

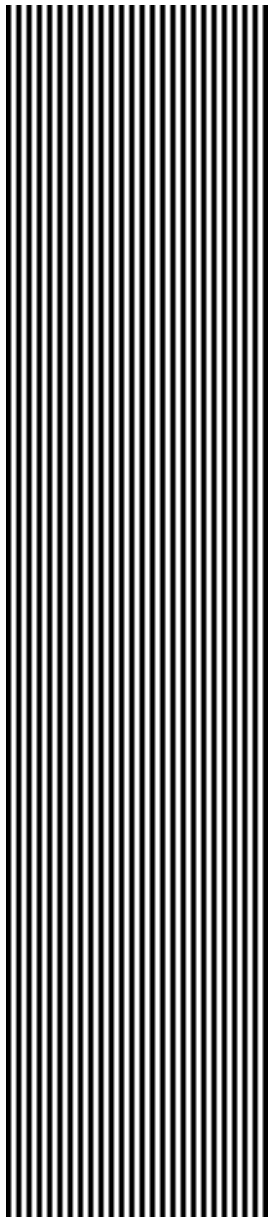
**PBS**

---

National Environmental Policy Act

# **NEPA Desk Guide**

October 1999



U.S. General Services Administration  
Washington, D.C. 20405

---

## TABLE OF CONTENTS

CHAPTER 1 - PURPOSE AND USE OF DESK GUIDE .....	1-1
1.1 Purpose .....	1-1
1.2 Application of This Desk Guide .....	1-1
1.3 Contents .....	1-1
1.4 Background for NEPA Implementation .....	1-2
1.4.1 NEPA .....	1-2
1.4.2 CEQ Regulations.....	1-2
1.4.3 GSA Orders.....	1-2
1.5 Other Applicable Laws, Executive Orders, And Regulations .....	1-2
1.6 Changes to this Desk Guide .....	1-3
CHAPTER 2 - BASIC REQUIREMENTS AND RESPONSIBILITIES .....	2-1
2.1 NEPA Requirements.....	2-1
2.1.1 Purposes of NEPA .....	2-1
2.1.2 Procedural Requirements.....	2-2
2.1.3 Application.....	2-3
2.1.4 Timing .....	2-3
2.2 Responsibilities for NEPA Implementation .....	2-4
2.2.1 ADM 1095.1F Responsibilities.....	2-4
2.2.1.1 Commissioner, Public Buildings Service (PBS) .....	2-4
2.2.1.2 NEPA Liaison .....	2-4
2.2.1.3 Regional Administrators .....	2-4
2.2.1.4 GSA Environmental Executive.....	2-5
2.2.1.5 Heads of Services and Business Lines.....	2-5
2.2.1.6 The Office of General Counsel.....	2-5
2.2.2 Additional Responsibilities .....	2-5
2.2.2.1 PBS NEPA Liaison .....	2-5
2.2.2.2 Regional Administrators .....	2-5
2.2.2.3 The Regional Environmental Quality Advisor (REQA) .....	2-6
2.2.2.4 Program Staff .....	2-6
2.3 The "Responsible GSA Official" .....	2-7

---

2.4	Program Responsibilities .....	2-7
2.4.1	Using NEPA in Decision making.....	2-7
2.4.2	Coordination With Other Authorities .....	2-7
2.4.3	Public Involvement .....	2-8
2.5	GSA Decision making Process Under NEPA .....	2-8
2.5.1	Normal Circumstances .....	2-8
2.5.2	Emergencies .....	2-9
2.6	Working With Other Agencies in NEPA Review.....	2-10
2.6.1	GSA as Lead Agency .....	2-10
2.6.2	GSA as Cooperating Agency.....	2-10
2.6.3	GSA as Commentor or Reviewer of Other Agency Environmental Documents .....	2-11
2.7	Public Access to GSA NEPA Information.....	2-12
CHAPTER 3 - LEVELS OF NEPA ANALYSIS.....		3-1
3.1	Introduction .....	3-1
3.2	Definitions .....	3-1
3.2.1	Human Environment.....	3-1
3.2.2	Effects or Impacts .....	3-1
3.2.3	Significantly .....	3-2
3.2.4	Major Federal Action .....	3-3
3.3	Classes of Action for Environmental Analysis and Documentation.....	3-3
3.3.1	Categorical Exclusion (CATEX).....	3-4
3.3.1.1	Automatic Categorical Exclusions .....	3-4
3.3.1.2	Categorical Exclusions Requiring Completion of a Checklist (Checklist CATEX's) .....	3-4
3.3.2	Environmental Assessment (EA) .....	3-5
3.3.3	Environmental Impact Statement (EIS) .....	3-5
3.3.3.1	Actions that Normally Require an EIS .....	3-5
3.3.3.2	All Other Non-CATEX Actions.....	3-6
3.4	Determining the Appropriate Level of Analysis .....	3-6
3.4.1	Determining Purpose and Need .....	3-6
3.4.2	Defining the Action .....	3-6
3.4.3	Is the Action Obviously a CATEX or Does It Obviously Require an EIS?.....	3-6
3.5	Indicators Of Significance (Factors To Consider).....	3-6

3.5.1	List of Factors.....	3-7
3.5.1.1	Consistency With Law.....	3-7
3.5.1.2	Consistency With Existing and Desired Local Conditions.....	3-7
3.5.1.3	Toxic and Hazardous Materials.....	3-7
3.5.1.4	Natural Environment.....	3-8
3.5.1.5	Sociocultural Environment.....	3-8
3.5.1.6	Controversy, Uncertainty, Risks.....	3-8
3.5.1.7	Cumulative and Precedential.....	3-8
3.5.1.8	Other.....	3-8
CHAPTER 4 - SCOPING AND PLANNING FOR PUBLIC INVOLVEMENT.....		4-1
4.1	Scoping.....	4-1
4.1.1	Purpose.....	4-1
4.1.2	Definitions.....	4-1
4.1.2.1	“Scoping”.....	4-1
4.1.2.2	Scope.....	4-2
4.1.3	Application.....	4-2
4.1.4	Internal Scoping.....	4-3
4.1.4.1	Interdisciplinary Analysis.....	4-3
4.1.4.2	Review of Previous Actions.....	4-3
4.1.4.3	Review of Pertinent Background Data.....	4-3
4.1.5	External Scoping.....	4-3
4.1.5.1	Agencies with Jurisdiction by Law or Expertise.....	4-4
4.1.5.2	Public Participation.....	4-4
4.1.5.3	Documenting the Results of Scoping.....	4-4
4.2	Planning for Public Involvement.....	4-4
4.2.1	When Is Public Involvement Appropriate?.....	4-4
4.2.2	Means of Providing for Public Involvement.....	4-5
4.2.3	Establishing the Appropriate Level of Public Involvement.....	4-6
4.2.4	Ensuring Understandability.....	4-7
CHAPTER 5 - CATEGORICAL EXCLUSIONS.....		5-1
5.1	Purpose.....	5-1
5.2	Definition.....	5-1
5.3	Automatic CATEXs.....	5-1
5.4	Checklist CATEXs.....	5-3
5.5	Timing.....	5-4
5.6	Responsibilities.....	5-5

---

5.7	Scoping for CATEXs.....	5-5
5.8	Public Participation in CATEXs .....	5-5
5.9	Completing the Environmental Checklist.....	5-5
5.9.1	Entering Basic Data.....	5-5
5.9.2	Considering Environmental Consequences .....	5-6
5.9.2.1	Checklist Question A: .....	5-6
5.9.2.2	Checklist Question B: .....	5-6
5.9.2.3	Checklist Question C:.....	5-7
5.9.2.4	Checklist Question D:.....	5-8
5.9.2.5	Checklist Question E: .....	5-8
5.9.2.6	Checklist Question F: .....	5-9
5.9.2.7	Checklist Question G:.....	5-9
5.9.2.8	Checklist Question H:.....	5-9
5.9.2.9	Checklist Question I:.....	5-10
5.9.2.10	Checklist Question J:.....	5-10
5.9.2.11	Checklist Question K: .....	5-10
5.9.3	Completing the Checklist.....	5-10
5.10	Follow Through .....	5-11
5.11	Requirements for Environmental Analysis Other Than NEPA .....	5-11
CHAPTER 6 - ENVIRONMENTAL ASSESSMENTS .....		6-1
6.1	Purpose .....	6-1
6.2	Definitions .....	6-1
6.2.1	Environmental Assessments .....	6-1
6.2.2	Tiering .....	6-1
6.3	Characteristics of a Good EA.....	6-2
6.4	Timing .....	6-2
6.5	Responsibilities .....	6-3
6.6	Requirements for Environmental Analysis.....	6-3
6.6.1	Scoping .....	6-3
6.6.2	Consultation and Public Involvement.....	6-3
6.6.3	Data Gathering and Analysis.....	6-4

---

6.7	Structure and Content of an EA .....	6-4
6.7.1	The Purpose of an EA .....	6-4
6.7.2	Regulatory Content Requirements .....	6-4
6.7.2.1	Purpose and Need for the Action .....	6-4
6.7.2.2	Description of Proposed Action and Alternatives, Including No Action .....	6-5
6.7.2.3	Environmental Effects .....	6-5
6.7.2.4	Significance of Effects .....	6-6
6.7.2.5	Conclusions .....	6-7
6.7.2.6	List of Preparers .....	6-7
6.7.2.7	References and Exhibits .....	6-7
6.7.3	Format.....	6-7
6.7.4	Size.....	6-7
6.7.4.1	Tiering.....	6-8
6.7.4.2	Incorporation by Reference .....	6-8
6.8	Who Prepares EA for GSA Projects.....	6-8
6.9	Methodology and Integrity.....	6-9
6.10	Finding of No Significant Impact .....	6-9
6.10.1	Definition .....	6-9
6.10.2	Contents.....	6-10
6.10.3	Public Review.....	6-10
6.11	Environmental Assessments and Compliance With Other Laws .....	6-11
6.12	Supplemental EAs .....	6-11
CHAPTER 7- ENVIRONMENTAL IMPACT STATEMENTS.....		7-1
7.1	Purpose .....	7-1
7.2	Definitions .....	7-1
7.2.1	Environmental Impact Statements.....	7-1
7.2.2	Proposal.....	7-1
7.3	Types of EISs .....	7-2
7.4	Actions that Normally Require an EIS.....	7-2
7.5	Characteristics of a Good EIS.....	7-3
7.6	Timing .....	7-3
7.7	Responsibilities.....	7-4

---

7.8	Notice of Intent (NOI).....	7-4
7.9	Scoping .....	7-4
7.10	Public Involvement.....	7-4
7.11	Requirements for Environmental Analysis.....	7-5
	7.11.1 Professional Integrity.....	7-5
	7.11.2 Adequate Detail.....	7-5
	7.11.3 Data Gathering.....	7-5
	7.11.4 Dealing with Incomplete or Unavailable Information .....	7-6
7.12	Structure of an EIS .....	7-6
	7.12.1 Size .....	7-6
	7.12.1.1 Tiering.....	7-6
	7.12.1.2 Incorporation by Reference .....	7-7
	7.12.2 Contents .....	7-7
	7.12.2.1 Purpose of and Need for Action .....	7-7
	7.12.2.2 Alternatives, Including the Proposed Action .....	7-8
	7.12.2.2.1 Contents of Alternatives Chapter .....	7-8
	7.12.2.2.2 No Action Alternative .....	7-8
	7.12.2.2.3 Range of Alternatives .....	7-9
	7.12.2.2.4 The Preferred Alternative.....	7-9
	7.12.2.2.5. Comparison of Impacts.....	7-9
	7.12.2.3 Affected Environment.....	7-9
	7.12.2.4 Environmental Consequences .....	7-10
	7.12.2.5 List of Preparers.....	7-11
	7.12.2.6 List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent.....	7-11
	7.12.2.7 Appendix.....	7-12
	7.12.3 Format .....	7-12
	7.12.3.1 Cover Sheet.....	7-12
	7.12.3.2 Summary .....	7-13
	7.12.3.3 Index.....	7-13
7.13	Who Prepares EISs for GSA Projects.....	7-13
7.14	Distribution Of, Review and Comment on, and Finalization of EISs .....	7-13
	7.14.1 Distribution of All Notices and Documents.....	7-13
	7.14.2 Distribution and Review of Draft EISs.....	7-14
	7.14.2.1 Distribution .....	7-14
	7.14.2.2 DEIS Notice of Availability (NOA) .....	7-14
	7.14.3 Response to Comments on Draft EISs.....	7-14
	7.14.4 Distribution of Final EISs .....	7-15
	7.14.4.1 Distribution.....	7-15
	7.14.4.2 FEIS Notice of Availability .....	7-15

---

7.15	Record Of Decision (ROD).....	7-15
	7.15.1 Definition .....	7-15
	7.15.2 Contents.....	7-15
	7.15.3 Public Review.....	7-16
7.16	Referral to CEQ .....	7-16
CHAPTER 8 - SUPPLEMENTS AND REVISIONS TO NEPA DOCUMENTS.....		8-1
8.1	Purpose .....	8-1
8.2	Definitions .....	8-1
8.3	When to Revise; When to Supplement .....	8-1
8.4	Circulation and Filing .....	8-1
8.5	Timing .....	8-1
8.6	Responsibility.....	8-2
8.7	Requirements for Environmental Analysis: Supplements.....	8-2
	8.7.1 Scope of Analysis.....	8-2
	8.7.2 Public Involvement .....	8-2
CHAPTER 9 - SPECIAL STUDIES.....		9-1
9.1	Introduction .....	9-1
	9.1.1 Special Studies for Other Legal Requirements.....	9-1
	9.1.2 Obtaining Special Studies .....	9-1
	9.1.3 How this Chapter is Organized.....	9-2
9.2	Environmental Justice (EJ) Studies.....	9-2
	9.2.1 Legal Requirements .....	9-2
	9.2.2 Data Requirements .....	9-3
	9.2.3 Study Methods .....	9-3
	9.2.4 Study Results .....	9-7
9.3	Social Impact Assessment.....	9-7
	9.3.1 Legal Requirements .....	9-7
	9.3.2 Data Requirements .....	9-7
	9.3.3 Study Methods .....	9-8
	9.3.4 Study Results .....	9-9



---

9.4	Cultural Resources .....	9-9
9.4.1	Legal Requirements .....	9-9
9.4.2	Data Requirements .....	9-10
9.4.3	Study Methods .....	9-11
9.4.4	Study Results .....	9-12
9.5	Due Diligence Reports .....	9-12
9.5.1	Legal Requirements .....	9-12
9.5.2	Data Requirements .....	9-13
9.5.3	Study Methods .....	9-14
9.5.4	Study Results .....	9-14
9.6	Floodplain Studies .....	9-15
9.6.1	Legal Requirements .....	9-15
9.6.2	Data Requirements .....	9-15
9.6.3	Study Methods .....	9-15
9.6.4	Study Results .....	9-16
9.7	Wetland Delineations .....	9-16
9.7.1	Legal Requirements .....	9-16
9.7.2	Data Requirements .....	9-17
9.7.3	Study Methods .....	9-17
9.7.4	Study Results .....	9-18
9.8	Air Quality Studies .....	9-18
9.8.1	Legal Requirements .....	9-18
9.8.2	Data Requirements .....	9-18
9.8.3	Study Methods .....	9-19
9.8.4	Study Results .....	9-19
9.9	Water Quality Studies .....	9-19
9.9.1	Legal Requirements .....	9-19
9.9.1.1	Dredging and Filling .....	9-19
9.9.1.2	Discharge of Pollutants .....	9-19
9.9.2	Data Requirements .....	9-20
9.9.3	Study Methods .....	9-20
9.9.4	Study Results .....	9-20
9.10	Natural Resource Studies .....	9-20
9.10.1	Legal Requirements .....	9-20

---

9.10.2 Data Requirements .....	9-20
9.10.2.1 Soils .....	9-21
9.10.2.2 Geology .....	9-21
9.10.2.3 Landscapes .....	9-21
9.10.2.4 Atmospheric Conditions .....	9-21
9.10.2.5 Vegetation .....	9-21
9.10.2.6 Wildlife .....	9-22
9.10.3 Study Methods .....	9-22
9.10.4 Study Results .....	9-22
9.11 Endangered Species Surveys .....	9-22
9.11.1 Legal Requirements .....	9-22
9.11.2 Data Requirements .....	9-23
9.11.3 Study Methods .....	9-23
9.11.4 Study Results .....	9-23
9.12 Other Studies .....	9-24
9.13 Coordinating Studies .....	9-24
9.14 Further Information .....	9-24
CHAPTER 10 - CONTRACTING .....	10-1
10.1 Introduction .....	10-1
10.2 Requirements .....	10-1
10.3 Types of Contracts and Agreements .....	10-1
10.3.1 Contracts .....	10-1
10.3.2 Agreements .....	10-2
10.4 Scopes Of Work (SOW) .....	10-2
10.4.1 SOWs for Special Studies .....	10-2
10.4.2 SOWs for NEPA Analyses and Documentation .....	10-3
10.5 Role of the Contracting Officer, Subject Matter Expert, and Project Manager .....	10-4
CHAPTER 11 - TECHNICAL REVIEWS .....	11-1
11.1 Purpose .....	11-1
11.2 Definitions and Requirements .....	11-1

11.3	Technical Reviews of GSA NEPA Documents .....	11-2
11.3.1	Internal Reviews .....	11-2
11.3.1.1	Reviews of GSA Documents .....	11-2
11.3.1.2	Review of Contractor Documents .....	11-2
11.3.2	External Reviews .....	11-2
11.3.2.1	Agency Reviews .....	11-2
11.3.2.2	Public Reviews .....	11-3
11.4	Technical Reviews of Other Agency Documents by GSA .....	11-3

Glossary

Appendix 1: Pertinent Regulations and Orders

Appendix 2: NEPA Time Frames

Appendix 3: NEPA-Related Legal Requirements and Their Implications

Appendix 4: Pertinent Agencies

### LIST OF EXHIBITS

Exhibit 3-1	NEPA in a Nutshell .....	3-9
Exhibit 4-1	Determining Level of Public Participation .....	4-8
Exhibit 5-1	CATEX Checklist .....	5-12
Exhibit 6-1	EA Format .....	6-12
Exhibit 6-2	Sample FONSI .....	6-15
Exhibit 7-1	Format of Notice of Intent to Prepare an EIS .....	7-17
Exhibit 7-2	Distribution of EISs .....	7-18
Exhibit 7-3	EIS Model Cover Sheet Format .....	7-21
Exhibit 7-4	Format for Notice of Availability of EIS .....	7-22
Exhibit 7-5	Format for Record of Decision .....	7-23
Exhibit 11-1	Format for Technical Reviews .....	11-4

## CHAPTER 1 - PURPOSE AND USE OF DESK GUIDE

### 1.1 PURPOSE

Welcome to the NEPA Desk Guide. This Desk Guide will help GSA staff, contractors, and other GSA associates carry out the requirements of the National Environmental Policy Act (NEPA) in accordance with Council on Environmental Quality (CEQ) regulations (40 CFR 1500-1508) and GSA Order ADM 1095.1F (Environmental Considerations in Decisionmaking).

### 1.2 APPLICATION OF THIS DESK GUIDE

The policies, procedures, and practices described here apply to GSA actions, including leasing, acquiring, developing, managing and disposing of real property, that may have an impact on the quality of the human environment. They apply to all GSA business lines, GSA staff, contractors, and others who operate under GSA oversight.

As you use this guide, remember that it is a *guide*, not a training manual. Do not substitute the guidance given here for consultation with NEPA and other environmental experts within GSA, including the Office of General Counsel (OGC).

### 1.3 CONTENTS

In this guide, you will find legal and policy background information, specific requirements, checklists, and references. This information will help you understand and apply NEPA requirements to your specific, proposed activity, program, or project.

You will also find excerpts from pertinent implementing regulations, GSA orders, and other official guidance. For your reference, we have added the complete texts of these materials in **Appendix 1**.

Note that this Desk Guide contains those policies and procedures approved by the CEQ in accordance with Title 40 Code of Federal Regulations (CFR) 1507.3, including:

- Specific criteria for and identification of typical classes of action (see Chapter 3)
  - that normally require Environmental Impact Statements (Chapter 7).
  - that normally require Environmental Assessments but not necessarily Environmental Impact Statements (Chapter 6).
  - that normally do not require either an Environmental Impact Statement or an Environmental Assessment (Categorical Exclusions; Chapter 5).
- Specific procedures (required by CEQ regulations) on the following topics:
  - how to interact with non-GSA participants in GSA NEPA review (see Chapters 2, 6, 7);
  - draft, final, and supplemental Environmental Impact Statements (see Chapters 7 and 8);
  - internal agency decisionmaking processes (see Chapter 2);
  - where the public can get information about GSA's NEPA process and documents (see Chapter 2, 4, 6, 7); and
  - Categorical Exclusions (see Chapter 5).

This Desk Guide does not contain legal opinions or cases and does not describe

compliance processes for environmental laws other than NEPA.

## 1.4 BACKGROUND FOR NEPA IMPLEMENTATION

### 1.4.1 NEPA

NEPA articulates the Federal policy that favors protecting the quality of the human environment, and requires Federal agencies to consider the impacts of their proposed activities, programs, and projects on the quality of that environment. The human environment is defined as the natural and physical environment, and the relationship of people to that environment. The purpose of considering impacts (NEPA review) is to help the agency decide whether to undertake a proposed action, considering all reasonable alternatives, including the alternative of taking no action, and if so, where, when and how to undertake it. NEPA review also affords interested agencies and the public the opportunity to learn about and influence an agency's decisionmaking. Various kinds of specific analyses and documentation are required, but these vary depending on the nature of the proposed action and its expected environmental impacts.

NEPA also requires that, to the fullest extent possible, analyses and consultations required by other environmental laws be coordinated with those required under NEPA, to reduce redundancy, paperwork, time, and cost.

### 1.4.2 CEQ Regulations

Title II of NEPA created the CEQ, which in 1978 was given authority to develop regulations to standardize and streamline the NEPA implementation process. These regulations, 40 CFR 1500 through 1508, are legally binding on all Federal agencies. Agency procedures, such as GSA orders and this Desk Guide, must adhere to the requirements of the CEQ regulations.

Excerpts from the CEQ regulations and NEPA are incorporated into this Desk Guide, where appropriate, and appear in gray-shaded boxes.

### 1.4.3 GSA Orders

GSA Order # ADM 1095.1F (Environmental Considerations in Decisionmaking), dated October 19, 1999, assigns responsibility for carrying out:

- NEPA;
- its procedural regulations (40 CFR 1500 through 1508); and
- related Executive Orders.

It provides the overall guidance for GSA implementation of NEPA and refers to this Desk Guide for specific guidance. A copy of this Order is in **Appendix 1**.

GSA Order # PBS P 4000.1 (Excess and Surplus Real Property), dated June 29, 1994, provides instructions and procedures for the use and disposal of excess and surplus real and related personal property. Chapter 5 of that Order contains a brief description of environmental, historic, and coastal zone considerations.

## 1.5 OTHER APPLICABLE LAWS, EXECUTIVE ORDERS, AND REGULATIONS

Besides NEPA, there are many other Federal environmental laws, Executive Orders, and regulations that are coordinated with NEPA implementation. These laws, which are identified in the Pertinent Regulations and Orders in **Appendix 1**, should be taken into consideration during the NEPA process.

## 1.6 CHANGES TO THIS DESK GUIDE

GSA PBS Office of Environmental Business Strategies (PXE) may issue updates, changes, or corrections to this Desk Guide.

## CHAPTER 2 - BASIC REQUIREMENTS AND RESPONSIBILITIES

### 2.1 NEPA REQUIREMENTS

Before you make a decision on whether and how to proceed with a proposed Federal action that could affect the environment, you must first comply with NEPA. NEPA requires that you conduct an analysis of the impacts your proposed action will have on the environment. This analysis will help you to make environmentally beneficial decisions, design excellent action, and improve the environment.

Each time you plan a Federal action, you must follow the decisionmaking process of analysis and review set forth in NEPA. Apply the NEPA process in your early planning stages, and carry it out in good faith.

#### 2.1.1 Purposes of NEPA

The NEPA process does not exist in a vacuum—it was designed for several purposes, and you will understand the process better if you remember the underlying policy and basic purposes of NEPA. With NEPA's goals in mind, you can tailor your decisions and actions to accomplish those goals.

You can find NEPA purposes and general policy in Section 101 of the Act.

(I)t is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations....

(I)t is the continuing responsibility of the Federal government to use all practicable means, consistent with other essential considerations of national policy, to improve

and coordinate Federal plans, functions, programs, and resources to the end that the Nation may:

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

**42 U.S.C. 4321(a)**

Note that this broad policy does not place environmental protection above all other considerations. Environmental protection means to use "practicable means, consistent with other essential considerations of national policy." On the other hand, the policy requires more than mere lip service to the environment, or mere conformance to procedures. NEPA is designed to help the Nation (and implicitly, the world) achieve specific purposes, such as "assur(ing)... safe, healthful, productive, and esthetically and culturally pleasing surroundings," and "achiev(ing) a balance between population and resource use." These specific purposes in turn are designed to help achieve

the more general goal of "creat(ing) and maintain(ing) conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations." As you comply with NEPA's procedural requirements, use these purposes as a guide.

Based on the national policy established in NEPA, GSA policy, as found in ADM 1095.1F, is as follows:

"In all its decisionmaking, GSA will attend carefully to the National Environmental Policy set forth in Section 101 of NEPA. To the maximum extent practicable, GSA will ensure that its actions protect and where possible improve the quality of the human environment, including the built and sociocultural environments of the nation's urban areas. GSA decisionmakers will use the NEPA review process prescribed in the CEQ regulations as a practical planning tool, and integrate both the NEPA review process and the Section 101 National Environmental Policy into decisionmaking in an efficient, cost-effective manner. The NEPA review process will be initiated at the earliest possible stage in planning any GSA action, and will be carried forward in coordination with other planning activities. Decisionmakers will ensure that they have reviewed and fully understand the environmental impacts of each decision, before making any such decision. All managers responsible for decisionmaking about GSA actions will be accountable for being knowledgeable about, and attendant to, the requirements of NEPA and the National Environmental Policy that these requirements are designed to advance."

### 2.1.2 Procedural Requirements

The core procedural requirement of NEPA is set forth in Section 102 of the Act. This requirement is met within GSA by following CEQ regulations and GSA procedures. Section 102 directs all Federal agencies to:

- Utilize a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;
- Identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;
- Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on —
  - the environmental impact of the proposed action,
  - any adverse environmental effects which cannot be avoided should the proposal be implemented,
  - alternatives to the proposed action,
  - the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
  - any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

#### NEPA Section 102

During preparation of the statement described above, the responsible Federal official also must consult with and obtain the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved.

### 2.1.3 Application

NEPA applies to all Federal actions. CEQ regulations say that:

Federal actions tend to fall within one of the following categories:

- (1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies that will result in or substantially alter agency programs.
- (2) Adoption of formal plans, such as official documents prepared or approved by Federal agencies that guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.
- (3) Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.
- (4) Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision, as well as Federal and Federally assisted activities.

**40 CFR 1508.18**

Here are some GSA examples of each of the above-listed classes of action:

Adoption of official policy:

- Issuance of Administrative Orders, GSA Orders, and orders, standards, and guidelines by business lines.

- Issuance of Regional Office policy and procedural documents, provided such issuance may “result in or substantially alter” GSA programs or affect the programs of another agency.

Adoption of formal plans:

- Adoption of master plans, and of maintenance plans for Federal facilities.

Adoption of programs:

- Adoption of energy efficiency and conservation programs, building security programs, and chlorofluorocarbon (CFC) elimination systems.

Approval of specific projects:

- Approval of new construction, repair, and alteration projects, disposal actions, leases and lease terminations.
- Approval of maintenance plans for Federal facilities.
- Approval of permits, leases, and cooperative agreements for the use of Federal space.

### 2.1.4 Timing

NEPA activities take time. Completion of a categorical exclusion (CATEX) checklist (see Chapter 5) may take only a few minutes or hours, but preparation of an Environmental Impact Statement (EIS; see Chapter 7) for a complex construction project may take several years. **Appendix 2** attaches time frames to specific actions in the NEPA process, but many parts of the process have no specific time limits, and most of the time limits that do exist are not and cannot be absolute. You must be objective and take the time necessary to accomplish the purposes of NEPA—not arbitrarily place time limits that could hamper needed analyses and consultations.



If you include the NEPA process early in your planning stages, you can avoid costly delays and last-minute “surprises.”

### **CEQ Requirements:**

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.

**40 CFR 1501.2**

and

NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken[...] The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.

**40 CFR 1500.1**

## **2.2 RESPONSIBILITIES FOR NEPA IMPLEMENTATION**

### **2.2.1 ADM 1095.1F Responsibilities**

GSA Order # ADM 1095.1F assigns the following NEPA implementation responsibilities:

#### **2.2.1.1 Commissioner, Public Buildings Service (PBS)**

- Acts for the Administrator on matters relating to NEPA implementation, and
- Oversees implementation of ADM 1095.1F—PBS orders and related direction governing GSA compliance with NEPA and related legal authorities.

#### **2.2.1.2 NEPA Liaison**

- Is the principal GSA advisor on NEPA-related requirements, including but not limited to compliance with NEPA and the coordination of NEPA compliance with the requirements of the laws and regulations listed in **Appendix 1**.
- Provides expert advice on NEPA-related matters to GSA Heads of Services, Business Lines, and Regional Administrators.
- Provides intra-agency and interagency liaison and coordination on NEPA-related matters on a national basis.
- Provides and periodically updates GSA program guidance, after consultation with the General Counsel, Heads of Services, Business Lines, and Regional Administrators.
- Provides education and training within GSA pertinent to implementation of NEPA and related authorities.
- Coordinates with GSA’s Environmental Executive in maintaining a record of GSA’s environmental activities, and in advancing the national environmental policy articulated in NEPA and other statutes and executive orders.
- Serves as GSA representative in coordination with outside groups at the national level regarding NEPA-related matters.

#### **2.2.1.3 Regional Administrators**

- Are accountable for execution of GSA’s responsibilities under NEPA and related authorities with respect to actions under their jurisdiction.

- Serve as the responsible agency official under CEQ regulations with respect to the environmental effects of actions under their jurisdiction.
- Maintain NEPA Regional Environmental Quality Advisor (REQA) within their staffs, augmented as necessary through interagency agreements and contracts, to ensure regional interdisciplinary competence in environmental matters.
- In consultation with the NEPA Liaison, ensure that all regional staff with responsibility for planning, approving, and implementing construction, repair, alteration, site and facility acquisition, real property management, maintenance, and real property disposal receive appropriate training in how to carry out GSA's responsibilities under NEPA and related authorities.

#### **2.2.1.4 GSA Environmental Executive**

- Serves as GSA's Environmental Executive under Executive Order 12873.
- Coordinates with the NEPA Liaison to ensure agency-wide consistency in areas of shared or related responsibility.

#### **2.2.1.5 Heads of Services and Business Lines**

- Serve as the responsible agency officials under CEQ regulations for actions subject to their approval.
- Ensure accountability for implementation of the policy set forth in this order.
- In consultation with the NEPA Liaison, ensure that staff responsible for supporting the functions of the responsible agency official under CEQ and related authorities receive appropriate training in how to carry out GSA's responsibilities.

#### **2.2.1.6 The Office of General Counsel**

- Is responsible for legal interpretation of NEPA and related authorities, and represents GSA in litigation under such authorities.
- Advises the NEPA Liaison during the development and delivery of guidance and training.

### **2.2.2 Additional Responsibilities**

#### **2.2.2.1 PBS NEPA Liaison**

- Maintains a professional NEPA Liaison staff to carry out this responsibility.
- Coordinates compliance with NEPA and related authorities throughout GSA on a day-to-day basis.
- Provides advice and assistance to Regional Environmental Quality Advisor (REQA).
- Coordinates with the CEQ and other national oversight bodies;
- Routinely solicits and acts upon the advice of REQAs in developing program direction and carrying out the responsibilities of the NEPA Liaison.
- Promulgates, maintains, and when necessary updates a "NEPA Desk Guide" providing detailed direction and advice regarding NEPA implementation.

#### **2.2.2.2 Regional Administrators**

- Ensure that the REQA is empowered to advise and assist in planning and decisionmaking on actions that could affect the human environment, in a way and at a time in the planning and decision-making process that maximizes the effectiveness of the REQAs' advice and assistance.

- Ensure that all Regional program staff involved in planning and decisionmaking about actions that could affect the human environment are made aware of GSA's responsibilities under NEPA and related authorities, are acquainted with ADM 1095.1F and the NEPA Desk Guide, are held accountable for the quality of their actions and decisions, and are required to coordinate effectively with the REQA.

### 2.2.2.3 The Regional Environmental Quality Advisor (REQA)

- Is the center of expertise maintained at the Regional Office (RO) in which expertise in NEPA and related authorities such as the National Historic Preservation Act and the Endangered Species Act is maintained.
- Is located in the RO organizations where it can influence decisionmaking early in GSA's planning or preparation for any action subject to review under NEPA and related authorities.
- Is responsible for participation in GSA planning and decisionmaking, for advising the Regional Administrator (RA), Assistant Regional Administrator (ARA), and other decisionmakers, and for providing training and technical assistance to all pertinent GSA employees and contractors.
- Maintains interdisciplinary expertise in environmental matters, through the employment of qualified staff and/or by interagency agreement or under contract.
- Reviews all documentary products of GSA NEPA analyses, and assists program staff in ensuring that such products, and the analyses they report, are adequate and defensible.

- Maintains records of GSA NEPA compliance activities.
- Routinely interacts with and is assisted by, the NEPA Liaison.
- Maintains an up-to-date NEPA Desk Guide and other needed guidance material.
- Develops and maintains an up-to-date checklist for use in determining whether an action requires an environmental assessment or impact statement.

### 2.2.2.4 Program Staff

For the purposes of this order, includes all GSA employees responsible for the management and implementation of program actions, such as project planning and development, project management, leasing, and disposal of real property.

Are responsible for:

- With the assistance of the NEPA Liaison and REQA, developing and maintaining a thorough understanding of NEPA requirements and the requirements of related authorities, and of the policy articulated in ADM 1095.1F, as these pertain to their program areas.
- Ensuring that NEPA and related authorities are complied with to the best of their abilities, as early as possible in planning any action within their program areas.
- Coordinating their programs, activities, and projects with Regional REQAs.
- Implementing all mitigation and other commitments resulting from NEPA compliance for actions under their authority.

### 2.3 The "Responsible GSA Official"

When ADM 1095.1F refers to the "responsible agency official" or the "responsible official," it means the GSA official who is responsible both for decisionmaking about an action subject to review under NEPA, and for NEPA review itself.

For actions requiring an Environmental Assessment or Environmental Impact Statement (see Chapter 3), the responsible GSA official is always the Regional Administrator, except where an action is under the direct authority of a Head of Service or of a Business Line, the Commissioner, or the Administrator. For actions that are categorically excluded from extensive NEPA review (see Chapter 3), the responsible GSA official is the decisionmaker who approves the action.

Although program staff, the REQA, and the NEPA Liaison all have responsibilities in the NEPA review process, and are accountable for carrying out these responsibilities correctly, they are not ultimately responsible for ensuring that NEPA policy and procedures are addressed in decisionmaking, and therefore they are not the "responsible GSA official."

### 2.4 Program Responsibilities

#### 2.4.1 Using NEPA in Decisionmaking

Each Head of Service, Business Line, and Regional Office shall establish internal systems to ensure that the requirements of NEPA, related authorities, the CEQ regulations, ADM 1095.1F, and this Desk Guide are carried out.

Each such system shall ensure that:

- Compliance with NEPA and related authorities begins at the earliest point in planning any action, when the widest reasonable range of alternatives is open for consideration.

- The NEPA review process is carried out in coordination with continued planning.
- All personnel involved in planning actions should view NEPA review as part of effective planning, not as a mere documentation requirement.
- Outside agencies, state and local governments, Indian tribes, and the public are afforded reasonable opportunities to participate in NEPA review, and to influence GSA decisions.
- The results of NEPA review are fully considered by each GSA decisionmaker before making a decision on an action subject to such review.
- Executives and other employees responsible for aspects of NEPA review are held accountable for the performance of such responsibilities, through performance reviews and other administrative mechanisms.

#### 2.4.2 Coordination With Other Authorities

- To the maximum extent feasible, NEPA review shall be coordinated with review of proposed actions under other environmental legal authorities, including but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), Executive Orders 11988 and 13006, and other authorities listed in the NEPA Desk Guide.
- In effecting such coordination, responsible GSA officials will ensure that the substantive and procedural requirements of each other authority are met, together with the requirements of NEPA. It will be explicitly understood that compliance with NEPA does not substitute

for compliance with another authority, nor does compliance with such other authority substitute for compliance with NEPA.

### 2.4.3 Public Involvement

- As part of its system for NEPA compliance, each Head of Service, Business Line, and Regional Office shall provide for levels and kinds of public involvement appropriate to the class of action and its likely effects, taking into account the recommendations regarding public involvement found in the NEPA Desk Guide.
- Where a related authority provides specific procedures for public involvement, the responsible GSA official shall ensure that such procedures are addressed in the process of NEPA review.
- Public involvement in GSA decision-making shall have as its purpose the full disclosure of GSA actions and alternatives to the public, within the constraints of GSA program authorities, and giving the public a full opportunity to influence GSA decisions, subject to the same constraints and the requirements of the Federal Advisory Committees Act (FACA).
- Pursuant to Executive Order 12898, special efforts will be made to involve members of potentially affected low-income and minority communities in NEPA review and decisionmaking. Such efforts may include, but are not limited to, special programs of community outreach, including cross-cultural programs, translations of pertinent documents, and ensuring that translators are available at public meetings.

## 2.5 GSA Decisionmaking Process Under NEPA

### 2.5.1 Normal Circumstances

In general, GSA's compliance with the procedural requirements of NEPA is handled as follows:

- **Step 1:** Program staff determine a purpose and need for an action, and develop a preliminary description of the action.
- **Step 2:** In consultation with, or at the direction of, the REQA, program staff determine the appropriate level of NEPA analysis and documentation required (see Chapter 3).
- **Step 3:** Program staff and the REQA arrange for necessary environmental analysis and documentation to take place, including public involvement where appropriate. Where legal issues or public controversy may be involved in the action or the NEPA analysis, program staff notify OGC and Regional Counsel, and afford them an opportunity to participate.
- **Step 4:** Program staff, in consultation with, or with oversight by, the REQA, ensure that the appropriate analysis and documentation are completed, and that documents are circulated and filed in accordance with the requirements of law, the CEQ regulations, ADM 1095.1F, and the PBS NEPA Desk Guide.
- **Step 5:** Program staff, assisted as needed by the REQA, provide the results of NEPA review to the relevant GSA decisionmaker(s).
- **Step 6:** The decisionmaker(s) decide whether and how the action will proceed, and if it proceeds, what if anything

will be done to mitigate adverse environmental effects.

- **Step 7:** Program staff, assisted as needed by the REQA, ensure that any required final public notifications of the decision are issued.
- **Step 8:** If the action has been approved by the decisionmaker, it proceeds, subject to whatever mitigation and monitoring activities (if any).
- **Step 9:** If mitigation is performed, program staff and/or the REQA monitor to ensure that it is carried out.

The extent to which all the above steps must be carried out varies with the type of action under consideration. See Chapter 3 for a discussion of how actions are assigned to categories that require different levels of review.

## 2.5.2 Emergencies

In an emergency (such as life-threatening natural or human-caused disasters), the step-by-step process outlined above cannot be followed.

The CEQ regulations state that:

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council (on Environmental Quality) about alternative arrangements.

**40 CFR 1506.11**

Your consultation(s) with CEQ regarding emergency arrangements should always involve the REQA and the NEPA Liaison.

There are some circumstances under which it is impossible even to take the time to consult with CEQ. For this reason, the CEQ regulations use the word "should"

rather than "shall" in the emergency section.

Use the CEQ emergency provision only in direct and immediate response to an emergency:

Agencies and the Council will limit such (emergency) arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

**40 CFR 1506.11**

For example, if the foundation of a building has been so weakened by floodwaters that the building is about to collapse, endangering human life and property, you should use the emergency provision. In this case, you might simply telephone CEQ, tell them about the problem and advise that GSA intends to demolish the building even though this could have impacts on the social, architectural, and historic fabric of the community. (In this case, you would also provide similar notice to the Advisory Council on Historic Preservation and State Historic Preservation Officer—see 36 CFR 800.12.) If the building was not in immediate danger of collapse, however, you should not use the CEQ emergency provision.

Note that the emergency provision applies only to actions "with significant environmental impact." Minor emergency response actions such as stabilizing a damaged building will seldom have significant environmental impact, and can probably go forward without coordination with CEQ.

