

APPENDIX

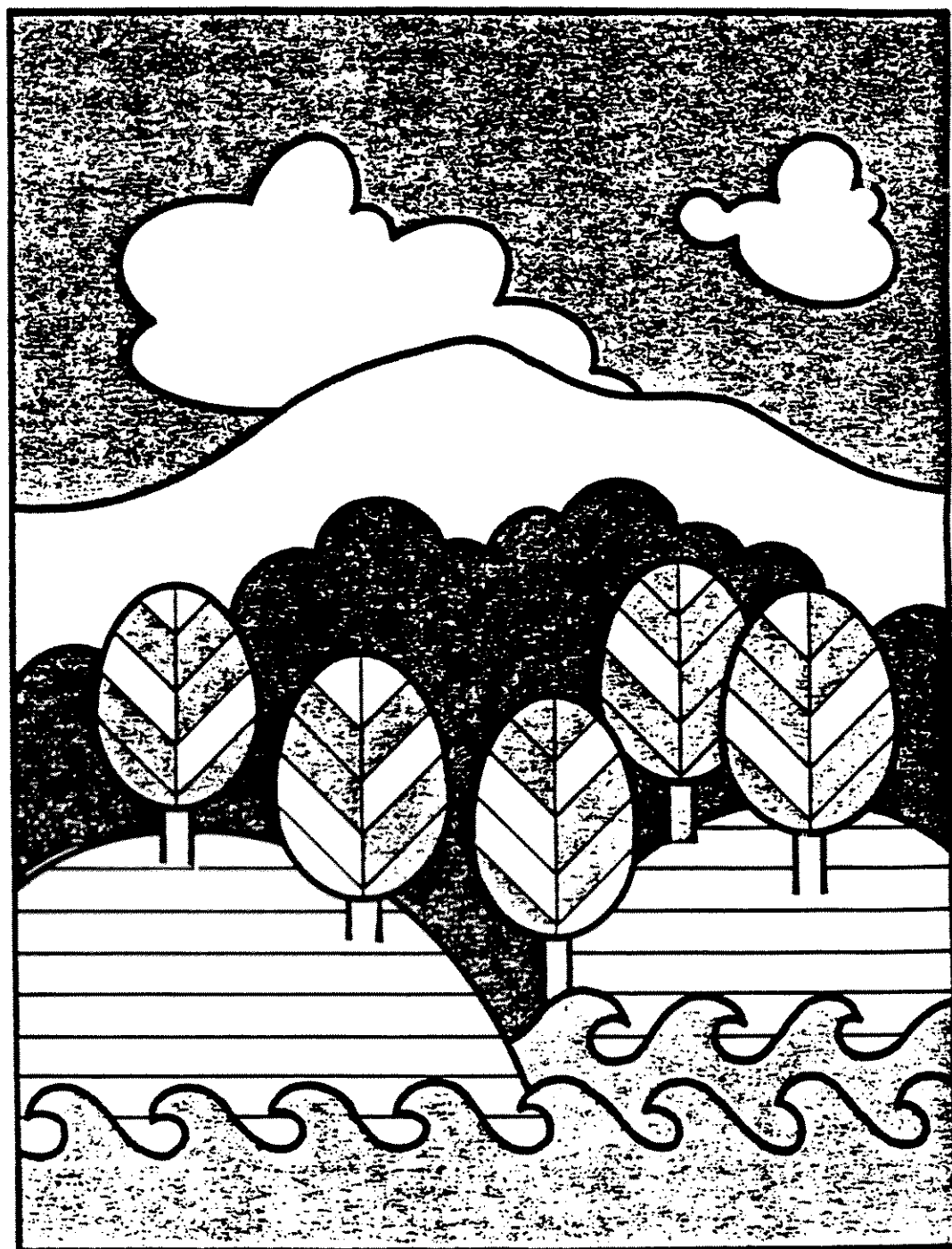
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FEMA ENVIRONMENTAL DESK REFERENCE



Cross-Cutting Environmental Laws

A Guide For Federal/State Project Officers



Introduction

Congress has passed a number of environmental laws which address the federal responsibility for protecting and conserving special resources. Examples of such laws are the Endangered Species Act, the National Historic Preservation Act, and the Wild and Scenic Rivers Act. The U.S. Environmental Protection Agency refers to these laws generally as “cross-cutters” because the requirement to comply with them cuts across all federal programs. A list of cross-cutting environmental laws (other than those administered by EPA) is included at the end of this section.

