an applicant's planning may take place outside of

BLM's planning system, it is important for potential applicants to advise BLM of their planning at the earliest possible stage. Early communication is necessary to properly conduct our stewardship role on the public lands and to seek solutions to situations where private development decisions may conflict with public land use decisions. Early contact will also allow the determination of basic data needs concerning environmental amenities and values, potential data gaps that could be filled by the application, and a modification of the list or requirements to fit local situations. Scheduling of the environmental analysis process can also be discussed, as well as various ways of preparing any environmental documents.

B. Regulations. The following partial list provides guidance to applicants on program regulations which may apply to a particular application. Many other regulations deal with proposals affecting public lands, some of which are specific to BLM while others are applicable across a broad range of Federal programs (e.g., Protection of Historic and Cultural Programs—36 CFR part 800).

(1) Resource Management Planning—43 CFR 1610;

(2) Withdrawals—43 CFR 2300;

(3) Land Classification—43 CFR 2400;

(4) Disposition: Occupancy and Use—43 CFR 2500;

(5) Disposition: Grants—43 CFR 2600;

(6) Disposition: Sales—43 CFR 2700;

(7) Use: Rights-of-Way—43 CFR 2800;

(8) Use: Leases and Permits—43 CFR 2900;

(9) Oil and Gas Leasing—43 CFR 3100;

(10) Geothermal Resources Leasing—43 CFR 3200;

(11) Coal Management—43 CFR 3400;

(12) Leasing of Solid Minerals Other than Coal/Oil Shale—43 CFR 3500;

(13) Mineral Materials Disposal—43 CFR 3600;

(14) Mining Claims Under the General Mining Laws—43 CFR 3800;

(15) Grazing Administration—43 CFR 4100;

(16) Wild Free-Roaming Horse and Burro Management—43 CFR 4700;

(17) Forest Management—43 CFR 5000;

(18) Wildlife Management—43 CFR 6000; and

(19) Recreation Management—43 CFR 8300.

11.4 Major Actions Normally Requiring an EIS

A. The following types of Bureau actions will normally require the preparation of an EIS:

(1) Approval of Resource Management Plans.

(2) Proposals for Wilderness, Wild and Scenic Rivers, and National Historic Scenic Trails.

(3) Approval of regional coal lease sales in a coal production reason.

(4) Decision to issue a coal preference right lease.

(5) Approval of applications to the BLM for major actions in the following categories:

(a) Sites for steam electric powerplants, petroleum refineries, synfuel plants, and industrial facilities.

(b) Rights-of-way for major reservoirs, canals, pipelines, transmission lines, highways and railroads.

(6) Approval of operations that would result in liberation of radioactive tracer materials or nuclear stimulation.

(7) Approval of any mining operation where the area to be mined, including any area of disturbance, over the life of the mining plan is 640 acres or larger in size.

B. If, for any of these actions it is anticipated that an EIS is not needed based on potential Impact significance, an environmental assessment will be prepared and processed in accordance with 40 CFR 1501.4(e)(2).

11.5 Categorical Exclusions

The Departmental Manual [516 DM 2.3A(3) & Appx 2] requires that before any action described in the following list of categorical exclusions is used, the exceptions must be reviewed for applicability in each case. The proposed action cannot be categorically excluded if one or more of the exceptions apply, thus requiring either an EA or on EIS. When no exceptions apply, the following types or bureau actions normally do not require the preparation of an EA or EIS.

A. Fish and Wildlife.

(1) Modification of existing fences to provide improved wildlife ingress and egress.

(2) Minor modification of water developments to improve or facilitate wildlife use (e.g. modify enclosure fence, install flood value, or reduce ramp access angle).

(3) Construction of perches, nesting platforms, islands and similar structures for wildlife use.

(4) Temporary emergency feeding of wildlife during periods of extreme adverse weather conditions.

(5) Routine augmentations such as fish stocking, providing no new species are introduced.

(6) Relocation of nuisance or depredating wildlife, providing the relocation does not introduce new species into the ecosystem.

(7) Installation of devices on existing facilities to protect animal life such as raptor electrocution prevention devices.

B. Fluid Minerals.

(1) Issuance of future interest leases under the Mineral Leasing Act of Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease adjustments and transfers, including assignments and subleases.

(3) Approval of minor modifications or minor variances from activities described in approved development/production plans (e.g. the approved plan identifies no new surface disturbance outside the area already identified to be disturbed).

(4) Approval of unitization agreements, communitization agreements, drainage agreements, underground gas storage agreements, compensatory royalty agreements, or development contracts.

(5) Approval of suspensions of operations, *force majeure* suspensions, and suspensions of operations and production.

(6) Approval of royalty determinations such as royalty rate reductions.

C. Forestry.

(1) Land cultivation and silvicultural activities (excluding herbicides) in forest tree nurseries, seed orchards, and progeny test sites.

(2) Sale and removal of individual trees or small groups of trees which are dead, diseased, injured, or which constitute a safety hazard, and where access for the removal requires no more than maintenance to existing roads.

(3) Seeding or reforestation of timber sales or burn areas where no chaining is done, no pesticides are used, and there is no conversion of timber type or conversion of nonforest to forest land. Specific reforestation activities covered include: seeding and seedling plantings, shading, tubing (browse protection), paper mulching, bud caps, ravel protection, application of non-toxic big game repellent, spot scalping, rodent trapping, fertilization of seed trees, fence construction around out-planting sites, and collection of pollen, scions and cones.

(4) Precommercial thinning and brush control using small mechanical devices.

(5) Disposal of small amounts of miscellaneous vegetation products outside established harvest areas, such as Christmas trees, wildings, floral products (ferns, boughs, etc.), cones, seeds, and personal use firewood.

D. Rangeland Management.

(1) Approval of transfers of grazing preference.

(2) Placement and use of temporary (not to exceed one month) portable

corrals and water troughs, providing no new road construction is needed.

(3) Temporary emergency feeding of livestock or wild horses and burros during periods of extreme adverse weather conditions.

(4) Removal of wild horses or burros from private lands at the request of the landowner.

(5) Processing (transporting, sorting, providing veterinary care to, vaccinating, testing for communicable diseases, training, gelding, marketing, maintaining, feeding, and trimming of hooves of) excess wild horses and burros.

(6) Approval of the adoption of healthy, excess wild horses and burros.

(7) Actions required to ensure compliance with the terms of Private Maintenance and Care Agreements.

(8) Issuance of title to adopted wild horses and burros.

(9) Destroying old, sick, and lame wild horses and burros as an act of mercy.

E. Realty.

(1) Withdrawal extensions or modifications which only establish a new time period and entail no changes in segregative effect or use.

(2) Withdrawal revocations, terminations, extensions, or modifications and classification terminations or modifications which do not result in lands being opened or closed to the general land laws or to the mining or mineral leasing laws.