In regions that are subject to numerous emergency actions (e.g., a region with many buildings in seismically active areas), you should consider complying with NEPA programmatically for emergency actions. Coordinate programmatic compliance with other agencies that have similar concerns, such as the Federal Emergency Management Agency, and with the NEPA Liaison.

## 2.6 Working With Other Agencies in NEPA Review

### 2.6.1 GSA as Lead Agency

When GSA is the lead agency in NEPA review of a multi-agency action (e.g., a real estate transaction in which GSA develops space for courts within a Postal Service building), GSA conducts the pertinent NEPA analysis and prepares the appropriate documents, circulates them, compiles and responds to comments, makes final determinations, and is otherwise responsible for the conduct of NEPA review. Other agencies, individuals, and entities may provide data, analyses, expertise, review, and comment, but GSA is responsible for the final NEPA product and the final project decision.

GSA can and should invite other involved agencies to participate as cooperating agencies:

- The responsible GSA official may invite other agencies to serve as cooperating agencies in the conduct of NEPA review on a GSA action.
- At a minimum, GSA will invite agency customers for GSA services to participate as cooperating agencies. Other agencies with jurisdiction by law or expertise may also be invited to serve as cooperating agencies.

CEQ regulations describe the role of a lead agency as follows:

A lead agency shall supervise the preparation of an Environmental Impact Statement if more than one Federal agency either: (1) Proposes or is involved in the same action; or (2) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

**40 CFR 1501.5**

To determine which agency takes the lead in any specific situation, use the following guidelines:

Potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

- (1) Magnitude of the agency's involvement.
- (2) Project approval/disapproval authority.
- (3) Expertise concerning the action's environmental effects.
- (4) Duration of agency's involvement.
- (5) Sequence of agency's involvement.

**40 CFR 1501.5**

### 2.6.2 GSA as Cooperating Agency

- As a cooperating agency, GSA participates in the NEPA process as requested by the lead agency, in accordance with 40 CFR 1501.6 of the CEQ regulations.
- GSA may participate in meetings and provide specific information relevant to matters over which it has jurisdiction by law or expertise.

CEQ regulations on the role of a cooperating agency:

Each cooperating agency shall:

- (1) Participate in the NEPA process at the earliest possible time.
- (2) Participate in the scoping process.
- (3) Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the Environmental

Impact Statement concerning which the cooperating agency has special expertise.

(4) Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.

(5) Normally use its own funds ... .

**40 CFR 1501.6**

**2.6.3 GSA as Commentor or Reviewer of Other Agency Environmental Documents**

Because of GSA's jurisdiction by law and expertise on certain subjects or because of its interest in a proposed project described in an environmental document, we are often asked to provide comments and/or reviews of other agencies' NEPA documents, and other Federal and State environmental documents. Sometimes we will ask for the opportunity to review and comment on another agency's NEPA document.

- The responsible GSA official (Head of Service, Business Line, or Regional Office) may provide comments and/or reviews of another agency's NEPA documents, and/or other Federal and State environmental documents. Such comments or reviews shall be provided where the other agency so requests and the responsible official determines that GSA has jurisdiction by law or special expertise, and may be provided in other cases where the responsible official determines that GSA has an interest in the action covered by the environmental document.
- GSA has jurisdiction by law or expertise on the following topics, as listed in 40 CFR Ch. V, Appendix 2 of the CEQ regulations:

- Federal land management
- Community development
- Historic, architectural, and archaeological resources

- GSA comments shall be provided in accordance with 40 CFR 1503.3 of the CEQ regulations.
- GSA comments shall be prepared in consultation with, or by, the pertinent REQA and/or the National Office NEPA Liaison.

CEQ regulations on the role of a commenting agency:

- (a) Comments on an Environmental Impact Statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed, or both.
- (b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology that it prefers and why.
- (c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.
- (d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation



measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

**40 CFR 1503.3**

Of the three areas listed above as those of GSA "jurisdiction by law or expertise," only one is based on "jurisdiction by law." GSA has jurisdiction in some (but by no means all) actions involving Federal land management. That is, when a Federal agency proposes to do something or permit something that could affect real property under GSA management, GSA obviously has some level of legal jurisdictional authority, and must be consulted. The other two areas—community development and historic, architectural, and archeological resources—are areas in which GSA has expertise, but no specific legal jurisdiction. Even so, all of these areas are legitimate subjects for GSA comments on another agency's NEPA document.

REQAs should be involved in formulating any GSA comment on another agency's NEPA document, since it is in the REQA that the Region's NEPA-related expertise lies. The REQAs also have records of GSA's own NEPA analyses and its comments on other agencies' work, and are thus in a position to help ensure consistency in GSA's positions. Where there is any possible policy implication to the proposed GSA comment, or any potential for inconsistency among Regions, the National Office NEPA Liaison should be involved in formulating the comment. A statement of fact like "The Corps of Engineers' proposed floodwall would protect Federal assets at the Springfield Federal Center" would seldom need to be coordinated with the NEPA Liaison, but a statement of opinion like "GSA believes that the architecture of the proposed Springfield Bank Building should

replicate that of the surrounding Fieldspring Historic District" should be coordinated. *When in doubt, coordinate.*

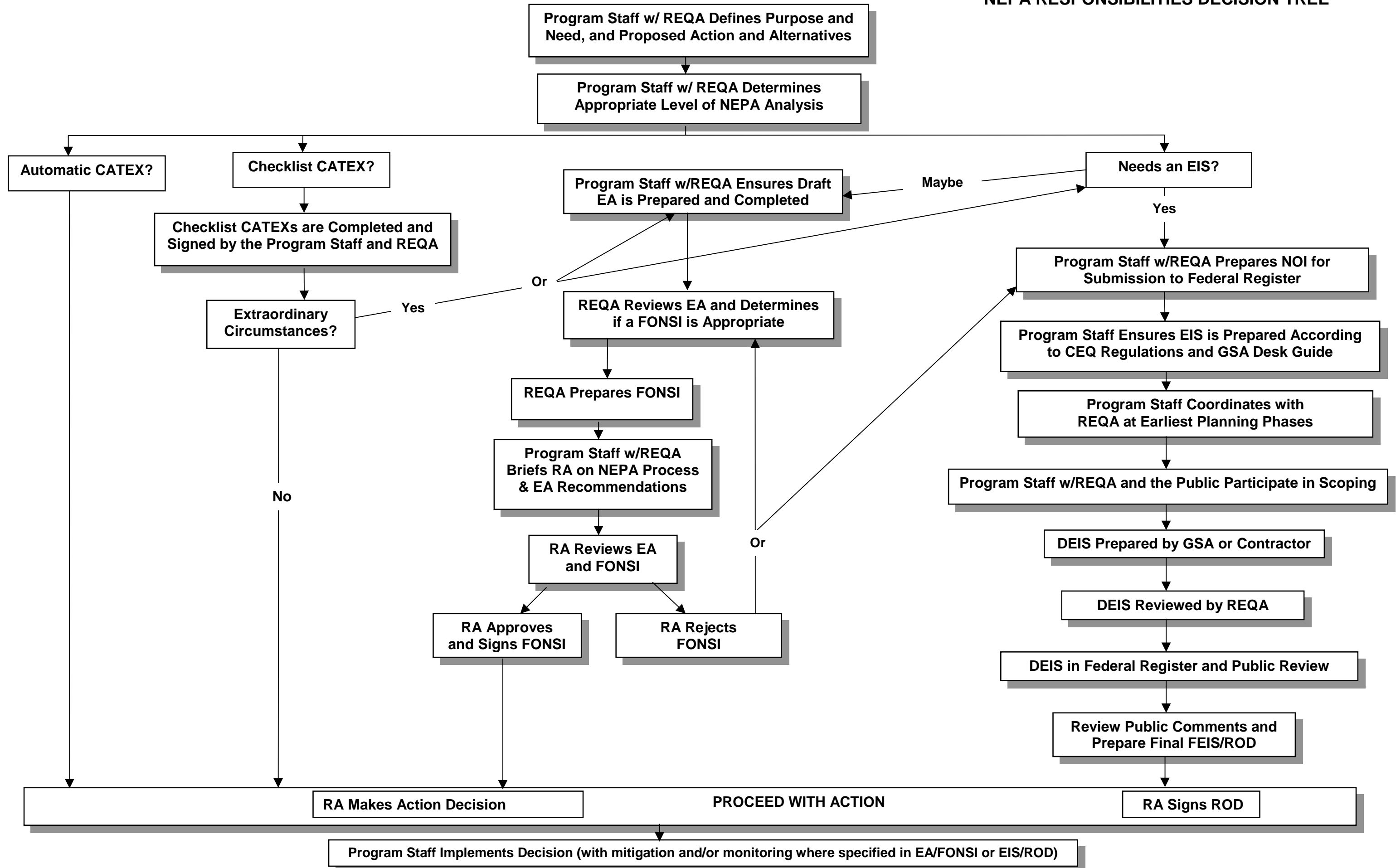
See Chapter 11 of this Desk Guide for further guidance on technical reviews.

**2.7 PUBLIC ACCESS TO GSA NEPA INFORMATION**

NEPA is, among other things, a public disclosure law. Therefore, it is important that the public have access to GSA decision-making processes and environmental information.

Most information gathered during the NEPA process is subject to the Freedom of Information Act. In addition, during specific steps of the GSA NEPA process, the public is specifically invited to share and access information as part of GSA's public involvement process. See Chapters 3, 6, and 7 for more information.

**EXHIBIT 2-1  
NEPA RESPONSIBILITIES DECISION TREE**



## CHAPTER 3 - LEVELS OF NEPA ANALYSIS

### 3.1 INTRODUCTION

Recall that Section 102(2)(c) of NEPA requires agencies to prepare a detailed statement of the significant impacts any major Federal action has on the quality of the human environment. One level of NEPA analysis is the preparation of such a “detailed statement,” referred to as an “Environmental Impact Statement” or EIS.

But how do you know whether your proposed action in fact will—or even may—significantly affect the quality of the human environment? Naturally, you would perform another, generally less detailed and rigorous, kind of analysis. Such an analysis begins with the question: could this action have a significant impact? In some cases, the answer is perfectly obvious, with little or no analysis needed. In other cases, some level of analysis is required in order to answer that question.

CEQ regulations set forth a general sequence of determinations you can make to help you decide how much environmental analysis your proposed action needs (see **Exhibit 3-1**). From the onset, you can determine whether your action:

- Normally requires an Environmental Impact Statement, or
- Normally does not require either an Environmental Impact Statement or an Environmental Assessment (categorical exclusion).
- If the proposed action is not covered by paragraph (a) of this section, prepare an Environmental Assessment.[...]
- Based on the Environmental Assessment, determine whether to prepare an Environmental Impact Statement.

**40 CFR 1501.4**

One of the first steps in complying with NEPA, then, is to classify your action—that is, to decide which of the above categories it falls into, so you can determine what level of analysis it requires.

To understand how to classify your action, you should first understand the definitions of three very important NEPA terms:

- (1) Human Environment;
- (2) Effects or Impacts; and
- (3) Significantly (including its two components: context and intensity).

You should also understand how these terms work together to define the overall concept of major Federal action.

### 3.2 DEFINITIONS

#### 3.2.1 Human Environment

*Human Environment* is defined as follows:

“Human environment” shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.

**40 CFR 1508.1**

The term human environment includes the biophysical environment—that is, the natural world around us, the architectural or built environment, and the environment’s social, cultural, and economic aspects, its aesthetics, and its implications for human health.

#### 3.2.2 Effects or Impacts

*Effects or impacts* are defined as follows:

Effects and impacts as used in these regulations are synonymous. Effects includes [sic] ecological (such as the effects on natural resources and on the components, structures, and functioning of affected eco-

systems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

**40 CFR 1508.8**

Effects can be direct, indirect, and cumulative, defined as follows:

Direct and indirect effects:

- Direct effects, which are caused by the action and occur at the same time and place.
- Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

**40 CFR 1508.8**

Cumulative impact (or effect):

Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**40 CFR 1508.7**

Also, the nature and magnitude of the environmental effects of an action help to determine whether the action is defined as “major” (see Section 3.2.4 below).

### 3.2.3 Significantly

*Significantly*, as used in NEPA, requires that you consider both context and intensity.

(a) **Context.** This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) **Intensity.** This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

- (1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
- (2) The degree to which the proposed action affects public health or safety.
- (3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- (4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.
- (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

- (6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
- (7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
- (8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.
- (9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
- (10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

**40 CFR 1508.27**

To understand *significance* as defined above, apply both common sense and rigorous analysis to your specific determination.

Use the two components of context and intensity as the basis for analyzing the significance of a potential effect. For example, an otherwise minor action may become major when undertaken in the context of an endangered species' critical habitat or in the

context of a low-income or minority community. In each of these contexts, the intensity of the potential effect must be considered, with reference to the factors listed above from the CEQ regulations.

### 3.2.4 Major Federal Action

Major Federal Action is defined as follows:

“Major Federal action” includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly.

**40 CFR 1508.18**

Note the use of the words “may” and “potentially” in this definition. Considerable judgment is often required to determine whether a specific action fits this category. You should obtain expert advice when making this initial determination.

Note, too, that the word “major” “does not have a meaning independent of significantly.” This seemingly confusing statement actually has a simple meaning: a Federal action is “major” if it has the potential for significant environmental impact. Thus, a seemingly minor project like cleaning the facade of a building could be a *major* Federal action if it could have significant effects, such as releasing chemicals that exceed a given level of intensity into a sensitive environmental context.

### 3.3. CLASSES OF ACTION FOR ENVIRONMENTAL ANALYSIS AND DOCUMENTATION

Based on the definitions and concepts above, GSA classifies its actions as follows in terms of the level of environmental analysis required.

### 3.3.1 Categorical Exclusion (CATEX)

An action is categorically excluded (CATEX) from NEPA analysis and documentation if it meets the following CEQ definition:

“Categorical exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency [...] and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.

**40 CFR 1508.4**

Note that if a normally excluded action may have a significant environmental effect, CEQ requires that you provide for “extraordinary circumstances.”

To determine whether “extraordinary circumstances” exist, break CATEX actions into two types:

- (1) The “automatic” CATEX: actions that have virtually no potential for significant environmental effects, or
- (2) The “checklist” CATEX: actions that require a cursory analysis, using a checklist, to ensure that no “extraordinary circumstances” exist that would require a higher level of environmental analysis.

#### 3.3.1.1 Automatic Categorical Exclusions

Automatic CATEX’s are actions that, by their nature, obviously have no potential to affect the environment. Such actions may be excluded from further NEPA review without analysis of any kind, except as discussed in the next paragraph. A list of automatic CATEX’s is provided in Chapter 5, Section 5.3.

There may be circumstances—although they are almost unimaginable—in which an automatic CATEX action could have signifi-

cant impacts on the environment, but it is GSA’s judgment that the chances of such impacts are so extremely limited that review of each such action is not warranted. Nevertheless, you should be alert to the possibility of such a circumstance. If it appears that such impacts could occur, you should take the action through further review by completing the checklist used with “checklist” CATEX’s. If GSA is proposing an action where one alternative is an automatic CATEX and one is a checklist CATEX (that is, requires the preparation of a CATEX checklist), you must perform the more rigorous of the two CATEX options for the action. To determine whether a CATEX may have significant effects, use the “Indicators of Significance” presented in Section 3.5.

No specific documentation is required for an automatic CATEX, but the GSA official responsible for the action must be able to demonstrate familiarity with the ADM and this Desk Guide.

#### 3.3.1.2 Categorical Exclusions Requiring Completion of a Checklist (Checklist CATEXs)

A checklist CATEX action is one that is normally CATEX, but has some potential, under certain extraordinary circumstances, to have a significant effect. To determine whether it is in fact a CATEX or whether extraordinary circumstances apply that require either an Environmental Assessment or an Environmental Impact Statement, complete a checklist with regard to each action. A list of CATEX actions that normally require a checklist is provided in Chapter 5, Section 5.4.

Documentation for this level of analysis is a completed and officially approved checklist, together with whatever supporting data are needed to substantiate the conclusions reached.

### 3.3.2 Environmental Assessment (EA)

An Environmental Assessment (EA) is defined in the CEQ regulations as follows: "Environmental Assessment":

- (a) Means a concise public document for which a Federal agency is responsible that serves to:
  - (1) Briefly provide sufficient evidence and analyses for determining whether to prepare an environmental impact statement or a finding of no significant impact.
  - (2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.
  - (3) Facilitate preparation of a statement when one is necessary.
- (b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E) [of the Act], of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

**40 CFR 1508.9**

Your proposed action will require an EA if it is not a CATEX (i.e., not on the list in Chapter 5, Section 5.3), and does not obviously require an Environmental Impact Statement. To determine whether your action is in fact a "major Federal action significantly affecting the quality of the human environment" and thus requires an Environmental Impact Statement, you would conduct an EA analysis.

Procedures for conducting an EA analysis and documenting the results are described in Chapter 6. You will not find a list of actions that require an EA analysis because this class of actions embraces everything that GSA does that is not obviously a CATEX and that does not obviously require

an Environmental Impact Statement. If GSA is proposing an action where one alternative would be a CATEX (automatic or checklist) and another would require an EA, you must perform an EA on the overall action.

The outcome of an EA is either (1) a Finding of No Significant Impact (FONSI) signed by the Regional Administrator, determining that an Environmental Impact Statement is not necessary, or (2) a determination that an EIS is necessary, where upon a Notice of Intent (NOI) is published and the EIS is prepared.

Documentation for this level of analysis consists of either (1) an EA and FONSI, or (2) a set of analysis files and a Notice of Intent to prepare an Environmental Impact Statement (see Chapter 7).

### 3.3.3 Environmental Impact Statement (EIS)

"Environmental Impact Statement" means a detailed written statement as required by section 102(2)(c) of the [National Environmental Policy] Act.

**40 CFR 1508.11**

An action requires an EIS when it is a major Federal action with the potential for significant effect on the quality of the human environment.

Documentation for this level of analysis consists of a Draft and Final EIS, including responses to agency and public comments, and a Record of Decision (ROD) signed by the Regional Administrator describing GSA's final action decision.

#### 3.3.3.1 Actions that Normally Require an EIS

Certain GSA actions are so obviously major Federal actions with the potential for significant effects on the quality of the human environment that an EIS is always needed. If

you propose such an action, there is no reason to go through the time and expense of preparing an EA; instead, the responsible GSA official should undertake preparation of an EIS as early as possible in planning. A list of actions that normally require an EIS is provided in Chapter 7, together with procedures for conducting the EIS analysis and preparing an EIS.

### 3.3.3.2 All Other Non-CATEX Actions

Any other GSA action requires an EIS when the results of an EA indicate the likelihood of significant effects on the quality of the human environment.

## 3.4 DETERMINING THE APPROPRIATE LEVEL OF ANALYSIS

### 3.4.1 Determining Purpose and Need

The first step in determining how much environmental analysis an action needs is to determine the purpose and need for the action. That is, clearly specify what GSA is trying to accomplish, and why. For example, the Corps of Engineers may need to establish a new district office in a given area, in response to Congressional direction, and the purpose of a GSA space action might be to accommodate that need.

Care is important in determining purpose and need because this determination defines the range of alternatives that can be considered and, as a result, greatly influences whether the action is likely to have a significant effect. For example, if the Corps of Engineers' district office will have a staff of 50, and can be located in a major urban center with extensive available office space, the only realistic alternatives will probably be the use of existing Federal facilities and leasing existing space, and the action may be a CATEX. If the district office will have a staff of 400, and Congress has directed that it be located in a small town or rural area, new construction will probably be an alter-

native that must be considered, and an EIS will probably be necessary.

### 3.4.2 Defining the Action

Based on the purpose and need, the next step is to define the proposed action. In the first of the examples given above, assuming no Federal office space is available, the action might be defined as leasing space for 50 Corps of Engineers employees in any of several cities in an area, or perhaps in a preferred city. In the second example, the action might be defined as constructing facilities for 400 Corps employees in a specified community.

### 3.4.3 Is the Action Obviously a CATEX or Does It Obviously Require an EIS?

Having decided what the action is, you can now refer to Chapter 5 and see whether the action falls into a listed CATEX category, and if so, whether it requires completion of a checklist. If it does require a checklist, complete the checklist (or have a qualified contractor prepare it) and document the results. If the checklist indicates that extraordinary circumstances may exist, and that as a result the action MAY have a significant effect, go on to prepare an EA. If the checklist indicates that the action WILL have a significant effect, go on to prepare an EIS. If the checklist does not indicate such circumstances, document this conclusion. The action can now proceed.

On the other end of the spectrum, you can refer to Chapter 7 and see whether the action falls into a class that always requires an EIS. If so, proceed with the process set forth in Chapter 7. If not, conduct an EA following the procedures in Chapter 6.

## 3.5 INDICATORS OF SIGNIFICANCE (FACTORS TO CONSIDER)

Determining the appropriate level of analysis is not a cut and dried matter of referring



to lists; it requires judgment. In applying such judgment, there are a number of factors to consider, based on the CEQ list of “indicators of significance” (see Subsection 3.2.3, above). For CATEXs, these factors define the “extraordinary circumstances” as required by 40 CFR 1508.4, and are reflected in the CATEX Checklist. They are also factors (but not necessarily the only factors) to consider in conducting an EA to determine whether an EIS is needed, and to consider in scoping (see Chapter 4). As discussed in Chapter 4, scoping is the process of determining the scope of NEPA analysis, through review of existing data, consultation, and an appropriate level of public participation.

The CEQ list is not inclusive, but reflects issues that are often involved in GSA actions. Use good judgment and consult with the REQA when you apply the list to any specific situation. Further study (e.g., a Phase II Environmental Site Assessment; a historic buildings survey) may be needed before answering some of these questions (see Chapter 9).

### **3.5.1 List of Factors**

#### **3.5.1.1 Consistency With Law**

- Could the action threaten a violation of Federal, State, Indian tribal, or local law or requirements imposed for protection of the environment (e.g., State air quality standards, EPA’s solid waste management guidelines, OSHA noise standards, local historic preservation ordinances)?
- Could the action require a permit under any Federal, State, or local environmental law?
- Could the action have impacts on environmental resources held in trust for Indian tribes by the U.S. government?

#### **3.5.1.2 Consistency With Existing and Desired Local Conditions**

- Could the infrastructure demands of the action (e.g., sewer, water, utilities, street system, public transit) be considered a burden by local or regional officials?
- Is the action incompatible with existing zoning or the official land use plan for the specific site and/or the affected delineated area?
- Could the action be located on or adversely affect parklands, prime farmlands, floodplains, wetlands, wildlife refuges, wild and scenic rivers, National Natural Landmarks (NNL), National Parks, National Monuments, Federally designated wilderness, areas under study for NNL, Wilderness, National Park or Monument status, or other ecologically critical areas?
- Could the action alter or affect an area that is being considered or has been identified for protection by Federal, State, regional, or local government agencies or Indian tribes? Examples include, but are not limited to, Wilderness, Wild and Scenic River, Historic Landmark, open space or conservation areas.

#### **3.5.1.3 Toxic and Hazardous Materials**

- Could the action result in the use, storage, release and/or disposal of any toxic, hazardous, or radioactive materials?
- Is the action located on or near an active or abandoned toxic, hazardous or radioactive materials generation, storage, transportation or disposal site? (Applying this factor may require a Phase I site characterization study in cases of site acquisition, new construction, lease construction, constructions of additions, and real property disposal.)

#### 3.5.1.4 Natural Environment

- Could the action adversely affect an endangered or threatened species, a species under official Federal, State, or Indian tribal consideration for such status, or the critical habitat of such a species?
- Is the action located on or near an active geological fault or other unique geological feature that would affect the safety or environmental impact of the project?

#### 3.5.1.5 Sociocultural Environment

- Could the action cause changes in the ways members of the surrounding community, neighborhood, or rural area live, work, play, relate to one another, organize to meet their needs, or otherwise function as members of society, or in their social, cultural, or religious values and beliefs?
- Could the action have environmental impacts on a minority or low-income group that are out of proportion with its impacts on other groups?
- Could the action affect properties included in or eligible for the National Register of Historic Places, or other culturally valued properties such as traditional neighborhoods or communities, cemeteries, culturally significant rural areas, archeological sites, or places of religious importance to Indian tribes, Native Alaskans or Native Hawaiian groups?
- Could the action affect the practice of a Native American religion, for example, by impeding access to a sacred place?

#### 3.5.1.6 Controversy, Uncertainty, Risks

- Could the action generate controversy on environmental grounds? The controversy must be related to potential im-

pacts on some aspect of the environment; mere unpopularity of an action (without an environmental nexus) is not sufficient to trigger this indicator.

- Does the action have effects on the human environment that are highly uncertain or involve unique or unknown risks?

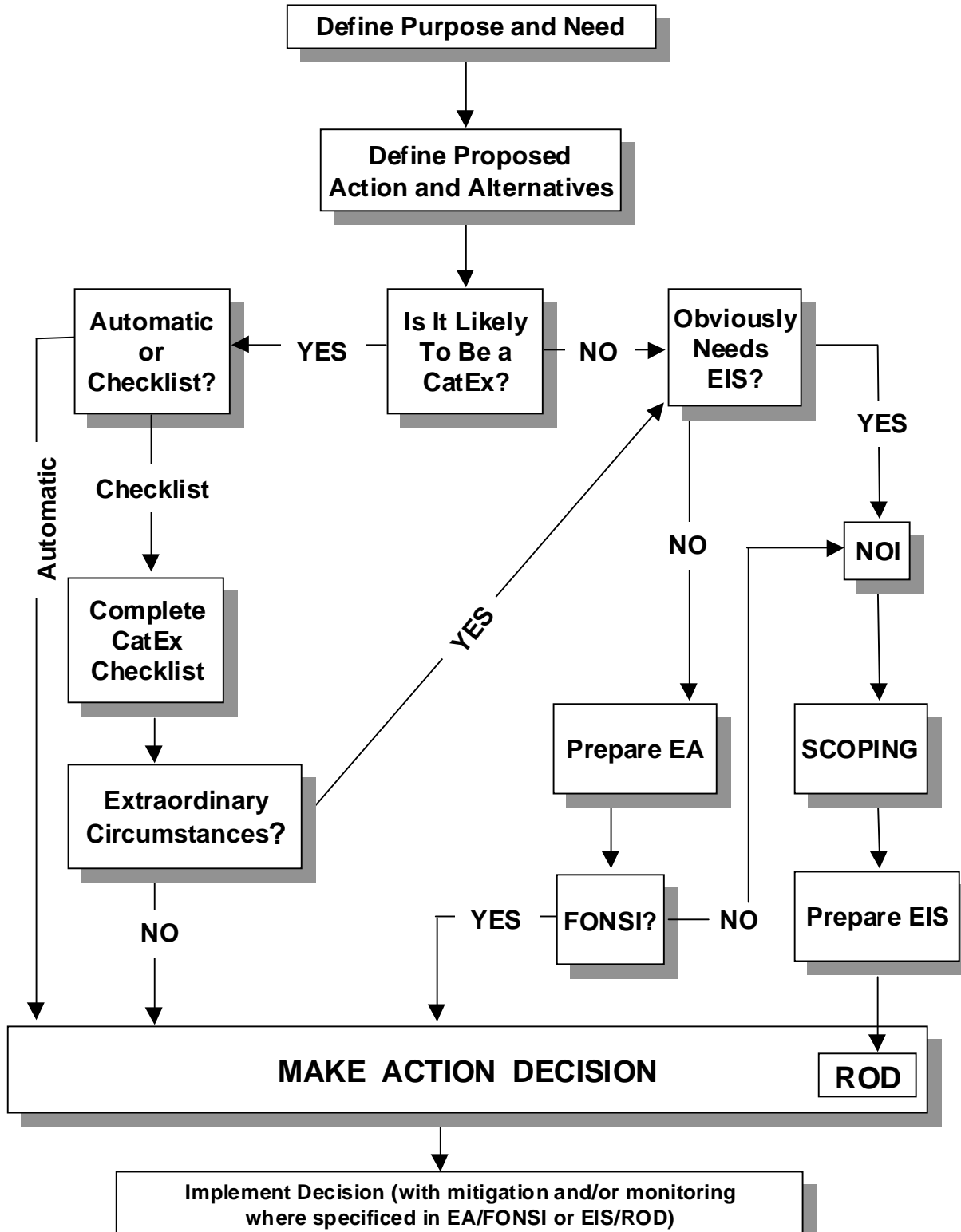
#### 3.5.1.7 Cumulative and Precedential

- Is the action related to other actions with individually insignificant but cumulatively significant impacts? For example, is the action part of an ongoing pattern of development that could collectively change the quality of the human environment such as suburbanization, “gentrification,” or urban renewal?
- May the action establish a precedent or represent a decision in principle that could lead to future actions with significant environmental effects?

#### 3.5.1.8 Other

- Could the action affect public health and safety in any other ways not specifically listed above?
- Could the action have any direct or indirect effects on any other environmental media or resources not specifically listed above?

Exhibit 3-1: NEPA IN A NUTSHELL



## CHAPTER 4 - SCOPING AND PLANNING FOR PUBLIC INVOLVEMENT

### 4.1 SCOPING

#### 4.1.1 Purpose

"Scoping" means determining the scope or range of environmental analysis needed. Although scoping is discussed in the CEQ regulations largely in the context of EIS preparation, there is actually a scoping element to any kind of NEPA analysis. In 15 separate places, the CEQ regulations state that scoping is a key tool to help eliminate unimportant issues, focus the analysis on important issues, and prevent redundancy and excess bulk in documents.

#### 4.1.2 Definitions

##### 4.1.2.1 "Scoping"

Scoping is defined in the CEQ regulations as follows:

There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. [...]

(a) As part of the scoping process the lead agency shall:

- (1) Invite the participation of affected Federal, State, and local agencies, any affected Indian Tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds) [...]
- (2) Determine the scope and the significant issues to be analyzed in depth [...]
- (3) Identify and eliminate from detailed study the issues which are not sig-

nificant or which have been covered by prior environmental review [...] narrowing the discussion of these issues [...] to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.

- (4) Allocate assignments [...] among the lead and cooperating agencies ...
  - (5) Indicate any public Environmental Assessments and other Environmental Impact Statements which are being or will be prepared that are related to but are not part of the scope of the [document] under consideration.
  - (6) Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the [document]... .
  - (7) Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.
- (b) As part of the scoping process the lead agency may:
- (1) Set page limits on environmental documents [...]
  - (2) Set time limits [...]
  - (3) Adopt procedures [...] to combine its environmental assessment process with its scoping process.

- (4) Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.

**40 CFR 1501.7**

#### 4.1.2.2 Scope

The scope of environmental analysis under NEPA is very specifically defined in the CEQ regulations as follows:

Scope consists of the range of actions, alternatives, and impacts to be considered ...

... agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

- (a) Actions (other than unconnected single actions) which may be:

- (1) Connected actions, which means that they are closely related and therefore should be discussed [together]. Actions are connected if they:

- (i) Automatically trigger other actions which may require [an EA or EIS].

- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

- (2) Cumulative Actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed [together].

- (3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have

similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions [together]. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single [document].

- (b) Alternatives, which include:

- (1) No action alternative.

- (2) Other reasonable courses of actions.

- (3) Mitigation measures (not in the proposed action).

- (c) Impacts, which may be:

- (1) Direct;

- (2) Indirect;

- (3) Cumulative.

**40 CFR 1508.25**

#### 4.1.3 Application

Some kind of scoping is used at all three levels of NEPA analysis:

- For CATEXs that require an environmental checklist, completing the checklist is a form of scoping.
- For EAs and EISs, scoping is needed to determine, up front, what issues to address, and the kinds of expertise, analyses, and consultations likely to be needed. Scoping can thus serve as the basis for budgeting the time and money necessary for the work. Scoping for an EA also may lead to the identification of significant potential effects, and the decision to prepare an EIS instead.

With the advice of or at the direction of the REQA, you will determine how much and what kind of scoping is necessary for a

specific action, and which specific methods of obtaining agency, Tribal, proponent (if any) and other public participation will be used.

Scoping streamlines the NEPA process by limiting the range of analysis to only those issues that are significant, while ensuring that a full range of action alternatives is explored and all potential impacts are identified at the beginning of the planning process.

There are two kinds of scoping: internal and external.

#### **4.1.4 Internal Scoping**

Internal scoping means scoping carried out within GSA and by GSA personnel and contractors. It may be the only kind of scoping done on a CATEX, or in scoping a simple EA, or it may be used prior to and in conjunction with public scoping. Internal scoping includes interdisciplinary analysis, review of previous actions, and review of pertinent background data. The REQA should always be involved in internal scoping.

##### **4.1.4.1 Interdisciplinary Analysis**

NEPA requires use of an “interdisciplinary approach” to environmental analysis. This is most easily accomplished by using an interdisciplinary team whose members represent areas of expertise appropriate to the scope of analysis and the environmental issues identified during scoping. (Section 102(2)(A) of NEPA, and 40 CFR 1502.6 in **Appendix 1.**)

Determining what sort of interdisciplinary team will be needed is an important function of scoping, but some level of interdisciplinary analysis is needed during scoping itself. The REQA should be able to provide you with the interdisciplinary expertise required for NEPA analyses, either with staff resources or by contract.

##### **4.1.4.2 Review of Previous Actions**

Environmental issues pertinent to an action can often be identified by reviewing the NEPA documents, background studies, and similar documents prepared for prior actions in the area. Even if GSA has not performed a NEPA analysis in the area before, it is likely that another agency has, or perhaps pertinent studies have been carried out under another Federal, State, or local authority. Review of previous environmental records can also help simplify the actual NEPA analysis and documentation, since CEQ regulations allow an EIS or EA to incorporate the results of previous environmental reviews by reference — that is, to cite such results as one would cite previously published information in any kind of subsequent report. The REQA should be able to assist you in obtaining the results of previous environmental analyses, and in interpreting them.

##### **4.1.4.3 Review of Pertinent Background Data**

Background data on the area or areas in which your proposed action may take place, including alternatives, can serve as an important basis for scoping. Background data on soils, geology, hydrology, sociology, archeology, history, economic conditions, cultural activities, architecture, air and water quality, and current and former land uses can all be pertinent, depending on the nature of the action and the factors likely to be involved in analysis. Often such data are readily available either within GSA or from libraries and other public institutions. The REQA should be able to assist you in identifying and reviewing such data.

##### **4.1.5 External Scoping**

External scoping, including formal public involvement, consultations with agencies with jurisdiction by law or expertise, and publication of notices and draft documents, is required by the CEQ regulations. It is

used to refine, adjust, or correct the issues identified by internal scoping.

#### **4.1.5.1 Agencies with Jurisdiction by Law or Expertise**

Consultation with other Federal, State, and local government agencies, and with Indian tribes through government-to-government mechanisms, is crucial to successful external scoping under NEPA, and is required by the CEQ regulations as a part of EIS scoping.

The regulations require consultation with "agencies with jurisdiction by law or expertise." Agencies with "jurisdiction by law" are those whose permission or assistance may be required by GSA in order for the action to proceed (e.g., the Army Corps of Engineers if wetlands may be affected), and those with other kinds of regulatory or advisory authority with respect to the action or its effects on particular environmental factors (e.g., the Fish and Wildlife Service with respect to endangered species, or the Advisory Council on Historic Preservation with respect to historic properties). Agencies with "expertise" are those who are likely to have authoritative information and opinions about the area where the action is proposed, or about environmental impacts (e.g., the National Biological Service in the Department of the Interior, or a State Historic Preservation Officer). Federal, State, Indian tribal, and local agencies with jurisdiction by law or expertise should all be consulted. Consultation should be an ongoing process. Continued dialogue and discussions with relevant outside agencies is essential to good GSA decisions and smooth NEPA processes.

The list of pertinent agencies, arranged by environmental resource or topic, is included in the **Appendix 4** to this Desk Guide. Appendix 4 also contains non-governmental organizations which may have an interest in the action. Depending on the nature of the topic, and applicable laws and regulations, it

may be appropriate to involve some of these agencies as "cooperating agencies" (see Section 2.6.2, above). The list provided in the Appendix 4 is not exclusive and may not be up-to-date when you use this Desk Guide. The REQA should be able to help you identify agencies pertinent to the action under review.

#### **4.1.5.2 Public Participation**

Public participation, or public involvement, is required by CEQ as a part of EIS scoping. Often public participation also is appropriate in the preparation of EAs, and in determining whether exceptional circumstances exist that prevent application of a CATEX. The level and kind of public participation depend on the nature of your proposed action and the likely environmental issues identified during internal scoping (see Section 4.1.4 above).

#### **4.1.5.3 Documenting the Results of Scoping**

The written results of scoping depend on the level at which scoping is done. The documentary result of scoping a CATEX is a completed checklist; that of an EA or EIS is typically the scope of work for the analysis to be performed, or a scoping document that serves as the basis for developing a scope of work. Chapter 7 presents a list of items that should be covered in an EIS scoping document; this list can be used, as applicable, in documenting scoping at other levels of NEPA analysis as well.

### **4.2 PLANNING FOR PUBLIC INVOLVEMENT**

#### **4.2.1 When Is Public Involvement Appropriate?**

Public involvement is appropriate:

- During scoping;

- During the actual analysis of alternatives, the affected environment, and potential impacts; and
- During the review of the results of analyses as recorded in CATEX Checklists, EAs, and EISs.

The level and kind of public involvement varies widely and depends on the nature of the action and the issues involved. The important thing to remember is that public involvement is not simply a matter of holding a meeting, hearing the public's views, and ignoring them. It involves ongoing dialogue with concerned members of the public, aimed to the extent feasible at reaching agreement.

#### 4.2.2 Means of Providing for Public Involvement

There are many ways to accomplish appropriate public involvement, and there is a growing literature on such methods. Some sources list up to 100 different ways of achieving interactive (two-way) communication. Specific kinds of public participation may include workshops, formal and informal consultation, field trips, facilitated and mediated consultation, public meetings, and solicitation and review of and response to comments. One-way information flow, often called public relations or public education, can be achieved through various kinds of paper or electronic publications, information fairs, and electronic interactive media. Professional assistance in interactive media, meeting management, facilitation, and mediation may be necessary in complex or controversial cases.

Recommended ways of involving the concerned public include:

- Find who the potential "stakeholders" (that is, those with an economic, cultural, social, or environmental "stake") in the action are, through background re-

search, consultation with knowledgeable parties, and public meetings.

- Consult with stakeholders to establish and address their concerns.
- Where appropriate and necessary, use facilitators or mediators.
- Where feasible and consistent with the Federal Advisory Committees Act (FACA), seek formal, written agreement with stakeholders on whether and how to move forward with the action, what mitigation measures to take, etc.

Where there may be language or cultural barriers to effective communication about a decision (e.g., where a low-income or minority community is involved that is not proficient in English), be sure that public participation measures are sensitive to such barriers and help people try to overcome them. Translations into the community's usual language, and meetings held in ways that accommodate their cultural traditions, values, and modes of communication may be necessary. Again, professional assistance may be necessary.

When you hold public meetings for purposes of scoping, you must:

- Ensure that meeting facilities are accessible to the disabled;
- Provide signers or interpreters for the hearing impaired.
- Make special arrangements as needed for consultation with affected Indian tribes or other Native American groups who have environmental concerns that cannot be shared in a public forum.

Public participation activities must be sensitive to the requirements of the FACA, which controls the use of external advisory committees in agency decisionmaking. Generally speaking, if you intend to use an advi-



sory committee with members from outside the government to reach consensus on a decision, this committee will almost certainly require a formal GSA charter. You may risk violating FACA if you participate in collaborative activities or partnerships, or if you hold regular meetings with interest groups (other than Federally recognized Indian tribes). Occasional meetings with such groups should not be a problem if solicited by the outside group and as long as they do not become regular. Public meetings and workshops are not problems under FACA provided they are truly open and widely advertised.

#### 4.2.3 Establishing the Appropriate Level of Public Involvement

Establishing the appropriate level and kind of public involvement is an important part of scoping any NEPA analysis. Obviously, not all GSA decisions subject to NEPA review require the same level and kind of public involvement.

Some students of management classify decisions into the following five types, based on the amount and kind of public participation they require<sup>1</sup>:

- *Autonomous decision*: The responsible official makes the decision alone, without public involvement.
- *Semi-autonomous decision*: The responsible official seeks input from the public, but then makes the decision alone in a way that may or may not reflect the public's input.

---

<sup>1</sup> This discussion is largely based on the work of V. Vroom and P. Yetton (1973: Leadership and Decisionmaking; University of Pittsburgh Press, Pittsburgh), as applied to ecosystem management by S.E. Daniels, R. L. Lawrence, and R. J. Alig in "Decision-Making and Ecosystem-Based Management: Applying the Vroom-Yetton Model to Public Participation Strategy" (Environmental Impact Assessment Review 1996:16:13-30, Elsevier, New York).