The cross-cutters require federal agencies to consider the impact that their programs and individual actions might have on particular resources and such consideration must be documented as part of the agency’s decision-making process. Federal undertakings that could have an effect include agency activities which would physically disrupt the environment, such as construction projects, and the issuance of grants and permits for projects that could also have an impact. All federal agencies must comply with these laws in carrying out activities unless a statute provides for an exemption or deferral because of an emergency or some other situation. In some cases, states administering federal programs have the lead in cross-cutter compliance.

Most federal agencies administering the cross-cutters have developed regulations or guidance which lay out procedures for federal agency compliance. Any of the procedures require federal agencies to consult with the “administering agencies”, and to provide an opportunity for public comment before making a decision on an action. The administering agencies have the expertise and oftentimes the public has information about a resource to help in determining the impact of a federal undertaking on the resource and what steps should be taken to avoid or mitigate adverse impacts.

Consultation with administering agencies usually begins early in the planning stages of a program or project. This avoids delays that might be incurred from having to address an impact later on in an undertaking when it may be more difficult and time-consuming for an agency to make changes. The evaluation that is conducted under cross-cutters is usually integrated into other statutory review, such as the environmental review carried out under the National Environmental Policy Act (NEPA). This reduces paperwork and potential for delays.

This pamphlet gives an overview of cross-cutting environmental laws administered by federal agencies other than EPA. It is intended as a guide, primarily for EPA staff and state staffs, who carry out actions for which EPA is responsible. The information provided in this pamphlet, however, may also be useful to other agencies, as well. The cross-cutters addressed in this pamphlet include the following:

- Endangered Species Act
- National Historic Preservation Act
- Archeological and Historic Preservation Act
- Wild and Scenic Rivers Act
- Fish and Wildlife Coordination Act
- Coastal Zone Management Act
- Coastal Barriers Resources Act
- Wilderness Act
- Farmland Protection Policy Act
- Executive Order 11990 – Protection of Wetlands
- Executive Order 11988 – Floodplain Management

Endangered Species Act, 16 U.S.C. 1531 *et seq.*

Description and Intent

The purpose of the Endangered Species Act (ESA) is to ensure that federal agencies and departments use their authorities to protect and conserve endangered and threatened species. Section 7 of the Act requires that federal agencies prevent or modify any projects authorized, funded, or carried out by the agencies that are "likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of critical habitat of such species."

Administering Agencies

The ESA is administered by the U.S. Department of Interior through the Fish and Wildlife Service (FWS) and the U.S. Department of Commerce through the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration.

Implementing Regulations

50 CFR Part 402: Department of Interior and Department of Commerce procedures for implementing Section 7.

50 CFR Parts 450, 451, 452, and 453: Department of Interior and Department of Commerce rules for applying for Endangered Species Act exemptions and Endangered Species Committee consideration of such applications.

Summary of Requirements

Federal agencies must review actions they undertake or support to determine whether they may affect endangered species or their habitats. If such review reveals the potential for effects, the federal agency must consult with the FWS or NMFS, as appropriate.

Consultation is carried out for the purpose of identifying whether a federal action is likely to jeopardize the continued existence of the endangered or threatened species or adversely affect its critical habitat. If FWS or NMFS determines that a proposed action would likely have this negative impact, then the project must be stopped unless the consulting parties can agree on alternatives to eliminate jeopardy. If there are no feasible alternatives that can be carried out, the action agency may apply for an exemption with the Endangered Species Committee.

The National Historic Preservation Act, 16 U.S.C. 470.

Description and Intent

The National Historic Preservation Act (NHPA), as amended, directs federal agencies to integrate historic preservation into all activities which either directly or indirectly involve land use decisions. This is to ensure federal leadership in the preservation of prehistoric and historic resources in the United States.

Administering Agencies

The NHPA is administered by the U.S. Department of Interior, National Park Service (NPS) and the Advisory Council on Historic Preservation (ACHP). The NHPA is also implemented through State Historic Preservation Officers (SHPOs) in each state and territory and through Federal Preservation Officers (FPOs) in each federal agency.

Implementing Regulations

36 CFR Part 60: Procedures for Nominating and Listing Properties in the National Register.

36 CFR Part 61: Procedures for Approved State and Local Government Historic Preservation Programs. This describes SHPO responsibilities and Historic Preservation professional qualifications.

36 CFR Part 63: (soon to be combined with 36 CFR 60): Procedures for determining eligibility of properties for inclusion in the National Register of Historic Places.

36 CFR Part 65: National Historic Landmarks program.

36 CFR Part 68: The Secretary of the Interior's Standards for Historic Preservation Projects.

36 CFR Part 79: Procedures for the Curation of Federal Archeological Collections.

36 CFR Part 800: Regulations of the advisory council on Historic Preservation Governing the NHPA Section 106 review process.