(3) Withdrawal revocations, terminations, extensions, or modifications; classification terminations or modifications; or opening actions where the land would be opened only to discretionary land laws and where subsequent discretionary actions (prior to implementation) an in conformance with and are covered by a Resource Management Plan/EIS (or plan amendment and EA or EIS).

(4) Administrative conveyances from the Federal Aviation Administration (FAA) to the State of Alaska to accommodate airports on lands appropriated by the FAA prior to the enactment of the Alaska Statehood Act.

(5) Actions taken in conveying mineral interest where there are no known mineral values in the land, under Section 209(b) of the Federal Land policy and Management Act of 1976 (FLPMA).

(6) Resolution of class one color-of-title cases.

(7) Issuance of recordable disclaimers of interest under Section 315 of FLPMA.

(8) Corrections of patents and other conveyance documents under section 316 of FLPMA and other applicable statutes.

(9) Renewals and assignments of leases, permits or rights-of-way where no additional rights are conveyed beyond those granted by the original authorizations.

(10) Transfer or conversion of leases, permits, or rights-of-way from one agency to another (e.g., conversion of Forest Service permits to a BLM Title V Right-of-way).

(11) Conversion of existing right-of-way grants to Title V grants or existing leases to FLPMA section 302(b) leases where no new facilities or other changes are needed.

(12) Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.

(13) Amendments to existing rights-of-way such as the upgrading of existing facilities which entail no additional disturbances outside the rights-of-way boundary.

(14) Grants of rights-of-way for an overhead line (no pole or tower on BLM land) crossing over a corner of public land.

(15) Transfer of land or interest in land to or from other Bureaus or Federal agencies where current management will continue and future changes in management will be subject to the NEPA process.

(16) Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

(17) Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

(18) Temporary placement of a pipeline above ground.

(19) Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

(20) One-time issuance of short-term (3 years or less) rights-of-way or land use authorizations which authorize trespass action where no new use or construction is allowed, and where the proposal includes rehabilitation to restore the land to its natural or original condition.

F. Solid Minerals.

(1) Issuance of future interest leases under the Mineral Leasing Act for Acquired Lands where the subject lands are already in production.

(2) Approval of mineral lease readjustments, renewals and transfers including assignments and subleases.

(3) Approval of suspensions of operations, *force majeure* suspensions,

and suspensions of operations and production.

(4) Approval of royalty determinations such as royalty rate reduction and operations reporting procedures.

(5) Determination and designation of logical mining units (LMUs).

(6) Findings of completeness furnished to the Office of Surface Mining Reclamation and Enforcement for Resource Recovery and Protection Plans.

(7) Approval of minor modifications to or minor variances from activities described in an approved exploration plan for leasable, salable and locatable minerals. (e.g. the approved plan identifies no new surface disturbance outside the areas already identified to be disturbed.)

(8) Approval of minor modifications to or minor variances from activities described in an approved underground or surface mine plan for leasable minerals. (e.g. change in mining sequence or timing.)

(9) Digging of exploratory trenches for mineral materials, except in riparian areas.

(10) Disposal of mineral materials such as sand, stone, gravel, pumice, pumicite, cinders, and clay, in amounts not exceeding 50,000 cubic yards or disturbing more than 5 acres, except in riparian areas.

G. Transportation Signs.

(1) Placing existing roads in any transportation plan when no new construction or upgrading is needed.

(2) Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattle guards on/or adjacent to existing roads.

(3) Temporary closure of roads.

(4) Placement of recreational, special designation or information signs, visitor registers, kiosks and portable sanitation devices.

H. Other.

(1) Maintaining plans in accordance with 43 CFR 1610.5-4.

(2) Acquisition of existing water developments (e.g. wells and springs) on public land.

(3) Conducting preliminary hazardous materials assessments and site investigations, site characterization studies and environmental monitoring. Included is siting, construction, installation and/or operation of small monitoring devices such as wells, particulate dust counters and automatic air or water samples.

(4) Use of small sites for temporary field work camps where the sites will be restored to their natural or original condition within the same work season.

(5) Issuance of special recreation permits to individuals or organized

groups for search and rescue training, orienteering or similar activities and for dog trials, endurance horse races or similar minor events.

(6) A single trip in a one month period to data collection or observation sites.

(7) Construction of snow fences for safety purposes or to accumulate snow for small water facilities.

(8) Installation of minor devices to protect human life (e.g. grates across mines).

(9) Construction of small protective enclosures including those to protect reservoirs and springs and those to protect small study areas.

(10) Removal of structures and materials of nonhistorical value, such as abandoned automobiles, fences, and buildings, including those built in trespass and reclamation of the site when little or no surface disturbance is involved.

(11) Actions where BLM has concurrence or coapproval with another DOI agency and the action is categorically excluded for that DOI agency.

(12) Rendering formal classification of lands as to their mineral character and waterpower and water storage values.

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 12: Managing the NEPA Process—National Park Service

Originating Office: Office of Environmental Policy and Compliance

516 DM 12

12.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's National Park Service. This Chapter is referenced in 516 DM 6.5.

12.2 NEPA Responsibility

A. The Director is responsible for NEPA compliance for National Park Service (NPS) activities.

B. Regional Directors are responsible to the Director for integrating the NEPA process into all regional activities and for NEPA compliance in their regions.

C. The Denver Service Center performs most major planning efforts for the National Park Service and integrates NEPA compliance and environmental considerations with project planning, consistent with direction and oversight

provided by the appropriate Regional Director.

D. The Environmental Compliance Division (Washington), which reports to the Associate Director—Planning and Development, serves as the focal point for all matters relating to NEPA compliance; coordinates NPS review of NEPA documents prepared by other agencies; and provides policy review and clearance for NPS EISs. Information concerning NPS NEPA documents or the NEPA process can be obtained by contacting this office.

12.3 Guidance to Applicants

Actions in areas of NPS jurisdiction that are initiated by private or non-Federal entities include the following:

A. Minerals, Mineral exploration, leasing and development activities are not permitted in most units of the National Park System. There are exceptions where mineral activities are authorized by law and all mineral activities conducted under these exceptions require consultation with and evaluation by officials of the NPS and are subject to NEPA compliance. Some procedures whereby mineral activities are authorized are outlined below. For site-specific proposals, interested parties should contact the appropriate NPS Regional Director for a determination of whether authorities for conducting other types of mineral activities in particular areas exist and, if so, how to obtain appropriate permits. For further information about NPS minerals policy, interested parties should contact the Energy, Mining, and Minerals Division (Denver, Colorado).