- *Segmented public consultation*: The responsible official discusses the potential decision, its impacts, and options for resolving impacts separately with different segments of the public, gets their ideas, and then makes a decision that reflects (among other things) the influence of the various groups, and GSA's best effort to balance their interests.
- *Unitary public consultation*: The responsible official discusses the potential decision, its impacts, and options for resolving impacts with the public as a single, assembled group. The decision is then crafted, as best it can be, to reflect both the needs that require the action being decided on and the influence of the public.
- *Public decision*: The responsible official shares the need for a decision with the public, and attempts to reach agreement on what decision to make.

To determine the kind of decision necessary for your action, answer the following questions:

- Does the action involve requirements that could make one alternative way of carrying out the action better than another? For example, are there engineering requirements, architectural requirements, legal review requirements, or environmental, public health, or other standards that could make one way of doing the project better than another? A space acquisition decision, for instance, is subject to a host of such requirements, while purchasing office supplies is subject to only a few (e.g., cost, quality, availability, government procurement policies).
- Do you have enough information before beginning the process of decisionmaking to make the decision and make it right? Using our previous example, you could never have *all* the information

needed to make a space acquisition decision before beginning the process of planning and review of data, but the information needed to purchase office supplies is probably readily at hand.

- Is the subject of the decision such that there are multiple potentially feasible alternatives, or not? For example, there are usually a number of alternative ways to carry out a major space acquisition, but if a single agency's staff has increased and space is needed, you could choose to simply acquire additional space in the building the agency already occupies.
- Is public acceptance important to carrying out the decision? Public acceptance is almost never a concern when you purchase office supplies (though acceptance by users may be), but it is often (though not always) a concern when you acquire space.
- Is public acceptance reasonably certain, even if the decision is made without public involvement?
- Does the public that is relevant to the decision share GSA's goals regarding the decision?
- Is conflict within the public, or between the public and GSA, likely to result from one or more of the potential alternative decisions?

Answering "yes" or "no" to each of these questions will lead you to a logical and defensible conclusion about how much and what general kind of public participation you will need to make a good decision on your action (See **Exhibit 4-1**).

See Chapters 5, 6, and 7 for discussion of public participation in the application of CATEXs, the preparation of EAs, and the preparation of EISs.

Public participation processes designed for carrying out NEPA requirements also can be used to comply with the requirements of other environmental laws, such as the NHPA; the CERCLA; the Native American Graves Protection and Repatriation Act (NAGPRA); Superfund Amendments & Reauthorization Act (SARA) Title III (Emergency Planning and Community Right-to-Know Act, or EPCRA); and Executive Orders (EO) 11988, 11990, and 12372. Some of these laws, and their implementing regulations, establish specific procedures for consultation that you should consider in planning public participation under NEPA. A NEPA public participation program that does not address these requirements will not be adequate to demonstrate compliance with the other laws.

#### 4.2.4 Ensuring Understandability

As part of scoping, make sure that arrangements are made to make the NEPA analysis as clear, simple, and straightforward as possible, and to make the resulting NEPA document (whether an EA or EIS) as understandable as possible to both decisionmakers and the public. Minimize the use of jargon, and explain technical terms where they must be used. Plan to use graphics to the maximum extent possible. "Before" and "After" representations of the likely effects of various alternatives are especially effective. Try to make sure that the character of the environment, the alternatives, and the effects of each alternative are clearly conveyed to the reader. Where some readers use languages other than English as their first language, consider providing summaries in these languages. NEPA documents should be written in such a way that a reasonably literate high school student can understand them.

**EXHIBIT 4-1: DETERMINING LEVEL OF PUBLIC PARTICIPATION**

	YES	NO
Special Requirements?		
Sufficient Information?		
Decision Predetermined?		
Public Acceptance Critical?		
Acceptance Reasonably Certain?		
Shared Goals?		
Conflict Likely?		

## CHAPTER 5 - CATEGORICAL EXCLUSIONS

### 5.1 PURPOSE

The stated purpose of Categorical Exclusions (CATEXs) is to limit extensive NEPA analysis to those actions that may be major Federal actions significantly affecting the quality of the human environment, thus streamlining the NEPA process, saving time, effort, and taxpayer dollars.

### 5.2 DEFINITION

Your action may be categorically excluded from the requirement to prepare an EA or an EIS if it meets the following criteria:

“Categorical exclusion” means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency [...] and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.

**40 CFR 1508.4**

GSA has identified two types of CATEXs:

- (1) The "automatic" CATEX, that by its very nature cannot be a major Federal action significantly affecting the quality of the human environment, and
- (2) The "checklist" CATEX, which requires completion of an environmental checklist to ensure no “extraordinary circumstances” exist to indicate the need for an EA or EIS.

If GSA is proposing an action where one alternative is an automatic CATEX and one is a checklist CATEX (that is, requires the preparation of a CATEX checklist), you must perform the more rigorous of the two CATEX options for the action. The checklist

may result in a CATEX or indicate the need for an EA or EIS. For example, if GSA is proposing to locate office space either by leasing existing space or by lease construction, you must prepare a checklist on the lease construction alternative to ensure that its potential impacts have been considered, even though use of the existing space alternative qualifies as an automatic CATEX. Following the same logic, if one alternative would be a CATEX (automatic or checklist) and another would require an EA, you must perform an EA on the overall action.

### 5.3 AUTOMATIC CATEXs

The following are automatic CATEXs and require no checklist:

- (a) Outleases, licenses, and other arrangements for non-federal use of space in existing Federal office buildings, where such use is consistent with local planning and zoning, where Section 106 of the NHPA is complied with where applicable; and there is no evidence of community controversy or unresolved environmental issues.
- (b) Acquisition of space within an existing structure, either by purchase or lease, where no change in the general type of use and only minimal change from previous occupancy level is proposed (previous occupant need not have been a Federal tenant).
- (c) Relocation of employees into existing Federally controlled space, that does not involve a substantial change in the number of employees or motor vehicles.
- (d) Reductions in force or other personnel, administrative, or ministerial actions, including bargaining with employee

unions and managing routine activities normally conducted to protect or maintain GSA-controlled properties (e.g., security and custodial services).

(e) Lease extensions, renewals, or succeeding leases.

(f) Outlease or license of government-controlled space, or sublease of government-leased space to a non-Federal tenant when the use will remain substantially the same.

(g) Acquisition of land or easements that result in no immediate change in use and where subsequent compliance with NEPA and other applicable laws and regulations will take place as needed.

(h) Site characterization studies and environmental monitoring, including siting, construction, operation, and dismantling or closing of characterization and monitoring devices. Such activities include, but are not limited to:

- Site characterization and environmental monitoring activities under the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
- Geological, geophysical, geochemical, and engineering surveys and mapping, including the establishment of survey marks;
- Installation and operation of field instruments, such as stream-gauging stations or flow-measuring devices, telemetry systems, geochemical monitoring tools, and geophysical exploration tools;
- Drilling of wells for sampling or monitoring of groundwater, well logging, and installation of water-level recording devices in wells;

- Aquifer response testing;
- Installation and operation of ambient air monitoring equipment;
- Sampling and characterization of water, soil rock, or contaminants;
- Sampling and characterization of water effluents, air emissions, or solid waste streams;
- Sampling of flora or fauna;
- Historic property identification and evaluation studies in compliance with the National Historic Preservation Act (NHPA).

(i) Administrative actions such as procurement of consultant services for appraisal or environmental analysis.

(j) Repair and alteration projects involving, but not adversely affecting, properties listed on or eligible for the National Register of Historic Places, when there is no evidence of community controversy or other environmental issues. The process required by Section 106 of the NHPA must be followed; see ADM 1020.2.

(k) Other repair and alteration projects where:

- No toxic or hazardous substances are involved with the project or exist in or on the property where the project takes place;
- No properties listed on or eligible for the National Register of Historic Places are involved;
- The building footprint or envelope will not be increased;
- There is no evidence of community controversy; and

- There is no evidence of other unresolved environmental issues.
- (l) Repairs and alterations or modernization conducted in accordance with applicable plans, such as Facility Master Plans, where such plans have been reviewed under NEPA and there is no evidence of community controversy or unresolved environmental issues. The process required by Section 106 of the NHPA must be followed; see ADM 1020.2.
- (m) Repair to or replacement in kind of equipment or components in GSA-controlled facilities without change in location, e.g. HVAC, electrical distribution systems, windows, doors or roof where there is no evidence of unresolved environmental issues.
- (n) Facility maintenance, custodial, and groundskeeping activities not involving environmentally sensitive areas (such as eroded areas, wetlands, cultural sites, etc.), including window washing, lawn mowing, trash collecting, and snow removal.
- (o) Procurement contracts for professional services and supplies not addressed elsewhere here.
- (p) Preparation of implementation guidance.
- (q) Studies that involve no commitment of resources other than manpower and funding.
- (r) Assisting Federal agencies in public utilities management (excluding communications), negotiating for public utility services on behalf of Federal agencies, and providing expert testimony before public utility regulatory bodies.
- (s) Federal real property utilization surveys in accordance with Executive Order 12348.
- (t) Real property inspections for compliance with deed restrictions.
- (u) Administrative action by GSA to remove clouds on titles.
- (v) Disposal of real property required by public law wherein Congress has specifically exempted the action from the requirements of NEPA

#### 5.4 CHECKLIST CATEXS

The following are categorical exclusions that require preparation of a checklist to ensure that no extraordinary circumstances exist that would require preparation of an EA or EIS.

- (a) Acquisition of land which is not in a floodplain or other environmentally sensitive area and does not result in condemnation.
- (b) Acquisition of space by Federal construction or lease construction, or expansion or improvement of an existing facility where all of the following conditions are met:
  - (1) The structure and proposed use are substantially in compliance with local planning and zoning and any applicable State or Federal requirements (see Pertinent Regulations and Orders, in the **Appendix 1**);
  - (2) The proposed use will not substantially increase the number of motor vehicles at the facility;
  - (3) The site and the scale of construction are consistent with those of existing adjacent or nearby buildings; and
  - (4) There is no evidence of community controversy or other environmental issues.

- (c) Property disposal actions undertaken for another Federal agency, where that agency has already documented compliance with applicable legal requirements such as NEPA, NHPA, CERCLA, and ESA (see Pertinent Regulations and Orders in Appendix 1). (See ADM 1095.1d.)
- (d) Transfers of real property to Federal, State, and local agencies, and Indian Tribes.
- (e) Assignments of real property to another Federal agency for subsequent conveyance to a State or local agency, or to eligible non-profit institutions for health, educational, or park and recreation uses.
- (f) Disposal of real property to State or local agencies for wildlife conservation and historic monument purposes.
- (g) Disposal of real property required by public law wherein Congress has not specifically exempted the action from the requirements of NEPA.
- (h) Outleases, licenses, and other arrangements for non-federal use of land or space in facilities other than existing Federal office buildings.
- (i) Disposal of related personal property, demountable structures, transmission lines, utility poles, railroad ties, and track.
- (j) Disposal of properties where the size, area, topography, and zoning are similar to existing surrounding properties and/or where current and reasonable anticipated uses are or would be similar to current surrounding uses (e.g., commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, row house or vacant lot in an urban area).
- (k) Abrogation of use restrictions contained in the conveyance documents of previous disposals when:
  - (1) Upon request of another Federal agency for concurrence, GSA only provides concurrence subject to the requesting agency's compliance with NEPA, or
  - (2) GSA has no reason to believe that the abrogation will result in a significant change in property use, or
  - (3) The abrogation is for a reduction in time only.
- (l) Sale of improvements to underlying property fee owner and disposal of fee ownership to parties who have had possession and/or use of the property for five years or more through permit, lease, license, or easement.
- (m) Archaeological studies permitted under the Archaeological Resources Protection Act (ARPA) and paleontological studies.
- (n) Installation of antennae consistent with GSA Bulletin FPMR D-242, "Placement of commercial antennas on Federal property".

## 5.5 TIMING

For automatic CATEXs, no review is necessary. Therefore, timing is moot.

For Checklist CATEXs, the checklist should be completed as early as possible to ensure that NEPA and any other required environmental compliance is met before you decide to initiate the action. As soon as the need for a potentially excluded action is identified and clearly formulated, use and complete the checklist.

## 5.6 RESPONSIBILITIES

The project manager (project manager, realty specialist, asset manager, facility specialist, building manager, property manager, project developer) is responsible for determining whether the action meets the criteria for either an automatic or a Checklist CATEX, and documenting that determination in the project file. (see **Exhibit 5-1**).

Checklists must be completed by, with the oversight of, or in consultation with the REQA.

## 5.7 SCOPING FOR CATEXs

Checklist CATEXs require internal, and possibly external, scoping (see Chapter 4) to give you or the REQA the basis for preparing the environmental checklist. The REQA must be involved in checklist preparation, as the party that actually prepares the checklist, in consultation with program personnel who do so, or in an oversight and review capacity. External environmental experts and agencies with jurisdiction by law or expertise (such as the U.S. Fish and Wildlife Service and the appropriate State Historic Preservation Officer) must be consulted as needed, along with local government representatives, interest groups, and Indian tribes, as appropriate. Consultation should be documented in the project file.

The purpose of this level of scoping is to ensure that no “extraordinary circumstances” exist that would require preparation of an EA or EIS. Usually, the necessary information can be obtained through library or other internal GSA research, and consultation with outside parties can be accomplished via telephone and written correspondence—without the need for public meetings.

## 5.8 PUBLIC PARTICIPATION IN CATEXs

Generally, determining whether an action is a CATEX requires no public participation, but if an individual or group expresses interest in the project's environmental effects, they should be kept informed of the CATEX review and provided with a copy of the completed CATEX checklist.

## 5.9 COMPLETING THE ENVIRONMENTAL CHECKLIST

Section 2.2.2.3 of this Desk Guide requires, each REQA to maintain a CATEX checklist. You and the REQA will use this checklist to consider the possible environmental consequences of Checklist CATEX actions.

Exhibit 5-1 is a model CATEX checklist. All Regional checklists are to be developed in consultation with the GSA NEPA Liaison and based on Exhibit 5-1. Instructions for completing the model checklist presented in Exhibit 5-1 are as follows:

### 5.9.1 Entering Basic Data

- **Action Name:** Give the project name and any identifying number or code.
- **Action Location:** For actions with specific or general locations (e.g., real estate transactions), give the address, including lot and block #, if appropriate.
- **Action Description:** Be as specific as possible, using additional sheets if needed; this will help you to determine the CATEX category in which your action fits and how to complete the rest of the checklist.
- **Category:** List the category into which you think the action falls (from Section 5.4 above).



### 5.9.2 Considering Environmental Consequences

The list of "Potential Environmental Consequences" is the heart of the checklist. It consists of eleven questions, each calling for a judgment by you and the REQA about the likelihood that a particular kind of environmental consequence will result from the proposed action. You or the REQA can complete this portion of the checklist, but if you complete it, you must consult with the REQA.

Based on internal review, external review (where appropriate), and research, check "YES," "NO," or "NEED DATA" for each question. Attach documentation as needed to support your answer. If you cannot check "YES" OR "NO," check "NEED DATA," and consult with the REQA about what data are needed and how to get them.

To help you decide whether to check "YES," "NO," or "NEED DATA," consider the following:

#### 5.9.2.1 Checklist Question A:

**Is the action likely to be inconsistent with any applicable Federal, State, Indian tribal, or local law, regulation, or standard designed to protect any aspect of the environment?**

Think about whether your action is likely to have effects that would be inconsistent with such authorities as:

- EPA's solid waste management guidelines;
- Occupational Safety and Health Administration (OSHA) noise standards;
- A State Implementation Plan (SIP) under the Clean Air Act;
- Executive Order 11988 (Floodplain protection);
- Executive Order 12072 (Development in central business areas);
- Executive Order 13006 (Priority use of historic properties);
- A State's Coastal Zone Management Plan; or
- Applicable state, Indian tribal, or local environmental protection, historic preservation, noise control, visual impact, or social impact control ordinances.

Also consider whether your action is likely to need a permit under the Clean Air Act (CAA), Section 404 of the Clean Water Act (CWA), or another authority related to environmental protection, and whether it might affect environmental resources held in trust for Indian tribes by the U.S. Government, such as lands or other resources to which tribes have rights by treaty.

#### 5.9.2.2 Checklist Question B:

**Is the action likely to have results that are inconsistent with locally desired social, economic, or other environmental conditions?**

Think about whether your action is likely to:

- Change traffic patterns or increase traffic volumes;
- Have access constraints;
- Affect a congested intersection;
- Result in housing workers or others more than one-quarter of a mile from public transit;
- Require substantial new utilities;
- Be inconsistent with existing zoning, surrounding land use, or the official land use plan for the specific site and/or the affected delineated area;

- Be regarded as burdensome by local or regional officials or the public, because of infrastructure demands (e.g., sewer, water, utilities, street system, public transit);
  - Change the use of park lands;
  - Change the use of prime farm lands;
  - Change the use of a floodplain;
  - Alter a wetland;
  - Be located on or near a wildlife refuge, a designated wilderness, a wild and scenic river, a National Natural Landmark, a National Historic Landmark, designated open space, or a designated conservation area;
  - Be located on or near an area under study for any such designation;
  - Be located on or near any other environmentally critical area; or
  - Have adverse visual, social, atmospheric, traffic, or other effects on such a critical area even though it is NOT located on or near the area.
- Involves a facility that may contain polychlorinated biphenyl (PCB) electric transformers, urea formaldehyde, or friable asbestos.
  - Would be on or near an EPA or State Superfund, or priority cleanup site.
  - Involves construction on or near an active or abandoned toxic, hazardous or radioactive materials generation, storage, transportation or disposal site.
  - Involves construction on or near a site where remediation of such materials has occurred.
  - Involves use of a site that contains underground storage tanks (USTs), as evidenced by historical data or physical evidence such as vent pipes or fill caps.
  - Involves water pipes and/or water supply appurtenances that contain lead in excess of EPA standards.
  - Involves a facility or water supply that may contain radon in excess of the EPA action level.

#### 5.9.2.3 Checklist Question C:

**Is the action likely to result in the use, storage, release and/or disposal of toxic, hazardous, or radioactive materials, or in the exposure of people to such materials?**

Consider whether your action is likely to result in the use, storage, release, and/or disposal of toxic materials such as fertilizers, cleaning solvents, or laboratory wastes, or of hazardous materials such as explosives.

Also consider whether your action:

If your action is a construction project, you may need to conduct a background historical study and field inspection to determine whether it is likely that hazardous, toxic, or radioactive materials are present (see Section 9.5). Historical data such as chains of title and tax records can reveal whether activities have taken place there that could have released hazardous, toxic, or radioactive materials into the site, and whether USTs are likely to be present. Field inspection may reveal evidence of USTs such as vent pipes or fill caps, and evidence of site contamination such as stressed vegetation, soil surface stains, suspicious drums, cans, and other possible waste containers, or ponds, pits, sumps or ditches with suspicious odors or smells.

**5.9.2.4 Checklist Question D:**  
**Is the action likely to adversely affect a significant aspect of the natural environment?**

Consider whether your action is likely to:

- Affect an endangered or threatened species, or its critical habitat;
- Affect a species under consideration for listing as endangered or threatened, or its critical habitat;
- Alter a natural ecosystem;
- Affect the water supplies of humans, animals, or plants;
- Affect the water table;
- Involve construction or use of a facility on or near an active geological fault;
- Result directly or indirectly in construction on slopes greater than 15%;
- Result in construction on or near hydric soils, wetland vegetation, or other evidence of a wetland; or
- Result in construction on or near any other natural feature that could affect the safety of the public, or the environmental impacts of the action.

**5.9.2.5 Checklist Question E:**  
**Is the action likely to adversely affect a significant aspect of the sociocultural environment?**

Think about whether your action is likely to cause changes in the ways members of the surrounding community, neighborhood, or rural area live, work, play, relate to one another, organize to meet their needs, or otherwise function as members of society, or in their social, cultural, or religious values and beliefs. Is your action likely to:

- Cause the displacement or relocation of businesses, residences, or farm operations;
- Affect the economy of the community in ways that result in impacts to its character, or to the physical environment;
- Affect sensitive receptors of visual, auditory, traffic, or other impacts, such as schools, cultural institutions, churches, and residences; or
- Affect any practice of religion (e.g., by impeding access to a place of worship)?

Give special attention to whether the action is likely to have environmental impacts on a minority or low income group that are out of proportion with its impacts on other groups. Consider, for example, whether the action is likely to:

- Result in the storage or discharge of pollutants in the environment of such a group;
- Have adverse economic impacts on such a group;
- Alter the sociocultural character of such a group's community or neighborhood, or its religious practices; or
- Alter such a group's use of land or other resources.

Also consider possible impacts on historic, cultural, and scientific resources. Think about whether the action is likely to have physical, visual, or other effects on:

- Districts, sites, buildings, structures and objects that are included in the National Register of Historic Places, or a State or local register of historic places;
- A building or other structure that is over 45 years old;

- A neighborhood or commercial area that may be important in the history or culture of the community;
- A neighborhood, commercial, industrial, or rural area that might be eligible for the National Register as a district;
- A known or probable cemetery, through physical alteration or by altering its visual, social, or other characteristics;
- A rural landscape that may have cultural or esthetic value;
- A well-established rural community, or rural land use;
- A place of traditional cultural value in the eyes of a Native American group or other community;
- A known archeological site, or land identified by archeologists consulted by GSA as having high potential to contain archeological resources; or
- An area identified by archeologists or a Native American group consulted by GSA as having high potential to contain Native American cultural items.

Particularly in rural areas, give special consideration to possible impacts on Native American cultural places and religious practices. For example, consider whether the action likely to alter a place regarded as having spiritual significance by an Indian tribe or Native Hawaiian group, impede access to such a place by traditional religious practitioners, or cause a change in the use of, or public access to, such a place.

#### **5.9.2.6 Checklist Question F:**

**Is your action likely to generate controversy on environmental grounds?**

Consider first whether your action is likely to be controversial in any way. If so, consider whether this controversy is likely to have an

environmental element. For example, the decision to locate an agency in a central business area may be controversial to employees who will have to commute from the suburbs, but this is not an environmental issue unless it can be reasonably argued that commuting will generate air pollution or have some other impact on the natural or sociocultural environment.

Environmental controversies can be about a host of things: impacts on historic buildings, archeological sites, and other cultural resources; impacts of traffic or parking on a community or neighborhood. To avoid missing a controversial issue that should be addressed under NEPA, be sure not to interpret the word "environmental" too narrowly.

#### **5.9.2.7 Checklist Question G:**

**Is there a high level of uncertainty about your action's environmental effects?**

Consider first whether there is anything you don't know about the action's potential impacts, and then think about whether what you don't know has any significance. For example, when considering an outlease in a Federal facility, you might not know whether there are archeological sites in the vicinity. If the outlease would result in major ground disturbance, this uncertainty should be resolved before proceeding with the project. If the outlease will not result in ground disturbance, there may be no need to resolve your uncertainty.

#### **5.9.2.8 Checklist Question H:**

**Is your action likely to do something especially risky to the human environment?**

Find out whether there is some possible effect of your action that, while improbable, would be so serious IF it occurred that further review is appropriate. For example, you want to acquire land in a non-sensitive area (See 5.4(d)) that is generally unlikely to have adverse effects on the environment,

but if there is an environmentally sensitive area downstream from the land you want to acquire, and use of the land might have the potential to cause pollution as groundwater flows through the sensitive area, then you must conduct further review.

#### **5.9.2.9 Checklist Question I:**

**Is your action part of an ongoing pattern of actions (whether under the control of GSA or others) that are cumulatively likely to have adverse effects on the human environment?**

Consider whether the action is related to other actions (by GSA or others) with impacts that are individually insignificant but that may, taken together, have significant effects. For example, is the action:

- Part of an ongoing pattern of development that could collectively change the quality of the human environment, such as suburbanization, "gentrification," or urban renewal?
- Part of an ongoing pattern of pollutant discharge, traffic generation, economic change, or land-use change in its locality that could collectively affect human health or the condition of the environment?

#### **5.9.2.10 Checklist Question J:**

**Is the action likely to set a precedent for, or represent a decision in principle about, future GSA actions that could have significant effects on the human environment?**

To answer this question, you must look forward and outward, and consider the possibility that what is done with your particular action will pave the way for future actions that could have serious environmental consequences. For example, you decide to issue a permit for the running of an all-terrain vehicle race across a particular surplus

military installation. Because of the character of the particular installation, it might be possible to answer "NO" to CATEX Questions A through I, but if your decision to issue a permit were taken as a precedent for allowing such races across ALL surplus military installations, or as a decision in principle by GSA that such permits are appropriate, then a higher level of review of the action may be in order.

#### **5.9.2.11 Checklist Question K:**

**Is the action likely to have some other adverse effect on public health and safety or on any other environmental media or resources that are not specifically identified above?**

This question is designed to allow you to address any potential environmental effects that may be of concern but don't fall into any of the other categories. It implies that everyone is fallible, and that times change, so that effects that are not recognized as serious today may be so identified in the future.

### **5.9.3 Completing the Checklist**

The checklist is not complete until all "NEED DATA" issues have been resolved and all blocks are checked either "YES" or "NO." Checking a single block to "YES" does not necessarily mean that an EA must be prepared; it may be possible to resolve the "YES" answer in another way. For example, disposal of real property to a State agency for historic monument purposes (CATEX 5.4(l)) invariably involves historic properties, and thus may affect an aspect of the sociocultural environment. However, it is probably safe to assume that the process of review under Section 106 of the NHPA will be sufficient to ensure that such effects are not adverse. So rather than completing an EA, you would ensure that your proposed action complies with Section 106 and its implementing regulations.

Resolve all "NEED DATA" issues and complete the checklist, attaching all supporting documentation. In the "Conclusions" section, circle the conclusion reached by the REQA, or by you in consultation with the REQA. Add the names of the relevant program staff and REQA representative below the signature blocks; then sign and date them. The checklist is now complete. It must be kept with the project files, and made available to the public and review agencies upon request, and as needed for review under authorities other than NEPA.

If you and the REQA cannot agree on the conclusions, consult the NEPA Liaison and Regional legal counsel for assistance.

### **5.10 FOLLOW THROUGH**

Do not just file the CATEX Checklist and forget it. Make sure that you do what is necessary to carry out the conclusions reached. If it is concluded that the CATEX requires no further review, then file the checklist with the project files, and make it available to others as needed. If the conclusion is that further review is needed under another authority (e.g., Endangered Species Act, Section 106), make sure that this review happens. If the conclusion is that an EA or EIS must be done, make sure that the appropriate level of analysis and documentation is carried out.

### **5.11 REQUIREMENTS FOR ENVIRONMENTAL ANALYSIS OTHER THAN NEPA**

CATEX actions do not require EAs or EISs; they are "excluded" from higher levels of NEPA analysis. These actions are not excluded from other environmental laws and regulations, however. Therefore, you may need to conduct analyses, consult with other agencies, carry out public participation activities, and prepare documentation under these other laws even though your proposed action is a CATEX (e.g., a project to repair a building included in or eligible for the National Register of Historic Places).

**Exhibit 5-1: CATEX Checklist**

**Action Name:**  
**Action Location:**  
**Action Description:**  
**Category:**

**Part A: All Checklist CATEX Actions**

	YES	NO	Need Data
A. Is the action likely to be inconsistent with any applicable Federal, State, Indian tribal, or local law, regulation, or standard designed to protect any aspect of the environment?			
B. Is the action likely to have results that are inconsistent with locally desired social, economic, or other environmental conditions?			
C. Is the action likely to result in the use, storage, release and/or disposal of toxic, hazardous, or radioactive materials, or in the exposure of people to such materials?			
D. Is the action likely to adversely affect a significant aspect of the natural environment?			
E. Is the action likely to adversely affect a significant aspect of the sociocultural environment?			
F. Is the action likely to generate controversy on environmental grounds?			
G. Is there a high level of uncertainty about the action's environmental effects?			
H. Is the action likely to do something especially risky to the human environment?			
I. Is the action part of an ongoing pattern of actions (whether under the control of GSA or others) that are cumulatively likely to have adverse effects on the human environment?			
J. Is the action likely to set a precedent for, or represent a decision in principle about, future GSA actions that could have significant effects on the human environment?			
K. Is the action likely to have some other adverse effect on public health and safety or on any other environmental media or resources that are not specifically identified above?"			

**CONCLUSIONS:**

1. The action is a CATEX and requires no further environmental review.
2. The action is a CATEX but requires further review under one or more other environmental authorities (list).
3. The action requires an EA.
4. The action requires an EIS.

\_\_\_\_\_  
Program Staff                                  Date

\_\_\_\_\_  
REQA Representative                                  Date

## CHAPTER 6 - ENVIRONMENTAL ASSESSMENTS

### 6.1 PURPOSE

Once you have determined that your proposed action cannot be an automatic CATEX, or you have completed the CATEX checklist and concluded that your action will not automatically be the subject of an EIS but requires further review, your action must undergo an EA.

The principal purpose of an EA is to help you determine whether to prepare an EIS for your action. We use EAs as a method to streamline NEPA compliance for actions that are not major Federal actions significantly affecting the quality of the human environment.

There are three possible results of an EA:

- (1) A Finding of No Significant Impact (FONSI) (see Section 6.8 below);
- (2) A decision to prepare an EIS (see Chapter 7); or
- (3) A decision to withdraw the proposal on the basis of its environmental impacts.

### 6.2 DEFINITIONS

#### 6.2.1 Environmental Assessments

The term Environmental Assessment is defined in the CEQ regulations as follows:

"Environmental Assessment":

- (a) Means a concise public document for which a Federal agency is responsible that serves to:
  - (1) Briefly provide sufficient evidence and analyses for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E) [of the Act], of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

**40 CFR 1508.9**

#### 6.2.2 Tiering

Tiering is one of the 19 methods described by CEQ to help streamline the NEPA process, and reduce paperwork and delay.

The CEQ regulations define "tiering" as follows:

"Tiering" refers to the coverage of general matters in broader Environmental Impact Statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared.

**40 CFR 1508.28**

A GSA program, plan, or policy environmental document of lesser scope (usually an EA) is said to be "tiered" to a program, plan, or policy environmental document of greater scope (usually an EIS) in the following situations:

1. When you conduct an EA using site-specific analysis on an action for which general environmental impacts already



have been described in a programmatic EIS.

2. When you conduct an EA using site-specific analysis on a selected site chosen from a delineated area that has previously been the subject of an EIS or EA.

### 6.3 CHARACTERISTICS OF A GOOD EA

An EA is not a "mini-EIS." If your action or the nature of its potential issues and impacts is complex and requires detailed and comprehensive analysis, an EIS should be performed (see Chapter 7).

To conduct a good EA, you should:

- Be analytic, not encyclopedic (40 CFR 1502.2);
- Use an interdisciplinary approach and integrate the natural and social sciences, and the environmental design arts (40 CFR 1502.6);
- Write in plain language, and use graphics to make it readily understandable by decisionmakers and the public (40 CFR 1502.8);
- Be concise—usually less than 15 pages in length, an EA should be no longer than absolutely necessary to comply with NEPA and the CEQ regulations (40 CFR 1502.2);
- Encompass the range of alternatives to be considered by the decisionmaker (40 CFR 1502.2)
- Describe how the alternatives and conclusions reached in the EA will or will not achieve the requirements of Sections 101 and 102(1) of NEPA and other environmental laws and policies (40 CFR 1502.2);

- Focus on significant environmental issues and alternatives; avoid including extraneous background data. (40 CFR 1502.1);
- Be clear, and to the point; support your alternatives and conclusions with evidence that you have made the necessary environmental analyses (40 CFR 1502.1); and
- Ensure that the EA serves as a means to correctly assess environmental impacts of a proposed action, not as justification for decisions already made (40 CFR 1502.2).

### 6.4 TIMING

The CEQ regulations describe how to determine when to do an EA:

- (a) Agencies shall prepare an Environmental Assessment when necessary under the procedures adopted by [the agency]. An assessment is not necessary if the agency has decided to prepare an EIS.
- (b) Agencies may prepare an Environmental Assessment on any action at any time in order to assist agency planning and decisionmaking.

**40 CFR 1501.3**

Begin to prepare an EA for your action as soon as you determine that the action cannot be categorically excluded from NEPA documentation, and that the action will not automatically be the subject of an EIS (see Chapter 3). Prepare the EA concurrently with the initial technical and economic studies for the project. See **Appendix 2** of this Desk Guide for pertinent time frames.

You must complete any required consultations under other environmental laws such as the Endangered Species Act or the NHPA (see NEPA-Related Legal Requirements and Their Implications in **Appendix 3**) before you sign a FONSI. Through these

consultations, measures to reduce (or mitigate) impacts below the level of significance may be identified and agreed upon with the relevant permitting or consultative agencies and groups (including public participation where appropriate; see Section 6.8 below). Mitigation agreed to through such consultations (including further consultations) may be carried out after the FONSI is issued, and must be stipulated in the FONSI.

## 6.5 RESPONSIBILITIES

The program staff (project manager, realty specialist, asset manager, facility specialist, building manager, property manager, project developer), is responsible for ensuring that an EA is conducted on any action that may require one, in consultation with, or with the oversight of, the REQA. (See Chapter 2 of this Desk Guide.)

## 6.6 REQUIREMENTS FOR ENVIRONMENTAL ANALYSIS

You must conduct sufficient interdisciplinary environmental analysis to determine whether to prepare an EIS or a FONSI for your proposed action. Use scoping to limit and focus the range of analyses you conduct to those needed to make your determination.

### 6.6.1 Scoping

Scoping should determine what effects of the proposed action and its alternatives may, upon analysis, be *significant* to the human environment. Scoping should focus on, but not necessarily be bound by, the indicators of significance discussed in Chapter 3 and below. Scoping is an analytic activity that must be carried out in consultation with agencies having jurisdiction by law or expertise, the proponent (if any), neighborhood groups, local citizens, business and civic organizations, Tribes, and the public.

### 6.6.2 Consultation and Public Involvement

The CEQ regulations state that:

The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing (environmental) assessments.

**40 CFR 1501.4(b)**

Agencies and other parties that need to be consulted during EA preparation vary depending on the character of your action and its effects. If effects on wetlands are involved, the Army Corps of Engineers will need to be consulted. If your action will take place in the coastal zone, consultation with the State coastal zone agency will be necessary. If historic properties may be affected, consultation under Section 106 of the NHPA should be coordinated with EA preparation. Where a neighborhood may be affected, its residents and their representatives should be consulted. Where an agency has specific procedures or regulations about how it is to be consulted, these should be followed. Where a low-income or minority community is involved, consultation must be carried out in a manner that takes into account language, cultural, educational, and economic barriers.

Public involvement should be provided for during EA preparation on at least two occasions: during scoping, and after signing a FONSI. The methods and amount of public involvement should be commensurate with the nature of the project, expected impacts, potential for public controversy, and potentially significant issues, as determined by you in consultation with the REQA, or by the REQA.

The basic rule is that those parties who may have concerns about, or information on, the potential environmental effects of your action should be involved in the preparation and review of the EA. Under no circumstances should you prepare an EA instead of an EIS in an attempt to minimize public

knowledge of or involvement in an action. See Chapter 4, Scoping, for a more general discussion of public involvement.

Involving the public in an EA does not necessarily mean that the EA must be distributed in draft for comment, though this may often be appropriate. Public involvement in EA preparation is a flexible matter, generally involving one-on-one meetings, small group discussions, and other forms of consultation. In rare cases organized workshops, facilitated meetings, and mediation may be appropriate, but if such elaborate forms of involvement become necessary, this may be a strong indicator that your action is controversial enough on environmental grounds to merit preparation of an EIS.

### 6.6.3 Data Gathering and Analysis

Scoping may reveal that no new data are needed to determine whether or not your action will have significant effects. If this is the case, then scoping can lead directly to completion of the EA. On the other hand, scoping may lead you to the conclusion that additional data are needed, both to determine whether or not an expected environmental impact is significant and to help develop suitable mitigation measures.

In gathering, analyzing, and reporting data, the CEQ regulations require that:

Agencies shall insure the professional integrity, including scientific integrity, of the analyses in [NEPA documents]. They shall identify any methodologies used and shall make explicit references by footnote to the scientific and other sources relied upon for conclusions.

**40 CFR 1502.24**

The CEQ requirements for interdisciplinary preparation, in which the disciplines of the preparers are appropriate to the scope and issues identified during scoping, apply to Environmental Assessments.

**40 CFR 1502.6**

## 6.7 STRUCTURE AND CONTENT OF AN EA

### 6.7.1 The Purpose of an EA

The primary purpose of an EA is to determine whether the action is likely to have a significant effect on the quality of the human environment. The EA must be structured to answer this question responsibly and efficiently.

### 6.7.2 Regulatory Content Requirements

The CEQ regulations require that EAs contain a "brief discussion" of the following topics:

(b) ... the need for the proposal, of alternatives as required by section 102(2)(E) [of the Act], of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

**40 CFR 1508.9**

Based on the results of scoping, the EA should contain the following sections:

- (1) Purpose and Need for the Action;
- (2) Description of Proposed Action and Alternatives, including No Action;
- (3) Description of Environmental Effects, if any;
- (4) Significance of Effects;
- (5) List of Preparers; and
- (6) References, Exhibits, and Appendix material.

For easy review, you can combine information on "affected environment," "environmental impacts," and "significance of effects" for each alternative into the proposed action and alternatives section.

#### 6.7.2.1 Purpose and Need for the Action

This section should be no more than three pages long, and usually can be much shorter.

Prepare a brief description of the purpose of and need for your action, including enough relevant background on the operational, social, economic, and environmental objectives of your action to place it in an understandable context. Include enough location maps, tables, and other exhibit materials to show the purpose and need.

Examples:

"The United States Air Force has determined the F.E. Airfoil Air Force Base to be surplus to its needs, and has requested that GSA dispose of it. In disposing of the Base, GSA intends to maximize financial return to the US. government, while minimizing environmental, economic, and social impacts on the nearby town of East Westhaven, providing, as appropriate, for the needs of other Federal agencies, State agencies, and Indian tribes, and accommodating local needs for homeless housing."

"GSA proposes to improve efficiency in the management of Federal space needs in Bellweather, Vermont, by consolidating the offices of the Bureau of Alcohol, Tobacco, and Firearms; the Department of Veterans Affairs; and the Environmental Protection Agency. The three agencies now occupy all or parts of seven buildings, comprising 35,000 square feet of office space. Consolidation can reduce this figure to 25,000 square feet, and effect a variety of other efficiencies. Pursuant to Executive Orders 12072 and 13006, the consolidated facility should use historic buildings in the Bellweather downtown historic district. Pursuant to Executive Order 11898, the facility cannot be, or stimulate development, within the 100 year floodplain."

#### **6.7.2.2 Description of Proposed Action and Alternatives, Including No Action**

This section should be about three to four pages long.

Prepare a brief description of the proposed action and any alternatives, including the alternative of No Action. The alternatives section should be the descriptive "heart" of the EA, and include enough information (including location maps) so the decisionmaker can readily understand and compare the alternatives against the objectives outlined in the Purpose and Need section.

The alternatives discussion should include all realistic alternative ways of meeting the purpose and need, together with the "No Action" alternative. Use the No Action alternative as a baseline against which to measure the environmental impacts of other alternatives. No Action also provides a baseline to measure the adequacy of other alternatives in meeting the purpose and need for your action. An EA on any action that involves unresolved environmental conflicts should include discussion of alternatives to resolve such conflicts, in addition to a No Action alternative as required by 40 CFR 1508.25 (see 40 CFR 1507.2, referring to Section 102(2)(E) of the Act).

For example, if the proposed action is to provide new space for the Federal Bureau of Investigation (FBI), the No Action alternative obviously is to leave the FBI housed in whatever space it now uses. The EA should discuss both how well this alternative meets the purpose and need, and what its environmental impacts are (e.g., in terms of traffic, health and safety, social effects, etc.). If the preferred alternative is construction of a new building for the FBI in a particular location, and construction in this location would have impacts on local traffic, property values, or historic properties, explore alternatives (e.g., leasing) that would not have such impacts, or would have lesser impacts. Measure how well these alternatives meet the purpose and need of your action.

#### **6.7.2.3 Environmental Effects**

This section should be about four to seven pages long.

Prepare a brief description of the affected environment and environmental effects (if any) of your proposed action and alternatives. Provide enough information in this description to provide a basis for determining, in the next section, whether any potential impacts are significant and thus require an EIS (see Chapter 3), or whether a FONSI can be prepared. Focus on those issues identified during scoping or during the analysis itself as potentially significant. The issues you identified as not significant during scoping need only be mentioned (to demonstrate they were considered), with a brief note as to why they were not considered further—unless studies and consultation during EA preparation reveal previously unanticipated significant effects, or that effects thought insignificant at the time of scoping really may be significant.