48 FR, Part IV (September 29, 1983), "Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation."

53 FR 4727-46 (February 17, 1988), "Guidelines for Federal Agency Responsibilities under Section 110 of the National Historic Preservation Act."

Summary of Requirements

Section 110 of the NHPA describes the general responsibilities of federal agencies with regard to the identification, evaluation, registration, protection, and preservation of historic properties. "Historic Property" means any district, building, structure, site, or object that is eligible for listing in the National Register of Historic Places because the property is significant at the national, state, or local level in American history, architecture, archeology, engineering, or culture. Among the Section 110 requirements: 1) Section 110 (a) requires federal agencies to establish a program to locate, inventory, and nominate to the National Register all historic properties under the agency's

ownership or control (not generally applicable to EPA); 2) Section 110 (d) creates a broad mandate for federal agencies to carry out their programs in accordance with the purposes of the NHPA; 3) Section 110 (f) requires federal agencies to minimize harm to National Historic Landmarks as Section 110 does for historic properties in general; and 4) Section 110 (b) requires federal agencies to record historic properties which might be damaged or destroyed by a federal activity.

Before approving or carrying out a federal, federally assisted, or federally licensed undertaking Section 106 of the NHPA requires federal agencies to take into consideration the impact that the action may have on historic properties. Section 106 also requires that federal agencies provide the Council with the opportunity to comment on the undertaking.

In fulfilling the requirements of Section 106 and its implementing regulations, federal agencies are required to 1) identify and evaluate any historic properties that might be impacted by the undertaking; 2) determine the effect of the undertaking on these properties; and 3) develop alternatives and measures to avoid or mitigate adverse effects. Agencies may find it necessary to carry out a cultural resource survey in connection with the Section 106 review process. The Section 106 review process is usually carried out as part of a formal consultation with the SHPO, the ACHP, and any other parties, such as Indian tribes that have knowledge of, or a particular interest in, historic resources in the project area of the undertaking. Formal consultation is concluded upon preparation of a Memorandum of Agreement among the consulting parties which addresses the treatment of any adverse effects. If no agreement is reached, the federal agency must obtain the comments of the ACHP.

Archeological and Historic Preservation Act, as amended, 16 U.S.C. 470.

Description and Intent

The Archeological and Historic Preservation Act (AHPA), as amended, furthers the policies of the Historic Sites Act of 1935 by providing for the preservation of cultural resources that may be damaged by federal or federally authorized construction activities. The statute contains the Reservoir Salvage Act of 1960 and amendments made to it in 1974 (P.L. 93-291, known as the Moss-Bennett Act) and 1978 (P.L. 95-625). The portions of AHPA that may apply to federal agency projects are Section 4 (a) and Section 7 (a). Section 4 (a) requires that the Secretary of the interior be notified when unanticipated archeological materials are discovered during construction of a federal undertaking. Section 7 (a) limits the amount of funds expended for archeological data recovery as part of a federal undertaking to one percent of project expenses. However, Section 208 of the 1980 amendments to the National Historic Preservation Act (P.L. 96-515) establish a procedure for agencies to request the Secretary of the Interior to waive the one percent limitation.

Administering Agencies

The Departmental Consulting Archeologist (DCA), National Park Service, is the Secretary of the Interior's representative in administering Section 4 (a) and waivers of the one percent requirement of Section 7 (a). As an alternative to Section 4 (a), under emergency situations, discoveries of archeological resources may be handled under the procedures of the Advisory Council on Historic Preservation.

Implementing Regulations

36 CFR Part 800: The Advisory Council on Historic Preservation regulations (Protection of Historic Properties) include special provisions for archeological resources discovered during implementation of an undertaking (Part 800.11) that are an alternative to compliance with the AHPA. The DCA administers the reviews and approvals of one percent waivers. The National Park Service has information on the Emergency Discovery procedures used for Section 4 (a) as well as the means of obtaining a waiver of the one percent restriction.

Summary of Requirements

Federal agencies must notify the DCA in writing when a federal or federally funded ground disturbing project threatens or damages significant "scientific, prehistorically, historical, or archeological data." Upon receiving notification, the DCA will evaluate the data's significance, respond to the federal agency with the evaluation results, and initiate any needed data recovery efforts on the project. If survey or data recovery work are required, the DCA will keep the federal agency informed of the progress of all preservation activities. The Secretary of the Interior will compensate for damages due to project delays or the loss of land use. All survey or data recovery work must comply with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation" (48 FR 44716).

The Wild and Scenic Rivers Act, 16 U.S.C. 470.

