

The National Environmental Policy Act (NEPA) NIH Review Process

Division of Engineering Services
Division of Safety
Office of Facilities Planning

Office of Research Services
National Institutes of Health

(revised January 18, 2001)

Background: The National Environmental Policy Act (NEPA) was passed by Congress in 1969 as part of an effort to inject environmental concerns into the federal decision-making process. The Act created the Council on Environmental Policy (CEQ) whose job it is to oversee the entire process and formulate specific regulations for implementing the process. Currently the CEQ's Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR Parts 1500 - 1508) and the Department of Health and Human Services' (DHHS) General Administrative Manual (GAM) Chapter 30, Federal Register, Vol. 65, No. 38, Pages 10230 - 10284, published on February 25, 2000, and NIH's NEPA Categorical Exclusions, Federal Register, Vol. 65, No. 12, Pages 2977 - 2979, published on January 19, 2000, regulate the NEPA process as it applies to NIH activities.

Step 1: For proposed or upcoming projects, the assigned Division of Engineering Services (DES) Project Officer (PO), a representative of the Office of Facilities Planning (OFP), ORS, and the assigned Environmental Protection Branch (EPB), Division of Safety (DS) representative will meet to determine whether a proposed project warrants further review and consideration under NEPA. This review will be based on DHHS' NEPA implementation procedures (GAM Chapter 30) and NIH's NEPA Categorical Exclusions.

Based on the review of the proposed project and deliberations of the parties involved, the PO, the OFP and EPB representatives will prepare and jointly sign a memorandum for the record stating whether an Environmental Assessment (EA), and Environmental Impact Statement (EIS), or "no action" is required. The memorandum will outline what further actions are needed in order to prepare the necessary environmental review documentation. If preparation of an EA is required, the steps outlined below will be followed. If an EIS is required, the DHHS's EIS procedures shall be followed. If the project is categorically excluded from further NEPA action, the memorandum will be prepared and signed jointly by the PO, OFP, and EPB representatives identifying why the project is "categorically excluded" and the reason(s) for no further action. The memorandum will be submitted to the Environmental Protection Branch Chief for his concurrence or non-concurrence.

If an EA or an EIS is required, the PO, OFP and EPB representatives will also include in their joint memorandum a list of NIH offices including DES and DS Branches and other Institutes and Centers that should be consulted during preparation of the subject document.

Step 2: If the project warrants further consideration under NEPA, the PO, OFP and EPB representatives will identify a target date for completion of the NEPA process and, depending on the specific project, develop specific language as part of the Program of Requirements (POR) or Design Phase Statement of Work, as appropriate, to have a draft EA prepared concurrently with the POR and/or design phase. The PO will assure that the:

- a. The EA preparer (contractor) visits with EPB and OFP representatives to obtain necessary guidance;
- b. The Draft EA is reviewed and commented upon by those NIH offices identified in Step 1;
- c. The EA preparer makes the necessary corrections and revisions based on the comments received and provides 15 copies of the revised draft EA to EPB for subsequent distribution for review and comment.

Step 3: Upon receipt of the revised draft EA, EPB will serve as NIH's focal point for NEPA activities pertaining to the project. Any additional review of the revised draft EA will be coordinated by EPB. All appropriate comments and suggestions will be collated, discussed with and transmitted through the OFP to the PO for subsequent corrections and development of the final draft EA.

Step 4: Upon receipt of 15 copies of the final draft EA, the EPB will prepare a fact sheet regarding the proposed project summarizing the project's purpose, intent, scope and tentative schedule; potential adverse environmental impacts; and any necessary mitigative measures. The fact sheet will be provided to the appropriate Division Directors and to the Associate Director for Research Services for information only.

Step 5: Eight copies of the final draft EA and fact sheet will be provided by EPB to the Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning to solicit input from the State and local officials and members of the public on the final draft EA. The Maryland Clearinghouse and Plan Review Unit will be afforded 30 days in which to respond.

Step 6: The EPB will review all comments received from the Clearinghouse and Plan Review Unit and consider them to the maximum extent possible within 15 days of receipt. Required revisions to the final draft EA will then be discussed with the PO and OFP representative for subsequent inclusion in the final EA.

Step 7: Upon receipt of the final EA, the EPB will prepare the necessary documentation for a formal finding: either a Finding of No Significant Impact (FONSI) or a recommendation that an Environmental Impact Statement (EIS) be prepared by NIH for consideration by the Associate Director for Research Services.

Step 8: Once a determination has been made by the Associate Director, transmittal letters will be prepared by EPB to provide copies of the finding along with either the final EA or NIH's intent to prepare an EIS to the appropriate Federal, State, and local entities including the U.S. Environmental Protection Agency, Region III; the Maryland Office of Planning; and the National Capital Planning Commission; for formal review and comment as required under existing NEPA and DHHS regulations and guidelines.

Attachments:

National Environmental Policy Act (NEPA) NIH Review Process Flowchart
DHHS & NIH Categorical Exclusions Criteria Checklist
NIH Environmental Assessment Criteria Checklist