#### 6.7.2.4 Significance of Effects

This is the analytical core of the EA, which should clearly establish whether each potential environmental effect of your action and alternatives is likely to be significant. The analysis in this section must be based on the discussion of "context" and "intensity" in the CEQ regulations (40 CFR 1508.27).

**Context.** In what context(s) may effects occur? Will the effects occur in the context of an ecosystem, a community, a neighborhood, or a whole region? Will there be effects on particular interests, or particular kinds of environmental variables? For example:

"Effects are possible primarily in the context of the East Bellhaven River Valley, and of East Bellhaven itself. Cumulative effects on all of southwestern Vermont are possible. The interests of low-income and minority (Hispanic) populations in southern East Bellhaven may be affected."

Note that the examples of contexts given in the CEQ regulations are not mutually exclusive, nor is one kind of context necessarily

more important than another. A given action may have positive impacts on a region and negative impacts on particular interests. The positive impacts do not justify ignoring the negative ones.

**Intensity.** In the context(s) within which effects may occur, determine the probable intensity of effects, addressing the issues outlined in the CEQ regulations (40 CFR 1508.27). You can use the CATEX Checklist (Exhibit 5-1) as an outline for doing this, since it contains all the aspects of intensity outlined in the CEQ regulations.

Example:

"II. Consistency with existing and desired local conditions

"a. The preferred alternative would not change traffic patterns or increase traffic volumes in the area, and would not have any access constraints. It would affect a congested intersection (Garvey and Murtagh Streets), but only by decreasing traffic through the improvements to Connally Blvd. Public transit is within two blocks of the site, minimizing the potential for congestion due to commuter traffic. Utility requirements are well within the capacity of available services. Based on these facts, the East Bellhaven Planning Department advises that it would not consider the infrastructural demands of the project to be burdensome (See Appendix III-3)."

If an effect appears that may be significant, but there are ways to mitigate it to such extent that it will become nonsignificant, then such mitigation measures should be set forth in this section as the basis for a possible "mitigated" FONSI.

Example

"The preferred alternative will involve renovation of the Booth Courthouse, which GSA and the SHPO have agreed to consider eligible for inclusion in the National Register of Historic Places. However, the renovation

will be consistent with the Secretary of the Interior's Standards for Rehabilitation, and under a letter agreement signed March 18, 2002 by the City, GSA, and the SHPO, the East Bellhaven City Historic Preservation Commission will review plans and specifications and monitor construction to ensure compliance with the Standards. GSA, the City, and the SHPO have agreed that this arrangement will reduce any adverse effects on the building to nonsignificant levels. Rehabilitation consistent with the standards is not regarded as effect under Section 106 of the national Historic Preservation Act and its implementing regulations (36 CFR 800)."

If the measures are not sufficient to reduce the effects to nonsignificant levels, an EIS will be necessary.

#### 6.7.2.5 Conclusions

Based on the analysis of environmental effects, set forth a conclusion as to whether it appears that the action will have a significant effect on the quality of the human environment. Include any mitigation measures that will be needed to keep an adverse effect from reaching the threshold of significance. These conclusions serve as the basis for the Finding of No Significant Impact (FONSI: see 6.10).

#### 6.7.2.6 List of Preparers

This section should be about one page long.

Include a list of preparers of the EA, showing that "the disciplines of the preparers [are] appropriate to the scope and issues identified in the scoping process," as required by 40 CFR 1502.6.

The list of preparers should include

- the names, titles, and qualifications of GSA reviewers of contractor or applicant information;
- the names and qualifications of any contractors; and

- the names, titles, and qualifications of GSA personnel directly involved in conducting the EA analysis and preparing the document (40 CFR 1506.5); and
- a listing of agencies and persons consulted (i.e., agencies with jurisdiction by law or expertise, Indian tribes, environmental and other interest groups or elements of the public) (40 CFR 1508.9).

#### 6.7.2.7 References and Exhibits

Include any references, maps, and any appendix material as needed.

#### 6.7.3 Format

Follow the EA format outlined in **Exhibit 6-1**, including the cover sheet and six content chapters. The EA text should be written in plain English (with summaries in other languages where needed) so as to be easily understandable by reviewers and decision-makers. Photos, tables, maps, and diagrams must be clear, easily interpreted, and convey the intended concepts. This is particularly important where the original EA may be photocopied for distribution.

#### 6.7.4 Size

The CEQ recommends that EAs be limited to 15 pages:

Since the EA is a concise document, it should not contain long descriptions or detailed data which the agency may have gathered.... To avoid undue length, the EA may incorporate by reference background data to support its concise discussion of the proposal and relevant issues. Agencies should avoid preparing lengthy EAs except in unusual cases, where a proposal is so complex that a concise document cannot meet the goals [of the regulations] and where it is extremely difficult to determine whether the proposal could have significant environmental effects. In most cases, how-

ever, a lengthy EA indicates that an EIS is needed.

**46 Federal Register 18026  
March 23, 1981**

One way to minimize the size of an EA is to structure it carefully with reference to the definition of "significant" (sic: actually "significantly") in the CEQ regulations. Remember that the purpose of an EA is to allow GSA to determine whether significant effects may occur. Carefully determining the context and intensity of effects will help an EA analyst do this efficiently.

Another way to minimize size is to use the CEQ tools called "tiering" and "incorporation by reference."

#### 6.7.4.1 Tiering

The CEQ regulations explain the concept of "tiering" this way:

Whenever a broad Environmental Impact Statement has been prepared (such as a program or policy statement) and a subsequent statement or EA is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or EA need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.

**40 CFR 1502.20**

If the EA for your action is a follow-on action to an EIS, you should not repeat material already covered in the EIS, but should simply state that the EA is being "tiered" to the parent EIS, and explain the relationships between the two.

#### 6.7.4.2 Incorporation by Reference

CEQ requires agencies to use "incorporation by reference" to reduce bulk in EAs (40 CFR 1502.21). This means you can cite references to data sources or standard

methodologies without repeating verbatim, or paraphrasing, all the detail in the source you reference.

Thus, for example, you can state that a wetland has been delineated in accordance with standard practice described in the US Army Corps of Engineers' Wetland Delineation Manual, include the manual in the list of references cited, and state the results of the study. You would not include lengthy descriptions of field methods, mapping techniques, and equipment used.

### 6.8 WHO PREPARES EAs FOR GSA PROJECTS

We normally prepare our own EAs, either in-house or by contract, with outside consultants (see Chapter 10, Contracting).

The CEQ regulations allow for applicants or proponents (e.g., a cooperating local government) to prepare an EA for a proposed action, but require that we take an active guidance and evaluative role during EA preparation, and take final responsibility for the quality of the analysis and the resulting document:

- (a) ...the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy.
- (b) ...If an agency permits an applicant to prepare an Environmental Assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the Environmental Assessment.

**40 CFR 1506.5**

In practice, this means that a local government or other "applicant" may conduct studies, etc. on our behalf, but we must oversee and approve the work. Other Federal "applicants" may also do such studies,

but often will involve us as a "cooperating" agency.

## 6.9 METHODOLOGY AND INTEGRITY

The CEQ regulations say:

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

**40 CFR 1502.24**

Although this section of the regulations refers specifically to EISs, it applies equally to an EA. Methods must be reported, and sources must be identified. The professional integrity of those preparing and reviewing the EA must be ensured; including the integrity of the REQA. Under no circumstances is it acceptable for the preparer, or the REQA or other reviewer of an EA, to be called upon to ignore or misrepresent an environmental impact. It is also unacceptable for the REQA or other reviewer to be called upon to ignore an inadequacy in analysis or reporting.

## 6.10 FINDING OF NO SIGNIFICANT IMPACT

### 6.10.1 Definition

The CEQ regulations define a FONSI as follows:

"Finding of No Significant Impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded... will not have a significant effect on the human environment and for which an Environmental Impact Statement therefore will not be prepared. It shall include the Environmental Assessment or a summary of it and shall note any other environmental documents related to it ...If the

assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

**40 CFR 1508.13**

A variation called a "mitigated FONSI" is often used when impacts resulting from the proposed action or selected alternative are mitigated below a threshold of significance, such that a FONSI can be sustained.

Many Federal courts will not allow the use of a "mitigated" FONSI, reasoning that if there are significant impacts, NEPA clearly requires preparation of an Environmental Impact Statement. Some Federal courts have upheld the use of a "mitigated" FONSI under certain specific circumstances. The four criteria outlined in case law that must be met for a mitigated FONSI to be valid are as follows:

1. GSA must have accurately identified the relevant environmental concern.
2. Once GSA has identified the problem it must have taken a "hard look" at the problem in preparing the EA.
3. If a FONSI is made, GSA must be able to make a convincing case for its finding.
4. If GSA does find an impact of true significance, preparation of an EIS can be avoided only if GSA finds that changes or safeguards in the project sufficiently reduce the impact to a minimum.

*(Based on Sierra Club v. USDOT 1985.)*

A mitigated FONSI may be especially appropriate where the only anticipated impacts will be on historic properties, and mitigation is agreed to under the regulations for Section 106 of the NHPA (36 CFR 800). The mitigation measures agreed to must be specified in the FONSI, and must be sufficient to reduce the impacts of the project below a significant level.



### 6.10.2 Contents

The CEQ regulations prescribe certain content requirements for FONSI, as follows:

- The FONSI must "indicate any public Environmental Assessments and other Environmental Impact Statements which are being or will be prepared that are related to but are not part of the scope of the ... statement under consideration" (40 CFR 1507.1(5))
- The FONSI must include description (or reference to discussion in the body or appendix of the EA) of any mitigation or agreements with agencies with jurisdiction by law or expertise.

Examples of mitigation measures for GSA actions might include:

- control measures for fugitive dust to ensure that air pollution from a GSA construction project does not violate applicable standards;
- a signed Memorandum of Agreement under Section 106 of the NHPA;
- an authorization for an "incidental take" of threatened or endangered wildlife or their habitat, under the Endangered Species Act.

Mitigation measures must be sufficient to reduce impacts below significance in order to serve as bases for a FONSI.

A sample PBS FONSI is illustrated in **Exhibit 6-2**.

### 6.10.3 Public Review

All NEPA documents are available to the public under the Freedom of Information Act, subject to restrictions on pre-decisional, proprietary, and otherwise confidential information.

For some PBS actions, REQAs should consider making draft EAs and FONSI available to the public through local libraries or upon request 15 days prior to issuing the final published versions. Obviously, if a person or group was highly involved during scoping, or if they specifically so request, they should be provided a copy of the EA and FONSI (see Section 6.5.2 above).

Under certain circumstances, CEQ requires that a FONSI must be made available for public (including outside agency) review 30 days before you make your final determination whether to prepare an EIS or go forward with your action. The circumstances are:

(1) The proposed action is, or is closely similar to, one which normally requires the preparation of an Environmental Impact Statement [...], or

(2) The nature of the proposed action is one without precedent.

**40 CFR 1501.4(e)(2)**

In addition, the document, "Forty Most Asked Questions Concerning CEQ's NEPA Regulations" (hereinafter cited as CEQ 40 Questions), lists the following criteria for deciding whether a FONSI should be made available for public review for 30 days before the agency's final determination whether to prepare an EIS:

- (a) if the proposal is a borderline case, i.e., when there is a reasonable argument for preparation of an EIS;
- (b) if it is an unusual case, a new kind of action, or a precedent setting case such as a first intrusion of even a minor development into a pristine area;
- (c) when there is scientific or public controversy over the proposal; or
- (d) when it involves a proposal which is or is closely similar to one which normally requires preparation of an EIS.

- (e) If the proposed action would be located in a floodplain or wetland.

### **6.11 ENVIRONMENTAL ASSESSMENTS AND COMPLIANCE WITH OTHER LAWS**

Prepare your EA so that GSA complies with other environmental laws, executive orders, and regulations, such as the Endangered Species Act, the NHPA, and Executive Orders 12072 and 13006. Preparing an EA (or an EIS, for that matter) does not substitute for following the regulations governing compliance with such other authorities. For example, sending an EA to the State Historic Preservation Officer (SHPO) and requesting review comments does not place GSA in compliance with Section 106 of NHPA.

You can use an EA to document compliance with other legal authorities, or as a documentary basis for such compliance. For example, use an EA to document consultation with the SHPO if this has occurred in accordance with Section 106 regulations, or provide an EA to the SHPO to support a GSA determination under the same regulations. If you use an EA in this manner, it is imperative that the requirements of the other law, executive order, or regulation be reflected by the EA.

### **6.12 SUPPLEMENTAL EAs**

If conditions change after you complete an EA (e.g., project plans change), supplement the EA as needed to accommodate the changed circumstances and address any previously unconsidered impacts. If major changes occur, however, you may be required to prepare an EIS.

**Exhibit 6-1: EA Format**

Cover Sheet

Title of Document / Volume #/ Total # of Volumes

(Environmental Assessment)

Responsible Agency Name(s)

(Always GSA, sometimes other cooperators)

Title of Action

Location

Contact Name

Address

Telephone/Fax/E-mail (as appropriate)

One-Paragraph Abstract of the Document

Date of Distribution

## Exhibit 6-1: EA Format (continued)

### Contents

- I. Purpose of and Need for Action
  - A. Objectives of the proposed action
  - B. Problems to be solved by the action
  - C. Environmental issues raised by the action, if any, as determined through scoping
- II. Description of the Proposed Action and Alternatives
  - A. Size, location, nature of proposed action, tied to purpose and need above
  - B. Size, location, and nature of any alternative actions that would also meet the purpose and need
  - C. Description of the No Action alternative
- III. Environmental Effects of Proposed Action and Alternatives
  - A. Description of the potential environmental impacts for each alternative, including all action alternatives and No Action, including all issues identified during scoping and any other issues that have become apparent in the course of analysis
- IV. Significance of Effects
  - A. Context(s) in which effects may occur.
  - B. Intensity of effects, using the CATEX Checklist as an outline, and including mitigation measures where they exist and are adequate to reduce effects below significance.
- V. List of Preparers, Reviewers, Agencies, and Persons Consulted
  - A. A list (may be in table format) of names, titles, educational and experience background, and analyses or document sections for which each person is responsible, keyed to issues identified in Chapter I
  - B. A list of agency reviewer's of applicant's information, if any, in the same format as above
  - C. A list of agencies with jurisdiction by law or expertise, Tribes, groups or individuals consulted during preparation of the EA

### Exhibit 6-1: EA Format (continued)

VI. Appendix, including references, maps, reports, etc.

- A. A list of references cited in the EA (resource analysis reports, methodology reports, other environmental documents including other NEPA documents to which the EA may be tiered, scientific papers, etc.)
- B. Maps clearly showing the project location, with respect to significant features of the environment identified in Chapter I and analyzed for the EA (keyed to discussions in Chapter III)
- C. Copies of reports prepared for the EA, which substantiate any fundamental analyses, and which are analytic and relevant to the decision to be made (40 CFR 1502.18)

**Exhibit 6-2: Sample FONSI**

Finding of No Significant Impact

(Name of Project)  
(Location of Project)  
(Date)

In accordance with the National Environmental Policy Act and GSA Order ADM 1095.1F, implementing the regulations of the Council on Environmental Quality (40 CFR 1500-1508), I find that the project described in the attached Environmental Assessment (insert here the title of the project EA, and its date) is not a major Federal action significantly affecting the quality of the human environment. Therefore, no Environmental Impact Statement will be prepared.

[Use the following language only if needed]

This action is related to (insert names of other projects) described in the NEPA document entitled (insert name of EA or EIS).

The following environmental agreements have been reached with agencies having jurisdiction by law or expertise on environmental issues:

(list any agreements reached during environmental analysis for this EA)

The following mitigation and monitoring measures will be implemented to ensure that the action will have no significant impact on the quality of the human environment:

(list mitigation and monitoring measures agreed upon with others, or established independently by GSA)

RECOMMENDED: \_\_\_\_\_  
(Signature) (Date)

Name of Responsible Official  
Title

APPROVED: \_\_\_\_\_  
(Signature of Regional Administrator)

## CHAPTER 7 - ENVIRONMENTAL IMPACT STATEMENTS

### 7.1 PURPOSE

An Environmental Impact Statement (EIS) analyzes the environmental impacts of a proposed action and its alternatives, and displays them in a report for consideration by the decisionmaker in deciding which alternative (if any) to implement. The EIS also reveals the impacts to the public before the decision is made and provides an opportunity for the public to understand the impacts and influence the decision. An EIS is usually a more complex and lengthy document than an EA, is subject to more hard-and-fast standards of preparation and review, and is prepared only on what appear to be major Federal actions significantly affecting the quality of the human environment.

The CEQ regulations describe the purpose of an EIS this way:

The primary purpose of an Environmental Impact Statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal government. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

**40 CFR 1502.1**

### 7.2 DEFINITIONS

#### 7.2.1 Environmental Impact Statements

The EIS is the "detailed statement" specified in Section 102(2)(c) of NEPA that must be included with "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment."

#### 7.2.2 Proposal

The CEQ regulations define a "proposal" as follows:

"Proposal" exists at that stage in the development of an action when an agency has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated.

**40 CFR 1508.23**

The CEQ regulations further require that

Agencies shall make sure the proposal which is the subject of an Environmental Impact Statement is properly defined.... Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

**40 CFR 1502.4**

Ways to define a "proposal" for a given broad-scale action may include:

- (1) Geographically, including some actions occurring in the same general location, such as body of water, region, or metropolitan area.
- (2) Generically, including actions which have relevant similarities, such as common timing, impacts, alternative methods of implementation, media, or subject matter.
- (3) By stage of technological development, including Federal or Federally assisted research, development, or demonstration programs for new technologies, which, if applied, could significantly affect the quality of the human environment.

**40 CFR 1502.4**

A GSA "proposal" may include administrative actions (e.g., to purchase, lease, construct, or demolish a building), or legislative actions (e.g., actions taken pursuant to prospectuses filed under Section 7 of the Public Buildings Act).

Use the criteria for "scope" (see Chapter 4) to determine how to define your specific proposal for analysis in an EIS.

### 7.3 TYPES OF EISs

You may prepare an EIS on site-specific proposals for which substantial environmental detail is available. This is the usual type of site-specific or project-specific EIS.

Alternatively, you may prepared an EIS on a broad Federal action, such as a program or plan for which only very general environmental information is known. This is called a Programmatic EIS, or PEIS. In some cases, a site-specific EIS may be "tiered" to a PEIS. See discussion in Section 7.12.1.1, below.

Both site-specific and PEISs go through a published Draft EIS (DEIS) that is distributed for public and agency review. This is followed by a Final EIS (FEIS), which contains responses to those public and agency comments on the Draft.

If new circumstances warrant, you may need to prepare a Supplemental EIS (SEIS) A SEIS be added to either a draft or a final EIS and should focus on only those changes that warrant it. Incorporate the earlier discussions and analyses by reference (40 CFR 1502.9). See Chapter 8 of this Desk Guide for further discussion of SEISs.

### 7.4 ACTIONS THAT NORMALLY REQUIRE AN EIS

The following actions are considered to be major Federal actions significantly affecting the quality of the human environment, and

therefore must be the subjects of EISs, as must any other action that an EA or checklist CATEX indicates may have significant environmental effects:

- Master plans for Federally owned major buildings, building complexes, and sites (Note: EIS should be designed so that subsequent EISs and EAs can be tiered off it).
- Acquisition of space by Federal construction or lease construction, or expansion or improvement of an existing facility, where one or more of the following applies:
  - The structure and/or proposed use are not substantially consistent with local planning and zoning or any applicable State or Federal requirements (see NEPA-Related Legal Requirements and Their Implications, **Appendix 3**);
  - The proposed use will substantially increase the number of motor vehicles at the facility;
  - The site and scale of construction are not consistent with those of existing adjacent or nearby buildings; or
  - There is evidence of current or potential community controversy about environmental justice or other environmental issues.
- Space acquisition programs projected for a substantial geographical area (e.g., a metropolitan area) for a 3-to-5-year period or greater (Note: a PEIS is often appropriate here, off which subsequent EISs and EAs can be tiered).



## 7.5 CHARACTERISTICS OF A GOOD EIS

To prepare a good EIS, you should

- Be analytic, not encyclopedic (40 CFR 1502.2);
- Use an interdisciplinary approach and integrate the natural and social sciences, and the environmental design arts (40 CFR 1502.6);
- Write in plain language, and use graphics to make it readily understandable by decisionmakers and the public (40 CFR 1502.8);
- Be concise—usually less than 150 pages in length, an EIS should be no longer than absolutely necessary to comply with NEPA and the CEQ regulations (40 CFR 1502.2), unless the proposal is of unusual scope or complexity (40 CFR 1502.7). The EIS length varies first with the nature of potential environmental problems, and then with project size (40 CFR 1502.2);
- Encompass the range of alternatives to be considered by the decisionmaker, including the no-action alternative (40 CFR 1502.2);
- Describe how the alternatives and conclusions reached in the EIS will or will not achieve the requirements of sections 101 and 102(1) of NEPA and other environmental laws and policies (40 CFR 1502.2);
- Focus on significant environmental issues and alternatives; avoid including extraneous background data (40 CFR 1502.1);
- Be clear, and to the point; support your alternatives and conclusions by evidence that you have made the neces-

sary environmental analyses (40 CFR 1502.1); and

- Ensure that the EIS serves as a means to correctly assess environmental impacts of a proposed action, not as justification for decisions already made (40 CFR 1502.2).

## 7.6 TIMING

Before you prepare an EIS, you must define your proposal. See Section 7.2.2.

Begin to prepare the EIS as soon as you determine that your proposed action is neither a CATEX nor the appropriate subject for a FONSI. You may supplement the resulting EIS at a later stage, if necessary, based on new information or changes in the proposed action (see 40 CFR 1502.5).

EISs must be circulated and reviewed at the same time as other planning documents to which the EIS pertains, and accompanied by any proposed decision document pertaining to the subject of the EIS.

See Chapter 2 of this Desk Guide for a discussion of the various timing issues that may arise during preparation of an EIS for a GSA action, and a description of required time periods.

Although the CEQ regulations, at 40 CFR 1506.8(b)(1) and (2)(iii), permit GSA to eliminate scoping on EISs for legislation, including the request for "legislative approval...for Federal or Federally assisted construction or other projects which the agency recommends be located at specific geographic locations," it is impossible to prepare an EIS (or EA) without determining its scope. Thus, scoping must be performed on GSA proposals for legislative approval of construction projects.

The CEQ regulations require that:

For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration, a draft statement shall accompany the Prospectus or the 11(b) Report of building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

**40 CFR 1506.8(b)(2)(iii)**

EISs on legislative proposals other than space acquisition projects will be prepared by the National Office Business Line responsible for the proposal, in consultation with the NEPA Liaison and pertinent Regional Offices, and will be submitted to Congress either with the proposal itself or up to 30 days prior to submission of the proposal.

## 7.7 RESPONSIBILITIES

The program staff (project manager, realty specialist, asset manager, facility specialist, building manager, property manager, project developer) is responsible for ensuring that an EIS is prepared in a manner consistent with the CEQ regulations. An important first step is for the project manager to contact and coordinate with the REQA at the earliest planning phases for an action that may require an EIS. See Chapter 2 of this Desk Guide.

GSA may act as either a lead or a cooperating agency during preparation of an EIS. See Chapter 2 for further discussion of these roles.

## 7.8 NOTICE OF INTENT (NOI)

The NOI kicks off the public scoping process for an EIS. Prepare the NOI for publication in the Federal Register. Use the specific format required by the Federal Register for submissions. To determine NOI content, use the following required list of contents:

- (a) Describe the proposed action and possible alternatives.
- (b) Describe the proposed [PBS] scoping process including whether, when, and where any scoping meeting(s) will be held.
- (c) State the name and address of a person within [GSA] who can answer questions about the proposed action and the Environmental Impact Statement.

**40 CFR 1508.22**

Include a description of any significant environmental issues that you have already identified through internal scoping, and, if you have developed one, a specific schedule for EIS preparation.

**Exhibit 7-1** illustrates a sample NOI.

## 7.9 SCOPING

Formal scoping as defined by 40 CFR 1501.7 is required for EISs (see Chapter 4 of this Desk Guide). Scoping should be accompanied by "diligent efforts to involve the public" as required by 40 CFR 1506.6, and should identify the significant issues to be analyzed in the Environmental Impact Statement and eliminate issues that are not significant (40 CFR 1500.4).

Scoping for an EIS always includes both internal and external elements. Internal elements include staff review of background material, internal analysis in consultation with the REQA, and various contracted studies. External elements include consultation with agencies that have jurisdiction by law or expertise, public meetings, and consultation with known concerned agencies, organizations, and individuals.

## 7.10 PUBLIC INVOLVEMENT

The public must be involved in scoping *and* in formal review of any DEIS. However, you should view public involvement as an on-

going activity throughout the process of environmental analysis, and during EIS preparation and revision. Specific efforts must be made to involve potentially affected low-income and minority communities (see Chapter 4 of this Desk Guide).

### 7.11 REQUIREMENTS FOR ENVIRONMENTAL ANALYSIS

The purpose of environmental analysis in an EIS is to determine the nature and severity of any potential environmental impacts from your proposed action or reasonable alternative *before* deciding whether and how to go ahead with the proposed action or alternative. This is different from the purpose of the analysis that goes into preparing an EA, which is focused specifically on determining whether the proposed action or alternatives may significantly affect the quality of the human environment.

Environmental analysis should be commensurate with the significance of the environmental issues identified during scoping (see Chapter 4). Give those issues that are not significant only enough analysis to confirm that they are not significant (see 40 CFR 1502.2). However, you may recognize through analysis that such issues ARE significant, and other issues may be recognized as analysis proceeds. The mere fact that an issue has been identified as insignificant during scoping, or not addressed during scoping, does not exclude that issue from analysis if its significance or potential significance is identified during analysis.

#### 7.11.1 Professional Integrity

GSA must "insure the professional integrity, including scientific integrity, of the discussions and analyses in Environmental Impact Statements" (40 CFR 1502.24). This means that you must:

- Use appropriately qualified experts;

- Carry out the analysis in accordance with (1) the generally accepted principles and methods of the disciplines relevant to the analysis, or (2) explicitly justified alternative approaches;
- Provide adequate time for the analysis; and
- Not call on analysts to compromise or alter their data or conclusions to accommodate the adoption of a preferred alternative.

#### 7.11.2 Adequate Detail

Environmental impacts and values must be "identified in adequate detail so they can be compared to economic and technical analyses" (40 CFR 1501.2(b)). This does not mean that all such impacts and values must be quantified; many environmental factors by their nature cannot be quantified. It does mean that environmental impacts and values must be:

- Given sufficient authoritative analysis;
- Sufficiently well translated into language that decisionmakers and the public can understand; and
- Able to be realistically factored into decisionmaking on a "level playing field" with economic and technical analyses.

#### 7.11.3 Data Gathering

Based on scoping, the responsible official, in consultation with the REQA, determines what data need to be gathered and analyzed for the EIS, and arranges for the necessary studies. See Chapters 9 and 10 of this Desk Guide for descriptions of some of the kinds of special studies that may be needed, and various methods of contracting for services to perform them.

#### 7.11.4 Dealing with Incomplete or Unavailable Information

There will be times when needed information is not available, or is incomplete. The CEQ regulations at 40 CFR 1502.22 prescribe a four-step process for dealing with that situation (note that if the incomplete information is available and the overall costs of obtaining it are not exorbitant, it should be collected and included in the EIS):

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

- (a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.
- (b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement:
  - (1) A statement that such information is incomplete or unavailable;
  - (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse effects on the human environment;
  - (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foresee-

able significant adverse impacts on the human environment; and

- (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.

For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

**40 CFR 1502.22**

#### 7.12 STRUCTURE OF AN EIS

##### 7.12.1 Size

CEQ recommends that an EIS be concise and to the point, and that you set page limits, "tier" to higher level documents, and incorporate reports, analyses and data as a way of reducing redundancy, paperwork, and bulk. The CEQ regulations state that:

The text of final Environmental Impact Statements... shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

**40 CFR 1502.7**

One way to minimize the size of an EIS is to use the CEQ tools called "tiering" and "incorporation by reference."

##### 7.12.1.1 Tiering

The CEQ regulations explain the concept of "tiering" this way:

Whenever a broad Environmental Impact Statement has been prepared (such as a program or policy statement) and a subsequent statement or Environmental Assess-

ment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or Environmental Assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.

**40 CFR 1502.20**

If your EIS is a follow-on action to a previous EIS, you should not repeat material already covered in the previous EIS, but should simply state that your EIS is being "tiered" to the previous EIS.

### 7.12.1.2 Incorporation by Reference

CEQ requires agencies to use "incorporation by reference" to reduce bulk in EISs (40 CFR 1502.21). This means you can cite references to data sources or standard methodologies without repeating verbatim, or paraphrasing, all the detail in the source you referenced.

Thus, for example, you can state in an EIS that a wetland has been delineated in accordance with standard practice described in the U.S. Army Corps of Engineers' Wetland Delineation Manual, include the manual in the list of references cited, and state the results of the study. You would not include lengthy descriptions of field methods, mapping techniques, and types of equipment used.

### 7.12.2 Contents

The substantive contents of an EIS are specified by the CEQ regulations at 40 CFR 1502.10, based on the requirements of NEPA at 102(2)(C). Thus, the EIS must include discussion of the following topics, in the order listed, unless you can show a "compelling reason to do otherwise":

1. Purpose of and Need for Action;

2. Alternatives, Including the Proposed Action;
3. Affected Environment;
4. Environmental Consequences;
5. List of Preparers; and
6. List of Agencies, Organizations, and persons to whom copies of the EIS are sent.

Note that this organization is not altogether logical. For example, material discussed in detail in the "Environmental Consequences" chapter is summarized in the "Alternatives" chapter, and the critical matter of scoping must be squeezed into the "Purpose and Need" chapter. Nevertheless, this is the organization that the CEQ regulations specify, and you must follow it in order to provide for government-wide consistency among EISs.

The following sections describe specific recommendations for what to include in (and what to leave out of) each chapter of an EIS, based on the CEQ requirements as noted. Requirements and suggestions for items such as the cover sheet, summary, etc., are contained in Section 7.12.3, below.

#### 7.12.2.1 Purpose of and Need for Action

The CEQ regulations state only that:

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

**40 CFR 1502.13**

Experience has shown, however, that the Purpose and Need chapter of an EIS is crucial to the success of your project and its EIS. This chapter should contain enough description of the specific purpose of and need for the action, including enough relevant background on the operational, social, economic, and environmental objectives of the proposal, to place it in an understandable context. Develop alternatives based on how well they meet the objectives outlined in this chapter of the EIS. The final

decision as described in the Record of Decision should also be tied closely to the purpose and needs in this chapter.

This is also the place to identify any significant environmental issues as determined through scoping; to describe the scoping and public involvement processes conducted for the EIS; to identify any Federal or other environmental permits required for the project; and to outline the rest of the EIS chapters for the reader.

### 7.12.2.2 Alternatives, Including the Proposed Action

This chapter is vital to understanding your project, its alternatives, and their environmental impacts.

#### 7.12.2.2.1 Contents of Alternatives Chapter

The CEQ regulations state that:

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§1502.15) and the Environmental Consequences (§1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

- (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- (b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternative.

**40 CFR 1502.14**

The Alternatives chapter should include "substantial" discussion of each alternative, including your proposed action. As the CEQ 40 Questions, # 5b points out:

"This regulation does not dictate an amount of information to be provided, but rather, prescribes a level of treatment, which may in turn require varying amounts of information, to enable a reviewer to evaluate and compare alternatives."

#### 7.12.2.2.2 No Action Alternative

The "No Action" alternative has two distinct interpretations: "no change" from current action, and "no project"—the proposed action would not take place. When a choice of "No Action" by GSA would result in predictable actions by others, this consequence should be included in the analysis (CEQ 40 Questions # 3). Even if GSA is under a court order or Congressional mandate to act, the No Action alternative must be analyzed as a baseline, and to show the consequences of failing to act as directed.

#### 7.12.2.2.3 Range of Alternatives

The EIS must discuss a "reasonable range of alternatives," the exact nature of which depends on the nature of the proposal and

the facts in each case (CEQ 40 Questions #1). Alternatives outside the jurisdiction of GSA must also be discussed, if they are reasonable ways to accomplish the objectives laid out in the Purpose and Need chapter (CEQ 40 Questions #2).

#### 7.12.2.2.4 The Preferred Alternative

The “preferred alternative” is the alternative which GSA believes would best fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors. When GSA prepares a DEIS, if one or more preferred alternatives exist then GSA must identify them. At the time of the FEIS, GSA must identify one preferred alternative. There is currently no other law which would prohibit GSA from identifying a preferred alternative.

#### 7.12.2.2.5 Comparison of Impacts

It is often helpful to use a table format to document the “comparison of impacts” that must be in this chapter of the EIS. Be careful to compare impacts, not just project outputs, and be careful not to confuse the two. Impacts include changes in the environmental characteristics of the site or vicinity. Project outputs include square feet of occupiable space, number of parking spaces, etc. Although it is often useful to include these data in the comparison table for clarity, and to help distinguish one alternative from another, the focus should be on impacts, and impacts should be clearly distinguished from outputs.

#### 7.12.2.3 Affected Environment

This chapter of an EIS sets the scene for the detailed discussion of impacts in the next chapter, “Environmental Consequences.” It is not an encyclopedia or a catalogue of environmental features of the project area. The CEQ regulations are very clear on this point:

The Environmental Impact Statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under discussion. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an Environmental Impact Statement.

**40 CFR 1502.15**

The Affected Environment chapter should focus on those issues that were identified in as potentially significant during scoping or during conduct of the environmental analysis. For example:

- This is not a place to list all the vegetation or wildlife that exists in the area—focus instead on those that may actually be affected by your action. Particular emphasis should be given to those that are threatened or endangered species, potential threatened or endangered species, or that may contribute to the critical habitat of such species, and to those on which your action could have broad impacts within the local ecosystem.
- This is not a place for a detailed discussion of the last 10,000 years of human history in the area—focus instead on the information needed to understand the historic properties, traditional land uses, archeological sites, Native American uses, and other aspects of the affected cultural environment.
- This is not a place to describe the theory of continental drift—focus instead on potential seismic hazards at the site or vicinity.

In other words, focus on the topics that are actually important to understanding the effects of the action, and that will therefore be treated in detail in the following chapter of the EIS, Environmental Consequences.

#### 7.12.2.4 Environmental Consequences

This chapter is what most people think of as the main point of an EIS. It describes the environmental impacts of the proposed action and alternatives, on which the summary in the Alternatives chapter is based.

The CEQ regulations prescribe specific contents for this chapter:

This section forms the scientific and analytic basis for the comparisons under (§1502.14 [the alternatives section]). It shall consolidate the discussion of those elements required by sections 102(2)(C)(i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in (§1502.14 [the alternatives section]). It shall include discussions of:

- (a) Direct effects and their significance....
- (b) Indirect effects and their significance....
- (c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use

plans, policies and controls for the area concerned....

- (d) The environmental effects of alternatives including the proposed action. The comparisons under (§1502.14 [the alternatives section]) will be based on this discussion.
- (e) Energy requirements and conservation potential of various alternatives and mitigation measures.
- (f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
- (g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.
- (h) Means to mitigate adverse environmental impacts (if not fully covered under (§1502.14(f)) [the alternatives section]).

#### 40 CFR 1502.16

The discussion should include direct, indirect, and cumulative effects. These are defined in the CEQ regulations as follows (see also Chapter 3 of this Desk Guide):

"Effects" include:

- (a) Direct effects, which are caused by the action and occur at the same time and place.
- (b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related ef-



ffects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

**40 CFR 1508.8**

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**40 CFR 1508.7**

If sufficient information is not available to conduct a comprehensive analysis of impacts from each alternative, follow the 4-step process described in Section 7.11.4, above.

The Environmental Consequences chapter is an especially good place to use graphics such as tables, charts, maps, and "artist's renderings," for clarity and to cut down on bulky narratives. A picture is often worth a thousand words. Make sure, though, that the picture is clear, and provide text as needed to explain its content and relevance.

Detailed reports need not be quoted extensively in this chapter; incorporate them by reference, and briefly describe the pertinent points they make. If they meet the criteria for being included in the Appendix (see below), include them there. The purpose of

the Environmental Consequences chapter is to summarize the major data on significant impacts; again, the focus is on significant impacts that will influence the final decision on your action, rather than a laundry list of every conceivable environmental resource or media.

**7.12.2.5 List of Preparers**

This documentation shows that you used an "interdisciplinary approach, with the disciplines of the preparers appropriate to the scope and issues identified in the scoping process" as required by 40 CFR 1502.6.

Often a table format can display this documentation to best advantage, with the names of preparers down one side, and headings across the top representing educational/work experience and sections of the document prepared. Names and titles of in-house reviewers of information submitted by applicants and contractors should also be listed here, as should the names of staff members of cooperating agencies who provided data or analyses used in the EIS.

**7.12.2.6 List of Agencies, Organizations, and Persons to Whom Copies of the Statement are Sent**

**Exhibit 7-2** contains a list of types of agencies, organizations, and persons to whom draft and final statements should be sent. The actual distribution for your action should be included in the EIS itself, as a separate section.

Just as with an EA, if you send an EIS to an agency or organization to comply with another law, such as Section 404 of the Clean Water Act, the Endangered Species Act or Section 106 of the NHPA, you should do so in accordance with the applicable regulations. Simply sending an EIS to an agency and requesting its comments will NOT necessarily comply with the regulations governing the law giving that agency jurisdiction.

### 7.12.2.7 Appendix

An EIS may have an Appendix or Appendices, which should contain specific kinds of information, according to the CEQ regulations:

If an agency prepares an appendix to an Environmental Impact Statement the appendix shall:

- (a) Consist of material prepared in connection with an Environmental Impact Statement (as distinct from material which is not so prepared and which is incorporated by reference) [SIC}
- (b) Normally consist of material which substantiates any analysis fundamental to the impact statement.
- (c) Normally be analytic and relevant to the decision to be made.
- (d) Be circulated with the Environmental Impact Statement or be readily available on request.

**40 CFR 1502.18**

Thus, an appendix is not a dumping ground for background reports, methodological descriptions, or lists of environmental features of a study area. It consists of specific material that supports or allows independent evaluation of conclusions drawn in the EIS.

### 7.12.3 Format

The format of an EIS is specified by the CEQ regulations:

Agencies shall use a format for Environmental Impact Statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for Environmental Impact Statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

- (a) Cover Sheet
- (b) Summary
- (c) Table of Contents
- (d) Purpose of and Need for Action
- (e) Alternatives including the Proposed Action
- (f) Affected Environment
- (g) Environmental Consequences
- (h) List of Preparers
- (i) List of Agencies, Organizations, and Persons to whom copies of the statement are sent
- (j) Index
- (k) Appendices (if any)

**40 CFR 1502.10**

The contents of the substantive chapters of an Environmental Impact Statement have been described above. This section will focus on the formats for cover sheets, summaries, and indexes.

#### 7.12.3.1 Cover Sheet

The CEQ regulations prescribe the requirements for a cover sheet:

The cover sheet shall not exceed one page. It shall include:

- (a) A list of the responsible agencies including the lead agency and any cooperating agencies.
- (b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.
- (c) The name, address, and telephone number of the person at the agency who can supply further information.
- (d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under 1506.10).

**40 CFR 1502.11**

**Exhibit 7-3** provides an example format for the EIS Cover Sheet.

### 7.12.3.2 Summary

The CEQ regulations prescribe the contents of an EIS summary:

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

**40 CFR 1502.12**

### 7.12.3.3 Index

No specific requirements for the EIS index exist in the CEQ regulations. Use any up-to-date word processing software indexing tool to create an index of key concepts and analyses for the EIS. The U.S. Government Printing Office Style Manual contains useful suggestions on how to select and prepare document indexes.

## 7.13 WHO PREPARES EISs FOR GSA PROJECTS

GSA normally prepares its own EIS either in-house or through contracting with outside consultants (see Chapter 10, Contracting).

The CEQ regulations allow for applicants or proponents to prepare an EIS for a proposed action, but requires that GSA take an active guidance and evaluative role during

EIS preparation, and take final responsibility for the resulting document:

(a) the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy.

(b) any Environmental Impact Statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or ... the cooperating agency.

**40 CFR 1506.5**

See Chapter 10 of this Desk Guide for further discussion of contracting requirements for preparing EISs.

## 7.14 DISTRIBUTION OF, REVIEW AND COMMENT ON, AND FINALIZING OF EISs

### 7.14.1 Distribution of All Notices and Documents

NOIs and subsequent NEPA documents should be distributed widely to the public, including both groups and individuals known to be interested, potentially affected Indian tribes and local governments, and agencies with jurisdiction by law or expertise.

The CEQ regulations require agencies to distribute copies to specified entities; these are identified as such in Exhibit 7-2. Exhibit 7-2 also lists other entities that should receive copies. This list is not inclusive; use scoping (see Chapter 4 of this Desk Guide) to determine specifically which names should be on the list for your project.