Description and Intent

The purpose of the Wild and Scenic Rivers Act (WSRA) is to preserve the free-flowing state of rivers that are listed in the National Wild and Scenic Rivers System (System) or under study for inclusion in the System because of their outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. Rivers in the System are classified as wild river areas, scenic river areas, or recreational river areas. The WSRA establishes requirements applicable to water resource projects and protects both the river, or river segments, and the land immediately surrounding them.

Administering Agencies

The Department of the Interior (through the NPS, BLM and FWS) and the Department of Agriculture (through the Forest Service (FS)) manage wild and scenic rivers within their jurisdiction and conduct the necessary studies to include additional rivers or river components into the System. Under Section 2(a) of the Act, states may also propose rivers to the System and manage them.

Implementing Regulations

36 CFR Part 297, Subpart A: Wild and Scenic Rivers. The Department of Agriculture's procedures for addressing water resources projects affecting wild and scenic rivers within its jurisdiction.

Guidelines entitled "National Wild and Scenic Rivers System, Final Revised Guidelines for Eligibility, Classification and Management of River Areas", issued jointly by the National Park Service and the Forest Service and published in the Federal Register on September 7, 1982.

Summary of Requirements

Section 7 of the WSRA specifically prohibits federal agencies from providing assistance for the construction of any water resources projects that would adversely affect wild and scenic rivers. Assistance may be in the form of a loan, grant, or license. A water resources project is defined as a dam, water conduit, reservoir, powerhouse, transmission line, discharge to waters, or development project that would affect the free-flowing characteristics or scenic, recreational, fish and wildlife values of a wild and scenic river or study river. The Act does not prohibit licensing or assisting development below or above a designated river or on tributary streams so long as the development does not invade the designated river area or unreasonably diminish the values for which the river was designated.

Before authorizing a project that may affect a wild and scenic river, a federal agency must notify either the NPS or the FS, as appropriate, of its intentions at least sixty days in advance of the planned action. The administering agency will either consent to the proposal or deny it based on whether or not the project would adversely affect the values for which the river was designated. If consent is denied, the administering agency may recommend measures to eliminate adverse effects and the authorizing agency may submit revised plans for consideration. No proposal can proceed without the consent of the administering agency. Also, no structures affecting the free-flowing nature of the designated river can be constructed without the consent of Congress.

The Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*

Description and Intent

The Fish and Wildlife Coordination Act (FWCA), as amended in 1964, was enacted to protect fish and wildlife when federal actions result in the control or modification of a natural stream or body of water. The statute requires federal agencies to take into consideration the effect that water-related projects would have on fish and wildlife resources; take action to prevent loss or damage to these resources; and provide for the development and improvement of these resources.

Administering Agencies

The FWCA is administered by the Department of Interior through the FWS and the Department of Commerce through the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS).

Implementing Regulations

None

Summary of Requirements

To comply with the requirements laid out in the statute, federal agencies must first determine whether a proposed activity will result in the control or modification of a body of water. Typical actions that would fall under the jurisdiction of the Act include:

- discharges of pollutants including industrial, mining, and municipal wastes or dredged and fill material into a body of water or wetlands;
- projects involving construction of dams, levees, impoundments, stream relocation, and water-diversion structures.

If a project to be constructed, licensed or permitted by a federal agency would involve any of these activities or any other activity resulting in the control or modification of any water body for any purpose, then the federal agency must consult with the FWS (and NMFS, as appropriate) in order to develop measures to mitigate project-related losses of fish and wildlife resources.

The statute requires consultation with the FWS (or NMFS, as appropriate) and the fish and wildlife agency(s) of any affected state(s) to develop measures to protect, develop, and improve wildlife. Any reports or decision-making documents subsequently prepared by the action agency must include the recommendations of the FWS and affected state(s) for protecting fish and wildlife. Where possible, the action agency must incorporate the recommendations in the project plans. The constructing, licensing, or permitting federal agency is to include in the project plans such justifiable means and measures as it finds should be adopted to obtain maximum overall project benefits.

Coastal Zone Management Act, 16 U.S.C. Section 1451, et se.

Description and Intent

The Coastal Zone Management Act (CZMA) encourages the management of coastal zone areas and provides grants to be used in maintaining coastal zone areas. It requires that federal agencies be consistent with the enforceable policies of state coastal zone management programs when conducting or supporting activities that affect a coastal zone. It is intended to ensure that federal activities are consistent with state programs for the protection and, where possible, enhancement of the nation's coastal zones. As defined in the Act, the coastal zone includes coastal waters extending to the outer limit of state submerged land title and ownership, adjacent shorelines and land extending inward to the extent necessary to control shorelines. The coastal zone includes islands, beaches, transitional and intertidal areas, salt marshes, etc.