(1) Mining Claims and Associated Mining Operations. All Units of the National Park System are closed to mineral entry under the 1872 Mining Law, and mining operations associated with mining claims are limited to the exercise of valid prior existing rights. Prior to conducting mining operations on patented or unpatented mining claims within the National Park System, operators must obtain approval of the appropriate NPS Regional Director. The Regional Directors base approval on information submitted by potential operators that discusses the scope of the proposed operations, evaluates the potential impacts on park resources, identifies measures that will be used to mitigate adverse impacts, and meets other requirements contained in 36 CFR Part 9, Subpart A, which governs mining operations on mining claims under the authority of the Mining in the Parks Act of 1976.

(2) Non-Federal Mineral Rights. Privately held Oil, gas and mineral rights on private land or split estates

(Federally-owned subsurface estate) exist within some park boundaries. Owners of outstanding subsurface oil and gas rights are granted reasonable access on or across park units through compliance with 36 CFR Part 9, Subpart B. These procedures require an operator to file a plan of operations for approval by the appropriate NPS Regional Director. An approved plan of operations serves as the operator's access permit.

(3) Federal Mineral Leasing and Mineral Operations.

(a) Leasing of Federally-owned minerals is restricted to five national recreation areas in the National Park System, where leasing is authorized in the enabling legislation of the units. According to current regulations (43 CFR 3100.03(g)(4); 43 CFR 3500.0–3(c)(7)). These areas are: Lake Mead, Glen Canyon, Ross Lake, Lake Chelan, and Whiskeytown National Recreation Areas. However, Lake Chelan was designated in 1981 as an excepted area under the regulations and is closed to mineral leasing. The Bureau of Land Management (BLM) issues leases on these lands and controls and monitors operations. Applicable general leasing and operating procedures for oil and gas are contained in 43 CFR Part 3100, *et seq.* And for minerals other than oil and gas in 43 CFR 3500 *et seq.* Within units of the National Park System the NPS, as the surface management agency, must consent to the permitting and leasing of park lands and concur with operating conditions established in consultation with the BLM. Leases and permits can only be granted upon a finding by the NPS Regional Director that the activities authorized will not have a significant adverse effect on the resources and administration of the unit. The NPS can also require special lease and permit stipulations for protecting the environment and other park resources. In addition, the NPS participates with BLM in preparing environmental analyses of all proposed activities and in establishing reclamation requirements for park unit lands.

(b) Glen Canyon National Recreation Area is the only unit of the National Park System containing special tar sands areas as defined in the Combined Hydrocarbon Leasing Act of 1981. In accordance with the requirements of this Act, the BLM has promulgated regulations governing the conversion of existing oil and gas leases located in special tar sands areas to combined hydrocarbon (oil, gas, and tar sands) leases and for instituting a competitive combined hydrocarbon leasing program in the special tar sands areas. Both of these activities, lease conversions and

new leasing, may occur within the Glen Canyon NRA provided that they take place commensurate with the unit's minerals management plan and that the Regional Director of the NPS makes a finding of no significant adverse impact on the resources and administration of the unit or on other contiguous units of the National Park System. If the Regional Director does not make such a finding, then the BLM cannot authorize lease conversions or issue new leases within the Glen Canyon NRA. The applicable regulations are contained in 43 CFR 3140.7 and 3141.4–2, respectively. Intra-Departmental procedures for processing conversion applications have been laid out in a Memorandum of Understanding (MOU) between the BLM and the NPS. For additional information about combined hydrocarbon leasing, interested parties should contact the Energy, Mining and Minerals Division (Denver, Colorado).

B. Grazing. Grazing management plans for NPS units subject to legislatively-authorized grazing are normally prepared by the NPS or jointly with the BLM. Applicants for grazing allotments must provide the NPS and/or the BLM with such information as may be required to enable preparation of environmental documents on grazing management plans. Grazing is also permitted in some NPS areas as a condition of land acquisition in instances where grazing rights were held prior to Federal acquisition. The availability of these grazing rights is limited and information should be sought through individual Park Superintendents.

C. Permits, Rights-of-Way, and Easements for Non-Park Uses. Informational requirements are determined on a case-by-case basis, and applicants should consult with the Park Superintendent before making formal application. The applicant must provide sufficient information on the proposed non-park use, as well as park resources and resource-related values to be affected directly and indirectly by the proposed use in order to allow the Service to evaluate the application, assess the impact of the proposed use on the NPS unit and other environmental values, develop restrictions/stipulations to mitigate adverse impacts, and reach a decision on issuance of the instrument. Authorities for such permits, rights-of-way, and etc., are found in the enabling legislation for individual National Park System units and 16 U.S.C. 5 and 79 and 23 U.S.C. 317. Right-of-way and easement regulations are found at 36 CFR Part 14. Policies concerning regulation of special uses are described

in the NPS Management Policies Notebook.

D. Archaeological Permits. Permits for the excavation or removal of archaeological resources on public and Indian lands owned or administered by the Department of the Interior, and by other agencies that may delegate this responsibility to the Secretary, are issued by the Director of the NPS. These permits are required pursuant to the Archaeological Resources Protection Act of 1979 (Pub. L. 96-95) and implementing regulations (43 CFR Part 7), whenever materials of archaeological interest are to be excavated or removed. These permits are not required for archaeological work that does not result in any subsurface testing and does not result in the collection of any surface or subsurface archaeological materials. Applicants should contact the Departmental Consulting Archaeologist in Washington about these permits.

E. Federal Aid. The NPS administers financial and land grants to States, local governmental and private organizations/individuals for outdoor recreation acquisition, development and planning (Catalog of Federal Domestic Assistance (CDFA #15.916), historic preservation (CDFA #15.904), urban park and recreation recovery (CDFA #15.919) and Federal surplus real property for park recreation and historic monument use (CDFA #15.403). The following program guidelines and regulations list environmental requirements which applicants must meet:

(1) Land and Water Conservation Fund Grants Manual, Part 650.2;

(2) Historic Preservation Grants-in-Aid Manual, Chapter 4;

(3) Urban Park and Recreation Recovery Guidelines, NPS-37;

(4) Policies and Responsibilities for Conveying Federal Surplus Property Manual, Part 271. Copies of documents related to the Land and Water Conservation Fund and the Historic Preservation Fund have been provided to all State Liaison Officers for outdoor recreation and all State Historic Preservation Officers. Copies of these documents related to the Urban Park and Recreation Recovery Program are available for inspection in each NPS Regional Office as well as the NPS Office of Public Affairs in Washington, D.C. Many State agencies which seek NPS grants may prepare related EISs pursuant to section 102(2)(D) of NEPA. Such agencies should consult with the NPS Regional Office.

F. Conversion of Acquired and Developed Recreation Lands. The NPS must approve the conversion of certain acquired and developed lands prior to conversion. These include:

(1) All State and local lands and interests therein, and certain Federal lands under lease to the States, acquired or developed in whole or in part with monies from the Land and Water Conservation Fund Act are subject to section 6(f) of the Act which requires approval of conversion of use.