### 7.14.2 Distribution and Review of Draft EISs

#### 7.14.2.1 Distribution

Once a DEIS has been completed, the CEQ regulations require that:

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

- (1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.
- (2) Request the comments of:
  - (i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;
  - (ii) Indian tribes, when the effects may be on a reservation<sup>1</sup>;
  - (iii) Any agency which has requested that it receive statements on actions of the kind proposed.
- (3) Request comments from the applicant, if any.
- (4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

**40 CFR 1503.1**

#### 7.14.2.2 DEIS Notice of Availability (NOA)

The Notice of Availability (NOA) for a DEIS kicks off a minimum 45-day public review and comment period (See **Appendix 2**). GSA writes the NOA for EPA, who publishes it in the Federal Register (see 40

<sup>1</sup> Other authorities such as the National Historic Preservation Act, the American Indian Religious Freedom Act, the Native American Graves Protection Act, and Executive Orders 12898 and 13007, as well as many treaties and the trust relationship between the U.S. Government and tribal governments, strongly encourage consultation with tribes when effects occur off-reservation but may involve resources or lands of importance to such tribes.

CFR 1506.9). This notifies the public and outside agencies that an EIS is available for review and comment.

**Exhibit 7-4** illustrates a sample NOA.

#### 7.14.3 Response to Comments on Draft EISs

When comments are received on a DEIS:

- (a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:
  - (1) Modify alternatives including the proposed action.
  - (2) Develop and evaluate alternatives not previously given serious consideration by the agency.
  - (3) Supplement, improve, or modify its analyses.
  - (4) Make factual corrections.
  - (5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.
- (b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.
- (c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, agencies may write them

on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (Section 1502.19). The entire document with a new cover sheet shall be filed as the final statement (Sec. 1506.9).

**40 CFR 1503.4**

**7.14.4 Distribution of Final EISs**

**7.14.4.1 Distribution**

Final EISs (FEISs) are filed with the Environmental Protection Agency and provided to all cooperating agencies. They are made available to, but are not necessarily automatically provided to, all who commented on the DEIS. A copy must also be provided to CEQ. The CEQ regulations say:

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, DC 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and 1506.10.

**40 CFR 1506.9**

**7.14.4.2 FEIS Notice of Availability**

Just as an NOA is provided for a DEIS, a similar notice is published for an FEIS, kicking off a final 30-day period of "cooling off" before final decisionmaking, or for referral by another agency to CEQ. See Section 7.16 below for a discussion of "referrals" to CEQ.

**7.15 RECORD OF DECISION (ROD)**

**7.15.1 Definition**

The Record of Decision (ROD) is the final step in the EIS process for your action, before you may carry it out. Until a Record of Decision has been issued, no action concerning the proposal can be taken which would (1) have an adverse environmental impact, or (2) limit the choice of reasonable alternatives (40 CFR 1506.1). The ROD is not issued until the FEIS has been issued, at least 30 days have been provided for final public review and objection, and the decision has been made about whether and how to proceed with the action.

**7.15.2 Contents**

The ROD must do the following:

- (a) State what the decision was.
- (b) Identify all alternatives considered by [PBS] in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. [PBS] may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. [PBS] Shall identify and discuss all such factors including any essential considerations of national policy which were balanced by [PBS] in making its decision and state how those considerations entered into its decision.
- (c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

**40 CFR 1505.2**

This is where you or the Responsible GSA Official should discuss matters of policy, weigh benefits and impacts of the selected action, and express judgments and criteria for the decision.

Summarize the contents of the EIS, specifically the Purpose and Need, Alternatives, and Environmental Consequences chapters, so the reader can put your decision into context.

Note that the ROD is not the actual decision document, but it documents what the decision was. Site selection documents and contracts are examples of actual GSA decision documents.

See **Exhibit 7-5** for an example format of a Record of Decision.

### 7.15.3 Public Review

The ROD is made available to the public, and should be distributed to the public in the same way as the DEIS and FEIS. No public comment period is required for RODs, because when the ROD is issued, the decision has been made.

## 7.16 REFERRAL TO CEQ

This procedure may be used by another Federal agency to resolve disagreements about the nature of the environmental impacts expected to be caused by an action, before publication of a ROD. The process consists of filing timely environmental objections, and asking the CEQ to help resolve disagreements through negotiation. It is fully described in 40 CFR 1504.

The CEQ regulations that provide criteria for agencies in determining whether to refer another agency's EIS to the CEQ follows:

In determining what environmental objections ... are appropriate to refer to the Council, [the referring] agency should weigh

potential adverse environmental impacts, considering:

- (a) Possible violation of national environmental standards or policies.
- (b) Severity [of the potential impact].
- (c) Geographical scope [of the potential impact].
- (d) Duration [of the potential impact].
- (e) Importance [of the project] as precedents.
- (f) Availability of environmentally preferable alternatives [to meet the Purpose and Need].

**40 CFR 1504.2**

While pre-decision referrals are rarely used, they constitute a mechanism for outside agencies to influence the nature of GSA decisions. You should consider the referral criteria when you prepare an EIS to ensure that they are covered in the analyses and discussions.

## Exhibit 7-1: Format of Notice of Intent to Prepare an EIS

### Notice of Intent to Prepare an EIS

The General Services Administration intends to prepare an Environmental Impact Statement on the following project:

Name of Project  
Location of Project

The proposed action will:

(enter brief description of the purpose and need for the project, and a description of the proposed action to meet that purpose and need for example:

This project will alleviate current overcrowding and traffic congestion by providing an additional occupiable area of about 203,000 square feet

- 133,300 square feet for 855 Federal employees
- 70,200 square feet for approximately 200 official, visitor, and employee parking spaces)

Alternatives to the proposed action include:

(describe briefly any alternatives identified that will meet the purpose and need for the project; include a description of No Action)

Public scoping will include:

(describe the scoping and public involvement plan for the EIS, including any meetings, field trips, or other public events scheduled as part of scoping)

For further information:

Name of Contact  
Title  
Address  
Phone Number  
(Fax and e-mail addresses, if appropriate)

## Exhibit 7-2: Distribution of EISs

### Distribution to the following is required by CEQ regulations:

#### A. DRAFT EISs:

- Environmental Protection Agency  
5 copies to pertinent EPA Regional offices and 5 copies to:
  - Office of Federal Activities
  - NEPA Compliance Division
  - EIS Filing Section
  - Mail Code 2242-A
  - 401 M Street, SW
  - Washington, DC 20460
- Or when delivered by overnight mail, courier, etc.:
  - Ariel Rios Building (South Oval Lobby)
  - Mail Code 2252-A, Room 7241
  - 1200 Pennsylvania Ave., NW
  - Washington, DC 20044
  - (Telephone 564-2410 or 2400 for access to building)
- Other agencies with jurisdiction by law or expertise (including cooperating agencies)
  - Federal
  - State
  - Local (including counties)
- The applicant, if any
- Any person, organization, or agency requesting the entire EIS
- Indian Tribes when the effects may be on a reservation
- Any agency that has requested to receive EISs on actions of the kind proposed

#### B. FINAL EISs:

- All of the above, plus
- Any person, organization, or agency that submitted substantive comments on the draft EIS

#### C. SUPPLEMENTAL EISs:

- All of the above

#### D. NOTICE OF NEPA-RELATED HEARINGS, MEETINGS, AND DOCUMENTS:

- Federal Register
- Local newspapers
- Newsletters (of the agency or other organizations)  
(See Chapter 4, Scoping)



**Distribution to Any or All of the Following is Appropriate Where Scoping, Analysis, Public Participation, or Expressed Interest So Indicate**

- U.S. Senators for the State in which the action will occur
- U.S. Representative for the District in which the action will occur
- Governor of the State in which the action will occur
- Governing body of any Federally recognized Indian tribe that may be affected by the action.
- Elected officials of the local jurisdiction in which the action will occur or which may be affected by the action:
  - County commissioners, Township council, or equivalent
  - Mayor
  - Head of City Council
  - City or County Executive
  - City or County Manager, Administrator
  - Cooperating agency(ies) when GSA is the lead agency
  - U.S. Environmental Protection Agency  
(5 copies to headquarters and 5 to the Region in which the action will occur)
  - Public libraries
  - Agencies with jurisdiction by law or expertise:
- Federal agencies such as:
  - National Park Service
  - Advisory Council on Historic Preservation (with appropriate under Section 106 of the National Historic Preservation Act)
  - U.S. Fish and Wildlife Service (with appropriate documentation for coordination under the Endangered Species Act)
  - U.S. Army Corps of Engineers (with any permit application under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act)
  - U.S. Department of Housing and Urban Development
  - U.S. Department of Transportation
  - Federal Emergency Management Agency (with appropriate determination under Executive Order 11988)
  - U.S. Geological Survey
  - U.S. Small Business Administration
  - Federal Highway Administration
  - U.S. Department of Justice
  - U.S. Department of Health and Human Services
  - U.S. Department of Commerce
- State agencies such as:
  - State Environmental Protection Agency or Environmental Quality Department
  - State and/or Local Air Quality Board
  - State Historic Preservation Officer (with appropriate determination under Section 106 of the National Historic Preservation Act)
  - State Department of Natural Resources
  - State Department of Transportation
  - State Fish and Game
  - State Parks and Recreation

- State Land Use Board/Commission/Department
- Community Development Agency
- Farmland Preservation Agency
- Governments of Federally recognized Indian tribes potentially affected by the action, and/or specific pertinent tribal agencies as directed by the Tribal government
- County or Local agencies such as:
  - County Planning Commission/Engineering Department
  - City Landmark Commission and/or Historic Preservation Commission
  - Fire Department
  - Police Department
  - Building Department
  - Land Use and/or Zoning Department or Commission
  - Parks and Recreation
- Non-governmental groups and organizations such as
  - Representatives of affected low-income and minority groups  
(with translations, etc. where needed)
  - Non-Federally recognized Indian tribes
  - Native Hawaiian groups (in Hawaii)
  - Other indigenous groups where applicable
  - Utility companies (gas, electric, water, etc.)
  - Environmental groups (Sierra Club, Audubon, etc.)
  - Industry groups (Chamber of Commerce, Downtown associations)
  - Neighborhood groups
  - Adjacent landowners (residential and businesses)
  - Print and electronic media

**Addresses of Key Federal agencies can be obtained  
through GSA's NEPA Call-In at 202-208-6228.**

**Exhibit 7-3: EIS Model Cover Sheet Format**

Cover Sheet  
Title of Document / Volume #/ Total # of Volumes  
(Draft or Final Environmental Impact Statement)  
or  
(Supplemental Environmental Impact Statement)

Document Number

Responsible Agency Name(s)

Title of Action

Location

Contact Name

Address

Telephone/Fax/E-mail (as appropriate)

One-Paragraph Abstract of the Document

The U.S. General Services Administration (GSA) is responsible for disposal of the James T. Kirk Spaceflight Center, recently determined by the National Aeronautics and Space Administration to be excess to its needs. GSA's responsibility in such a disposal action is to maximize the benefit of the transaction to the taxpayer, while meeting other critical needs such as housing for the homeless and environmental protection, and being sensitive to the economic, social, and cultural values and needs of surrounding communities. This Environmental Impact Statement (EIS) examines the environmental effects of three feasible disposal scenarios plus the "no action" alternative. Potential impacts on natural resources, air quality, water quality, endangered species, and community, social, and cultural resources are examined, together with the potential for the generation or release of toxic, hazardous, and radioactive wastes.

Date of Publication

Date Comments Must Be Received: \_\_\_\_\_

*(For DEIS: Allow at least 45 Days from Date of Publication  
For FEIS: Allow at least 30 Days from Date of Publication)*

### Exhibit 7-4: Format for Notice of Availability of EIS

#### Notice of Availability of (Draft/Final) EIS

The General Services Administration has filed with the Environmental Protection Agency and made available to other governmental and private bodies a (Draft/Final) Environmental Impact Statement on the following project:

Name of Project  
Location of Project

The project will:

(enter brief description of the objectives of the project for example:

This project will provide a total occupiable area of about 203,000 square feet

- 133,300 square feet for 855 Federal employees
- 70,200 square feet for approximately 200 official, visitor, and employee parking spaces)

Copies of the Draft/Final Environmental Impact Statement are available from:

Name of Contact  
Title  
Address  
Phone Number  
(Fax and e-mail addresses, if appropriate)

**[For Draft EISs only, use the following language:]**

Council on Environmental Quality regulations provide for a 45 day review period, which begins with the date of the Federal Register notice of the availability of the Draft Environmental Impact Statement. That date is (insert date here); comments are due to the GSA contact named above no later than (insert date here).

**Exhibit 7-5: Format for Record of Decision**

Record of Decision

The General Services Administration has published a Final Environmental Impact Statement on the following project:

Name of Project  
Location of Project

[Describe each of the following topics as needed:]

The Purpose and Need for the project was:

Alternatives examined included:

Environmental Consequences of the project include:

The decision is:

The environmentally preferable alternative is:

I selected/did not select the environmentally preferable alternative because:

The following economic and technical considerations were weighed in reaching my decision:

The following GSA mission consideration were weighed in reaching my decision:

All practicable means of avoiding or minimizing environmental harm from the selected alternative were adopted, through the attached program of mitigation, monitoring, and enforcement.

OR

All practicable means of avoiding or minimizing environmental harm from the selected alternative were NOT adopted, for the following reasons, though the attached program of mitigation, monitoring, and enforcement will be carried out:

(List Reasons)

Signature:

Name of Regional Administrator  
Region

Date

## CHAPTER 8 - SUPPLEMENTS AND REVISIONS TO NEPA DOCUMENTS

### 8.1 PURPOSE

To maintain flexibility in the face of changing circumstances, and to eliminate redundancy in its NEPA process, GSA is allowed by the CEQ regulations to revise and issue supplements to NEPA documents.

### 8.2 DEFINITIONS

A *revision* is a relatively simple change, usually involving a simple errata sheet or sheets, or a few replacement pages. A revision is used when a factual error is discovered, or when minor changes take place that need to be recognized in the NEPA document.

A *supplement* is a more substantial change, of sufficient magnitude that a new draft and final document must be prepared and circulated in the same manner as the original document (see 40 CFR 1502.9).

### 8.3 WHEN TO REVISE; WHEN TO SUPPLEMENT

Make a revision when all that is needed are minor, technical corrections of fact and/or editorial changes. Never use a revision to make significant substantive changes in a NEPA document.

The CEQ regulations require preparation of a supplement if:

- (1) [GSA] makes substantial changes in the proposed action that are relevant to environmental concerns; or
- (2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

**40 CFR 1502.9**

Examples of such changes include:

- Changes in the purpose and need for the action
- Changes in key assumptions about population trends, environmental conditions, or economic forecasts
- Changes in environmental conditions such that the environmentally preferable alternative changes

### 8.4 CIRCULATION AND FILING

Copies of revisions must be provided to all parties reviewing the original NEPA document, and included with the original NEPA document in the formal administrative record of the action.

Supplements must be included in the formal administrative record for a project, along with the original EA or EIS being supplemented, and must be prepared, circulated, and filed in the same manner as a regular EA or EIS (except that the formal scoping process need not be repeated).

### 8.5 TIMING

Prepare your supplement as soon as practicable after you find a change in circumstance that warrants a supplement. Revisions may be prepared at any time.

GSA may also prepare revisions and supplements whenever it determines that the purposes of NEPA will be furthered by doing so.

## 8.6 RESPONSIBILITY

Program staff (e.g., project manager, realty specialist, asset manager, facility specialist, building manager, property manager, project developer) must be alert to the possible need for revisions and supplements, and are responsible for preparing them as needed, in consultation with or with the direction of the REQA.

## 8.7 REQUIREMENTS FOR ENVIRONMENTAL ANALYSIS: SUPPLEMENTS

Supplemental NEPA documents have the same requirements for interdisciplinary analysis and preparation, adequacy and integrity of information, treatment of unavailable or incomplete information, and conciseness and plain language as the documents they supplement. See Chapters 5, 6, and 7 of this Desk Guide for more information.

### 8.7.1 Scope of Analysis

Supplemental analyses and documents should focus on the environmental issues or concerns which lead to the need for a supplement, i.e., the “substantial changes in the proposed action” or the “significant new circumstances or information” referred to above.

### 8.7.2 Public Involvement

The public should be involved in supplemental NEPA analyses to the extent necessary to perform adequate analysis of the issues of concern. A draft supplemental EIS or EA must be circulated to agencies and the public in the same manner as the original.

Under normal circumstances, it is not necessary to repeat public participation in the scoping process. Abnormal circumstances may include:

- If a long time has passed between the original NEPA document and the supplement (i.e., a new community has developed, or public opinion is substantially different from before)
- If the purpose and need or specific proposed action for the project have changed such that it is likely to engender new environmental issues or substantial public controversy

## CHAPTER 9 - SPECIAL STUDIES

### 9.1 INTRODUCTION

“Special studies” include those environmental analyses which may be necessary as part of the NEPA planning process for a project. Some of the more common types of studies needed for GSA NEPA analyses are:

- Environmental Justice studies
- Social impact assessments
- Cultural resource surveys
- Environmental due diligence reports
- Floodplain delineations
- Wetland delineations
- Air quality studies
- Water quality studies
- Natural resource studies
- Endangered species surveys

These studies provide the background for preparing NEPA documents (EAs and EISs), which form the basis for environmental decisionmaking. Special study reports are hardly ever suitable for inclusion “as-is” in a NEPA document, but must be reviewed by in-house experts, and their data analyzed and summarized as appropriate. They are often appended to NEPA documents, or included by reference and made available for inspection by the interested public.

Decisions about the need for special studies, and about what kinds of special studies are needed, should be based on scoping. You should begin any needed special studies as early as possible in the course of EA or EIS analysis (and, where necessary, in the course of completing a CATEX Checklist). Special studies take time, and if a study begins too late, it can hold up completion of NEPA review and project planning.

#### 9.1.1 Special Studies for Other Legal Requirements

In coordination with NEPA review, special studies are often used to comply with other environmental laws and related requirements. CEQ regulations at 40 CFR 1502.25 require that special studies designed to meet the requirements of other laws “to the fullest extent possible” be conducted concurrently with and integrated into the NEPA process, to reduce delay and to ensure that the necessary information is available to the decisionmaker.

Closely coordinate special studies with one another. Recall that NEPA requires agencies to carry out *interdisciplinary* analysis, not merely *multidisciplinary* analysis, of environmental impacts.

Specifically, you should conduct those studies required by the Fish and Wildlife Coordination Act, the NHPA, and the Endangered Species Act, and other “environmental review laws and Executive Orders.” (See **Appendix 1**.)

#### 9.1.2 Obtaining Special Studies

Special studies may be obtained through the use of in-house technical experts, through interagency agreements with agencies that have jurisdiction by law or that have expertise in the topics requiring special studies, and by contracting with outside consultants. See Chapter 10, Contracting, for more information about this method of obtaining special studies.



### 9.1.3 How this Chapter is Organized

This chapter provides guidance on the basics of conducting various kinds of special studies, with selected references, examples of previous GSA studies, and an outline of legal requirements.

Thus, this chapter can serve as a guide to asking questions of in-house or contract consultants, and to assist in technical review of study results (see Chapter 11, Technical Review, for more information).

Each topic has its own subsection, containing a legal reference, broad outline of data requirements, brief description of field or other study methods, and a brief description of typical study results.

The subsections are as follows:

- 9.2 Environmental justice studies
- 9.3 Social impact assessment
- 9.4 Cultural resource
- 9.5 Due Diligence Reports
- 9.6 Floodplain Studies
- 9.7 Wetland delineations
- 9.8 Air quality studies
- 9.9 Water quality studies
- 9.10 Natural resource studies
- 9.11 Endangered species surveys

For more information on the following and other kinds of special studies, contact NEPA Call-In at (202) 208-6228.

## 9.2 ENVIRONMENTAL JUSTICE (EJ) STUDIES

### 9.2.1 Legal Requirements

EO 12898 (2/11/94) requires Federal agencies which are members of the Interagency Federal Working Group on Environmental Justice (IWG) to identify and address, as appropriate, “disproportionately high and adverse human health or environmental effects of its programs, policies, and activi-

ties on minority populations and low-income populations,” and directs these Federal agencies to make EJ part of their mission. Although GSA is not a member of the IWG, EO 12898 requests that all independent Federal agencies comply with the provisions of the Order.

“Environmental justice” means ensuring that low-income populations and minority populations (communities, neighborhoods, etc.) are not exposed to unjustly—that is, inequitably—high or adverse environmental impacts. Thus, the Executive Order asks agencies to identify and address any “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”

While EO 12898 does not “create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its offices, or any person,” the Order interprets Federal agency responsibilities under NEPA and other environmental laws. It suggests that EJ is an aspect of civil rights, and that discrimination in the placement or location of environmentally hazardous facilities or activities may be a basis for litigation under Title VI of the Civil Rights Act of 1964 (CRA). Title VI prohibits discrimination by recipients of federal financial assistance.

The CEQ has developed EJ guidance to assist Federal agencies with NEPA procedures to ensure EJ concerns are addressed. Several agencies, such as the Departments of Energy and the Interior, and the EPA, have also developed draft policies or strategies to guide their compliance with EJ requirements. This Desk Guide and the orders it supports have been designed to help ensure that EJ issues are effectively addressed in NEPA analyses and documents. This is consistent with a Presidential Memorandum issued concurrently with EO 12898, which directed agencies to ensure

that the EO's requirements are reflected in NEPA studies and reviews.

Because GSA actions often take place in urban areas, there is potential for effects (beneficial or adverse) on minority populations and low-income populations; thus, some level of EJ study should be performed as part of each GSA NEPA review. This is not to say that EJ is strictly an urban issue, however. Impacts on rural populations (e.g., Indian tribes, rural African-American communities, low-income rural non-minority communities) must be considered when analyzing the effects of a non-urban action.

### 9.2.2 Data Requirements

Data actually required to incorporate EJ concerns into GSA's environmental planning are deceptively simple. Basically, you need to answer two questions:

- (1) Does the potentially affected community include minority and/or low-income populations?
- (2) Are the projected environmental impacts, if any, likely to fall disproportionately on members of these communities?

If you answer "yes" to both questions, you should develop mitigation or other methods to take these effects into account as part of your NEPA decisionmaking process.

What is the definition of a "minority population"? IWG guidance states that a "minority population" may be present in an area if the minority population percentage in the area of interest is "meaningfully greater" than the minority population in the general population, and/or if the minority population of the affected area exceeds 50 percent.

What is the definition of "low-income"? IWG guidance defines "low-income" population as one identified with the Bureau of the

Census Series P-60 statistical poverty threshold.

Note that your baseline and projected data on the nature of health and other environmental effects should include comparative data on releases of pollutants, especially toxic pollutants, as well as health data reflective of the community being considered. Specifically, examine the following three criteria, as suggested by the IWG:

- (1) Whether [health or other environmental] effects (of a proposed action or alternative) are above generally accepted norms (as measured by risks and rates);
- (2) Whether the risk or rate of [hazard or other environmental] exposure appreciably exceeds or is likely to appreciably exceed those of the general population; and
- (3) Whether [health or other environmental] effects occur as a result of cumulative or multiple exposures.

Other environmental effects you must consider include those defined by the CEQ regulations for NEPA: ecological, cultural, economic, or social.

Public involvement is a necessary part of EJ studies and of achieving EJ over the long run. GSA should incorporate EJ criteria into public involvement programs under NEPA, including those required by NEPA itself, the NHPA, and EOs protecting wetlands and floodplains. Recall that you may need to resolve public involvement issues such as language barriers, distance to and timing of meetings, and other factors related to public involvement (see Chapter 4, "Scoping.")

### 9.2.3 Study Methods

#### Scoping:

Scoping is critical to identifying the potential for EJ problems so they can be addressed

in NEPA analyses and under other environmental review authorities. In formal scoping for an EIS, and in informal scoping for an EA, you should ask yourself, your research data, your consultants, other knowledgeable parties, and the potentially affected community about whether disproportionate impacts on EJ communities may occur. Some sources of information and assistance in reaching out to potentially affected communities include State, local, and tribal government agencies, legal aid providers, civic associations, religious organizations, civil rights groups, and community and social service organizations, as well as the local media.

In determining whether minority populations or low-income populations may be affected, you will need to consider both residents and people who use the affected area. In most cases, these will be the same population, but sometimes they will be different. For example, the residents of a downtown commercial area might be predominantly Hispanic, but the area might contain small businesses like grocery stores that are heavily used by members of a Southeast Asian community who reside elsewhere.

The composition of the resident community can be determined using BOC data and information from local social service agencies. CEQ guidance provides that low-income populations be identified with reference to the annual statistical poverty thresholds from the BOC Current Population Reports, Series P-60 on Income and Poverty, and that minority populations should be identified where either: (a) the minority population of the affected area exceeds 50 percent or (b) the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis.

People who use the affected area may be harder to identify, since they will not appear

in census data pertinent to the defined affected area. Discussions with local sources of expertise and the community itself may identify such groups.

Public participation is a critical part of scoping, and an important technique for identifying potentially affected populations. In designing public participation efforts, the EO reminds us to make every reasonable effort to overcome linguistic, institutional, cultural, economic, historical, and other possible barriers to effective participation by minority populations or low-income populations. In designing a scoping effort, and public participation aspects of the rest of a NEPA review, you should consult experts who know how to communicate with potentially affected minority populations or low-income populations, or make sure such experts are included on the planning team.

The CEQ guidelines list a number of ways to ensure effective participation, including the translation of significant documents; the use of facilities and locations that are local, convenient, and accessible; and the use of meeting sizes and formats that are tailored to the community or population. Scheduling meetings to avoid conflict with work schedules and community social events may be important. It may also be important to find out something about the affected community's communication styles and principles, and design your public participation program with these in mind. People will not participate if they feel they are being asked to do so in an inappropriate or offensive manner. In accommodating the needs of minority populations or low-income populations, the CEQ guidance reminds us to ensure accessibility by and assistance to hearing-impaired, vision-impaired, and other disabled people.

**Establishing the Affected Environment:**

It is important to identify what physical, social, cultural, and health impacts the proposed action could have on people and

their environments, and include these areas in the affected environment.

The CEQ guidance reminds us that: "the impacts within minority populations, low-income populations, or Indian tribes may be different from impacts on the general population due to a community's distinct cultural practices. For example, data on different patterns of living, such as subsistence fish, vegetation, or wildlife consumption and the use of well water in rural communities may be relevant to the analysis." In the case of new construction, GSA should consider impacts on minority populations and low-income populations that are not adjacent to the project site but whose residents use the vicinity of the project site for business, social, or cultural purposes. Surplus Federal property that has been used for recreation by a nearby or more distant community is another example where impacts may extend to EJ communities not in the immediate area of the project.

#### **Environmental Assessments:**

An EA examines the intensity of a project's environmental consequences, their significance, and determines whether an EIS is necessary. The interests of potentially affected minority populations and low-income populations makes up one of the contexts within which the intensity of impacts must be considered. Based on Title 40 CFR 1508.27(b), GSA should consider measures of intensity with regard to the following:

- Both beneficial and adverse effects on aspects of the environment important to EJ communities.
- The degree to which the proposed action may affect the safety and health of such communities, and whether such effects are disproportional with those on the rest of the population.
- The degree to which the action may affect unique environmental characteristics valued by the affected communities,

such as farm lands, recreation areas, historic places, and culturally valued neighborhoods or businesses.

- The potential for impacts to be controversial in the eyes of the affected community.
- The potential for uncertain or unknown risks to the community, for example, from the release of chemicals that may or may not have human health implications.
- The degree to which the action may set precedents for carrying out other similar actions in the potentially affected community, or in other similar communities.
- The contribution the proposed action could make to cumulative impacts on the affected community, including exposure to one or more chemical, biological, physical, or radiological agents across air, water, soil, or other environmental media over time, from single or multiple sources.
- The extent to which the action could affect historic properties or other cultural resources important to the potentially affected communities.
- Whether the proposed action could result in violation of a Federal, State, Indian tribal, or local law designed to protect the potentially affected communities, or communities in general, from disproportionate adverse environmental impacts.

Under Title 40 CFR Part 1508.14, "Human environment," economic or social effects by themselves are not enough to require preparation of an EIS. However, if economic or social effects are disproportionate and adverse, and linked to one of the measures of intensity listed above, then they may indicate the need for a higher

level of analysis, including the possibility of preparing an EIS.

For example, if a proposed lease construction project will drive up property tax rates to such an extent that low-income homeowners or business people will be driven out, this would not require GSA to prepare an EIS unless the socioeconomic effect of displacement by rising property taxes was related to environmental impacts like exposure to toxic materials or impacts on the community's cultural resource, even if the socioeconomic effect fell disproportionately on the EJ community. It would be appropriate to include measures to mitigate socioeconomic impacts in the FONSI, however, and to include measures to ensure that mitigation was completed. Where socioeconomic effects are disproportionate and related to one or more of the kinds of environmental impact types listed above, an EIS may be necessary unless acceptable mitigation measures can be developed and included in the FONSI.

#### **Analysis:**

In the analysis performed for an EA or EIS, the points outlined above should be considered in detail, and the distribution of environmental and health effects within the affected community should be considered. Social impact assessments (SIAs) conducted as part of NEPA analysis should include efforts to define both resident and user populations and analyze impacts on them. The severity of impacts should be determined as clearly as possible, as should the extent to which an impact is disproportionate when compared with similar impacts on the population as a whole.

Where a potential EJ issue is identified, GSA should state clearly in the EIS or EA whether a disproportionately high and adverse human health or environmental impact will likely occur on minority populations and low-income populations as a result of the proposed action. The rationale for this

conclusion, and its underlying analysis, should also be included in the EIS or EA.

Draft NEPA documents, as well as preliminary information and findings, should be shared with affected communities and groups, and their comments solicited. GSA should use media targeted to low-income, minority, or culturally distinct communities such as posters and exhibits, bulletin boards, surveys, telephone hotlines, and local newspapers. GSA should seek to overcome language barriers by providing adequate translation of documents, and bilingual translators who are trained in EJ issues. Always consider the literacy level of the audience and speak to them on their level, using layman's language, and avoiding technical jargon. It is important to provide opportunities for participation other than written such as personal interviews or audio/video recording.

#### **Alternatives:**

EJ communities who may suffer disproportionate and adverse effects from the proposed action should be encouraged to participate in the development of alternatives, and in the identification of an environmentally preferred alternative in the ROD. Involving minority populations and low-income populations in the development of alternatives may lead to the identification of alternatives with fewer adverse EJ and other environmental effects.

When GSA prepares an EIS, the CEQ regulations require that the ROD identify an environmentally preferable alternative. When determining an environmentally preferred alternative, GSA should consider the views of affected EJ communities as well as the distribution and magnitude of any disproportionate and adverse impact on those communities. The CEQ guidance also suggests that the magnitude of environmental impacts on alternatives with fewer disproportionate and adverse effects on EJ communities be considered when choosing an environmentally preferred alternative.

### **Mitigation of Adverse Effects:**

If GSA finds its actions will have a disproportionately high and adverse effect on an EJ community or any impact to tribal, cultural, natural resources, or treaty rights, it should develop measures to mitigate these effects. Mitigation measures for inclusion in EAs, EISs, FONSI, and RODs should be developed in consultation with affected communities and groups, and should provide for ongoing participation and coordination as the measures are implemented. Mitigation measures include steps to avoid, mitigate, minimize, rectify, reduce, or eliminate the impact associated with a proposed agency action. For example, EPA identifies the following potential mitigation measures in its EJ guidance:

- "Planning for and addressing indirect impacts prior to project initiation (e.g., planning for alternative public transportation if the project may result in increased population growth);
- Providing assistance to an affected community to ensure that it receives at least its fair (i.e., proportional) share of the anticipated benefits of the proposed action (e.g., through job training, community infrastructure improvements); and
- Changing the timing of impact causing actions (e.g., noise pollutant loadings) to reduce effects on minority communities and low-income communities."

#### **9.2.4 Study Results**

The results of your EJ study should include data on the current and projected health and other environmental effects of your proposed action or alternative on minority and/or low-income populations in the appropriate area of study. You should acquire an understanding of the cultural systems in the populations, so that you can estimate the impact of its actions on the culture. If the impacts are disproportionately high and

adverse, you should develop suitable mitigation measures to ensure that environmental justice is achieved.

### **9.3 SOCIAL IMPACT ASSESSMENT**

#### **9.3.1 Legal Requirements**

A social impact assessment (SIA) is a fundamental part of NEPA analysis, which calls for the integrated use of the social sciences in assessing impacts "on the human environment." SIAs are also an important way of addressing the requirements of EO 12898 and sometimes other statutes, such as the CERCLA, aspects of the NHPA, and the American Indian Religious Freedom Act. An SIA is often characterized as "socioeconomic impact analysis," and major emphasis is placed on such economic variables as job creation and loss, strains on city services, and impacts on the local tax base. These are important variables, but they are not the only ones that should be analyzed. Socioeconomics should be one aspect of an SIA, not the only or most dominant aspect.

#### **9.3.2 Data Requirements**

The Interorganizational Committee on Guidelines and Principles for Social Impact Assessment defines "social impacts" as "consequences to human populations of any public or private actions that alter the ways in which people live, work, play, relate to one another, organize to meet their needs and generally cope as members of society. The term also includes cultural impacts involving changes to the norms, values, and beliefs that guide and rationalize their cognition of themselves and their society."<sup>1</sup>

To conduct an SIA, then, you must first make a reasonable effort to characterize

---

<sup>1</sup> Interorganizational Committee guidelines and Principles for Social Impact Assessment. US Dep. Commer., NOAA Tech. Memo. NMFS-F/SPO-16, 1994.

the ways in which people live, work, play, etc. in the area(s) where your action may have effects, and determine what norms, values, and beliefs may be important to them. Next, assess what your action may do to these variables.

### 9.3.3 Study Methods

The "Guidelines and Principles for Social Impact Assessment" cited above recommends following these steps in the SIA process:

- (1) Develop an effective public involvement plan to involve all potentially affected publics. This means identifying and reaching out to the communities, neighborhoods, and other human populations that may be affected. Cultural and language barriers to such involvement should be considered in developing such a plan.
- (2) Describe the relevant human environment or area of influence and its baseline conditions. This means describing the social and cultural character of the potentially affected area(s) as it is now.
- (3) Identify the full range of probable social impacts, based on discussions or interviews with members of all potentially affected social groups. This should be initiated as part of scoping, and continue through the life of the analysis.
- (4) Project estimated effects and investigate them. This analytic process typically involves the study of data on the proposed action itself, records of previous experience with similar actions (carried out by GSA or others), census, tax, real estate, and other records, and field research including interviews, group meetings, and surveys of the population. Various analytical methods are used in this stage of the assessment, typically including comparison with the effects of other similar actions, straight-

line trend projections, the construction and playing-through of impact scenarios, the use of expert testimony, sometimes computer modeling, and what is called "calculation of futures foregone," i.e., considering what the community will have to give up as a result of the action.

- (5) Predict responses to the impacts. This is a measure of significance. For example, if constructing a new courthouse is likely to attract law offices to a neighborhood, increase or reduce property values, and alter neighborhood tax levels, this is certainly an impact, but how serious an impact it is depends largely on how the neighborhood reacts to it. Predicting responses generally involves comparative analysis and interviews about what people will do if the action goes forward and specific impacts occur.
- (6) Consider and recommend alternatives. The SIA should include an assessment of alternatives, and the formulation of recommendations as to which alternatives are preferable in terms of the sociocultural environment.
- (7) Develop a mitigation plan. The SIA should also develop and propose means of avoiding, minimizing, rectifying, or reducing the social impacts of various alternatives.
- (8) Develop a monitoring plan, which can be adopted as part of the FONSI or ROD to ensure that mitigation is carried out, and that it is effective.

Typically, you will use specialists in relevant social science disciplines such as sociology, anthropology, economics, and cultural geography in the conduct of an SIA. Folklife studies are sometimes relevant as well. Note that an SIA should be closely coordinated with "cultural resource" studies (see below), because their subject matters overlap greatly.

### 9.3.4 Study Results

The results of an SIA, as reported in an EIS or EA, should

- Describe how the diverse public was involved in the study;
- Address significant social, cultural, and economic impacts, not those that are insignificant;
- Describe the study methods and the assumptions on which the SIA was based;
- Carefully analyze impact equity (who wins, and who loses, in the case of each alternative), particularly with respect to impacts on low-income and minority populations;
- Identify data sources, and identify any needed data that are unavailable, evaluating their importance and providing a strategy for proceeding either to obtain the missing data or to get by without them;
- Identify the practitioners who carried out the assessment; and
- Include a description of proposed mitigation measures, and a proposed monitoring program.

Ideally, an SIA should not be carried out by itself and result only in an end-product report. Particularly given the potential for sociocultural and socioeconomic impacts to generate public controversy, it is important for the SIA to provide ongoing feedback to GSA planners and decisionmakers.

## 9.4 CULTURAL RESOURCES

### 9.4.1 Legal Requirements

Over a dozen Federal laws and Executive Orders, along with their attendant regulations, require GSA to take specific actions

to identify, protect, and preserve important aspects of the nation's cultural heritage (see Appendix 1 for a listing of some of these laws; see also GSA Order ADM 1020.2). Among the most important are:

- National Historic Preservation Act (NHPA)
- Public Buildings Cooperative Use Act (PBCUA)
- Architectural Barriers Act (ABA)
- Native American Graves Protection and Repatriation Act (NAGPRA)
- American Indian Religious Freedom Act (AIRFA)
- Archeological Resources Protection Act (ARPA)
- Federal Records Act (FRA)
- EO 11593, "Protection and Enhancement of the Cultural Environment"
- EO 13006, "Locating Federal Facilities on Historic Properties in Our Nation's Central Cities"

"Cultural resources" is an umbrella term for many kinds of heritage-related resources you must consider during the NEPA process for your proposed action and alternatives:

- Historic sites, buildings, districts, structures, and objects with historic, architectural, archeological, engineering, and cultural values (e.g., a historic courthouse or the archeological remains of a 19th-century neighborhood).
- Historical objects such as the equipment that might be found in a surplus industrial facility, objects found at or excavated from an archeological site, and objects associated with the history and



culture of an Indian tribe or Native Hawaiian group.

- Documents with historic, folkloric, or archeological significance (e.g., the records of a surplus military base, records pertaining to an archeological site, or the original plans and specifications for a building).
- Places of traditional religious or cultural importance to an Indian tribe or Native Hawaiian organization.
- Locations regarded by a community or neighborhood, or others, as contributing to its "sense of place."
- The traditional religious and cultural practices of a community, neighborhood, Indian tribe, or Native Hawaiian group.

Each of the various specific cultural resource laws tend to deal with some subset of cultural resources; for example, NHPA deals with "historic properties," while NAGPRA deals with "Native American cultural items." These terms overlap, but one seldom completely subsumes another. Only NEPA itself requires consideration of impacts on ALL types of cultural resources.

Regulations implementing NEPA require that compliance with requirements of NHPA and other pertinent laws be integrated "to the fullest extent possible" with NEPA analyses and documentation. (40 CFR 1502.25)

#### 9.4.2 Data Requirements

A cultural resources assessment should address the full range of cultural resource types potentially affected by your action, as determined through scoping. Like an SIA, a cultural resources assessment should characterize the relevant aspects of the sociocultural environment; in this case, the cultural resources assessment should char-

acterize cultural aspects and assess what your action may do to these aspects.

A great deal of guidance is available from the National Park Service (NPS) with regard to historic properties, archeological resources, and Native American cultural items in the form of regulations, National Register Bulletins, Technical Briefs, and other guideline documents.

This guidance covers such topics as:

- Evaluation criteria for "significant" historic properties
- Standards for historic property surveys
- Recommended qualifications for in-house and consultant specialists
- Requirements for National Register of Historic Places nominations
- Curation standards for artifacts and museum properties
- Requirements for consultation under NAGPRA

The Advisory Council on Historic Preservation (ACHP), a Federal agency charged with overseeing review of Federal undertakings under Section 106 of NHPA, has government-wide regulations (36 CFR 800) that GSA must follow in complying with Section 106, and also provides extensive guidance on Section 106 compliance. The NHPA on Federal undertakings that may have an "effect" on cultural properties listed on or eligible for the National Register of Historic Places, has also developed extensive guidance on how to comply with its procedures contained in 36 CFR 800.

Copies of NPS and ACHP guidance are available from GSA's Federal Preservation Officer (FPO) at National office and/or from Regional Historic Preservation Officers (RHPOs). The FPO is also GSA's NEPA

Liaison, and RHPOs are normally lodged in or in close contact with the REQA. GSA Order ADM 1020.2 (currently under revision) describes the internal GSA requirements for compliance with aspects of NHPA and other historic preservation authorities.