Administering Agencies

The CZMA is administered by the Department of Commerce through its Office of Ocean and Coastal Resource Management, and the National Oceanic and Atmospheric Administration (NOAA).

Implementing Regulations

15 CFR 930 Subpart D: National Oceanic and Atmospheric Administration regulations on federal consistency.

15 CFR Part 923: National Oceanic and Atmospheric Administration regulations regarding program development and operation.

Summary of Requirements

The CZMA requires that States develop a State Coastal Zone Management Plan or program and that any federal agency conducting or supporting activities affecting the coastal zone conduct or support those activities in a manner that is consistent with the approved state plan or program.

To comply with the CZMA, the federal agency must identify activities that would affect the coastal zone, including development projects. If an activity would affect the coastal zone, the federal agency must review the state coastal zone management plan to determine whether the activity would be consistent with the plan and then notify the state of its determination. Federal agencies must prepare a written consistency determination which includes: a detailed description of the action, its associative facilities, and coastal zone effects; a brief statement on how the activity would be consistent with the state coastal zone management plan; and data to support the consistency determination. Copies of state management plans may be obtained from the coastal commission of each state.

States are required to respond to consistency determinations. If the appropriate state agency disagrees with the determination, it will respond with its reasons for disagreeing along with supporting documentation and recommend alternatives that can be undertaken to allow the activity to proceed consistent with the management program.

If a conflict arises between the state and the federal agency over how a federal undertaking should proceed, there are several approaches that can be taken to resolve the conflict including: informal discussions between the parties with the assistance of NOAA, if requested; mediation by the Secretary of Commerce with public hearings; and judicial review.

Federally licensed and permitted activities and federal financial assistance to state and local governments which affect the coastal zone are also subject to federal consistency provisions. The applicant for a federal license, permit or financial assistance must attach; consistency certification issued by the state coastal agency before the federal agency can approve a license or permit or grant financial assistance. If the state objects to a license permit or financial award, the applicant can appeal this decision to the Department of Commerce on the grounds that the proposal is consistent with the objectives or purposes of the Coastal Zone Management Act or is necessary in the interest of national security.

Coastal Barrier Resources Act, 16 U.S.C. Section 1451, et se.

Description and Intent

The purpose of the Coastal Barrier Resources Act (CBRA) is to protect ecologically sensitive coastal barriers along the coasts of the U.S. The Act establishes the Coastal Barrier Resource System (CBRS) and, with certain exceptions, prohibits new federal expenditures and financial assistance for development within the system. Section 5 (a) of the act lists expenditures and assistance specifically prohibited, while section 6 outlines the specific exceptions to the general prohibition.

Administering Agencies

The CBRA is administered by the Department of the Interior, through the FWS.

Implementing Regulations

U.S. DOI Coastal Barrier Act Advisory Guidelines, issued by the Fish and Wildlife Service (FWS) on October 6, 1983. These guidelines detail the process which federal agencies must follow in consulting with the FWS prior to making an expenditure on or providing assistance to activities excepted under Section 6 of the CBRA. The guidelines list examples, by agency, of federal program expenditures and financial assistance which would be prohibited under the Act. These examples are in addition to those listed in the Act. For the Environmental Protection Agency, the guidelines include grants for wastewater-treatment construction (Section 201 grants) as expenditures which would be prohibited.

Summary of Requirements

The FWS guidelines require federal agencies to provide the FWS with the opportunity to submit written comments prior to making any federal expenditures or financial assistance on an action excepted under Section 6 of CBRA and within a CBRS unit. In response to a consultation request, the FWS will provide technical information and comments on (1) whether the action is one which section 6 allows and (2) whether it is consistent with the purposes of CBRA as stated in section 2 (b) of the Act: "to minimize the loss of human life, wasteful expenditures of federal revenues, and damage to fish, wildlife, and other natural resources associated with coastal barriers along the Atlantic and Gulf Coasts." Upon consideration of FWS comments, the consulting agency is responsible for making the final determination as to whether an action permitted under Section 6 is consistent with the purposes of the Act.

The Wilderness Act, 16 U.S.C. 1131 *et seq.*

Description and Intent

The Wilderness Act (WA) establishes a system of National Wilderness area and a policy for protecting and managing this system. With certain exceptions, the Act prohibits motorized equipment, structures, installations, roads, commercial enterprises, aircraft landings, and mechanical transport. The Act permits mining on valid claims, access to private lands, fire control, insect and disease control, grazing, water-resource structures (upon the approval of the President), and visitor use.

Administering Agencies

The WA is administered by the Department of the interior, through BLM, FWS, and NPS; and the Department of Agriculture, through the FS.