(2) All recreation areas and facilities (as defined in section 1004), developed or improved, in whole or in part, with a grant under the Urban Park and Recreation Recovery Act of 1978 (Pub. L. 95-625, Title 10) are subject to section 1010 of the Act which requires approval for a conversion to other than public recreation uses.

(3) Most Federal surplus real property which has been conveyed to State and local governments for use as recreation demonstration areas, historic monuments or public park and recreation areas (under the Recreation Demonstration Act of 1942 or the Federal Property and Administrative Services Act of 1949, as amended) are subject to approval of conversion of use.

(4) All abandoned railroad rights-of-way acquired by State and local governments for recreational and/or conservation uses with grants under section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976, are subject to approval of conversion of use. Application for approval of conversion of use of these lands must be submitted to the appropriate Regional Director of the NPS. Early consultation with the Regional Office is encouraged to insure that the application is accompanied by any required environmental documentation. If the property was acquired through the Land and Water Conservation Fund, then the application must be submitted through the appropriate State Liaison Officer for Outdoor Recreation. If the property was acquired under the Federal Property and Administrative Services Act of 1949, as amended, approval of an application for conversion of use must also be concurred in by the General Services Administration.

12.4 Major Actions Normally Requiring Environmental Impact Statements

A. The following types of NPS proposals will normally require the preparation of an EIS:

- (1) Wild and Scenic River proposals;
- (2) National Trail proposals;
- (3) Wilderness proposals;
- (4) General Management Plans for major National Park System units;
- (5) Grants, including multi-year grants, whose size and/or scope will result in major natural or physical

changes, including interrelated social and economic changes and residential and land use changes within the project area or its immediate environs;

(6) Grants which foreclose other beneficial uses of mineral, agricultural, timber, water, energy or transportation resources important to National or State welfare.

B. If for any of these proposals it is initially decided not to prepare an EIS, and EA will be prepared and made available for public review in accordance with section 1501.4(e)(2).

12.5 Categorical exclusions

In addition to the actions listed in the Departmental categorical exclusions in Appendix 1 of 516 DM 2, many of which the Service also performs, the following NPS actions are designated categorical exclusions unless the action qualifies as an exception under Appendix 2 to 516 DM 2.

A. Actions Related to General Administration

(1) Changes or amendments to an approved action when such changes would cause no or only minimal environmental impact.

(2) Land and boundary surveys,

(3) Minor boundary changes,

(4) Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts,

(5) Conversion of existing permits to rights-of-way, when such conversions do not continue or initiate unsatisfactory environmental conditions,

(6) Issuances, extensions, renewals, reissuances or minor modifications of concession contracts or permits not entailing new construction,

(7) Commercial use licenses involving no construction,

(8) Leasing of historic properties in accordance with 36 CFR Part 18 and NPS-38,

(9) Preparation and issuance of publications,

(10) Modifications or revisions to existing regulations, or the promulgation of new regulation for NPS-administered areas, provide the modifications, revisions or new regulation do not:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it,

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it,

(c) Conflict with adjacent ownerships or land uses, or

(d) Cause a nuisance to adjacent owners or occupants.

(11) At the direction of the NPS responsible official, actions where NPS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau.

B. Plans, Studies and Reports.

(1) Changes or amendments to an approved plan, when such changes would cause no or only minimal environmental impact.

(2) Cultural resources maintenance guides, collection management plans and historic furnishings reports.

(3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans).

(4) Plans, including priorities, justifications and strategies, for non-manipulative research, monitoring, inventorying and information gathering.

(5) Statements for management, outlines of planning requirements and task directives for plans and studies.

(6) Technical assistance to other Federal, State and local agencies or the general public.

(7) Routine reports required by law or regulation.

(8) Authorization, funding or approval for the preparation of Statewide Comprehensive Outdoor Recreation Plans.

(9) Adoption or approval of surveys, studies, reports, plans and similar documents which will result in recommendations or proposed actions which would cause no or only minimal environmental impact.

(10) Preparation of internal reports, plans, studies and other documents containing recommendations for action which NPS develops preliminary to the process of preparing a specific Service proposal or set of alternatives for decision.

(11) Land protection plans which propose no significant change to existing land or visitor use.

(12) Documents which interpret existing mineral management regulations and policies, and do not recommend action.

C. Actions Related to Development.

(1) Land acquisition within established park boundaries.

(2) Land exchanges which will not lead to significant changes in the use of land.

(3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds and trails.

(4) Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide; or if the action would not adversely affect the cultural resource.

(5) Installation of signs, displays, kiosks, etc.

(6) Installation of navigation aids.

(7) Establishment of mass transit systems not involving construction, experimental testing of mass transit systems, and changes in operation of existing systems (e.g. routes and schedule changes).

(8) Replacement in kind of minor structures and facilities with little or no change in location, capacity or appearance.

(9) Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc. on existing roads.

(10) Sanitary facilities operation.

(11) Installation of wells, comfort stations and pit toilets in areas of existing use and in developed areas.

(12) Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair.

(13) Upgrading or adding new overhead utility facilities to existing poles, or replacement poles which do not change existing pole line configurations.

(14) Issuance of right-of-way for overhead utility lines to an individual building or well from an existing line where installation will not result in significant visual intrusion and will involve no clearance of vegetation other than for placement of poles.

(15) Issuance of right-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion in an NPS-administered area.

(16) Installation of underground utilities in previously disturbed areas having stable soils, or in an existing utility right-of-way.

(17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas.

(18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.

(19) Landscaping and landscape maintenance to previously disturbed or developed areas.

(20) Construction of fencing enclosures or boundary fencing posing no effect on wildlife migrations.

D. Actions Related to Visitor Use.

(1) Carrying capacity analysis.

(2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.

(3) Changes in interpretive and environmental education programs.

(4) Minor changes in programs and regulation pertaining to visitor activities.

(5) Issuance of permits for demonstrations, gathering, ceremonies, concerts, arts and crafts shows, etc. entailing only short-term or readily mitigable environmental disturbance.

(6) Designation of trail side camping zones with no or minimal improvements.

E. Actions Related to Resource Management and Protection.

(1) Archeological surveys and permits involving only surface collection or small-scale test excavations.

(2) Day-to-day resource management and research activities.

(3) Designation of environmental study areas and research natural areas.

(4) Stabilization by planting native plant species in disturbed areas.

(5) Issuance of individual hunting and/or fishing licenses in accordance with State and Federal regulations.

(6) Restoration of noncontroversial native species into suitable habitats within their historic range and elimination of exotic species.

(7) Removal of park resident individuals of non-threatened/endangered species which pose a danger to visitors, threaten park resources or become a nuisance in areas surrounding a park, when such removal is included in an approved resource management plan.