Cultural resources include more than historic properties, however. The National Archives and Records Administration (NARA) provides extensive regulations and guidance for the management of historical records. The American Folklife Center (AFC) in the Library of Congress provides direction for folklife studies. The "Guidelines and Principles for Social Impact Assessment," cited above (Section 9.3.2), contain useful direction for identifying and assessing impacts on the cultural values of living communities.

### 9.4.3 Study Methods

Cultural resource studies appropriate under NEPA can include background research and field studies to identify historic places and other cultural resources and to determine their significance; interviews and meetings to identify community cultural resource concerns; consultation with such agencies as the ACHP and State Historic Preservation Officers (SHPOs), Indian tribes and Native Hawaiian groups, and public involvement programs. Cultural resources studies may also include archeological and historic resource records searches; field surveys; evaluation studies; production of historic structure reports (HSRs); historic building preservation plans (HBPPs); National Register of Historic Places (NRHP) nominations; archeological excavation reports; and materials (artifacts and records) conservation reports.

Some of the specific cultural resource regulations provide quite detailed direction about the kinds of studies that are necessary. The NHPA Section 106 regulations (36 CFR 800) provide direction regarding the identification and evaluation of historic

properties, and the NAGPRA regulations provide even greater detail about consulting with Indian tribes and Native Hawaiian groups. These statute-specific standards must be addressed in planning a cultural resources assessment for NEPA purposes.

Many cultural resource studies are labor-intensive, time-consuming, and often weather-dependent or seasonal. Snow or frozen ground may prevent some kinds of archeological surveys from being conducted during the winter, for example, and some Native American cultural authorities may not be available for consultation during seasons when they have to perform cultural duties elsewhere. Surveys of historic buildings may involve safety requirements, use of scaffolding or photogrammetric techniques; surveys for archeological resources may require subsurface excavations to determine site boundaries or provide data for evaluations of significance.

When you conduct a cultural resources assessment, include the following key aspects:

- Define the range of cultural resource types that may be of concern (as determined by scoping).
- Define the study area (this is especially important for archeological surveys that may encounter subsurface materials; the study area for archeological sites is usually the area (if any) to be disturbed by the action, while the study area for other kinds of cultural resources is usually larger).
- Kinds of study methods to employ, and level of intensity of the field study (if any). Many SHPOs and others use what appears to be a standard system of Class I, II, and III surveys, from least to most intensive, but this system is not in fact standardized; the same terms mean different things in different areas. Moreover, it applies only to surveys for

historic properties, not for all kinds of cultural resources; be careful in using such terminology in establishing study methods.

- Types of cultural resource expertise necessary (archeologist, architects, folklorists, landscape architects, geographers, engineers, and Native American religious specialists are not interchangeable; an appropriate interdisciplinary mix is necessary and defined based on scoping).
- Supplementary studies needed (for example, radiocarbon dating, paint analysis, archival research, interviews, sub-surface radar or other non-destructive profiling, geomorphology studies, osteoanalysis).
- Nature of documentation required (reports, archivally stable photographs, maps, computer output of various kinds).

#### 9.4.4 Study Results

Because of the variety of types of cultural resources, and the variety of types of cultural resource studies, no single list of “study results” is easily constructed.

In general, however, cultural resources assessment studies for NEPA compliance will result in the following types of items:

- A report, including description of qualifications of survey personnel, methods used during the survey, objectives of the survey, survey design, results of background research, results of file or archival searches, actual results of the field survey, evaluations of any resources located during the survey, and recommended GSA actions in light of the survey results.
- Maps, photographs, audio or videotapes, computer printouts and disks, re-

sults of special studies, and bibliographic material as appropriate.

- In some cases, completed standard forms (such as historic property inventory forms).
- Field notes and other background materials.

The FPO or RHPOs should be involved in the design and technical review of cultural resource studies to ensure they meet pertinent regulatory and professional standards and will provide program staff with the data needed both for NEPA analysis and for compliance with such pertinent other authorities as the ACHP Section 106 regulations (36 CFR 800) and the NPS NAGPRA regulations (43 CFR 10).

The level of detail seemingly required by the historic preservation regulations in particular—sufficient information to determine the eligibility of particular properties for inclusion in the National Register of Historic Places—can be very difficult and costly, if not impossible, to obtain at the early stage of planning when NEPA analysis must be performed. NEPA analysts are sometimes tempted to put off the work needed to comply with NHPA Section 106 until after a FONSI has been issued or an EIS has been finalized. This is very bad practice, however, since it places GSA in the position of making decisions without full data, in a manner inconsistent with the spirit if not the letter of both NEPA and NHPA. This is an unresolved problem that simply must be considered in designing a cultural resources assessment study.

## 9.5 DUE DILIGENCE REPORTS

### 9.5.1 Legal Requirements

“Environmental Due Diligence” is a term of art that describes the responsibilities of a landowner such as GSA to conduct an appropriate inquiry prior to purchase or devel-

opment of a parcel of commercial real estate and ensure that all "recognized environmental conditions" have been identified. A "recognized environmental condition" means the presence or likely presence of any hazardous substances covered under the terms of CERCLA, as well as petroleum products, asbestos, lead-based paint, radon, and other environmental hazards covered under other laws or industry practice.

By exercising such due diligence, GSA gains two benefits:

- (1) it has access to the "innocent landowner defense" under CERCLA; and
- (2) it has likely identified the presence of any hazardous materials on the site that may need remediation.

Due diligence requires, at a minimum, preparation of an environmental due diligence assessment often called a "Phase I Environmental Site Assessment" or simply a "Phase I." If the Phase I study indicates the likely presence of a "recognized environmental condition," a "Phase II" characterization study must also be conducted.

### 9.5.2 Data Requirements

The legal standard of "appropriate inquiry" implies that the actual level of inquiry will vary, depending on the specific circumstances of the property in question.

Phase I studies are presumed valid for 180 days, although older ones may be used depending on the specific circumstances of the property.

Current industry practice as set forth in American Society for Testing and Materials (ASTM) Standards #E1527 (Environmental Site Assessments) and 1528 (Transaction Screen Process) describe the major data requirements for a Phase I study. Because Phase II studies are based on the results of Phase I, no standard data set is required for

Phase II studies (see ASTM E 1903-97, "Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process," February 1998).

Phase I Environmental Site Assessments require the following data to be collected:

- (1) Based on a records review, including searches of Federal, State and local lists, data on the following types of sites within the following standard approximate minimum search distances:
  - Federal NPL sites- 1.0 miles
  - Federal CERCLIS list- .5 miles
  - Federal RCRA TSDFs- 1.0 miles
  - Federal RCRA generators—local
  - Federal ERNS list-property only
  - State hazardous. waste sites-1.0 miles
  - State landfills-0.5 miles
  - State leaking USTs-0.5 miles
  - State registered USTs - local

The standard map for indicating site location is a United States Geological Survey (USGS) 7.5' quadrangle map; other, non-standard maps may be used if the site location is not readily ascertainable from a USGS map, or if no USGS map is available for the study area.

Review records back to the first obvious developed use (including previous agricultural uses or placement of fill) or to 1940, whichever is earlier. Determine property uses from historical sources, but use common sense (i.e., very early properties need only be researched back to the point at which their use could have generated pollutants, not to their original settlement by the Pilgrims, the Spanish, or an Indian tribe).

- (1) Use site reconnaissance to inspect the property, including exteriors and interiors of any buildings or structures, site setting, current and past uses of the property and adjoining properties, and roads of any features of the natural en-

vironment (geology, topography, hydrology, etc.) that may affect migration of hazardous substances to or from the property being reviewed.

- (2) The review should especially note the existence of any odors, standing pools, containers, corrosion, stained soils, stressed vegetation, waste piles, HVAC systems, equipment containing PCBs, asbestos, possible lead-based paint, etc.
- (3) Interviews with current and prior owners and occupants, as well as local government officials, are aimed at discovering specific information about site uses, either to fill in gaps in records reviewed or to corroborate information obtained from records.

### 9.5.3 Study Methods

Phase I studies involve reviewing records, visiting the site, and interviewing owners, occupants, and government officials. No specific methods for conducting such activities are prescribed in the standards, but these activities must be conducted by an "environmental professional," defined as a person with sufficient training and experience to accomplish these tasks and develop conclusions regarding the existence of "recognized environmental conditions" on the property. Phase I studies do not involve taking samples or conducting laboratory analysis.

Because much Phase I research is historical, it is usually cost-effective to coordinate such research with the cultural resources assessment (if one is performed).

Phase II studies do involve physical sampling and laboratory analysis. The ASTM guide for Phase II studies requires development of a work plan in which the specific sampling plan, chemical testing plan, and quality assessment/quality control procedures are defined. Field and laboratory

analytical techniques for hazardous materials are usually defined by existing EPA and ASTM standards, which should guide development and review of the Phase II work plan. Phase II studies should also be coordinated with the cultural resources assessment if one is performed, both to maximize efficiency (auguring to identify USTs or waste plumes may provide information on buried archeological sites, and vice-versa) and to minimize damage to historic properties and other cultural resources (sampling material from the walls of a historic building may damage it).

### 9.5.4 Study Results

Phase I studies result in reports that describe the study, including documentation of research conducted, credentials of the environmental professional conducting the study, the environmental professional's opinion of the impact of any recognized environmental conditions in connection with the property, and the environmental professional's signature.

The report must have a Findings and Conclusions section that contains one of the following two statements:

#### *Recognized Environmental Conditions Absent*

"We have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527 of [insert address or legal description], the property. Any exceptions to, or deletions from, this practice are described in Section [ ] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property."

#### *Recognized Environmental Conditions Present*

"We have performed a Phase I Environmental Site Assessment in conformance

with the scope and limitations of ASTM Practice E 1527 of [insert address or legal description], the property. Any exceptions to, or deletions from, this practice are described in Section [ ] of this report. This assessment has revealed no evidence of recognized environmental conditions in connection with the property except for the following: [list].”

Where the Phase I study shows that there are or may be "recognized environmental conditions" on the property, if GSA continues to plan use of the property it will usually be necessary to conduct a more detailed Phase II study to characterize the conditions more fully. Work to remediate the conditions (e.g., by removing the pollutants) would then be scheduled as part of the planned project.

## 9.6 FLOODPLAIN STUDIES

### 9.6.1 Legal Requirements

EO 11988 requires GSA to evaluate the potential effects of any actions it may take in a floodplain, and to ensure that its plans consider flood hazards and floodplain management needs.

The "floodplain" of concern is usually the "100-year floodplain," which is defined as the area subject to a one percent (or greater) chance of flooding in any given year. For certain critical actions (i.e., those for which even a slight chance of flooding would be too great), the "500-year floodplain" (area subject to a 0.2 percent chance of flooding in a given year) is the area of concern. Guidelines originally published by the (now defunct) Water Resources Council in 1978, and now overseen by the Federal Emergency Management Agency (FEMA) provide guidance for determining whether an action is "critical." These FEMA guidelines ("Guidelines for Implementing Executive Order 11988;" Water Resources Council, February 10, 1978, 43 FR 6030-6055) should be maintained by the REQA and

made available to program staff, together with related guidance material issued by FEMA.

Effects of an action on a floodplain include not only the effect of actually doing something on the floodplain, but also of inducing someone else to do something. If GSA constructs a building outside the floodplain that stimulates development on the floodplain, this floodplain development must be considered under EO 11988 and its implementing guidelines.

"Early public review" of proposed actions in a floodplain also is required. This review usually is coordinated with the public involvement process required under NEPA.

### 9.6.2 Data Requirements

GSA must determine whether its proposed action or alternatives will be located in or affect (e.g., by stimulating development of) a floodplain, as defined in the FEMA guidelines.

### 9.6.3 Study Methods

The FEMA guidelines establish an eight-step process to follow in assessing and addressing floodplain effects.

**Step 1:** Determine whether the action is likely to occur in or affect a 100-year floodplain. To do this, GSA must consult the official floodplain maps maintained by FEMA, called Flood Insurance Rate Maps (FIRMs).

If the area of interest is not covered by FIRMs, other maps prepared by the U.S. Army Corps of Engineers (USACE), USGS, or other Federal or State agencies may be used.

In the absence of any previously mapped data, a geologist, hydrologist, botanist or other qualified professional must conduct an archival and/or field study to determine

the boundaries of the 100-year (or 500-year) floodplain.

Archival study methods include reviewing flood records, aerial photographs, and plat maps for the study area. Field study methods include visual inspection of the study area, excavation of trenches or other subsurface examinations, and inspection of flood debris patterns and vegetation types. It may be efficient to combine such studies with due diligence studies and cultural resources assessments.

**Step 2:** Conduct early public review. If the action could affect a floodplain, the FEMA guidelines set forth specific requirements for public review, which should be coordinated with scoping and public involvement under NEPA.

**Step 3:** Identify and evaluate "practicable alternatives" to locating in the floodplain. This involves considering both alternative sites and alternative actions, including the "no action" alternative.

**Step 4:** If locating the action where it could affect a floodplain is the only practicable alternative, identify the potential impacts of the action on the floodplain and its values, and on floodplain development.

**Step 5:** Incorporate measures into the action, if it proceeds, to minimize impacts on floodplain values, and harm to the investment at risk and to others. Also incorporate measures where possible to restore and preserve floodplain values.

**Step 6:** Re-evaluate alternatives, taking into account the identified impacts and measures to minimize them and to restore and preserve floodplain values.

**Step 7:** Arrive at findings and make these available to the public, with an explanation meeting specific standards set forth in the FEMA guidelines.

**Step 8:** Implement the action.

These steps parallel those of NEPA review, and not all are proper subjects for special studies. Generally Steps 1 and 2 are done as a special study coordinated with NEPA scoping and early EA or EIS analysis. Steps 3 through 6 are then done as part of draft EIS or EA preparation, and Step 7 is coordinated with final EIS or EA preparation and dissemination, and with issuance of a ROD or FONSI.

#### 9.6.4 Study Results

Step 1 and 2 floodplain studies result in a map of floodplain boundaries and a report outlining background research conducted, field study methods and results, public review activities and results if the action will affect a floodplain, and recommendations for GSA actions to complete any remaining necessary steps in the process and to minimize impacts on any floodplains identified in the study area.

### 9.7 WETLAND DELINEATIONS

#### 9.7.1 Legal Requirements

Wetlands are defined, in general, as follows:

The term *wetlands* means those areas that are saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**33 CFR 328.3**

EO 11990 requires GSA to avoid undertaking or providing assistance for new construction in wetlands unless GSA finds that:

- (1) there is no practicable alternative to such construction; and

(2) the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use.

Economic, environmental, and "other pertinent" factors may be considered in reaching these findings.

EO 11990 also requires "early public review" of any proposed new construction in wetlands. This review usually is coordinated with the required public involvement process under NEPA, EO 11988, and other authorities.

### 9.7.2 Data Requirements

In order to comply with wetlands protection requirements, it is necessary to know whether a wetland or possible wetland is present. The specific definition of Federal wetlands continues to change (within the parameters of the general definition given above), and some states have their own definitions as well, so it is important for GSA program staff to determine which definition applies to any specific proposed action.

The 1991 version of the USACE's Wetlands Delineation Manual requires that the area being delineated exhibit wetland hydrology, hydrophytic vegetation, and hydric soils, unless the area is a specifically defined "exception" such as a playa lake, vernal pool, prairie pothole, or other specially designated wetland type. Wetlands meeting these criteria are known as "jurisdictional" wetlands, because they are under the jurisdiction of the USACE under the Clean Water Act (CWA).

Several Federal agencies may be involved in wetlands delineations:

- *USACE*, because it issues permits under Section 404 of the CWA for any discharge of dredging or fill material in a wetland;

- *U.S. Fish and Wildlife Service*, because it (along with the USACE) have the authority to define and delineate wetlands, and maintain the National Wetland Inventory maps;
- *Environmental Protection Agency*, because it jointly administers portions of the Section 404 permit program, and issues the National Pollution Discharge Elimination System (NPDES) permits for discharge of pollutants into any waters of the United States, including wetlands. In many States, EPA has delegated its NPDES permitting authority to a State EPA.

### 9.7.3 Study Methods

Special studies to identify and map, or "delineate," wetlands are likely to be needed where actions are proposed on floodplains or in other areas that have low spots where standing water may accumulate. Areas that are not wet at the time they are observed may nevertheless be wetlands; most wetlands lack both standing water and waterlogged soils during dry seasons. Some areas have already been surveyed for wetlands; information on such areas is available from the local USACE district office. If the area under consideration has not already been surveyed, then professional biologists, botanists, or soil scientists must review aerial photographs and conduct site inspections to determine whether any wetlands exist. Wetlands may be indicated by specific types of vegetation (e.g., cattails, sphagnum moss, rushes), soils (e.g., peats, mucks, sandy soil with vegetative layers, etc.), and hydrological evidence (standing water, waterlogged soils, evidence of prior water stands). Wetland delineation studies must be carried out in accordance with the USACE's Wetlands Delineation Manual (1987).



### 9.7.4 Study Results

Study results normally consist of a delineation map and a report, defining the location and characteristics of any wetlands identified in the study area. These form the basis for the pertinent section of the EIS or EA, and for GSA's application for a Section 404 permit.

## 9.8 AIR QUALITY STUDIES

### 9.8.1 Legal Requirements

The Clean Air Act (CAA) provides for a regulatory process to minimize and reduce the discharge of pollutants into the air. Automobiles are among the most serious sources of pollutants, so GSA actions that affect the operations of automobiles particularly need review to ensure consistency with the CAA.

The CAA requires an agency like GSA to control its emissions of pollutants through such actions as:

- Prevention of significant deterioration (PSD) of overall air quality in or near Class I areas such as Wilderness areas or National Parks.
- Controlling short-term violations of National Ambient Air Quality Standards (NAAQSs) during construction or reconstruction activities.
- Minimizing contribution to smog and other "criteria" air pollutants from changes in traffic patterns (including overall increases) resulting from GSA's action.
- Establish and implement pollution prevention plans, particularly in "nonattainment" areas (that is, areas that have not met standards for reduced pollutants set by EPA).

- Coordinate with and where applicable obtain permits from Federal, State, regional, and local air quality regulatory bodies.

Under the CAA, all states prepare State Implementation Plans (SIP) consistent with EPA standards. States and air quality management districts (AQMD) then administer a permitting program to ensure consistency with the SIPs. Section 118 of the CAA requires Federal agencies to comply with State, interstate, and local requirements to the same extent as any nongovernmental entity, so GSA must seek a state or AQMD permit whenever it considers an action to which an SIP applies. Permits are needed, for instance, when planning a facility that had the potential to emit pollutants, or for a facility that significantly changed traffic volumes or patterns, such that smog levels could increase. Although the CAA is independent of NEPA, compliance with it should be coordinated with NEPA, and special studies needed for such compliance should be part of the NEPA analysis.

### 9.8.2 Data Requirements

To comply with CAA, GSA must determine two basic things:

(1) What is the present air quality?

and

(2) What short- or long-term changes to air quality, if any, will the proposed action and its alternatives cause?

Air quality is measured with respect to six common, or "criteria," air pollutants:

- Ozone
- Nitrogen Dioxide (NO<sub>x</sub>)
- Carbon Monoxide (CO)
- Particulate Matter (PM-10)
- Sulfur Dioxide (SO<sub>2</sub>)
- Lead

A seventh class of pollutant, Volatile Organic Compounds (VOCs), is commonly considered important because of the contribution to the creation of smog.

Standards for these pollutants are contained in SIPs developed by States (with public input) and approved by EPA.

### 9.8.3 Study Methods

Current air quality for a study area is usually determined by requesting data for the area of interest from the State Air Quality Department or equivalent. U.S. EPA maintains a list of State-level contacts.

Projected air quality data are usually based on computer "air dispersion" models developed or approved by EPA. Examples include the EPA Industrial Source Complex Short Term (ISCST) model, and the EPA Rough Terrain Diffusion Model (RTDM), developed for industrial point source calculations.

Other Federal agencies have created their own models or screening protocols, including the U.S. Department of Transportation, the U.S. Department of Energy, and the U.S. Forest Service.

The pertinent State agency involved should be consulted in deciding which model to use in estimating projections.

### 9.8.4 Study Results

Studies of air quality result in current and projected numerical data for the criteria pollutants, and estimates of duration and intensity of visibility degradation (if any) resulting from the project being studied. These data are incorporated into the EA or EIS, and used in applying for a CAA permit if one is needed.

## 9.9 WATER QUALITY STUDIES

### 9.9.1 Legal Requirements

Water quality issues as they relate to GSA actions fall into two main categories:

- (1) dredge, fill, or other discharges during or resulting from construction
- (2) discharges of pollutants during or as a result of occupation and occupant activities

CWA covers both of these issues through a system of State-developed standards and State or Federal permits.

#### 9.9.1.1 Dredging and Filling

Dredging and/or filling of "waters of the US" are permitted by the USACE under the requirements of Section 404 of the CWA, with EPA oversight. The Corp's extensive permit program is described at greater length above with respect to wetlands.

#### 9.9.1.2 Discharge of Pollutants

The CWA prohibits discharge of pollutants into waters of the United States unless EPA or the relevant State issues a permit under the National Pollution Discharge Elimination System (NPDES).

The CWA defines the term "pollutant" to include the following items (discharged into water):

- Dredged spoil
- Solid waste
- Incinerator residue
- Sewage
- Garbage
- Sewage sludge
- Munitions
- Chemical wastes
- Biological materials
- Radioactive materials
- Heat

- Wrecked or discarded equipment
- Rock, sand, cellar dirt
- Industrial, municipal, and agricultural waste

Certain specific “toxic pollutants,” such as metals, organic compounds, and asbestos, are considered “priority pollutants,” and therefore are subject to special regulatory efforts by the EPA.

Construction wastes, runoff, etc. often are considered “discharges” and therefore may require a NPDES permit, depending on the State in which the action takes place. Often the issue is simply to avoid overwhelming local treatment works with construction-related or operational sewage needing treatment to ensure it meets the standards. In some cases broad impacts on natural ecosystems are a concern.

### 9.9.2 Data Requirements

Baseline water quality data should include data on the presence of any of the listed “toxic pollutants.” In addition, parameters such as temperature, turbidity, biological oxygen demand (BOD), and presence of organisms should be determined.

Projections or estimates of changes in water quality during or after the GSA project should include the same parameters, and be especially sensitive to estimates exceeding or near the threshold of local water quality standards.

### 9.9.3 Study Methods

Local government jurisdictions may already have baseline data, which may be obtained simply by contacting the appropriate State or local agency. This is likely to be true of urbanized areas.

If baseline data do not exist, or special parameters need to be studied, a qualified water engineer or hydrologist should be sought to perform the study. Samples and

laboratory analyses should be taken in accordance with EPA-approved or other industry standard sampling and testing protocols.

If data are being collected as part of monitoring of an existing NPDES permit, instructions in the permit will define the frequency and type of sampling required.

Potential changes in water quality should be projected based on the action's known and likely discharges. It is important to consider potential cumulative effects on water quality by GSA in combination with all other sources of pollutants.

### 9.9.4 Study Results

Water quality studies will result in numerical tables, comparing baseline and projected data for selected parameters, and estimates of whether discharges of pollutants will exceed effluent limitations. They should also result in recommendations for measures to control discharges, or for mitigation.

## 9.10 NATURAL RESOURCE STUDIES

### 9.10.1 Legal Requirements

“Natural resource studies” are not specifically required by any law, but are among the types of studies that are necessary for decisionmaking. Natural resource studies typically include studies of geology and geomorphology; soils, hydrology, natural landscapes; atmospheric conditions; vegetation (not threatened or endangered species); and wildlife (not threatened or endangered species).

### 9.10.2 Data Requirements

The biggest issue with these kinds of studies is making sure that the kind of data developed meets the needs of GSA project decisionmakers. For example, there are many different kinds of “soil studies,” only a

few of which are necessary or even useful for NEPA analysis.

### 9.10.2.1 Soils

Useful types of data to be developed for these resources include the following:

- Soil engineering data, such as moisture, compression factors, and other design-sensitive characteristics
- Soil components (especially clay)
- Soil depth to hardpan, bedrock, etc.
- Soil erosion potential
- Whether the soil qualifies as “Prime Farmland” (for which specific legal protection requirements do exist)
- Any unusual characteristics that would affect design or construction specifications

### 9.10.2.2 Geology

Useful types of data to be developed for these resources include the following:

- Types and locations of bedrock that might affect design or construction specs
- Groundwater depth and flow characteristics
- Seismic hazards and risk assessments
- Volcanic hazards and risk assessments
- Location near aquifers or springs
- Presence of radon emitting soils and/or rock

### 9.10.2.3 Landscapes

Useful types of data to be developed for these resources include the following:

- Site views from prominent vista points
- Site views to prominent vista points
- Relationship of overall site design to neighborhood characteristics and nearby landscapes, including views

### 9.10.2.4 Atmospheric Conditions

Useful types of data to be developed for these resources include the following:

- Wind direction, intensity, and duration
- Snow, ice, or other climatic hazards
- Temperature extremes (as they affect HVAC design and creature comforts)
- Storm type, frequency, and intensity (especially hurricanes, tornadoes, severe thunderstorms, etc.)
- Sun direction, intensity, and seasonal duration

### 9.10.2.5 Vegetation

Useful types of data to be developed for these resources include the following:

- Type and distribution of vegetation as it may affect design or construction needs (clearing, erosion control, landscape design, presence of allergens, etc.)
- Presence of community emotional or cultural attachments to particular vegetation types or specimens (“the old oak tree”)
- Role of vegetation potentially affected by the action in the local or regional ecosystem

- Effects of shadows from proposed buildings

#### 9.10.2.6 Wildlife

Useful types of data to be developed for these resources include the following:

- Role of wildlife potentially affected by the action in the local or regional ecosystem
- Presence of appealing or popular kinds of wildlife in the area (prairie dogs, deer, rabbits, birds)
- Presence of culturally important wildlife
- Migration patterns (for example, Canada goose populations)
- Presence of nuisance wildlife in the area
- Habitat creation or destruction for popular or nuisance wildlife

#### 9.10.3 Study Methods

Natural resources studies often require field work, sometimes extended field work, in addition to background research. It is important to schedule studies during the appropriate season, and for the appropriate duration, to ensure that all the data of interest can actually be collected. For example, it is usually not possible to conduct vegetation studies in the dead of winter, nor to identify migrating birds outside of their migration season.

It is also important to ensure that properly qualified professionals conduct such studies, to ensure that the data are of the highest quality. For example, a wildflower expert would not be suitable for identifying tree and shrub species, and a hard-rock geologist would probably not be helpful in pinpointing soil engineering issues of concern.

#### 9.10.4 Study Results

Natural resource studies result in reports, often with maps, photographs, computer disks or other output. Reports typically contain a description of purposes and objectives, methodology, times and locations of background and field research, findings, and recommendations for GSA actions to avoid or minimize environmental impact.

### 9.11 ENDANGERED SPECIES SURVEYS

#### 9.11.1 Legal Requirements

The Endangered Species Act of 1973 requires GSA to “seek to conserve” endangered species and threatened species, including their critical habitats. It is one of the Acts specifically referenced in the NEPA regulations (40 CFR 1502.25), and GSA’s completion of the Act’s study and consultation requirements must be integrated “to the fullest extent possible” with the NEPA process.

An “endangered species” is any species which is in danger of extinction throughout all or a significant portion of its range, other than an officially designated insect pest.

A “threatened species” is any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

“Critical habitat” means:

- (1) the specific areas within the geographical area occupied by the species on which are found those physical or biological features that are both essential to the conservation of the species and may require special management considerations or protection, and
- (2) specific areas outside the geographical area occupied by the species, if the Secretary of the Interior determines

such areas are essential for species conservation.

Section 7 of the Endangered Species Act requires GSA to engage in interagency coordination and consultation on any action that is likely to jeopardize the continued existence of an endangered or threatened species or its critical habitat. Compliance with Section 7 usually is carried out in conjunction with the NEPA process, and the results are documented in any EA or EIS for the project.

The Endangered Species Act applies to Federally listed species and to those “candidate” species that have been recommended for listing, but because of staff and funding constraints have not yet been officially listed. In addition, many species found on lists maintained by some Federal land-managing agencies (“indicator species”) as well as by some States and conservation groups that believe them to be potentially subject to the Act, should be considered during GSA planning, but the specific legal requirements vary.

GSA should make every effort to identify these species, along with any other species of interest locally (such as large or small game species) during wildlife studies for NEPA compliance.

Regulations implementing Section 7 (50 CFR 402) prescribe specific data requirements, timetables, and consultation requirements for GSA actions.

### 9.11.2 Data Requirements

GSA must identify any endangered or threatened species or critical habitat in the area of a proposed project or alternatives, and engage in consultation with the U.S. Fish and Wildlife Service to determine whether any GSA proposed action or alternative is likely to “jeopardize” the continued existence of any identified species.

If, in the opinion of the U.S. Fish and Wildlife Service, the GSA proposal or alternative would jeopardize such existence, GSA must develop acceptable mitigation measures in consultation with the Service or obtain an “exemption” from the Secretary of the Interior.

### 9.11.3 Study Methods

GSA must obtain background information on whether any endangered, threatened, or candidate species in the vicinity of the proposed action are currently listed by the U.S. Fish and Wildlife Service. If any species are currently listed for the general or specific area(s) under consideration, or if no previous field surveys have been performed, GSA must obtain sufficient data to determine whether any species or any critical habitat actually exists in the area(s).

Study methods include observation, live trapping (for wildlife), transect sampling (for vegetation), photography, literature reviews, and interviews with experts.

### 9.11.4 Study Results

Studies performed as part of Section 7 compliance are called “Biological Assessments” (BAs). They contain information on listed and proposed species and designated and proposed critical habitats present in the action area (if any), and the potential effects of the action on such species and habitats. Although no specific contents or format are prescribed for a BA, they usually contain at least the following information:

- Results of field study or on-site inspection of the area affected by the action
- The views of recognized experts on the species at issue
- A review of the literature and other information

- An analysis of the effects of the action on the species and the habitat, including cumulative effects
- Results of any related studies
- Analysis of any alternative actions considered by GSA (including proposed mitigation)

GSA submits the BA for review by U.S. Fish and Wildlife Service, which then responds with a "Biological Opinion" (BO) as to whether the action is likely to "jeopardize" continued existence of the species. If GSA receives a "jeopardy opinion" from the Service, it must engage in formal consultation under the Act to mitigate the circumstances causing the jeopardy. The results of this consultation must be documented in the EIS. Failure to resolve the jeopardy may prohibit implementation of the action.

### 9.12 OTHER STUDIES

The above are examples of common types of special studies conducted in connection with NEPA analysis, but many other kinds of studies may be necessary under specific circumstances. Traffic studies may be necessary where the action has the potential to impact traffic patterns significantly (e.g., at a border station). Detailed visual impact analyses may be necessary where an action is planned in visually sensitive location (e.g., a prominent hilltop near a park). Special consultations with Indian tribes may be necessary where impacts could occur on the practice of traditional religion (e.g., blocking access to a spiritual place). Special public involvement activities, (e.g., employing facilitators and mediators), may be necessary in controversial cases or where complex social issues are involved.

### 9.13 COORDINATING STUDIES

Special studies should not be performed in isolation from one another. Remember that NEPA requires interdisciplinary analyses,

not merely multidisciplinary analyses. This means that the various disciplines, performing various studies, should interact with one another, share data, and cooperate in information-gathering and analysis. This coordination can result in significant cost efficiencies because the same data or analytic method may often be useful to more than one study.

### 9.14 FURTHER INFORMATION

GSA's National Office established NEPA Call-In to be GSA's information clearinghouse and research service on issues related to compliance with the provisions of NEPA. NEPA Call-In researchers answer Technical Inquiries from GSA personnel in the National and Regional offices on technical and regulatory issues pertaining to NEPA compliance. NEPA Call-In has also developed an electronic Environmental Resource Library (ERL) accessible through the Internet. The ERL includes Federal environmental laws, regulations, Executive Orders, GSA Administrative Orders and Directives, environmental policy or guidance manuals, and sample NEPA documents. The NEPA Call-In ERL can be accessed through the GSA World Wide Web Home Page or found at:

<http://www.gsa.gov/pbs/pt/call-in/nepa.htm>

NEPA Call-In researchers can be reached via telephone at 202-208-6228; via facsimile at 202-219-7677; or via GSA cc:Mail at "Callin, NEPA."

## CHAPTER 10 - CONTRACTING

### 10.1 INTRODUCTION

Contracting and other kinds of out-sourcing agreements provide ways to obtain data and services to supplement the in-house interdisciplinary analyses and document preparation required to carry out NEPA review.

This chapter provides guidance on legal requirements for out-sourcing NEPA compliance tasks and suggestions for developing Scopes of Work (SOWs) for special studies and document preparation.

### 10.2 REQUIREMENTS

The CEQ regulations require that:

...any Environmental Impact Statement prepared pursuant to the requirements of NEPA shall be prepared directly by or by a contractor selected by the lead agency or ... a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents.

**40 CFR 1506.5**

### 10.3 TYPES OF CONTRACTS AND AGREEMENTS

#### 10.3.1 Contracts

The Federal Acquisition Regulations, in general, and the GSA "Contract Specialist Workbook," in particular, provide guidance as to various contract types applicable to procuring NEPA-related services. The "Chart of Contract Types" contained in Unit 19, Appendix 3 of the GSA "Contract Specialist Workbook," is an especially useful breakdown of when and how to use 11 different contract types:

- *Firm Fixed Price:* used when all elements of a task are well-defined;
- *Indefinite Delivery (including Definite and Indefinite Quantity):* used when delivery requirements are not certain;
- *Fixed Price with Economic Price Adjustment:* used when market prices for labor and/or materials are likely to be unstable over the life of the contract;
- *Fixed Price Award Fee:* used when GSA wishes to provide an incentive award and evaluation standards exist;
- *Fixed Price Prospective Predeterminable:* used when the costs can be estimated reliably only during the first year of performance;
- *Fixed Price Incentive:* used when a proposed cost-sharing formula would motivate a contractor to control costs;
- *Cost Plus Fixed Fee:* used when risks and requirements are highly uncertain;



- *Cost Plus Incentive Fee*: used when risks and requirements are highly uncertain;
- *Cost Plus Award Fee*: used when risks and requirements are highly uncertain;
- *Cost, or Cost Sharing*: used when risks and requirements are highly uncertain; and
- *Time and Materials*: used when risks and requirements are highly uncertain;

Most GSA NEPA-related work is procured under Firm Fixed Price contracts, but this may not always be the most efficient kind of vehicle for the purpose. There are so many uncertainties about how a NEPA analysis may proceed, and so much potential for changing requirements, that it may be wise to explore Indefinite Delivery contracts, or one of the “Cost Plus” types listed above.

### 10.3.2 Agreements

Some GSA Regions have successfully used Interagency Agreements (IAs) to accomplish needed NEPA studies. For example, it is possible to obtain data on endangered species through agreement with the U.S. Fish and Wildlife Service, or on wetlands through the USACE.

IAs can also be used in more general ways. For example, an agency with a large environmental staff like the USACE can provide ongoing assistance to a GSA Regional Office in establishing SOWs and developing contracts for NEPA-related studies. In essence, such an agency, through an IA, provides GSA with the interdisciplinary team it needs to establish the scope of a NEPA analysis and obtain the expertise needed to carry it out.

For interagency NEPA analyses on which GSA is the lead under NEPA, cooperating agencies may provide data within their area of jurisdiction by law or expertise as part of

the agreement that defines the relationship of the cooperators.

## 10.4 SCOPES OF WORK (SOW)

Regardless of what “type” of contract you select, you must develop a SOW. SOWs are used in formal contracting, and informal and formal agreements to guide the development of data and deliverables. SOWs should be based on a Work Breakdown Structure (WBS), which relates directly to the nature of the data to be developed or the services to be provided.

Develop a SOW specifically for each project, and both you and the consultant should have a specific understanding of the nature of an acceptable deliverable before finalizing any contract or agreement.

### 10.4.1 SOWs for Special Studies

Special studies (see Chapter 9) require careful development of SOWs to ensure that you get exactly the kind of information you need to make environmentally sound decisions in a manner consistent with NEPA and other environmental authorities. Simply asking for data to be developed on a given environmental topic (“soils” or “cultural resources” or “environmental justice”) is not enough.

The consultant must know exactly what kind of information is needed as well as the uses to which the analyses will be put. This is especially true for studies that require extensive modeling (such as air quality) or varying levels of field work intensity (such as cultural resources). Just as important, you must know what to expect the consultant to produce. Special study SOWs sometimes use “code words” that only specialists understand. Be sure you understand what these words mean if you use them in a SOW to avoid buying a “pig in a poke.”

GSA's internal subject matter experts (or outside experts under an IA or Indefinite Delivery contract) should help you develop the SOW, and should participate in the project kick-off meeting with the consultant to ensure that all parties know what is required.

See Chapter 9 for a description of legal requirements for many of the kinds of special studies needed for GSA NEPA analyses. SOWs for these contracts should ensure that you will meet the legal requirements under other environmental laws, regulations, and EOs, in addition to providing data for NEPA-related decisions.

#### 10.4.2 SOWs for NEPA Analyses and Documentation

NEPA analyses (e.g., weighing of alternatives) and the preparation of NEPA documentation (Checklist CATEXs, EAs, and EISs) can be done under contract, provided you do not transfer your decisionmaking authority to the contractor. Such analyses and document-drafting use the results of special studies conducted either by the same or different contractors, or in-house. GSA often awards ongoing contracts (called "Indefinite Delivery/Indefinite Quantity" or ID/IQ contracts) to one or more consultants in a Region to ensure that analyses are conducted and documentation is prepared in a consistent and timely way.

Although it is useful to have some "generic" language in such contracts, you should include specially created SOWs in each task order issued for each specific EA or EIS under the contract to ensure that you get the specific kinds and amounts of data needed for decisionmaking.

Detail the specific nature of the document(s) to be prepared. For some GSA projects, for example, you would require a Phase I (due diligence) Environmental Site Assessment in addition to a NEPA-related EA.

The consultant needs to be aware of the following variables:

- Is the consultant expected to complete in-house GSA forms and checklists?
- What status reports or other contract administration documents are called for?
- Is the project location predetermined by statute?
- What are the local environmental "hot buttons" that will require extra scrutiny?
- Will the consultant be responsible for conducting the entire NEPA process (scoping, holding public meetings, conducting special studies, responding to comments, etc.) or only for compiling the results of other NEPA process actions?
- What standards will you and the consultant use to evaluate the resulting products?
- How will the contractor relate to GSA's decisionmaking process?
- How will you and the contractor interact throughout the project?
- Who will be the point(s) of contact?
- How will ongoing coordination be maintained?

## **10.5 ROLE OF THE CONTRACTING OFFICER, SUBJECT MATTER EXPERT, AND PROJECT MANAGER**

The GSA Contracting Officer is responsible for all phases of procurement, from initial distribution of the Request for Proposals to approving the final payment for NEPA services.

However, the subject matter expert (SME) is crucial to the success of the procurement, as this person must develop the SOW, the specific evaluation criteria, and review the deliverables along with the project manager at each stage of the NEPA process.

The project manager, here used in the sense of the Contracting Officer's Representative, is the officially designated person who, with the appropriate SMEs, evaluates the various contract deliverables and recommends payments and other specific actions to the Contracting Officer.

## CHAPTER 11 - TECHNICAL REVIEWS

### 11.1 PURPOSE

Technical reviews help you to maintain the necessary quality and accuracy of data and analyses as you carry out NEPA requirements. Internal technical reviews are always required, and external technical reviews are mandatory on more complex NEPA analyses and documentation.

This chapter describes the nature of technical reviews, the major types of internal and external reviewers (e.g., agencies with jurisdiction by law or expertise, GSA officials, and the public), and the mechanisms for obtaining reviews. This chapter also describes both reviews *of* GSA NEPA documents and reviews *by* GSA of other agency-NEPA documents.

See Chapter 7 for discussion of formal public reviews of GSA NEPA documents that principally occur during the circulation of a DEIS.

### 11.2 DEFINITIONS AND REQUIREMENTS

The CEQ regulations at 40 CFR 1503.2 and at 40 CFR 1503.3 require that:

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment...

**40 CFR 1503.2**

(a) Comments on an Environmental Impact Statement or on a proposed action shall be as specific as possible and may ad-

dress either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comment whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve the applicable permit, license, or related requirements or concurrences.

**40 CFR 1503.3**

The standard for technical adequacy of a GSA NEPA document is as follows:

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in Environmental Impact Statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusion in the statement.

**40 CFR 1502.24**

The standard for environmental writing is:

Environmental Impact Statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

**40 CFR 1502.8**

### **11.3 TECHNICAL REVIEWS OF GSA NEPA DOCUMENTS**

#### **11.3.1 Internal Reviews**

##### **11.3.1.1 Reviews of GSA Documents**

Internal reviews ensure that the documents meet all CEQ and GSA format and content requirements, and that the descriptions of the proposed action, alternatives, affected environment and environmental consequences are accurate and complete.