Implementing Regulations

50 CFR Part 35: US Fish and Wildlife Service. Wilderness Preservation and Management.

43 CFR Part 19: Office of the Secretary of the Interior. Wilderness Preservation

36 CFR Part 293: US Forest Service. Wilderness Primitive Areas

36 CFR Part 261: US Forest Service. Prohibitions.

36 CFR Part 219: US Forest Service. Management

43 CFR Part 8560: Bureau of Land Management. Designated Wilderness Areas; Procedures for Management

Summary of Requirements

In planning a project, federal agencies need to determine whether or not the activity will affect a designated wilderness area. In making this determination, the agency should consult with the appropriate administering agency. Typically, wilderness area are located within either National Parks (administered by NPS), National Wildlife Refuges (administered by FWS), National Forests (administered by the FS), or public lands (administered by BLM). These contacts can assist the federal agency in determining whether a proposed project falls among the activities prohibited in the wilderness areas; how proposed activities may be mitigated; and whether exemptions to the prohibitions are necessary and can be obtained. For example, it may be possible to substitute temporary structures and roads, or certain kinds of equipment in order to avoid adverse effects on a wilderness area.

Federal agencies cannot proceed with a project unless they have the approval of the administering agency. For some activities, a permit may be required.

Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.*, and EPA Policy to Protect Environmentally Significant Agricultural Lands, September 1978.

Description and Intent

The purpose of the Farmland Protection Policy Act (FPPA) is to minimize the extent to which federal programs contribute to the unnecessary and irreversible conversion of farmland to non-agricultural uses, and to assure that federal programs are administered in a manner that, to the extent practicable, will be compatible with state, local, and private programs and policies to protect farmland. Additionally, EPA's policy is to protect that Nation's significant / important agricultural lands from conversions that are irreversible and result in the loss of an essential food or environmental resource

Administering Agencies

The FPPA is administered by the USDA, Soil Conservation Service (SCS). EPA's policy to Protect Environmentally Significant Agricultural lands is administered by EPA's Office of Federal Activities.

Implementing Procedures

7 CFR Part 658. USDA Final Rule, Farmland Protection Policy, July 5, 1984. Proposed revisions published on January 8, 1987. This rule and proposed revisions establish criteria for land evaluations and site assessment. It includes thresholds which are to be applied in determining which sites should be avoided. It also provides for technical assistance from SCS, the Agricultural Stabilization and Conservation Service (ASCS), and the Forest Service in determining the applicability of the Act to a particular site and in evaluating protection issues, developing alternatives and resolving conflicts.

In addition, to USDA's regulations, EPA's policy to Protect Environmentally Significant Agricultural Lands provides guidance regarding the conservation of farmlands having specific environmental value.

Summary of Requirements

The Farmland Protection Policy Act (FPPA) and USDA's implementing procedures require federal agencies to evaluate the adverse effects (direct and indirect) of their activities on prime and unique farmland, as well as farmland of statewide and local importance, and to consider alternative actions that could avoid adverse effects. Criteria established by the SCS should be used to select among alternative farmland sites.

EPA's policy identifies three types of environmentally significant agricultural lands for protection in addition to the lands included in the FPPA. These are: farmlands in or contiguous to environmentally sensitive areas, farmlands important for waste utilization and farmlands with significant capital investments in best management practices.

Executive Order 11990 – Protection of Wetlands, (May 24, 1977, 42 FR 26961)

Description and Intent

The purpose of Executive Order 11990 is to "minimize the destruction, loss or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands". To meet these objectives, the Order requires federal agencies, in planning their actions, to consider alternatives to wetland sites and limit potential damage if an activity affecting a wetland cannot be avoided. The Order applies to:

- acquisition, management, and disposition of federal lands and facilities construction and improvement projects which are undertaken, financed or assisted by federal agencies;
- federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation, and licensing activities.

Administering Agencies

Each Federal agency is responsible for preparing implementing procedures for carrying out provisions of the Order.

Implementing Regulations

FEMA's regulations at 44CFR Part 9: Floodplain Management and Protection of Wetlands. EPA's "Statement of procedure on floodplain management and Wetland protection" issued on January 5, 1979, addresses the Agency's policy and procedures for implementing the Order. (See appendix A of EPA's NEPA regulations at 40 CFR Part 6).

Summary of Requirements

The procedures require the determination of whether or not the proposed project will be in or will affect wetlands. If so, a wetlands assessment must be prepared that describes the alternatives considered. The procedures include a requirement for public review of assessments. The evaluation process follows the same 8 steps as for EO 11988, Floodplain Management.