(8) Removal of non-historic materials and structures in order to restore natural conditions.

(9) Development of standards for and identification, nomination, certification and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs.

F. Actions Related to Grant Programs.

(1) Proposed actions essentially the same as those listed in paragraphs A-E above.

(2) Grants for acquisition of areas which will continue in the same or lower density use with no additional disturbance to the natural setting.

(3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural resources of the area; or the integrity of the existing setting.

(4) Grants for construction of facilities on lands acquired under a previous NPS or other Federal grant provided that the development is in accord with plans submitted with the acquisition grant.

(5) Grants for the construction of new facilities within an existing park or

recreation area, provided that the facilities will not:

(a) Conflict with adjacent ownerships or land use or cause a nuisance to adjacent owners or occupants; *e.g.* extend use beyond daylight hours;

(b) Introduce motorized recreation vehicles;

(c) Introduce active recreation pursuits into a passive recreation area;

(d) Increase public use or introduce noncompatible uses to the extent of compromising the nature and character of the property or causing physical damage to it; or

(e) Add or alter access to the park from the surrounding area.

(6) Grants for the restoration, rehabilitation, stabilization, preservation and reconstruction (or the authorization thereof) of properties listed on or eligible for listing on the National Register of Historic Places at their same location and provided that such actions:

(a) Will not alter the integrity of the property or its setting;

(b) Will not increase public use of the area to the extent of compromising the nature and character of the property; and

(c) Will not cause a nuisance to adjacent property owners or occupants.

Department of the Interior

Departmental Manual

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Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 13: Managing the NEPA Process—Office of Surface Mining

Originating Office: Office of Environmental Policy and Compliance

516 DM 13

13.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Office of Surface Mining. This Chapter is referenced in 516 DM 6.5.

13.2 NEPA Responsibility

A. Director. Is responsible for NEPA compliance for Office of Surface Mining (OSM).

B. Assistant Directors.

(1) Are responsible to the Director for supervision and coordination of NEPA activities in their program areas of responsibility.

(2) Are responsible, within their program areas, for OSM Headquarters review of EISs for compliance with program area policy guidance.

(3) Are responsible for assuring that environmental concerns are identified early in the planning stages and appropriate policy and program guidance is disseminated.

C. Regional Directors.

(1) Are responsible to the Director for integrating the NEPA process into all Regional activities and for NEPA compliance activities in their Regions.

(2) Will designate a staff position to be responsible to the Regional Director for the consistency, adequacy, and quality of all NEPA documents prepared by the Region's staff. The position will also be responsible to the Regional Director for providing information, guidance, training, advice, and coordination on NEPA matters, and for oversight of the Region's NEPA process.

D. Chief, Branch of Environmental Analysis (Washington). Is designated by the Director to be responsible for overall policy guidance for NEPA compliance for OSM. Information about OSM NEPA documents or the NEPA process can be obtained by contacting this Branch.

13.3 Guidance to Applicants

OSM personnel are available to meet with all applicants for permits on Federal lands or under a Federal program for a State to provide guidance on the permitting procedures. Permit applications under approved State programs are excluded from NEPA compliance. In addition, OSM's regulations implementing the Surface Mining Control and Reclamation Act of 1977 (SMCRA) provide requirements for applicants to submit environmental information. The following parts of the regulations (30 CFR) describe the information requirements.

A. Parts 770 and 771 outline the content requirements of permit applications on Federal lands or under a Federal program for a State, including: the procedures for coal exploration operations required by 30 CFR 776; the permit application contents for surface coal mining activities required by 30 CFR 778, 779, and 780; the permit application contents for underground coal mining required by 30 CFR 782, 783, and 784; the requirements for special categories of surface coal mining required by 30 CFR 785; and the procedures for review, revision, and renewal of permits and for the transfer, sale, or assignment of rights granted under permits, as required by 30 CFR 788.

B. Part 776 identifies the minimum requirements for coal exploration activities outside the permit area. Part 776 is complemented by Part 815 of Subchapter K which provides environmental protection performance

standards applicable to these operations.

C. Part 778 provides the minimum requirements for legal, financial, compliance, and general nontechnical information for surface mining activities applications. Information submitted in permit applications under Part 778 will be used primarily to enable the regulatory authority and interested members of the public to ascertain the particular nature of the entity which will mine the coal and those entities which have other financial interests and public record ownership interests in both the mining entity and the property which is to be mined.

D. Part 779 establishes the minimum standards for permit applications regarding information on existing environmental resources that may be impacted by the conduct and location of the proposed surface mining activities. With the information required under Part 779, the regulatory authority is to utilize information provided in mining and reclamation plans under Part 780, in order to determine what specific impacts the proposed surface mining activities will have on the environment.

E. Part 780 establishes the heart of the permit application: the mining operations and reclamation plan for surface mining activities. The regulatory authority will utilize this information, together with the description of the existing environmental resources obtained under Part 779, to predict whether the lands to be mined can be reclaimed as required by the Act.

F. Part 782 contains permit application requirements for underground mining activities. This corresponds to Part 778 for surface mining. As such, Part 782 sets forth the minimum requirements for general, legal, financial, and compliance information required to be contained in applications for permits.

G. Part 783 describes the minimum requirements for information on existing environmental resources required in the permit application for underground mining and corresponds to Part 779 for surface mining activities.

H. Part 784 contains a discussion of the minimum requirements for reclamation and operation plans related to underground mining permit applications and corresponds to Part 780 for surface mining activities.

I. Part 785 contains requirements for permits for special categories of mining, including anthracite, special bituminous, experimental practices, mountaintop removal, steep slope, variances from approximate original contour restoration requirements, prime farmlands, alluvial valley floors,

augering operation, and in situ activities. The provisions of Part 785 are interrelated to the performance standards applicable to the special categories covered in Subchapter K and must be reviewed together with the preamble and text for Parts 818 through 828 of Subchapter K.

J. Part 788 specifies the responsibilities of persons conducting surface coal mining and reclamation operations with respect to changes, modifications, renewals, and revisions of permits after they are originally granted, and of persons who attempt to succeed to rights granted under permits by transfer, sale, or assignment of rights.

13.4 Major Actions Normally Requiring an EIS

A. The following OSM actions will normally require the preparation of an EIS:

(1) Approval of the Abandoned Mine Lands Reclamation Program, (SMCRA, Title IV). Completed in March 1980.

(2) Promulgation of the permanent regulatory program for surface coal mining and reclamation operations (SMCRA, Title V). Completed in February 1979.

(3) Approval of a proposed mining and reclamation plan that includes any of the following:

(a) Mountaintop removal operations.

(b) Mining within high use recreation areas.

(c) Mining that will cause population increases that exceed the community's ability to absorb the growth.