To ensure accuracy, reviews should involve the principal author(s) of the document and those who provided major data and analyses. To the fullest extent possible, reviews should be concurrent and face-to-face rather than sequential; i.e., hold a review meeting to receive and discuss review comments, and draft corrections and revisions on the spot.

Internal reviews of CATEX Checklists are carried out by program staff and the REQA. Occasionally, other GSA specialists will have to be consulted.

Internal reviews of GSA EAs and EISs are conducted by the Project Manager or other program staff, the REQA, and the Assistant Regional Administrator, prior to submitting them to the Regional Administrator for signature.

#### **11.3.1.2 Review of Contractor Documents**

GSA is responsible for the adequacy and accuracy of environmental reports produced by contractors as support to the NEPA process (see 40 CFR 1506.5). Therefore, technical reviews should be conducted of contractor reports in the same fashion as reports produced in-house.

#### **11.3.2 External Reviews**

##### **11.3.2.1 Agency Reviews**

External agency reviews of GSA NEPA documents are conducted by agencies with jurisdiction by law or expertise, such as the State Historic Preservation Officer and Advisory Council on Historic Preservation, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the U.S. Army Corps of Engineers. See Chapter 1 of this Desk Guide for a list of Federal laws that may require some review and/or consultation, and Chapter 7 for a list of agencies with jurisdiction by law or expertise to whom copies of documents should be sent for review and comment. The complete list of agencies with jurisdiction by law or expertise is included in the **Appendix 4** to this Desk Guide.

Consult with reviewing agencies early during analysis and preparation of NEPA documents, in accordance with their own applicable regulations or other guidance, so that their review comments do not constitute potentially costly and time-consuming surprises.

Wherever possible, try to make sure that external review of NEPA documents is coordinated with whatever reviews are required under other laws and regulations. For example, you should not just send an EA or EIS to the Advisory Council on Historic Preservation or the State Historic Preservation Officer for comment. Instead, you should send it in support of a GSA de-

termination about effects on historic properties, done in accordance with the Advisory Council's regulations implementing Section 106 of the NHPA. This kind of coordination will allow the review agencies to use and respond to the EA or EIS in ways that are familiar to them, and will help GSA satisfy not only NEPA but the review agency's specific regulatory requirements as well.

Encourage reviewing agencies to fulfill the CEQ requirements cited above—that is, they should be as specific as possible and provide alternative methodologies when they criticize how you have predicted the character and magnitude of an effect.

### **11.3.2.2 Public Reviews**

Formal public reviews of GSA NEPA documents principally occur during the circulation of a DEIS, though as discussed in Chapter 4, public involvement is appropriate throughout the NEPA process.

The public cannot be held to the commenting standards set forth in the CEQ regulations, but you can request comments with regard to particular topics, and ask that such comments be as specific as possible. For example, you can request detailed information on site-specific impacts or mitigation measures instead of asking only for general opinions about your project.

## **11.4 TECHNICAL REVIEWS OF OTHER AGENCY DOCUMENTS BY GSA**

When GSA conducts technical review of other agency documents, either as a cooperating agency or as an agency with jurisdiction by law or expertise, the reviewers should follow the CEQ guidance above. See **Exhibit 11-1** for a sample format for technical review comments.

### Exhibit 11-1: Format for Technical Reviews

#### Sample Technical Review Letter

TO: (Name and Address of Agency)

DATE:

FROM: (Name, title, and signature of GSA reviewing official)

The General Services Administration Office of \_\_\_\_\_ has reviewed the following document prepared under the authority of the National Environmental Policy Act, in accordance with the requirements of 40 CFR 1503:

*Insert name and identification number of document*

Based on this review, our comments are as follows (see attached):

No comment.

Comments on:

\_\_\_ Adequacy of the document

\_\_\_ Merits of the alternatives

\_\_\_ Methodology

Additional information needed:

Objections or reservations:

\_\_\_ Recommended mitigation measures

Other comments:

## Glossary

ABA	Architectural Barriers Act
A/E	Architect/engineer; usually a contractor. <u>GSA</u>
Administrator	Heads GSA. <u>GSA</u>
Advisory Council on Historic Preservation	The ACHP is responsible, pursuant to section 106 of the National Historic Preservation Act, for reviewing and commenting on Federal agency undertakings that may affect any historic district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. <u>P</u>
AQMD	Air Quality Management Districts
AFC	American Folklore Center
AILS	Alterations in leased space; is an R&A project in leased space. <u>GSA</u>
AIRFA	American Indian Religious Freedom Act
APE	Area of potential effect of an undertaking under the National Historic Preservation Act. <u>GSA</u>
ARA	Assistant Regional Administrator; heads services at regional level (GSA, FSS, ITS). <u>GSA</u>
ARPA	Archeological Resources Protection Act
Asbestiform	A specific type of mineral fibrosity in which the fibers and fibrils possess high tensile strength and flexibility. <u>A</u>
Asbestos	The asbestiform varieties of: chrysolite (serpentine); crocidolite (riebeckite) amosite (cumingtonite-grunerite); anthophyllite; temolite; and actinolite. <u>A</u>
AST	Above-ground Storage Tank. <u>EnvA</u>
ASTM	American Society for Testing and Materials
BER	Building Engineering/Evaluation Report. Analysis/summary of the condition of (usually government owned) building systems (electrical, mechanical, etc.), general condition of space (functional characteristics), and other environmental concerns (asbestos, LBP, PCB, etc.). <u>GSA</u>
BOD	Biological Oxygen Demand



BTEX	Benzene-Toluene-Xylene. <a href="#">EnvA</a>
Clean Air Act	CAA 42 U.S.C § 7401 <i>et seq.</i> <a href="#">U</a>
CAAA	Clean Air Act Amendments. <a href="#">EnvA</a>
CATEX	Categorical Exclusion. A category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of NEPA regulations (40 CFR 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in 40 CFR 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect. <a href="#">A</a>
CEQ	Council on Environmental Quality. <a href="#">EnvA</a>
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act (Superfund). <a href="#">EnvA</a>
CERCLIS	Comprehensive Environmental Response, Compensation, and Liability Information System. This database includes all sites nominated for EPA investigation by the Superfund program. <a href="#">EnvA</a>
CFCs	Chlorofluorocarbons. <a href="#">EnvA</a>
CFR	Code of Federal Regulations
Commissioners	Head GSA Services (GSA, FSS, ITS) at headquarters level. <a href="#">GSA</a>
Community Plan	Internal document produced by Portfolio Management, detailing tenant space trends and requirements, potential space actions, and market trends in GSA sub-regional communities. <a href="#">GSA</a>
Construction activities	Includes construction of facilities, grading, filling, land-clearing, placement of utility lines and/or structures, future planned expansion, placement of roadways, drive ways, and parking lots, and placement of retention/detention basins. <a href="#">P</a>
critical wetland	A wetland whose value is such that the Army Corps of Engineers will not issue a Section 404 permit. <a href="#">P</a>

cultural resource	Any resource having cultural value, such as a community's traditional forms of land use, social institutions, world view, and religious practices, as well as historic places, records, and artifacts.
CWA	Clean Water Act. (Formerly referred as to the Federal Water Pollution Control Act. ) <u>EnvA</u>
CZMA	Coastal Zone Management Act. <u>EnvA</u>
DEIS	Draft Environmental Impact Statement
EA	Environmental Assessment (1) A written environmental analysis which is prepared pursuant to the National Environmental Policy Act to determine whether a Federal action would significantly affect the environment and thus require preparation of a more detailed environmental impact statement. <u>N</u>  (2) A concise public document for which a Federal agency is responsible that serves to (a) briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact; (b) aid an agency's compliance with the Act when no environmental impact statement is necessary; and (c) facilitate preparation of a statement when one is necessary.  (3) Shall include brief discussions of the need for the proposal, of alternatives as required by § 102(2)(E) of NEPA, of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted. <u>A</u>
EIS	Environmental Impact Statement. A document required of Federal agencies by the National Environmental Policy Act for major projects or legislative proposals significantly affecting the environment. A tool for decisionmaking, it describes the positive and negative effects of the undertaking and lists alternative actions. <u>N</u>
Environmental contamination	See definition for hazardous/toxic waste.
Environmental Due Diligence Audit (EDDA) or Phase I Site Assessment	An investigation to determine the likelihood of environmental contamination at a property to be purchased, leased, sold or otherwise transferred. The EDDA consists of a site visit, an investigation of past uses and owners of the property, and a regulatory file search for environmental compliance violations. No environmental sampling is performed.
Environmental Due Diligence Audit	The site visit includes interviews with employees and tenants and, if possible, a visual inspection of the entire property for potential

(EDDA) or Phase I Site Assessment (continued)	<p>environmental contaminants, and a review of on-site documents concerning the occupants' hazardous materials handling practices, including any permits.</p> <p>Historical research is conducted to determine past uses of the subject property and adjacent property, including interviews with tenants and/or past property owners, a review of historical aerial photographs and Sanborn insurance maps, and a review of local building department records regarding past occupants and review of the chain of title. The regulatory file search includes a review of government agency lists, identifying properties within a 1/4 mile radius of the subject site where there has been a known or suspected release of hazardous materials and/or hazardous waste and contacts with Federal, State, and local environmental agencies regarding use, storage and/or release of hazardous materials from the subject site and neighboring properties. [GSA internal document regarding Internal Site Acquisition Guidance.]</p>
Environmental Site Assessment	<p>A systematic program for conducting investigations of real property transfers. The purpose of the environmental site assessment is to help minimize environmental-related liabilities associated with such transfers.</p> <p><u>R</u></p>
environmentally preferred alternative	<p>The alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves and enhances historic, cultural, and natural resources. <u>Q</u></p>
EPCRA	<p>Emergency Planning &amp; Community Right-to-Know Act. Also known as Title III of SARA. <u>EnvA</u></p>
ERNS	<p>Emergency Response Notification System</p>
ESA	<p>Endangered Species Act; Environmental Site Assessment; Environmentally Sensitive Area. <u>EnvA</u></p>
Executive Order	<p>Direction from the President of the United States that has the force of law. <u>GSA</u></p>
FACA	<p>Federal Advisory Committee Act</p>
FEMA	<p>Federal Emergency Management Agency</p>
FIFRA	<p>Federal Insecticide, Fungicide &amp; Rodenticide Act. <u>EnvA</u></p>
FIRM	<p>Flood Insurance Rate Map</p>

Floodplain	The lowland and relatively flat areas adjoining inland and coastal waters and other floodprone areas such as offshore islands, including at a minimum, that area subject to a one percent or greater chance of flooding in any given year. The base floodplain shall be used to designate the 100-year floodplain (1 percent chance floodplain). The critical action floodplain is defined as the 500-year flood plain (0.2 percent chance floodplain). <u>A</u>
Floodproofing	The design or modification of individual structures and facilities, their sites, or their contents to protect against structural failure, to keep water out, or to reduce effects of water entry. <u>P</u>
Floodway	The channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment in order that the 100-year flood can be carried without substantial increases in flood heights. <u>P</u>
Floodway Fringe	That area located between the floodway and the 100-year flood boundaries. <u>P</u>
FONSI	Finding of No Significant Impacts. <u>N</u>
FPO	Federal Preservation Officer
FRA	Federal Records Act
Friable asbestos material	Any material containing more than 1 percent asbestos as determined by using the method specified in Appendix A, Subpart F, 40 CFR Part 763 Section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. <u>A</u>
FWPCA	Federal Water Pollution Control Act (formerly), now Clean Water Act. <u>EnvA</u>
GIS	Geographical Information System
Gross Square Feet	The sum of all floor and building areas within the outside surface of exterior walls and one-half of any unenclosed platform areas. <u>P</u>
GSA	General Services Administration
HVAC	Heating, Ventilation, and Air Conditioning (system)

hazardous material	A material which has one or more of the following characteristics: (1) a flash point below 140/ F, closed cup, or is subject to spontaneous heating; (2) a threshold limit value below 500 ppm for gases and vapors, below 500 mg/m <sup>3</sup> for fumes, and below 25 mppcf (million particles per cubic foot) for dusts; (3) a single dose oral LD <sub>50</sub> below 50 mg/kg; (4) subject to polymerization with the release of large amounts of energy; (5) a strong oxidizing or reducing agent; (6) causes first degree burns to skin [from a] short time exposure, or is systemically toxic by skin contact; or (7) In the course of normal operations, may produce dusts, gases, fumes, vapors, mists, or smokes which have one or more of the above characteristics. <u>N</u>
hazardous waste	<p>(1) A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may (A) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (B) poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. <u>I</u></p> <p>(2) Any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because such wastes are nondegradable or persistent in nature or because they can be biologically magnified, or because they can be lethal, or because they may otherwise cause or tend to cause detrimental cumulative effects; also a waste or combination of wastes of a solid, liquid, contained gaseous, or semisolid form which may cause, or contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, its potential for accumulation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other organisms. <u>A</u> [ed. Hazardous wastes will be those listed by EPA or meeting characteristics specified by EPA in their criteria pursuant to the Resource Conservation Recovery Act (RCRA)]</p>
HBPP	Historic Building Preservation Plan. <u>GSA</u>
HSR	Historic Structure Report
HSWA	Hazard & Solid Waste Amendments. <u>EnvA</u>
Hydric soils	Soil or substrate that is at least periodically saturated with or covered by water. <u>P</u>
IA	Interagency Agreements

ID/IQ	Indefinite Delivery/Indefinite Quality
ISCST	Industrial Source Complex Short Term (model)
IWG	Interagency working group
lead based paint	Any paint, varnish, shellac, or other coating that contains lead greater than or equal to 1.0 mg/cm <sup>2</sup> , or 0.5 percent by weight (5,000 µg/g, 5,000 mg/kg) as measured by laboratory analysis (local definitions may vary). In 1978, the Consumer Products Safety Act banned the use of paint containing more than 0.6 percent lead by weight on interior and exterior residential surfaces, toys, and furniture.
Lease Award	The date of signing/award of a lease. NEPA and most NHPA actions must be concluded prior to this date. <u>GSA</u>
long-term impacts	Impacts that occur during or after an action and may take the form of delayed changes or changes resulting from the cumulative effects of many individual actions. <u>P</u>
LUST	Leaking underground storage tank. <u>U</u>
Mitigated FONSI	A document of common practice in GSA. Strictly speaking, no such thing exists under NEPA. Practically speaking, GSA reaches a "mitigated FONSI" when any impacts resulting from the proposed action are mitigated below a threshold of significance, such that a Finding of No Significant Impact can be sustained. <u>GSA</u>
mitigation	(1) Avoiding the impact altogether by not taking a certain action or parts of an action. (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation. (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment. (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action. (5) Compensating for the impact by replacing or providing substitute resources or environments. <u>A</u>
NAAQS	National Ambient Air Quality Standards. <u>EnvA</u>
NAGPRA	Native American Graves Protection & Repatriation Act
NARA	National Archives and Records Administration
National Register of Historic Places	A listing, maintained by the National Park Service, which identifies historic, architectural, and archeological resources of the United States. <u>P</u>
NEPA	National Environmental Policy Act. <u>EnvA</u>

NESHAP	National Emissions Standards for Hazardous Air Pollutants. Emissions standards set by EPA for an air pollutant not covered by NAAQS (National Ambient Air Quality Standard) that may cause an increase in deaths or in serious irreversible, or incapacitating illness. <u>N</u>
NHPA	National Historic Preservation Act. <u>EnvA</u>
non-attainment area	For any air pollutant, an area that is shown by monitored data or that is calculated by air quality modeling (or other methods determined by the Administrator to be reliable) to exceed any national ambient air quality standard for such pollutant. <u>A</u>
Notice of Availability (NOA)	A notice in the Federal Register that a draft environmental impact statement is available for comment. <u>GSA</u>
Notice of Intent (NOI)	The written announcement to Federal, State and local agencies and to interested persons, that a draft environmental impact statement will be prepared. The notice shall briefly describe the action, its location, and the issues involved. The purpose of a notice of intent is to involve other government agencies and interested persons as early as possible in the planning and evaluation of actions which may have significant environmental impacts. This notice shall encourage public input in the preparation of a draft EIS and assure that environmental values will be identified and weighed from the outset, rather than accommodated by adjustments at the end of the decisionmaking process. <u>A</u>
NPDES	National Pollution Discharge Elimination System. <u>EnvA</u>
NPL	National Priority List
NPS	National Park Service
NRHP	National Register of Historic Places
OGC	Office of General Counsel
OMB	Office of Management & Budget. <u>EnvA</u>
Office of Business Performance (PX)	Responsible for developing and implementing a performance management program. PX Divisions are: Program Development, Business Analysis, Operations Support, and Special Programs. <u>OHR</u>
Office of Portfolio Management (PT)	Responsible for improving asset performance and maximizing the value of PBS's portfolio of owned and leased assets. <u>OHR</u>

Office of Property Acquisition and Realty Services (PARS)	GSA operational business line primarily responsible for leasing actions. <u>GSA</u>
Office of Property Development	GSA operational business line responsible for major R&A and new construction projects. <u>GSA</u>
PBCUA	Public Buildings Cooperative Use Act
PBS	Public Building Service
PCBs	Any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance. Refer to [40 CFR] § 761.1 (b) for applicable concentrations of PCBs. PCB and PCBs as contained in PCB items are defined in [40 CFR] § 761.3. Inadvertently generated non-Aroclor PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and dichlorinated biphenyls by 5. <u>A</u>
PEIS	Programmatic Environmental Impact Statement
Phase II Site Assessment	<p>A Phase II site assessment is performed when the EDDA indicates the likelihood that a site is contaminated. However, if the EDDA for the top three sites shows that the top-rated site is not contaminated, then a Phase II for the other two sites need not be performed and the negotiations for the top site may begin.</p> <p>The Phase II site assessment generally includes sampling of potentially contaminated areas to ascertain the extent of the contamination. In addition, a Phase II site assessment might include an asbestos survey based on the age of the building, or an examination for lead paint depending on the intended use of the building. [<u>GSA</u> internal document regarding Internal Site Acquisition Guidance.]</p>
Phase III Site Assessment	A Phase III site assessment is a comprehensive study to quantify the extent of contamination at a property and is only performed if the presence of hazardous contamination is identified during the Phase II assessment. The Phase III site assessment consists of a remedial investigation to characterize and quantify the nature and extent of contamination at the property, a risk assessment to quantify the potential human health and environmental risks posed by the property, and a feasibility study to identify the appropriate remedy for the property and the time to complete such remedy. <u>R</u>



preferred alternative	The alternative that GSA prefers, if such an alternative exists. The preferred alternative may not be the environmentally preferable alternative; overall preferability may be based on business needs, agency mission requirements, legislative or executive direction, and other factors.
prime/unique farmland	(1) Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, fiber, forage, oilseed, and other agricultural crops with minimum inputs of fuel, fertilizer, pesticides and labor, and without intolerable soil erosion. Prime farmland includes land that possesses the above characteristics but is being used currently to produce livestock and timber. It does not include land already in or committed to urban development or water storage. (2) Unique farmland is land other than prime farmland that is used for production of specific high-value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops when treated and managed according to acceptable farming methods. Examples of such crops include citrus, tree nuts, olives, cranberries, fruits and vegetables. (3) Farmland, other than prime or unique farmland that is of Statewide or local importance for the production of food, feed, fiber, forage, or oilseed crops. <u>P</u>
Property Disposal Business Line	Operational GSA business line responsible for disposing of excess real and personal property for GSA and other Federal agencies. <u>GSA</u>
Property Management Business Line	GSA operational business line responsible for all property/buildings management in government-owned space and in certain types of leased space. <u>GSA</u>
prospectus	Document that contains project description, implementation schedule and strategy, and project budget for "major" construction R&A and lease projects. Requires CO, OMB and Congressional approval. <u>GSA</u>
PRPs	Potentially responsible parties. Any individual or company—including owners, operators, transports or generators—potentially responsible for, or contributing to, the contamination problems at a Superfund site. Whenever possible, EPA requires PRPs through administrative and legal actions, to clean up hazardous waste sites they have contaminated. <u>N</u>
PSD	Prevention of significant deterioration
PT	GSA PBS Office of Portfolio Management
PX	GSA PBS Office of Business Performance
PXSC	Office of Business Performance Cultural, Environmental and Accessibility Programs

R&A	Repair and alteration project (prospectus-level major, minor) to existing government-owned (owned) buildings. <u>GSA</u>
RA	Regional Administrator; heads GSA at regional level. <u>GSA</u>
radon	A colorless naturally occurring, radioactive, inert gaseous element formed by radioactive decay of radium atoms in soil or rocks. <u>N</u>
RCRA	Resource Conservation & Recovery Act. <u>EnvA</u>
RCRIS	RCRA Information System. <u>EnvA</u>
reasonable alternatives	40 CFR 1502.14(a) requires agencies to "evaluate all reasonable alternatives." In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether GSA likes or is capable of carrying out a particular alternative. Reasonable alternatives include those that are <u>practical or feasible</u> from the technical and economic standpoint and using common sense, rather than simply <u>desirable</u> from the standpoint of the applicant. <u>Q</u>
REQA	Regional Environmental Quality Advisor
RHPO	Regional Historic Preservation Officer. <u>GSA</u>
RO	Regional Office
ROD	Record of Decision. <u>EnvA</u>
RTDM	Rough Terrain Diffusion Model
SARA	Superfund Amendments & Reauthorization Act. <u>EnvA</u>
SDWA	Safe Drinking Water Act. <u>EnvA</u>
SEIS	Supplemental Environmental Impact Statement
SFO	Solicitation for Offers; introduces GSA leasing or other space procurement action into the marketplace. <u>GSA</u>
short-term impacts	Temporary changes occurring during or immediately following an action and usually persist for a short while. <u>P</u>
SHPO	State Historic Preservation Office(r). <u>GSA</u>
SIA	Social impact assessment: an assessment of a project's impacts on the sociocultural environment, including but not limited to socioeconomic, demographic, and lifestyle impacts.

significantly	"Significantly" as used in NEPA requires considerations of both context and intensity: (a) <i>Context</i> —This means that the significance of an action must be analyzed in several contexts, such as society as a whole (human, national), the affected region, the affected interests and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant. (b) <i>Intensity</i> —This refers to the severity of impact. 40 CFR §1508.27
SIP	State Implementation Plan developed and administered under the Clean Air Act.
SME	Subject Matter Expert
SOP	Scope of Work
SVOC	Semi-Volatile Organic Compounds. <u>EnvA</u>
SWDA	Solid Waste Disposal Act. <u>EnvA</u>
TSCA	Toxic Substances Control Act. <u>EnvA</u>
TSDF	Treatment, Storage, and Disposal Facility
USGS	United States Geological Survey
USACE	U.S. Army Corps of Engineers
UST	Underground Storage Tank. Any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term <i>does not</i> include any:  (A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;  (B) tank used for storing heating oil for consumptive use on the premises where stored;  (C) septic tank;  (D) pipeline facility (including gathering lines) regulated under (i) the Natural Gas Pipeline Safety Act of 1968, (49 U.S.C.App. 1671, et seq.) (ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.App. 2001, et seq.) or (iii) which is an intrastate pipeline facility regulated under state laws comparable to the provisions of

- UST  
(continued)
- law referred to in clause (i) or (ii) of this subparagraph;
- (E) surface impoundment, pit, pond or lagoon;
- (F) storm water or waste water collection system;
- (G) flow-through process tank;
- (H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or
- (I) storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term "underground storage tank" shall not include any pipes connected to any tank described in subparagraphs (A) through (I). I

VOC Volatile Organic Compounds. (1) Any compound containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element that has a vapor pressure of 1.5 pounds per square inch absolute (77.6mm Hg) or greater under actual storage conditions. A (2) Any organic compounds that participate in atmospheric photochemical reactions or that are measured by Method 18, 24, 25 or 25A or an equivalent or alternative method as defined in 40 CFR § 60.2 A (3) Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. A

WBS Work Breakdown Structure

wetland Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include playa lakes, swamps, marshes, bogs and similar areas such as sloughs, prairie potholes, wet meadows, prairie river overflows, mudflats, and natural ponds. A

Sources:

- A Code of Federal Regulations, Title 40, Protection of Environment  
I Resource Conservation and Recovery Act  
N Official U.S. Environmental Protection Agency Documents  
U Unpublished EPA Documents

Definitions for sources A, I, N and U were taken from *Environmental Regulatory Glossary*, 6th ed., by Thomas F. P. Sullivan, Government Institutes, Inc., 1993.

- EnvA *Environmental Acronyms*, edited by Julie Hong, Government Institutes, Inc. 1995.
- GSA Environmental Quality Action Group of the GSA, 1996.
- P U.S. Postal Service Facilities Environmental Handbook, RE-6, January 1991.
- Q *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, by the Council on Environmental Quality, March 1981.
- R *Environmental Due Diligence Audits in the Conduct of FAA Real Property Transactions*, Order 1050.19, U.S. Department of Transportation, Federal Aviation Administration, August, 1994.

## **Pertinent Laws, Regulations and Orders**

NEPA (42 USC 4321)

40 CFR 1500 - 1508

ADM 1095.1F

PBS P 4001.1

## NATIONAL ENVIRONMENTAL POLICY ACT

HISTORY: Public Law 91-190, Jan. 1, 1970; 83 Stat. 852, 42 U.S.C. 4321; Amended by PL 94-52, July 3, 1975; PL 94-83, Aug. 9, 1975

### SEC. 2 [42 U.S.C. 4321] Purpose

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

## TITLE I DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

### SEC. 101 [42 U.S.C. 4331]

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may--

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

### SEC. 102 [42 U.S.C. 4332]

The Congress authorizes and directs that, to the fullest extent possible:

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and

(2) all agencies of the Federal Government shall--

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on--

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes:

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this Act; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;



(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by title II of this Act.

#### SEC. 103 [42 U.S.C. 4333]

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this Act.

#### SEC. 104 [42 U.S.C. 4334]

Nothing in Section 102 or 103 shall in any way affect the specific statutory obligations of any Federal agency

- (1) to comply with criteria or standards of environmental quality,
- (2) to coordinate or consult with any other Federal or State agency, or
- (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

#### SEC. 105 [42 U.S.C. 4335]

The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

### TITLE II COUNCIL ON ENVIRONMENTAL QUALITY

#### SEC. 201 [42 U.S.C. 4341]

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter referred to as the "report") which shall set forth

- (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest dryland, wetland, range, urban, suburban, and rural environment;
- (2) current and foreseeable trends in the quality, management and utilization of such environment and the effects of those trends on the social, economic, and other requirements of the Nation;

(3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures;

(4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and

(5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

SEC. 202 [42 U.S.C. 4342]

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in title I of this Act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

SEC. 203 [42 U.S.C. 4343]

(a) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(b) Notwithstanding section 3679(b) of the Revised Statutes (31 USC 665(b)), the Council may accept and employ voluntary and uncompensated services in furtherance of the purposes of the Council.

SEC. 204 [42 U.S.C. 4344]

It shall be the duty and function of the Council--

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 201;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in title I of this Act, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in title I of this Act for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

#### SEC. 205 [42 U.S.C. 4345]

In exercising its powers, functions, and duties under this Act, the Council shall--

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments, and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

#### SEC. 206 [42 U.S.C. 4346]

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates (5 USC 5313).

The other members of the Council shall be compensated at the rate provided for Level IV of the Executive Schedule Pay Rates (5 USC 5315).

#### SEC. 207 [42 U.S.C. 4346a] Acceptance of Travel Reimbursement.

The Council may accept reimbursements from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, any State, or local government, for the reasonable travel expenses incurred by an officer or employee of the Council in connection with his attendance at any conference, seminar, or similar meeting conducted for the benefit of the Council.

#### SEC. 208 [42 U.S.C. 4346b] Expenditures for International Travel.

The Council may make expenditures in support of its international activities, including expenditures for:

(1) international travel;

(2) activities in implementation of international agreements; and

(3) the support of international exchange programs in the United States and in foreign countries.

#### SEC. 209 [42 U.S.C. 4347]

There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

## 40 CFR 1500-1508

### PART 1500--PURPOSE, POLICY, AND MANDATE

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and E.O. 11514, Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 55990, Nov. 28, 1978, unless otherwise noted.

#### Sec. 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork--even excellent paperwork--but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

#### Sec. 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

#### Sec. 1500.3 Mandate.

Parts 1500 through 1508 of this title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) (NEPA or the Act) except where compliance would be inconsistent with other statutory requirements. These regulations are issued pursuant to NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.) section 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977). These regulations, unlike the predecessor guidelines, are not confined to sec. 102(2)(C) (environmental impact statements). The regulations apply to the whole of section 102(2). The provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law. It is the Council's intention that judicial review of agency compliance with these regulations not occur before an agency has filed the final environmental impact statement, or has made a final finding of no significant impact (when such a finding will result in action affecting the environment), or takes action that will result in irreparable injury. Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action.

#### Sec. 1500.4 Reducing paperwork.

Agencies shall reduce excessive paperwork by:

(a) Reducing the length of environmental impact statements (Sec. 1502.2(c)), by means such as setting appropriate page limits (Secs. 1501.7(b)(1) and 1502.7).

(b) Preparing analytic rather than encyclopedic environmental impact statements (Sec. 1502.2(a)).

(c) Discussing only briefly issues other than significant ones (Sec. 1502.2(b)).

(d) Writing environmental impact statements in plain language (Sec. 1502.8).

(e) Following a clear format for environmental impact statements (Sec. 1502.10).

(f) Emphasizing the portions of the environmental impact statement that are useful to decisionmakers and the public (Secs. 1502.14 and 1502.15) and reducing emphasis on background material (Sec. 1502.16).

(g) Using the scoping process, not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly (Sec. 1501.7).

(h) Summarizing the environmental impact statement (Sec. 1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (Sec. 1502.19).

- (i) Using program, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (Secs. 1502.4 and 1502.20).
- (j) Incorporating by reference (Sec. 1502.21).
- (k) Integrating NEPA requirements with other environmental review and consultation requirements (Sec. 1502.25).
- (l) Requiring comments to be as specific as possible (Sec. 1503.3).
- (m) Attaching and circulating only changes to the draft environmental impact statement, rather than rewriting and circulating the entire statement when changes are minor (Sec. 1503.4(c)).
- (n) Eliminating duplication with State and local procedures, by providing for joint preparation (Sec. 1506.2), and with other Federal procedures, by providing that an agency may adopt appropriate environmental documents prepared by another agency (Sec. 1506.3).
- (o) Combining environmental documents with other documents (Sec. 1506.4).
- (p) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment and which are therefore exempt from requirements to prepare an environmental impact statement (Sec. 1508.4).
- (q) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment and is therefore exempt from requirements to prepare an environmental impact statement (Sec. 1508.13).

[43 FR 55990, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

#### Sec. 1500.5 Reducing delay.

Agencies shall reduce delay by:

- (a) Integrating the NEPA process into early planning (Sec. 1501.2).
- (b) Emphasizing interagency cooperation before the environmental impact statement is prepared, rather than submission of adversary comments on a completed document (Sec. 1501.6).
- (c) Insuring the swift and fair resolution of lead agency disputes (Sec. 1501.5).
- (d) Using the scoping process for an early identification of what are and what are not the real issues (Sec. 1501.7).
- (e) Establishing appropriate time limits for the environmental impact statement process (Secs. 1501.7(b)(2) and 1501.8).
- (f) Preparing environmental impact statements early in the process (Sec. 1502.5).
- (g) Integrating NEPA requirements with other environmental review and consultation requirements (Sec. 1502.25).
- (h) Eliminating duplication with State and local procedures by providing for joint preparation (Sec. 1506.2) and with other Federal procedures by providing that an agency may adopt appropriate environmental documents prepared by another agency (Sec. 1506.3).
- (i) Combining environmental documents with other documents (Sec. 1506.4).
- (j) Using accelerated procedures for proposals for legislation (Sec. 1506.8).
- (k) Using categorical exclusions to define categories of actions which do not individually or cumulatively have a significant effect on the human environment (Sec.

1508.4) and which are therefore exempt from requirements to prepare an environmental impact statement.

(l) Using a finding of no significant impact when an action not otherwise excluded will not have a significant effect on the human environment (Sec. 1508.13) and is therefore exempt from requirements to prepare an environmental impact statement.

Sec. 1500.6 Agency authority.

Each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. Agencies shall review their policies, procedures, and regulations accordingly and revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 means that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

## PART 1501--NEPA AND AGENCY PLANNING

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609, and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 55992, Nov. 29, 1978, unless otherwise noted.

Sec. 1501.1 Purpose.

The purposes of this part include:

- (a) Integrating the NEPA process into early planning to insure appropriate consideration of NEPA's policies and to eliminate delay.
- (b) Emphasizing cooperative consultation among agencies before the environmental impact statement is prepared rather than submission of adversary comments on a completed document.
- (c) Providing for the swift and fair resolution of lead agency disputes.
- (d) Identifying at an early stage the significant environmental issues deserving of study and deemphasizing insignificant issues, narrowing the scope of the environmental impact statement accordingly.
- (e) Providing a mechanism for putting appropriate time limits on the environmental impact statement process.

Sec. 1501.2 Apply NEPA early in the process.

Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts. Each agency shall:

- (a) Comply with the mandate of section 102(2)(A) to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment," as specified by Sec. 1507.2.

(b) Identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses shall be circulated and reviewed at the same time as other planning documents.

(c) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(E) of the Act.

(d) Provide for cases where actions are planned by private applicants or other non-Federal entities before Federal involvement so that:

1. Policies or designated staff are available to advise potential applicants of studies or other information foreseeably required for later Federal action.
2. The Federal agency consults early with appropriate State and local agencies and Indian tribes and with interested private persons and organizations when its own involvement is reasonably foreseeable.
3. The Federal agency commences its NEPA process at the earliest possible time.

Sec. 1501.3 When to prepare an environmental assessment.

(a) Agencies shall prepare an environmental assessment (Sec. 1508.9) when necessary under the procedures adopted by individual agencies to supplement these regulations as described in Sec. 1507.3. An assessment is not necessary if the agency has decided to prepare an environmental impact statement.

(b) Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decisionmaking.

Sec. 1501.4 Whether to prepare an environmental impact statement.

In determining whether to prepare an environmental impact statement the Federal agency shall:

(a) Determine under its procedures supplementing these regulations (described in Sec. 1507.3) whether the proposal is one which:

1. Normally requires an environmental impact statement, or
2. Normally does not require either an environmental impact statement or an environmental assessment (categorical exclusion).

(b) If the proposed action is not covered by paragraph (a) of this section, prepare an environmental assessment (Sec. 1508.9). The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by Sec. 1508.9(a)(1).

(c) Based on the environmental assessment make its determination whether to prepare an environmental impact statement.

(d) Commence the scoping process (Sec. 1501.7), if the agency will prepare an environmental impact statement.

(e) Prepare a finding of no significant impact (Sec. 1508.13), if the agency determines on the basis of the environmental assessment not to prepare a statement.

1. The agency shall make the finding of no significant impact available to the affected public as specified in Sec. 1506.6.



2. certain limited circumstances, which the agency may cover in its procedures under Sec. 1507.3, the agency shall make the finding of no significant impact available for public review (including State and areawide clearinghouses) for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:
  - (i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under the procedures adopted by the agency pursuant to Sec. 1507.3, or
  - (ii) The nature of the proposed action is one without precedent.

#### Sec. 1501.5 Lead agencies.

(a) A lead agency shall supervise the preparation of an environmental impact statement if more than one Federal agency either:

1. Proposes or is involved in the same action; or
2. Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity.

(b) Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement (Sec. 1506.2).

(c) If an action falls within the provisions of paragraph (a) of this section the potential lead agencies shall determine by letter or memorandum which agency shall be the lead agency and which shall be cooperating agencies. The agencies shall resolve the lead agency question so as not to cause delay. If there is disagreement among the agencies, the following factors (which are listed in order of descending importance) shall determine lead agency designation:

1. Magnitude of agency's involvement.
2. Project approval/disapproval authority.
3. Expertise concerning the action's environmental effects.
4. Duration of agency's involvement.
5. Sequence of agency's involvement.

(d) Any Federal agency, or any State or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the potential lead agencies that a lead agency be designated.

(e) If Federal agencies are unable to agree on which agency will be the lead agency or if the procedure described in paragraph (c) of this section has not resulted within 45 days in a lead agency designation, any of the agencies or persons concerned may file a request with the Council asking it to determine which Federal agency shall be the lead agency. A copy of the request shall be transmitted to each potential lead agency. The request shall consist of:

1. A precise description of the nature and extent of the proposed action.
2. A detailed statement of why each potential lead agency should or should not be the lead agency under the criteria specified in paragraph (c) of this section.

(f) A response may be filed by any potential lead agency concerned within 20 days after a request is filed with the Council. The Council shall determine as soon as possible but not later than 20 days after receiving the request and all responses to it

which Federal agency shall be the lead agency and which other Federal agencies shall be cooperating agencies.

[43 FR 55992, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

#### Sec. 1501.6 Cooperating agencies.

The purpose of this section is to emphasize agency cooperation early in the NEPA process. Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

(a) The lead agency shall:

1. Request the participation of each cooperating agency in the NEPA process at the earliest possible time.
2. Use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise, to the maximum extent possible consistent with its responsibility as lead agency.
3. Meet with a cooperating agency at the latter's request.

(b) Each cooperating agency shall:

1. Participate in the NEPA process at the earliest possible time.
2. Participate in the scoping process (described below in Sec. 1501.7).
3. Assume on request of the lead agency responsibility for developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise.
4. Make available staff support at the lead agency's request to enhance the latter's interdisciplinary capability.
5. Normally use its own funds. The lead agency shall, to the extent available funds permit, fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.

(c) A cooperating agency may in response to a lead agency's request for assistance in preparing the environmental impact statement (described in paragraph (b)(3), (4), or (5) of this section) reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement. A copy of this reply shall be submitted to the Council.

Sec. 1501.7 Scoping. There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping. As soon as practicable after its decision to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent (Sec. 1508.22) in the Federal Register except as provided in Sec. 1507.3(e).

(a) As part of the scoping process the lead agency shall:

1. Invite the participation of affected Federal, State, and local agencies, any affected Indian tribe, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds), unless there is a limited exception under Sec. 1507.3(c). An agency may give notice in accordance with Sec. 1506.6.
  2. Determine the scope (Sec. 1508.25) and the significant issues to be analyzed in depth in the environmental impact statement.
  3. Identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (Sec. 1506.3), narrowing the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or providing a reference to their coverage elsewhere.
  4. Allocate assignments for preparation of the environmental impact statement among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.
  5. Indicate any public environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration.
  6. Identify other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with, and integrated with, the environmental impact statement as provided in Sec. 1502.25.
  7. Indicate the relationship between the timing of the preparation of environmental analyses and the agency's tentative planning and decisionmaking schedule.
- (b) As part of the scoping process the lead agency may:
1. Set page limits on environmental documents (Sec. 1502.7).
  2. Set time limits (Sec. 1501.8).
  3. Adopt procedures under Sec. 1507.3 to combine its environmental assessment process with its scoping process.
  4. Hold an early scoping meeting or meetings which may be integrated with any other early planning meeting the agency has. Such a scoping meeting will often be appropriate when the impacts of a particular action are confined to specific sites.
- (c) An agency shall revise the determinations made under paragraphs (a) and (b) of this section if substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts.

#### Sec. 1501.8 Time limits.

Although the Council has decided that prescribed universal time limits for the entire NEPA process are too inflexible, Federal agencies are encouraged to set time limits appropriate to individual actions (consistent with the time intervals required by Sec. 1506.10). When multiple agencies are involved the reference to agency below means lead agency.

(a) The agency shall set time limits if an applicant for the proposed action requests them: Provided, That the limits are consistent with the purposes of NEPA and other essential considerations of national policy.

(b) The agency may:

1. Consider the following factors in determining time limits:
  - (i) Potential for environmental harm.
  - (ii) Size of the proposed action.
  - (iii) State of the art of analytic techniques.
  - (iv) Degree of public need for the proposed action, including the consequences of delay.
  - (v) Number of persons and agencies affected.
  - (vi) Degree to which relevant information is known and if not known the time required for obtaining it.
  - (vii) Degree to which the action is controversial.
  - (viii) Other time limits imposed on the agency by law, regulations, or executive order.
2. Set overall time limits or limits for each constituent part of the NEPA process, which may include:
  - (i) Decision on whether to prepare an environmental impact statement (if not already decided).
  - (ii) Determination of the scope of the environmental impact statement.
  - (iii) Preparation of the draft environmental impact statement.
  - (iv) Review of any comments on the draft environmental impact statement from the public and agencies.
  - (v) Preparation of the final environmental impact statement.
  - (vi) Review of any comments on the final environmental impact statement.
  - (vii) Decision on the action based in part on the environmental impact statement.
3. Designate a person (such as the project manager or a person in the agency's office with NEPA responsibilities) to expedite the NEPA process.