Executive Order 11988 – Floodplain Management, (May 24, 1977, 42 FR 26961)

Description and Intent

Executive Order 11988 requires federal agencies to avoid to the extent possible the long and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative. In accomplishing this objective, "each agency shall provide leadership and shall take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health, and welfare, and to restore and preserve the natural and beneficial values served by flood plains in carrying out its responsibilities" for the following actions:

- acquiring, managing, and disposing of federal lands and facilities;
- providing federally-undertaken, financed, or assisted construction and improvements;
- conducting federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulation, and licensing activities. Administering Agency

Administering Agencies

Each Federal agency is responsible for preparing implementing procedures for carrying out provisions of the Order.

Implementing Regulations

FEMA's Regulations at 44 CFR Part 9: Floodplain Management and Protection of Wetlands. On February 10, 1978, the Water Resources Council issued "Floodplain Management Guidelines" (40 FR 6030) to aid other federal agencies in amending their regulations and procedures to comply with the Order. In 1987, the Federal Emergency Management Agency and the Interagency Task Force on Floodplain Management issued "Further Advice on EO 11988 Floodplain Management".

Summary of Requirements

The guidelines address an eight-step process that agencies should carry out as part of their decision-making on projects that have potential impacts to or within the floodplain. The eight steps, which are summarized below, reflect the decision-making process required in Section 2(a) of the Order.

1. Determine if a proposed action is in the base floodplain (that area which has a one percent or greater chance of flooding in any given year).
2. Conduct early public review, including public notice.
3. Identify and evaluate practicable alternatives to locating in the base floodplain, including alternative sites outside of the floodplain.
4. Identify impacts of the proposed action.
5. If impacts cannot be avoided, develop measures to minimize the impacts and restore and preserve the floodplain, as appropriate.
6. Reevaluate alternatives.
7. Present the findings and a public explanation.

8. Implement the action.

Among a number of things, the Interagency Task Force on Floodplain Management clarified the EO with respect to development in flood plains, emphasizing the requirement for agencies to select alternative sites for projects outside the flood plains, if practicable, and to develop measures to mitigate unavoidable impacts.

Appendix A – Sources of Information on Cross-Cutting Environmental Laws

EPA Contacts

EPA Headquarters

Environmental Regulatory
Analysis Team
Special Programs and
Analysis Division
Office of Federal Activities,
A-104
U.S. EPA
401 M Street S.W.
Washington, DC 20460
Phone: FTS 382-5052
(202) 382-5052

Region I

NEPA Coordinator
Water Management
Division
Marine and Estuarine
Protection Section
U.S. EPA
John F. Kennedy Federal
Building
Room 223
Boston, MA. 02203
Phone: FTS 835-4420
(617) 565-4420

Region II

NEPA Coordinator
Environmental Impacts
Branch
U.S. EPA
26 Federal Plaza
New York, NY 10278
Phone: FTS 264-1892
(212) 264-2657

Region III

NEPA Coordinator
Environmental
Assessment Branch
U.S. EPA
841 Chestnut Street
Philadelphia, PA 19107
Phone: FTS 597-1196
(215) 597-1196

Region IV

NEPA Coordinator
Federal Activities Branch
U.S. EPA
354 Courtland Street, NE
Atlanta, GA 30365
Phone: FTS 257-3776
(404) 347-3776

Region V

Environmental Review
Manager
Environmental Review
Branch
U.S. EPA
230 South Dearborn Street
Chicago, IL, 60604
Phone: FTS 886-7500
(312) 353-7500

Region VI

NEPA Coordinator
Federal Activities Branch
U.S. EPA
1445 Ross Avenue
12th Floor, Suite 1200
Dallas, Texas 75270
Phone: FTS 255-2260
(214) 655-2260

Region VII

NEPA Coordinator
Environmental Review
Branch
726 Minnesota Avenue
Kansas City, KS 66101
Phone: FTS 551-7780
(913) 551-7000

Region VIII

Environmental
Assessment Coordinator
Environmental
Assessment Branch
U.S. EPA
99 18th Street
Suite 500
Denver, CO 80202-2405
Phone: FTS 330-1572
(303) 293-1572

Region IX

NEPA Coordinator
Office of Federal Activities
U.S. EPA
San Francisco, CA. 94105
Phone: FTS 484-1050
(415) 744-1050

Region X

NEPA Coordinator
Environmental Evaluation
Branch
Water Division
U.S. EPA
1200 Sixth Avenue
Seattle, WA, 98101
Phone: FTS 399-8505
(206) 442-8505

Other Federal Agencies**Agencies –
Headquarters Offices****Endangered Species Act**