(d) Mining that would require a major change in existing coal transportation facilities.

(4) Approval of a proposed mining and reclamation plan for a surface mining operation that meets the following:

(a) The environmental impacts of the proposed mining operation are not adequately analyzed in an earlier environmental document covering the specific leases or mining activity; and

(b) The area to be mined is 1280 acres or more, or the annual full production level is 5 million tons or more; and

(c) Mining and reclamation operations will occur for 15 years or more.

B. If for any of these actions it is proposed not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2).

13.5 Categorical Exclusions

A. The following OSM actions are deemed not to be major Federal actions within the meaning of Section 102(2)(C) of NEPA under Sections 501(a) or 702(d) of the SMCRA. They are hereby designated as categorical exclusions

from the NEPA process and are exempt from the exceptions under 516 DM 2.3A(3):

(1) Promulgation of interim regulations.

(2) Approval of State programs.

(3) Promulgation of Federal programs where a State fails to submit, implement, enforce, or maintain an acceptable State program.

(4) Promulgation and implementation of the Federal lands program.

B. In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which OSM also performs, the following OSM actions (SMCRA sections are in parentheses) are designated categorical exclusions unless the actions qualify as an exception under 516 DM 2.3A(3):

(1) Monetary allotments to States for mining and mineral resources institutes (301).

(2) Allocation of research funds to institutes (302).

(3) Any research effort associated with ongoing abandoned mine land reclamation projects where the research is coincidental to the reclamation (401(c)(6)).

(4) Collection of reclamation fees from operators (402(a)).

(5) Findings of fact and entries on land adversely affected by past coal mining (407(a)).

(6) Acquisition of particular parcels of abandoned mine lands for reclamation (407(c)).

(7) Filing liens against property adversely affected by past coal mining (408).

(8) Interim regulatory grants (502(e)(4)).

(9) Disapproval of a proposed State program (503(c)).

(10) Review of permits issued under a previously approved State program (504(d)).

(11) Five-year permit renewal on life-of-mine plans under the Federal lands program or the Federal program for a State where the environmental impacts of continued mining are adequately analyzed in a previous environmental document for the mining operation (506(d)).

(12) Small operator assistance program (507(c)).

(13) Issuance of public notices and holding public hearings on permit applications involving Federal lands or under a Federal program for a State (513).

(14) Routine inspection and enforcement activities (517).

(15) Conflict of interest regulations (517(g)).

(16) Assessment of civil penalties (518).

(17) Releases of performance bonds or deposits for mining on Federal lands or under a Federal program for a State (519).

(18) Issuance of cessation orders for coal mining and reclamation operations (521(a)(2) and (3)).

(19) Suspension or revocation of permits (521(a)(4)).

(20) Federal oversight and enforcement of ineffective State programs (521(b)).

(21) Cooperative agreements between a state and the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands (523(c)).

(22) Development of a program to assure that, with respect to the granting of permits, leases, or contracts for Federally-owned coal, no one shall be unreasonably denied purchase of the mined coal (523(d)).

(23) Annual grants programs to States for program development, administration, and enforcement (705(a)).

(24) Assistance to States in the development, administration, and enforcement of State programs (705(b)).

(25) Increasing the amount of annual grants to States (705(c)).

(26) Submission of the Secretary's annual report to the Congress (706).

(27) The proposal of legislation to allow Indian tribes to regulate surface coal mining on Indian lands (710(a)).

(28) The certification and training of blasters (719).

(29) Approval of State Reclamation Plans for abandoned mine lands (405).

(30) Development of project proposals for AML grants, including field work only to the extent necessary for the preparation and design of the proposal.

(31) Use of AML funds to allow States or Tribes to set aside State share funds in a special trust for future ANFL projects.

(32) Use of AML funds in an insurance pool for the purposes of compensation for damage caused by mining prior to the date of the Act.

(33) AML reclamation projects involving: No more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine fires and refuse fires; no undisturbed, noncommercial borrow or disposal sites, no dangerous slides where abatement has the potential for damaging inhabited property; no subsidences involving the placement of material into underground mine voids through drilled holes to address more than one structure, and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation.

Departmental exceptions in 516 DM 2, appendix 2 apply to this exclusion. All sites considered in this categorical exclusion would have to first meet the eligibility test in sections 404, 409 and 411 of SMCRA. Also projects that have been declared an emergency pursuant to section 410 of SMCRA, may be candidates for this exclusion.

Department of the Interior

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Chapter 14: Managing the NEPA Process—Bureau of Reclamation

Originating Office: Office of Environmental Policy and Compliance

516 DM 14

14.1

Purpose This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Bureau of Reclamation. This Chapter is referenced in 516 DM 6.5.

14.2 NEPA Responsibility

A. Commissioner. Is responsible for NEPA compliance for Bureau of Reclamation (BuRec) activities.

B. Assistant Commissioners.

(1) Are responsible to the Commissioner for supervising and coordinating NEPA activities in their assigned areas of responsibility.

(2) Are responsible, in assigned areas of responsibility, for the Washington level review of EISs prepared in the regions or E&R Center for compliance with program area policy guidance.

(3) Provide supervision and coordination in assigned areas of responsibility to insure that environmental concerns are identified in the planning stages and to see that Regional Directors follow through with environmental commitments during the construction and operation and maintenance stages.

(4) May designate a staff position to be responsible for NEPA oversight and coordination in their assigned areas of responsibility.

C. Regional Directors.

(1) Are fully responsible to the Commissioner for integrating the NEPA compliance activities in their regional area.

(2) Will designate a staff position with the full responsibility to the Regional Director for providing direction of the NEPA process including information, guidance, training, advice, consistency,

quality, adequacy, oversight, and coordination on NEPA documents or matters.

D. Division and Office Chiefs in E&R Center.

(1) Are responsible for integrating the NEPA process into their activities.

(2) Will designate a staff position to be responsible to the division or office chief for providing guidance, advice, consistency, quality, adequacy, oversight, and coordination on NEPA documents for matters originating in the E&R Center.

(3) Will provide a technical review within their area of expertise of environmental documents directed to their office for review and comment.

E. Director, Office of Environmental Affairs (Washington). Is the position designated by the Commissioner to be responsible for overall policy review of BuRec NEPA compliance. Information about BuRec NEPA documents of the NEPA process can be obtained by contacting this office.

14.3 Guidance to Applicants

A. Types of Applicants.

(1) Actions that are initiated by private or non-Federal entities through applications include the following: Repayment contracts, water service contracts, Small Reclamation Projects Act Loans, Emergency Loans, Rehabilitation and Betterment Loans, Distribution System Loans, land use permits, licenses, easements, crossing agreements, permits for removal of sand and gravel, renewal of grazing, recreation management, or cabin site leases.