Division of Habitat
Conservation and
Division of Endangered
Species
U.S. Fish and Wildlife
Service
400 Arlington Square
4401 N Fairfax Drive
Arlington, VA, 22203
Phone: (703) 358-2183

Office of Protected
Resources
National Marine Fisheries
Service
National Oceanic and
Atmospheric
Administration
1335 East-West Highway
Silver Spring, MD 20910
Phone: (301) 427-2333

**National Historic
Preservation Act and
Archeological and
Historic Preservation
Act**

Associate Director
Cultural Resources
National Park Service
P.O. Box 37127
Washington, DC, 20019-
7127
Phone: (202) 343-1876

The Departmental
Consulting Archeologist
National Park Service
P.O. Box 37127
Washington, DC 200137-
7127
Phone: (202) 343-4101

Chief, Archeological
Assistance Division
National Park Service
P.O. Box 37127

Washington, DC 20013-
7127
Phone: (202) 343-4101

Chief, Interagency
Resources Division
National Park Service
P.O. Box 37127
Washington, DC 20013-
7127
Phone: (202) 343-9500

Advisory Council on
Historic Preservation
The Old Post Office
Building
1100 Pennsylvania
Avenue, NW #809
Washington, DC 20004
Phone: (202) 786-0503

**Wild and Scenic Rivers
Act**

Ranger Activities Division
National Park Service
Department of the Interior
1849 C Street NW
Washington, DC 20240
Phone: (202) 208-4874

Recreation, Cultural
Resources, and
Wilderness Management
Forest Service
Auditor's Building
4th Floor Central
14th Street and
Independence Avenue
Washington, DC, 20090-
6090
Phone: (202) 447-7754

**Fish and Wildlife
Coordination Act**

Office of Protected
Resources
National Marine Fisheries
Service
National Oceanic and
Atmospheric
Administration
1335 East-West Highway
Silver Spring, MD, 20910
Phone: (301) 427-2332

Division of Habitat
Conservation
U.S. Fish and Wildlife
Service
400 Arlington Square
4401 N Fairfax Drive
Arlington, VA 22203
Phone: (703) 3582183

Wilderness Act

U.S. Fish and Wildlife
Service
Assistant Director
Refuges and Wildlife
1849 C Street N.W.
Washington, DC, 20240
Phone: (703) 358-2043

Ranger Activities Division
National Park Service
Department of the Interior
1849 C Street N.W.
Washington, DC, 20240
Phone: (202) 208-4874

Recreation, Cultural
Resources and
Wilderness Management
Forest Service
14th Street and
Independence Avenue
Auditor's Building
4th Floor Central
Washington, D.C. 20090-
6090
Phone: (202) 447-7754

Wilderness Resources
Branch
Bureau of Land
Management
1849 C Street N.W.
Washington, DC, 20240
Phone: (202) 208-4819

**Coastal Zone
Management Act**

Office of Oceans and
Coastal Resources
Management
National Oceanic and
Atmospheric
Administration

1825 Connecticut Avenue
Washington, DC, 20235
Phone: (202) 673-5158

**Coastal Barriers
Resources Act**

Division of Habitat
Conservation
Special Projects Branch
U.S. Fish and Wildlife
Service
400 Arlington Square
4401 N. Fairfax Drive
Arlington, VA 22203
Phone: (703) 358-2183

**Farmland Protection
Policy Act**

Soil Conservation Service
Conservation Planning
Division
P.O. Box 2890
Washington, DC 20013
Phone: (202) 382-1853

**EPA's Policy to protect
Environmentally
Significant Agricultural
Lands**

Environmental Regulatory
Analysis Team
Special Programs and
Analysis Division
Office of Federal Activities,
A-104
U.S. EPA
401 M Street, S.W.
Washington, DC, 20460
Phone: (202) 382-5910

**Executive Order 11990 –
Protection of
Wetlands**

Office of Wetlands, A-
104F
U.S. EPA
401 M Street S.W.
Washington, DC 20460
Phone: (202) 475-7791

Council on Environmental
Quality

722 Jackson Place, N.W.
Washington, DC 20503
Phone: (202) 395-5080

**Executive Order 11988 –
Floodplain
Management**

Federal Insurance
Administration
(Consulting Agency)
Federal Emergency
management Agency
500 C Street, S.W.
Washington, DC 20472
Phone: (202) 646-2717

**State Historic
Preservation Officers**

For names and addresses
of State Historic
Preservation Officers
(SHPOs) Contact:

National Conference of
State Historic
Preservation Officers
Suite 332, Hall of States
444 North Capitol Street,
N.W.
Washington, DC, 20001-
1512
Phone: (202) 624-5465