(2) Applicants will be provided information by the regional office on what environmental reports, analysis, or information are needed when they initiate their application. The environmental information requested may, of necessity, be related to impacts on private lands or other lands not under the jurisdiction of the Bureau to allow the BuRec to meet its environmental responsibilities.

B. Prepared Program Guidance for Applicants.

(1) Loans under the Small Reclamation Projects Act of 1958, U.S. Department of the Interior, Bureau of Reclamation, March 1976 (35 pages).

(2) Guidelines for Preparing Applications for Loans and Grants under the Small Reclamation Projects Act, Public Law 84-984, U.S. Department of the Interior, Bureau of Reclamation, December 1973 (121 pages).

(3) The Rehabilitation and Betterment Program, U.S. Department of the

Interior, Bureau of Reclamation, September 1978 (14 pages).

(4) Guidelines for Preparation of Reports to Support Proposed Rehabilitation and Betterment Programs, U.S. Department of the Interior, Bureau of Reclamation, September 1978 (8 pages).

14.4 Major Actions Normally Requiring an EIS

A. The following types of BuRec proposals will normally require the preparation of an EIS:

(1) Proposed Feasibility Reports on water resources projects.

(2) Proposed Definite Plan Reports (DPR) on water resources projects if not covered by an EIS at the feasibility report stage or if there have been major changes in the project plan which may cause significantly different or additional new impacts.

(3) Proposed repayment contracts and water service contracts or amendments thereof or supplements thereto, for irrigation, municipal, domestic, or industrial water where NEPA compliance has not already been accomplished.

(4) Proposed modifications to existing projects or proposed changes in the programmed operation of an existing project that may cause a significant new impact.

(5) Proposed initiation of construction of a project or major unit thereof, if not already covered by an EIS, or if significant new impacts are anticipated.

(6) Proposed major research projects where there may be significant impacts resulting from experimentation or other such research activities.

B. If, for any of these proposals it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2).

14.5 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Bureau also performs, the following Bureau actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. General Activities.

(1) Changes in regulations or policy directives and legislative proposals where the impacts are limited to economic and/or social effects.

(2) Training activities of enrollees assigned to the various youth programs. Such training may include minor construction activities for other entities.

(3) Research activities, such as nondestructive data collection and analysis, monitoring, modeling,

laboratory testing, calibration, and testing of instruments or procedures and nonmanipulative field studies.

B. Planning Activities.

(1) Routine planning investigation activities where the impacts are expected to be localized, such as land classification surveys, topographic surveys, archeological surveys, wildlife studies, economic studies, social studies, and other study activity during any planning, preconstruction, construction, or operation and maintenance phases.

(2) Special, status, concluding, or other planning reports that do not contain recommendations for action, but may or may not recommend further study.

(3) Data collection studies that involve test excavations for cultural resources investigations for cultural resources investigations or test pitting, drilling, or seismic investigations for geologic purposes where the impacts will be localized.

C. Project Implementation Activities.

(1) Classification and certification of irrigable lands.

(2) Minor acquisition of land and rights-of-way or easements.

(3) Minor construction activities associated with authorized projects which correct unsatisfactory environmental conditions or which merely augment or supplement, or are enclosed within existing facilities.

(4) Approval of land management plans where implementation will only result in minor construction activities and resultant increased operation and maintenance activities.

D. Operation and Maintenance Activities.

(1) Maintenance, rehabilitation, and replacement of existing facilities which may involve a minor change in size, location, and/or operation.

(2) Transfer of the operation and maintenance of Federal facilities to water districts, recreation agencies, fish and wildlife agencies, or other entities where the anticipated operation and maintenance activities are agreed to in a contract or a memorandum of agreement, follow approved Reclamation policy, and no major change in operation and maintenance is anticipated.

(3) Administration and implementation of project repayment and water service contracts, including approval of organizational or other administrative changes in contracting entities brought about by inclusion or exclusion of lands in these contracts.

(4) Approval, execution, and implementation of water service contracts for minor amounts of long-

term water use or temporary or interim water use where the action does not lead to long-term changes and where the impacts are expected to be localized.

(5) Approval of changes in pumping power and water rates charged contractors by the Bureau for project water service or power.

(6) Execution and administration of recordable contracts for disposal of excess lands.

(7) Withdrawal, termination, modification, or revocation where the land would be opened to discretionary land laws and where such future discretionary actions would be subject to the NEPA process, and disposal and sale of acquired lands where no major change in usage is anticipated.

(8) Renewal of existing grazing, recreation, management, or cabin site leases which do not increase the level of use or continue unsatisfactory environmental conditions.

(9) Issuance of permits for removal of gravel or sand by an established process from existing quarries.

(10) Issuance of permits, licenses, easements, and crossing agreements which provide right-of-way over Bureau lands where the action does not allow for or lead to a major public or private action.

(11) Implementation of improved appearance and soil and moisture conservation programs where the impacts are localized.

(12) Conduct of programs of demonstration, educational, and technical assistance to water user organizations for improvement of project and on-farm irrigation water use and management.

(13) Follow-on actions such as access agreements, contractual arrangements, and operational procedures for hydropower facilities which are on or appurtenant to Bureau facilities or lands which are permitted or licensed by the Federal Energy Regulatory Commission (FERC), when FERC has accomplished compliance with NEPA (including actions to be taken by the Bureau) and when the Bureau's environmental concerns have been accommodated in accordance with the Bureau/FERC Memorandum of Understanding of June 22, 1981.

(14) Approval, renewal, transfer, and execution of an original, amendatory, or supplemental water service or repayment contract where the only result will be to implement an administrative or financial practice or change.

(15) Approval of second party water sales agreements for small amounts of water (usually less than 10 acre-feet)

where the Bureau has an existing water sales contract in effect.

(16) Approval and execution of contracts requiring the repayment of funds furnished or expended on behalf of an entity pursuant to the Emergency Fund Act of June 26, 1948 (43 U.S.C. 502), where the action taken is limited to the original location of the damaged facility.

(17) Minor safety of dams construction activities where the work is confined to the dam, abutment areas, or appurtenant features, and where no major change in reservoir or downstream operation is anticipated as a result of the construction activities.

E. Grant and Loan Activities.

(1) Rehabilitation and Betterment Act loans and contracts which involve repair, replacement, or modification of equipment in existing structures or minor repairs to existing dams, canals, laterals, drains, pipelines, and similar facilities.

(2) Small Reclamation Projects Act grants and loans where the work to be done is confined to areas already impacted by farming or development activities, work is considered minor, and where the impacts are expected to be localized.

(3) Distribution System Loans Act loans where the work to be done is confined to areas already impacted by farming or developing activities, work is considered minor, and where the impacts are expected to be localized.

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Chapter 15: Managing the NEPA Process—Minerals Management Service

Originating Office: Office of Environmental Policy and Compliance

516 DM 15

15.1 Purpose

This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's Minerals Management Service. This Chapter is referenced in 516 DM 6.5.

15.2 NEPA Responsibility

A. The Director/Deputy Director are responsible for NEPA compliance for Minerals Management Service (MMS) activities.

B. The Associate Director for Offshore Minerals Management is responsible for

ensuring NEPA compliance for all offshore MMS activities.

C. The Chief, Offshore Environmental Assessment Division (OEAD), is responsible for NEPA-related policy and guidance for MMS activities, including monitoring MMS activities to ensure NEPA compliance, assuring the quality control of MMS environmental documents, and managing the review of non-MMS environmental documents. The office is the focal point for all NEPA matters and information about MMS environmental documents or the NEPA process can be obtained by contacting it or the appropriate Region.

D. The Regional Directors are responsible to the Associate Director for Offshore Minerals Management for overall direction and integration of the NEPA process into their activities and for NEPA compliance in their Regions.

15.3 Guidance to Applicants

A. General.

(1) Applicants should make initial contact with the Regional Director of the office where the affected action is located.

(2) Potential applicants may secure from Regional Directors a list or program regulations or other directives/guidance providing advice or requirements for submission of environmental information. The purpose of making these regulations known to potential applicants in advance is to assist them in presenting a detailed, adequate, and accurate description of the proposal and alternatives when they file their application and to minimize the need to request additional information. This is a minimum list, and additional requirements may be identified after detailed review of the formal submission and during scoping.

B. Regulations. The following partial list identifies MMS Outer Continental Shelf (OCS) regulations and other guidance which may apply to a particular application.

(1) Grants of pipeline rights-of-way and related facilities on the OCS (30 CFR Part 256, Subpart N).

(2) Exploration, development and production activities, Environmental Report (30 CFR Part 250, Sec. 250.34–3).

(3) Air quality (30 CFR Part 250, Sec. 250.57).

(4) Geological and geophysical explorations of the OCS (30 CFR Part 251, Sec. 251.6–2(b)).

(5) OCS Pipelines Rights-of-Ways. A Procedure Handbook.

(6) Guidelines for Preparing OCS Environmental Reports.

15.4 Major Actions Normally Requiring an EIS

A. The following proposals will normally require the preparation of an EIS:

(1) Approval of a 5-year offshore oil and gas leasing program.

(2) Approval of offshore lease sales.

(3) Approval of an offshore oil and gas development and production plan in any area or region of the offshore, other than the central or western Gulf of Mexico, when the plan is declared to be a major Federal action in accordance with section 25(e)(1) of the OCS Lands Act Amendments of 1978.

B. If, for any of these actions, it is proposed not to prepare an EIS, an environmental assessment will be prepared and handled in accordance with Section 1501.4(e)(2).

15.4 Categorical Exclusions

In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix I of 516 DM 2, many of which the MMS also performs, the following MMS actions are designated categorical exclusions unless the action qualifies as an exception under Appendix 2 of 516 DM 2:

A. General.

(1) Inventory, data, and information collection, including the conduct of environmental monitoring and nondestructive research programs.

(2) Actions for which MMS has concurrence or co-approval with another Bureau if the action is a categorical exclusion for that Bureau.

B. Internal Program Initiatives.

(1) All resource evaluation activities including surveying, mapping, and geophysical surveying which do not use solid or liquid explosives.

(2) Collection of geologic data and samples including geologic, paleontologic, mineralogic, geochemical, and geophysical investigations which does not involve drilling beyond 50 feet of consolidated rock or beyond 300 feet of unconsolidated rock, including contracts therefor.

(3) Acquisition of existing geological or geophysical data from otherwise private exploration ventures.

(4) Well logging, digital modeling, inventory of existing wells, and installation of recording devices in wells.

(5) Establishment and installation of any research/monitoring devices.

(6) Test or exploration drilling and downhole testing included in a project previously subject to the NEPA process.

(7) Insignificant revisions to the approved 5-year leasing program.

(8) Prelease planning steps such as the Call for Information and Area Identification.

C. Permit and Regulatory Functions.

(1) Issuance and modification of regulations, Orders, Standards, Notices to Lessees and Operators. Guidelines and field rules for which the impacts are limited to administrative, economic, or technological effects and the environmental impacts are minimal.

(2) Approval of production measurement methods, facilities, and procedures.

(3) Approval of off-lease storage in existing facilities.

(4) Approval of unitization Agreements, pooling, or communitization agreements.

(5) Approval of commingling of production.

(6) Approval of suspensions of operations and suspensions of production.

(7) Approval of lease consolidation applications, lease assignments or transfers, operating rights, operating agreements, lease extensions, lease relinquishments, and bond terminations.

(8) Administration decisions and actions and record keeping such as:

(a) Approval of applications for pricing determinations under the Natural Gas Policy Act.

(b) Approval of underground gas storage agreements from a presently or formerly productive reservoir.

(c) Issuance of paying well determinations and participating area approvals.

(d) Issuance of drainage determinations.

(9) Approval of offshore geological and geophysical mineral exploration activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.

(10) Approval of an offshore lease or unit exploration, development/production plan or a Development Operation Coordination Document in the central or western Gulf of Mexico (30 CFR ZSO.2) except those proposing facilities: (1) In areas of high seismic risk or seismicity, relatively untested deep water, or remote areas, or (2) within the boundary of a proposed or established marine sanctuary, and/or within or near the boundary of a proposed or established wildlife refuge or areas of high biological sensitivity; or (3) in areas of hazardous natural bottom conditions; or (4) utilizing new or unusual technology.

(11) Approval of minor revisions or minor variances from activities described in an approved offshore

exploration or development/production plan, including pipeline applications.

(12) Approval of an Application for Permit to Drill (APD) an offshore oil and gas exploration or development well, when said well and appropriate mitigation measures are described in an approved exploration plan, development plan, production plan, or Development Operations Coordination Document.

(13) Preliminary activities conducted on-a lease prior to approval of an exploration or development/production plan or a Development Operations

Coordination Plan. These are activities such as geological, geophysical, and other surveys necessary to develop a comprehensive exploration plan, development/production plan, or Development Operations Coordination Plan.

(14) Approval of Sundry Notices and Reports on Wells.

(15) Rights-of-ways, easements, temporary use permits, and any revisions thereto that do not result in a new pipeline corridor to shore.

D. Royalty Functions. All functions of the Associate Director for Royalty

Management including, but not limited to, such activities as: approval of royalty payment procedures, including royalty oil contracts; and determinations concerning royalty quantities and values, such as audits, royalty reductions, collection procedures, reporting procedures, and any actions taken with regard to royalty collections (including similar actions relating to net profit and windfall profit taxes).

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