(c) State or local agencies or members of the public may request a Federal Agency to set time limits.

## PART 1502--ENVIRONMENTAL IMPACT STATEMENT

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 55994, Nov. 29, 1978, unless otherwise noted.

### Sec. 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the

public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

#### Sec. 1502.2 Implementation.

To achieve the purposes set forth in Sec. 1502.1 agencies shall prepare environmental impact statements in the following manner:

- (a) Environmental impact statements shall be analytic rather than encyclopedic.
- (b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.
- (c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.
- (d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.
- (e) The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker.
- (f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (Sec. 1506.1).
- (g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

#### Sec. 1502.3 Statutory requirements for statements.

As required by sec. 102(2)(C) of NEPA environmental impact statements (Sec. 1508.11) are to be included in every recommendation or report.

On proposals (Sec. 1508.23).

For legislation and (Sec. 1508.17).

Other major Federal actions (Sec. 1508.18).

Significantly (Sec. 1508.27).

Affecting (Secs. 1508.3, 1508.8).

The quality of the human environment (Sec. 1508.14).

#### Sec. 1502.4 Major Federal actions requiring the preparation of environmental impact statements.

- (a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (Sec. 1508.25) to determine which proposal(s) shall be the subject of a particular

statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (Sec. 1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

4. Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.
5. Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.
6. By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (Sec. 1501.7), tiering (Sec. 1502.20), and other methods listed in Secs. 1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

#### Sec. 1502.5 Timing.

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (Sec. 1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize or justify decisions already made (Secs. 1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the public hearing related to the

impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

#### Sec. 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (Sec. 1501.7).

#### Sec. 1502.7 Page limits.

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of Sec. 1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

#### Sec. 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

#### Sec. 1502.9 Draft, final, and supplemental statements.

Except for proposals for legislation as provided in Sec. 1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

3. Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

- (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.
- 4. May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.
- 5. Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.
- 6. Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

#### Sec. 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

- (a) Cover sheet.
- (b) Summary.
- (c) Table of contents.
- (d) Purpose of and need for action.
- (e) Alternatives including proposed action (sections 102(2)(C)(iii) and 102(2)(E) of the Act).
- (f) Affected environment.
- (g) Environmental consequences (especially sections 102(2)(C)(i), (ii), (iv), and (v) of the Act).
- (h) List of preparers.
- (i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.
- (j) Index.
- (k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in Secs. 1502.11 through 1502.18, in any appropriate format.

#### Sec. 1502.11 Cover sheet.

The cover sheet shall not exceed one page. It shall include:

- (a) A list of the responsible agencies including the lead agency and any cooperating agencies.
- (b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.
- (c) The name, address, and telephone number of the person at the agency who can supply further information.
- (d) A designation of the statement as a draft, final, or draft or final supplement.
- (e) A one paragraph abstract of the statement.



(f) The date by which comments must be received (computed in cooperation with EPA under Sec. 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

#### Sec. 1502.12 Summary.

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives). The summary will normally not exceed 15 pages.

#### Sec. 1502.13 Purpose and need.

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

#### Sec. 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

- (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- (b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
- (c) Include reasonable alternatives not within the jurisdiction of the lead agency.
- (d) Include the alternative of no action.
- (e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.
- (f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

#### Sec. 1502.15 Affected environment.

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

#### Sec. 1502.16 Environmental consequences.

This section forms the scientific and analytic basis for the comparisons under Sec. 1502.14. It shall consolidate the discussions of those elements required by sections 102(2)(C)(i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in Sec. 1502.14. It shall include discussions of:

- (a) Direct effects and their significance (Sec. 1508.8).
- (b) Indirect effects and their significance (Sec. 1508.8).
- (c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See Sec. 1506.2(d).)
- (d) The environmental effects of alternatives including the proposed action. The comparisons under Sec. 1502.14 will be based on this discussion.
- (e) Energy requirements and conservation potential of various alternatives and mitigation measures.
- (f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
- (g) Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.
- (h) Means to mitigate adverse environmental impacts (if not fully covered under Sec. 1502.14(f)).

[43 FR 55994, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

#### **Sec. 1502.17 List of preparers.**

The environmental impact statement shall list the names, together with their qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers, including basic components of the statement (Secs. 1502.6 and 1502.8). Where possible the persons who are responsible for a particular analysis, including analyses in background papers, shall be identified. Normally the list will not exceed two pages.

#### **Sec. 1502.18 Appendix.**

If an agency prepares an appendix to an environmental impact statement the appendix shall:

- (a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (Sec. 1502.21)).
- (b) Normally consist of material which substantiates any analysis fundamental to the impact statement.
- (c) Normally be analytic and relevant to the decision to be made.
- (d) Be circulated with the environmental impact statement or be readily available on request.

#### **Sec. 1502.19 Circulation of the environmental impact statement.**

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in Sec. 1502.18(d) and unchanged statements as provided in Sec. 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

- (a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.
- (b) The applicant, if any.
- (c) Any person, organization, or agency requesting the entire environmental impact statement.
- (d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

#### **Sec. 1502.20 Tiering.**

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (Sec. 1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Section 1508.28).

#### **Sec. 1502.21 Incorporation by reference.**

Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

#### **Sec. 1502.22 Incomplete or unavailable information.**

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

- (a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining

it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement:

3. A statement that such information is incomplete or unavailable;
4. a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;
5. a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and
6. the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

(c) The amended regulation will be applicable to all environmental impact statements for which a Notice of Intent (40 CFR 1508.22) is published in the Federal Register on or after May 27, 1986. For environmental impact statements in progress, agencies may choose to comply with the requirements of either the original or amended regulation.

[51 FR 15625, Apr. 25, 1986]

#### **Sec. 1502.23 Cost-benefit analysis.**

If a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. To assess the adequacy of compliance with section 102(2)(B) of the Act the statement shall, when a cost-benefit analysis is prepared, discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities. For purposes of complying with the Act, the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations. In any event, an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision.

#### **Sec. 1502.24 Methodology and scientific accuracy.**

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

#### **Sec. 1502.25 Environmental review and consultation requirements.**

(a) To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Endangered

Species Act of 1973 (16 U.S.C. 1531 et seq.), and other environmental review laws and executive orders.

(b) The draft environmental impact statement shall list all Federal permits, licenses, and other entitlements which must be obtained in implementing the proposal. If it is uncertain whether a Federal permit, license, or other entitlement is necessary, the draft environmental impact statement shall so indicate.

## **PART 1503--COMMENTING**

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 55997, Nov. 29, 1978, unless otherwise noted.

### **Sec. 1503.1 Inviting comments.**

(a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:

7. Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.

8. Request the comments of:

(i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;

(ii) Indian tribes, when the effects may be on a reservation; and

(iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

9. Request comments from the applicant, if any.

10. Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

(b) An agency may request comments on a final environmental impact statement before the decision is finally made. In any case other agencies or persons may make comments before the final decision unless a different time is provided under Sec. 1506.10.

### **Sec. 1503.2 Duty to comment.**

Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved and agencies which are authorized to develop and enforce environmental standards shall comment on statements within their jurisdiction, expertise, or authority. Agencies shall comment within the time period specified for comment in Sec. 1506.10. A Federal agency may reply that it has no comment. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should reply that it has no comment.

### Sec. 1503.3 Specificity of comments.

(a) Comments on an environmental impact statement or on a proposed action shall be as specific as possible and may address either the adequacy of the statement or the merits of the alternatives discussed or both.

(b) When a commenting agency criticizes a lead agency's predictive methodology, the commenting agency should describe the alternative methodology which it prefers and why.

(c) A cooperating agency shall specify in its comments whether it needs additional information to fulfill other applicable environmental reviews or consultation requirements and what information it needs. In particular, it shall specify any additional information it needs to comment adequately on the draft statement's analysis of significant site-specific effects associated with the granting or approving by that cooperating agency of necessary Federal permits, licenses, or entitlements.

(d) When a cooperating agency with jurisdiction by law objects to or expresses reservations about the proposal on grounds of environmental impacts, the agency expressing the objection or reservation shall specify the mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license, or related requirements or concurrences.

### Sec. 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

7. Modify alternatives including the proposed action.
8. Develop and evaluate alternatives not previously given serious consideration by the agency.
9. Supplement, improve, or modify its analyses.
10. Make factual corrections.
11. Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (Sec. 1502.19). The entire document with a new cover sheet shall be filed as the final statement (Sec. 1506.9).

**PART 1504--PREDECISION REFERRALS TO THE COUNCIL OF PROPOSED  
FEDERAL ACTIONS DETERMINED TO BE ENVIRONMENTALLY  
UNSATISFACTORY**

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 55998, Nov. 29, 1978, unless otherwise noted.

#### Sec. 1504.1 Purpose.

(a) This part establishes procedures for referring to the Council Federal interagency disagreements concerning proposed major Federal actions that might cause unsatisfactory environmental effects. It provides means for early resolution of such disagreements.

(b) Under section 309 of the Clean Air Act (42 U.S.C. 7609), the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of Federal activities, including actions for which environmental impact statements are prepared. If after this review the Administrator determines that the matter is "unsatisfactory from the standpoint of public health or welfare or environmental quality," section 309 directs that the matter be referred to the Council (hereafter "environmental referrals").

(c) Under section 102(2)(C) of the Act other Federal agencies may make similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts. These reviews must be made available to the President, the Council and the public.

#### Sec. 1504.2 Criteria for referral.

Environmental referrals should be made to the Council only after concerted, timely (as early as possible in the process), but unsuccessful attempts to resolve differences with the lead agency. In determining what environmental objections to the matter are appropriate to refer to the Council, an agency should weigh potential adverse environmental impacts, considering:

- (a) Possible violation of national environmental standards or policies.
- (b) Severity.
- (c) Geographical scope.
- (d) Duration.
- (e) Importance as precedents.
- (f) Availability of environmentally preferable alternatives.

#### Sec. 1504.3 Procedure for referrals and response.

(a) A Federal agency making the referral to the Council shall:

11. Advise the lead agency at the earliest possible time that it intends to refer a matter to the Council unless a satisfactory agreement is reached.
12. Include such advice in the referring agency's comments on the draft environmental impact statement, except when the statement does not contain adequate information to permit an assessment of the matter's environmental acceptability.
13. Identify any essential information that is lacking and request that it be made available at the earliest possible time.
14. Send copies of such advice to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final environmental impact statement has been made available to the Environmental Protection Agency, commenting agencies, and the public. Except when an extension of this period has been granted by the lead agency, the Council will not accept a referral after that date.

(c) The referral shall consist of:

12. A copy of the letter signed by the head of the referring agency and delivered to the lead agency informing the lead agency of the referral and the reasons for it, and requesting that no action be taken to implement the matter until the Council acts upon the referral. The letter shall include a copy of the statement referred to in (c)(2) of this section.

13. A statement supported by factual evidence leading to the conclusion that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall:

- (i) Identify any material facts in controversy and incorporate (by reference if appropriate) agreed upon facts,
- (ii) Identify any existing environmental requirements or policies which would be violated by the matter,
- (iii) Present the reasons why the referring agency believes the matter is environmentally unsatisfactory,
- (iv) Contain a finding by the agency whether the issue raised is of national importance because of the threat to national environmental resources or policies or for some other reason,
- (v) Review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and
- (vi) Give the referring agency's recommendations as to what mitigation alternative, further study, or other course of action (including abandonment of the matter) are necessary to remedy the situation.

(d) Not later than twenty-five (25) days after the referral to the Council the lead agency may deliver a response to the Council, and the referring agency. If the lead agency requests more time and gives assurance that the matter will not go forward in the interim, the Council may grant an extension. The response shall:

7. Address fully the issues raised in the referral.
8. Be supported by evidence.
9. Give the lead agency's response to the referring agency's recommendations.

(e) Interested persons (including the applicant) may deliver their views in writing to the Council. Views in support of the referral should be delivered not later than the referral. Views in support of the response shall be delivered not later than the response. (f) Not later than twenty-five (25) days after receipt of both the referral and any response or upon being informed that there will be no response (unless the lead agency agrees to a longer time), the Council may take one or more of the following actions:

3. Conclude that the process of referral and response has successfully resolved the problem.
4. Initiate discussions with the agencies with the objective of mediation with referring and lead agencies.
5. Hold public meetings or hearings to obtain additional views and information.



6. Determine that the issue is not one of national importance and request the referring and lead agencies to pursue their decision process.
7. Determine that the issue should be further negotiated by the referring and lead agencies and is not appropriate for Council consideration until one or more heads of agencies report to the Council that the agencies' disagreements are irreconcilable.
8. Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency).
9. When appropriate, submit the referral and the response together with the Council's recommendation to the President for action.

(g) The Council shall take no longer than 60 days to complete the actions specified in paragraph (f)(2), (3), or (5) of this section.

(h) When the referral involves an action required by statute to be determined on the record after opportunity for agency hearing, the referral shall be conducted in a manner consistent with 5 U.S.C. 557(d) (Administrative Procedure Act).

[43 FR 55998, Nov. 29, 1978; 44 FR 873, Jan. 3, 1979]

## PART 1505--NEPA AND AGENCY DECISIONMAKING

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 55999, Nov. 29, 1978, unless otherwise noted.

### Sec. 1505.1 Agency decisionmaking procedures.

Agencies shall adopt procedures (Sec. 1507.3) to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

- (a) Implementing procedures under section 102(2) to achieve the requirements of sections 101 and 102(1).
- (b) Designating the major decision points for the agency's principal programs likely to have a significant effect on the human environment and assuring that the NEPA process corresponds with them.
- (c) Requiring that relevant environmental documents, comments, and responses be part of the record in formal rulemaking or adjudicatory proceedings.
- (d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that agency officials use the statement in making decisions.
- (e) Requiring that the alternatives considered by the decisionmaker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decisionmaker consider the alternatives described in the environmental impact statement. If another decision document accompanies the relevant environmental documents to the decisionmaker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives.

Sec. 1505.2 Record of decision in cases requiring environmental impact statements. At the time of its decision (Sec. 1506.10) or, if appropriate, its recommendation to Congress, each agency shall prepare a concise public record of decision. The record, which may be integrated into any other record prepared by the agency, including that required by OMB Circular A-95 (Revised), part I, sections 6(c) and (d), and Part II, section 5(b)(4), shall:

- (a) State what the decision was.
- (b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision.
- (c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation.

Sec. 1505.3 Implementing the decision.

Agencies may provide for monitoring to assure that their decisions are carried out and should do so in important cases. Mitigation (Sec. 1505.2(c)) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency. The lead agency shall:

- (a) Include appropriate conditions in grants, permits or other approvals.
- (b) Condition funding of actions on mitigation.
- (c) Upon request, inform cooperating or commenting agencies on progress in carrying out mitigation measures which they have proposed and which were adopted by the agency making the decision.
- (d) Upon request, make available to the public the results of relevant monitoring.

## PART 1506--OTHER REQUIREMENTS OF NEPA

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 56000, Nov. 29, 1978, unless otherwise noted.

Sec. 1506.1 Limitations on actions during NEPA process.

- (a) Until an agency issues a record of decision as provided in Sec. 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:
  - 15. Have an adverse environmental impact; or

16. Limit the choice of reasonable alternatives.

(b) If any agency is considering an application from a non-Federal entity, and is aware that the applicant is about to take an action within the agency's jurisdiction that would meet either of the criteria in paragraph (a) of this section, then the agency shall promptly notify the applicant that the agency will take appropriate action to insure that the objectives and procedures of NEPA are achieved.

(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:

14. Is justified independently of the program;

15. Is itself accompanied by an adequate environmental impact statement;  
and

16. Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

(d) This section does not preclude development by applicants of plans or designs or performance of other work necessary to support an application for Federal, State or local permits or assistance. Nothing in this section shall preclude Rural Electrification Administration approval of minimal expenditures not affecting the environment (e.g. long leadtime equipment and purchase options) made by non-governmental entities seeking loan guarantees from the Administration.

Sec. 1506.2 Elimination of duplication with State and local procedures.

(a) Agencies authorized by law to cooperate with State agencies of statewide jurisdiction pursuant to section 102(2)(D) of the Act may do so.

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

10. Joint planning processes.

11. Joint environmental research and studies.

12. Joint public hearings (except where otherwise provided by statute).

13. Joint environmental assessments.

(c) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and comparable State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include joint environmental impact statements. In such cases one or more Federal agencies and one or more State or local agencies shall be joint lead agencies. Where State laws or local ordinances have environmental impact statement requirements in addition to but not in conflict with those in NEPA, Federal agencies shall cooperate in fulfilling these requirements as well as those of Federal laws so that one document will comply with all applicable laws.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

#### Sec. 1506.3 Adoption.

(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under Part 1504, or when the statement's adequacy is the subject of a judicial action which is not final, the agency shall so specify.

#### Sec. 1506.4 Combining documents.

Any environmental document in compliance with NEPA may be combined with any other agency document to reduce duplication and paperwork.

#### Sec. 1506.5 Agency responsibility.

(a) Information. If an agency requires an applicant to submit environmental information for possible use by the agency in preparing an environmental impact statement, then the agency should assist the applicant by outlining the types of information required. The agency shall independently evaluate the information submitted and shall be responsible for its accuracy. If the agency chooses to use the information submitted by the applicant in the environmental impact statement, either directly or by reference, then the names of the persons responsible for the independent evaluation shall be included in the list of preparers (Sec. 1502.17). It is the intent of this paragraph that acceptable work not be redone, but that it be verified by the agency.

(b) Environmental assessments. If an agency permits an applicant to prepare an environmental assessment, the agency, besides fulfilling the requirements of paragraph (a) of this section, shall make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment.

(c) Environmental impact statements. Except as provided in Secs. 1506.2 and 1506.3 any environmental impact statement prepared pursuant to the requirements

of NEPA shall be prepared directly by or by a contractor selected by the lead agency or where appropriate under Sec. 1501.6(b), a cooperating agency. It is the intent of these regulations that the contractor be chosen solely by the lead agency, or by the lead agency in cooperation with cooperating agencies, or where appropriate by a cooperating agency to avoid any conflict of interest. Contractors shall execute a disclosure statement prepared by the lead agency, or where appropriate the cooperating agency, specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract, the responsible Federal official shall furnish guidance and participate in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents. Nothing in this section is intended to prohibit any agency from requesting any person to submit information to it or to prohibit any person from submitting information to any agency.

Sec. 1506.6 Public involvement.

Agencies shall:

- (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.
  - (b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.
10. In all cases the agency shall mail notice to those who have requested it on an individual action.
  11. In the case of an action with effects of national concern notice shall include publication in the Federal Register and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the 102 Monitor. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.
  12. In the case of an action with effects primarily of local concern the notice may include:
    - (i) Notice to State and areawide clearinghouses pursuant to OMB Circular A- 95 (Revised).
    - (ii) Notice to Indian tribes when effects may occur on reservations.
    - (iii) Following the affected State's public notice procedures for comparable actions.
    - (iv) Publication in local newspapers (in papers of general circulation rather than legal papers).
    - (v) Notice through other local media.
    - (vi) Notice to potentially interested community organizations including small business associations.
    - (vii) Publication in newsletters that may be expected to reach potentially interested persons.
    - (viii) Direct mailing to owners and occupants of nearby or affected property.

(ix) Posting of notice on and off site in the area where the action is to be located.

(c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

6. Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.
7. A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

(d) Solicit appropriate information from the public.

(e) Explain in its procedures where interested persons can get information or status reports on environmental impact statements and other elements of the NEPA process.

(f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

#### Sec. 1506.7 Further guidance.

The Council may provide further guidance concerning NEPA and its procedures including:

(a) A handbook which the Council may supplement from time to time, which shall in plain language provide guidance and instructions concerning the application of NEPA and these regulations.

(b) Publication of the Council's Memoranda to Heads of Agencies.

(c) In conjunction with the Environmental Protection Agency and the publication of the 102 Monitor, notice of:

3. Research activities;
4. Meetings and conferences related to NEPA; and
5. Successful and innovative procedures used by agencies to implement NEPA.

#### Sec. 1506.8 Proposals for legislation.

(a) The NEPA process for proposals for legislation (Sec. 1508.17) significantly affecting the quality of the human environment shall be integrated with the legislative process of the Congress. A legislative environmental impact statement is the detailed statement required by law to be included in a recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to

Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement which can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(b) Preparation of a legislative environmental impact statement shall conform to the requirements of these regulations except as follows:

4. There need not be a scoping process.

5. The legislative statement shall be prepared in the same manner as a draft statement, but shall be considered the "detailed statement" required by statute; Provided, That when any of the following conditions exist both the draft and final environmental impact statement on the legislative proposal shall be prepared and circulated as provided by Secs. 1503.1 and 1506.10.

(i) A Congressional Committee with jurisdiction over the proposal has a rule requiring both draft and final environmental impact statements.

(ii) The proposal results from a study process required by statute (such as those required by the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) and the Wilderness Act (16 U.S.C. 1131 et seq.)).

(iii) Legislative approval is sought for Federal or federally assisted construction or other projects which the agency recommends be located at specific geographic locations. For proposals requiring an environmental impact statement for the acquisition of space by the General Services Administration, a draft statement shall accompany the Prospectus or the 11(b) Report of Building Project Surveys to the Congress, and a final statement shall be completed before site acquisition.

(iv) The agency decides to prepare draft and final statements.

(c) Comments on the legislative statement shall be given to the lead agency which shall forward them along with its own responses to the Congressional committees with jurisdiction.

#### Sec. 1506.9 Filing requirements.

Environmental impact statements together with comments and responses shall be filed with the Environmental Protection Agency, attention Office of Federal Activities (A-104), 401 M Street SW., Washington, DC 20460. Statements shall be filed with EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and Sec. 1506.10.

#### Sec. 1506.10 Timing of agency action.

(a) The Environmental Protection Agency shall publish a notice in the Federal Register each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

(b) No decision on the proposed action shall be made or recorded under Sec. 1505.2 by a Federal agency until the later of the following dates:

6. Ninety (90) days after publication of the notice described above in paragraph (a) of this section for a draft environmental impact statement.
7. Thirty (30) days after publication of the notice described above in paragraph (a) of this section for a final environmental impact statement. An exception to the rules on timing may be made in the case of an agency decision which is subject to a formal internal appeal. Some agencies have a formally established appeal process which allows other agencies or the public to take appeals on a decision and make their views known, after publication of the final environmental impact statement. In such cases, where a real opportunity exists to alter the decision, the decision may be made and recorded at the same time the environmental impact statement is published.

This means that the period for appeal of the decision and the 30-day period prescribed in paragraph (b)(2) of this section may run concurrently. In such cases the environmental impact statement shall explain the timing and the public's right of appeal. An agency engaged in rulemaking under the Administrative Procedure Act or other statute for the purpose of protecting the public health or safety, may waive the time period in paragraph (b)(2) of this section and publish a decision on the final rule simultaneously with publication of the notice of the availability of the final environmental impact statement as described in paragraph (a) of this section.

(c) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement is filed with the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently. However, subject to paragraph (d) of this section agencies shall allow not less than 45 days for comments on draft statements.

(d) The lead agency may extend prescribed periods. The Environmental Protection Agency may upon a showing by the lead agency of compelling reasons of national policy reduce the prescribed periods and may upon a showing by any other Federal agency of compelling reasons of national policy also extend prescribed periods, but only after consultation with the lead agency. (Also see Sec. 1507.3(d).) Failure to file timely comments shall not be a sufficient reason for extending a period. If the lead agency does not concur with the extension of time, EPA may not extend it for more than 30 days. When the Environmental Protection Agency reduces or extends any period of time it shall notify the Council.

[43 FR 56000, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

#### Sec. 1506.11 Emergencies.

Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

#### Sec. 1506.12 Effective date.

The effective date of these regulations is July 30, 1979, except that for agencies that administer programs that qualify under section 102(2)(D) of the Act or under section



104(h) of the Housing and Community Development Act of 1974 an additional four months shall be allowed for the State or local agencies to adopt their implementing procedures.

(a) These regulations shall apply to the fullest extent practicable to ongoing activities and environmental documents begun before the effective date. These regulations do not apply to an environmental impact statement or supplement if the draft statement was filed before the effective date of these regulations. No completed environmental documents need be redone by reasons of these regulations. Until these regulations are applicable, the Council's guidelines published in the Federal Register of August 1, 1973, shall continue to be applicable. In cases where these regulations are applicable the guidelines are superseded. However, nothing shall prevent an agency from proceeding under these regulations at an earlier time.

(b) NEPA shall continue to be applicable to actions begun before January 1, 1970, to the fullest extent possible.

#### PART 1507--AGENCY COMPLIANCE

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 56002, Nov. 29, 1978, unless otherwise noted.

##### Sec. 1507.1 Compliance.

All agencies of the Federal Government shall comply with these regulations. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by Sec. 1507.3 to the requirements of other applicable laws.

##### Sec. 1507.2 Agency capability to comply.

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements enumerated below. Such compliance may include use of other's resources, but the using agency shall itself have sufficient capability to evaluate what others do for it. Agencies shall:

(a) Fulfill the requirements of section 102(2)(A) of the Act to utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on the human environment. Agencies shall designate a person to be responsible for overall review of agency NEPA compliance.

(b) Identify methods and procedures required by section 102(2)(B) to insure that presently unquantified environmental amenities and values may be given appropriate consideration.

(c) Prepare adequate environmental impact statements pursuant to section 102(2)(C) and comment on statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.

(d) Study, develop, and describe alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. This requirement of section 102(2)(E) extends to all such

proposals, not just the more limited scope of section 102(2)(C)(iii) where the discussion of alternatives is confined to impact statements.

(e) Comply with the requirements of section 102(2)(H) that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.

(f) Fulfill the requirements of sections 102(2)(F), 102(2)(G), and 102(2)(I), of the Act and of Executive Order 11514, Protection and Enhancement of Environmental Quality, Sec. 2.

#### Sec. 1507.3 Agency procedures.

(a) Not later than eight months after publication of these regulations as finally adopted in the Federal Register, or five months after the establishment of an agency, whichever shall come later, each agency shall as necessary adopt procedures to supplement these regulations. When the agency is a department, major subunits are encouraged (with the consent of the department) to adopt their own procedures. Such procedures shall not paraphrase these regulations. They shall confine themselves to implementing procedures. Each agency shall consult with the Council while developing its procedures and before publishing them in the Federal Register for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants. The procedures shall be adopted only after an opportunity for public review and after review by the Council for conformity with the Act and these regulations. The Council shall complete its review within 30 days. Once in effect they shall be filed with the Council and made readily available to the public. Agencies are encouraged to publish explanatory guidance for these regulations and their own procedures. Agencies shall continue to review their policies and procedures and in consultation with the Council to revise them as necessary to ensure full compliance with the purposes and provisions of the Act.

(b) Agency procedures shall comply with these regulations except where compliance would be inconsistent with statutory requirements and shall include:

17. Those procedures required by Secs. 1501.2(d), 1502.9(c)(3), 1505.1, 1506.6(e), and 1508.4.

18. Specific criteria for and identification of those typical classes of action:

(i) Which normally do require environmental impact statements.

(ii) Which normally do not require either an environmental impact statement or an environmental assessment (categorical exclusions (Sec. 1508.4)).

(iii) Which normally require environmental assessments but not necessarily environmental impact statements.

(c) Agency procedures may include specific criteria for providing limited exceptions to the provisions of these regulations for classified proposals. They are proposed actions which are specifically authorized under criteria established by an Executive Order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order or statute. Environmental assessments and environmental impact statements which address classified proposals may be safeguarded and restricted from public dissemination in accordance with

agencies' own regulations applicable to classified information. These documents may be organized so that classified portions can be included as annexes, in order that the unclassified portions can be made available to the public.

(d) Agency procedures may provide for periods of time other than those presented in Sec. 1506.10 when necessary to comply with other specific statutory requirements.

(e) Agency procedures may provide that where there is a lengthy period between the agency's decision to prepare an environmental impact statement and the time of actual preparation, the notice of intent required by Sec. 1501.7 may be published at a reasonable time in advance of preparation of the draft statement.

## PART 1508--TERMINOLOGY AND INDEX

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

Source: 43 FR 56003, Nov. 29, 1978, unless otherwise noted.

### Sec. 1508.1 Terminology.

The terminology of this part shall be uniform throughout the Federal Government.

### Sec. 1508.2 Act.

"Act" means the National Environmental Policy Act, as amended (42 U.S.C. 4321, et seq.) which is also referred to as "NEPA."

### Sec. 1508.3 Affecting.

"Affecting" means will or may have an effect on.

### Sec. 1508.4 Categorical exclusion.

"Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (Sec. 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.

### Sec. 1508.5 Cooperating agency.

"Cooperating agency" means any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in Sec. 1501.6. A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

Sec. 1508.6 Council.

"Council" means the Council on Environmental Quality established by Title II of the Act.

Sec. 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Sec. 1508.8 Effects.

"Effects" include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

Sec. 1508.9 Environmental assessment.

"Environmental assessment":

(a) Means a concise public document for which a Federal agency is responsible that serves to:

19. Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

20. Aid an agency's compliance with the Act when no environmental impact statement is necessary.

21. Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

Sec. 1508.10 Environmental document.

"Environmental document" includes the documents specified in Sec. 1508.9 (environmental assessment), Sec. 1508.11 (environmental impact statement), Sec. 1508.13 (finding of no significant impact), and Sec. 1508.22 (notice of intent).

Sec. 1508.11 Environmental impact statement.

"Environmental impact statement" means a detailed written statement as required by section 102(2)(C) of the Act.

Sec. 1508.12 Federal agency.

"Federal agency" means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

Sec. 1508.13 Finding of no significant impact.

"Finding of no significant impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (Sec. 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (Sec. 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

Sec. 1508.14 Human environment.

"Human environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (Sec. 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

Sec. 1508.15 Jurisdiction by law.

"Jurisdiction by law" means agency authority to approve, veto, or finance all or part of the proposal.

Sec. 1508.16 Lead agency.

"Lead agency" means the agency or agencies preparing or having taken primary responsibility for preparing the environmental impact statement.

Sec. 1508.17 Legislation.

"Legislation" includes a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations. The test for significant cooperation is whether the proposal is in fact predominantly that of the agency rather than another source. Drafting does not by itself constitute significant cooperation. Proposals for legislation include requests for ratification of treaties. Only the agency which has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

Sec. 1508.18 Major Federal action.

"Major Federal action" includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (Sec. 1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action.

(a) Actions include new and continuing activities, including projects and programs entirely or partly financed, assisted, conducted, regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies, or procedures; and legislative proposals (Secs. 1506.8, 1508.17). Actions do not include funding assistance solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et seq., with no Federal agency control over the subsequent use of such funds. Actions do not include bringing judicial or administrative civil or criminal enforcement actions.

(b) Federal actions tend to fall within one of the following categories:

17. Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act, 5 U.S.C. 551 et seq.; treaties and international conventions or agreements; formal documents establishing an agency's policies which will result in or substantially alter agency programs.

18. Adoption of formal plans, such as official documents prepared or approved by federal agencies which guide or prescribe alternative uses of Federal resources, upon which future agency actions will be based.

19. Adoption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.

20. Approval of specific projects, such as construction or management activities located in a defined geographic area. Projects include actions approved by permit or other regulatory decision as well as federal and federally assisted activities.

Sec. 1508.19 Matter.

"Matter" includes for purposes of Part 1504: (a) With respect to the Environmental Protection Agency, any proposed legislation, project, action or regulation as those terms are used in section 309(a) of the Clean Air Act (42 U.S.C. 7609). (b) With respect to all other agencies, any proposed major federal action to which section 102(2)(C) of NEPA applies.

Sec. 1508.20 Mitigation.

"Mitigation" includes:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

Sec. 1508.21 NEPA process.

"NEPA process" means all measures necessary for compliance with the requirements of section 2 and Title I of NEPA.

Sec. 1508.22 Notice of intent.

"Notice of intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

- (a) Describe the proposed action and possible alternatives.
- (b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.
- (c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

Sec. 1508.23 Proposal.

"Proposal" exists at that stage in the development of an action when an agency subject to the Act has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed (Sec. 1502.5) so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists.

Sec. 1508.24 Referring agency.

"Referring agency" means the federal agency which has referred any matter to the Council after a determination that the matter is unsatisfactory from the standpoint of public health or welfare or environmental quality.

Sec. 1508.25 Scope.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (Secs. 1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

- (a) Actions (other than unconnected single actions) which may be:
  - 13. Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:
    - (i) Automatically trigger other actions which may require environmental impact statements.

(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

14. Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

15. Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.

(b) Alternatives, which include:

8. No action alternative.

9. Other reasonable courses of actions.

10. Mitigation measures (not in the proposed action).

(c) Impacts, which may be: (1) Direct; (2) indirect; (3) cumulative.

Sec. 1508.26 Special expertise.

"Special expertise" means statutory responsibility, agency mission, or related program experience.

Sec. 1508.27 Significantly.

"Significantly" as used in NEPA requires considerations of both context and intensity:

(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

6. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

7. The degree to which the proposed action affects public health or safety.

8. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

9. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

10. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.



11. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
  12. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
  13. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.
  14. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
  15. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.
- [43 FR 56003, Nov. 29, 1978; 44 FR 874, Jan. 3, 1979]

Sec. 1508.28 Tiering.

"Tiering" refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

- (a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.
- (b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

GENERAL SERVICES ADMINISTRATION  
Washington, DC 20405

ADM 1095.1F  
October 19, 1999

GSA ORDER

SUBJECT: Environmental considerations in decisionmaking

1. Purpose. This order establishes policy and assigns responsibility for implementing the National Environmental Policy Act (NEPA), its implementing regulations, and related laws, executive orders, and regulations in the decisionmaking processes of the General Services Administration (GSA).
2. Cancellation. ADM 1095.1E, dated December 8, 1995, is canceled.
3. Background. The National Environmental Policy Act (NEPA) and the Government wide implementing regulations of the Council on Environmental Quality (40 CFR 1500-1508, hereinafter, the CEQ regulations) require that each Federal agency consider the impact of its actions on the human environment, and prescribes procedures to be followed in doing so. Other laws, executive orders, and regulations provide related direction. Each Federal agency is required to implement internal procedures to ensure that the requirements of NEPA are met. Existing orders are out of date and do not provide for current requirements.
4. Nature of revision. This revision reflects a thorough internal review of GSA's systems for implementing NEPA. It replaces an interim order, ADM 1095.1E, which was adopted to govern GSA's compliance with NEPA while this review took place. This revised order is issued in coordination with an explanatory desk guide to NEPA review, which together provide GSA with an efficient, up-to-date NEPA compliance system that is consistent with principles of accountability, flexibility, and environmental responsibility.
5. Policy: In all its decisionmaking, GSA will attend carefully to the National Environmental Policy set forth in Section 101 of NEPA. To the maximum extent practicable, GSA will ensure that its actions protect and where possible improve the quality of the human environment, including the built and sociocultural environments of the nation's urban areas. GSA decisionmakers will use the NEPA review process prescribed in the CEQ regulations as a practical planning tool, and integrate both the NEPA review process and the Section 101 National Environmental Policy into

decisionmaking in an efficient, cost-effective manner. The NEPA review process will be initiated at the earliest possible stage in planning any GSA action, and will be carried forward in coordination with other planning activities. Decisionmakers will ensure that they have reviewed and fully understand the environmental impacts of each decision, before making any such decision. All managers responsible for decisionmaking on GSA actions will be accountable for being knowledgeable about, and attendant to, the requirements of NEPA and the National Environmental Policy that these requirements are designed to advance.

## 6. Responsibilities

### 6.a. Commissioner, Public Buildings Service (PBS).

6.a.(1) The Commissioner acts for the Administrator, GSA, on matters relating to NEPA implementation, and oversees implementation of this order. This ADM, the NEPA Desk Guide, and related direction governs GSA compliance with NEPA and related legal authorities.

### 6.b. NEPA Liaison

6.b.(1) Is the principal GSA advisor on NEPA-related requirements, including but not limited to compliance with NEPA and the coordination of NEPA compliance with the requirements of the laws and regulations listed in Appendix 1 of the NEPA Desk Guide.

6.b.(2) Provides expert advise on NEPA-related matters to GSA Heads of Services, Business Lines, and Regional Administrators.

6.b.(3) Provides intra-agency and interagency liaison and coordination on NEPA-related matters on a national basis.

6.b.(4) Provides and periodically updates GSA program guidance, after consultation with the General Counsel, Heads of Services, Business Lines, and Regional Administrators.

6.b.(5) Provides education and training within GSA pertinent to implementation of NEPA and related authorities.

6.b.(6) Coordinates with GSA's Environmental Executive in maintaining a record of GSA's environmental activities, and in advancing the national environmental policy articulated in NEPA and other statutes and executive orders.

6.b.(7) Serves as GSA representative in coordination with outside groups at the national level regarding NEPA-related matters.

6.c. Regional Administrators.

6.c.(1) Are accountable for execution of GSA's responsibilities under NEPA and related authorities with respect to actions under their jurisdiction.

6.c.(2) Serve as the responsible agency official under CEQ regulations with respect to the environmental effects of actions under their jurisdiction.

6.c.(3) Maintain NEPA Regional Environmental Quality Advisors (REQA) within their staffs, augmented as necessary through interagency agreements and contracts, to ensure regional interdisciplinary competence in environmental matters.

6.c.(4) In consultation with the NEPA Liaison, ensure that all regional staff with responsibility for planning, approving, and implementing construction, repair, alteration, site and facility acquisition, real property management, maintenance, and real property disposal receive appropriate training in how to carry out GSA's responsibilities under NEPA and related authorities.

6.d. GSA Environmental Executive

6.d.(1) Serves as GSA's Environmental Executive under Executive Order 12873.

6.d.(2) Coordinates with the NEPA Liaison to ensure agency-wide consistency in areas of shared or related responsibility, and in advancing the national environmental policy articulated in NEPA and other statutes and executive orders.

6.e. Heads of Services and Business Lines

6.e.(1) Serve as the responsible agency officials under CEQ regulations for actions subject to their approval.

6.e.(2) Ensure accountability for implementation of the policy set forth in this order.

6.e.(3) In consultation with the NEPA Liaison, ensure that staff responsible for supporting the functions of the responsible agency official under CEQ and related authorities receive appropriate training in how to carry out GSA's responsibilities.

6.f. The Office of General Counsel

6.f.(1) Is responsible for legal interpretation of NEPA and related authorities, and represents GSA in litigation under such authorities.

6.f.(2) Advises the NEPA Liaison during the development and delivery of guidance and training.

## 7. Administrative Guidance

7.a. The NEPA Liaison has overall program responsibility for establishing procedures, training, and professional standards, and for maintaining interagency administrative responsibilities and relationships. These functions will be carried out at the working level by a professional NEPA Liaison staff.

7.b. Heads of Services and Business Lines will assist and cooperate with the NEPA Liaison in the development and delivery of training, as well as procedural and program guidance, and act as coordinators for program needs of the Services and Business lines on a national basis.

7.c. Regional Business Lines have responsibility for ensuring that NEPA compliance responsibilities are satisfied, and the policy articulated in paragraph 5 of this order is followed, with respect to their programs and projects. In consultation with the REQA, the Business Lines will utilize interdisciplinary professional expertise in their implementation of NEPA responsibilities.

## 8. Implementation of NEPA and related authorities

8.a. In accordance with applicable regulations and standards, and with program guidance provided by the NEPA Liaison, the responsible agency official shall:

8.a.(1) Ensure that the applicable requirements of NEPA and related authorities are met in a timely manner during planning for any GSA action, in a manner consistent with the policy articulated in paragraph 5 of this order.

8.a.(2) Ensure that mitigation measures established through review of actions under NEPA and related authorities are carried out as part of implementing the actions.

8.a.(3) Ensure that the means by which GSA has met its responsibilities, and the costs involved in doing so, are fully documented.

8.b. All Heads of Service, Business Lines, and Regional Offices will employ the PBS NEPA Desk Guide, issued and periodically updated by the NEPA Liaison, as guidance in carrying out this order.

9. Effective Date. Every effort shall be made to implement the provisions of this order immediately.

DAVID J. BARRAM  
Administrator

GENERAL SERVICES ADMINISTRATION  
Washington, DC 20405  
PBS P 4000.1  
June 29, 1994

GSA ORDER

**SUBJECT: Excess and Surplus Real Property**

The Public Buildings Service (PBS) and the Federal Property Resources Service (FPRS) recently merged. Because of the merge, this handbook identification is changed from PRM P 4000.1B to PBS P 4000.1. All references to FPRS will mean PBS. The contents of this order will remain the same. Subsequent changes will be made as needed

TABLE OF CONTENTS  
CHAPTER 5. ENVIRONMENTAL, HISTORIC AND COASTAL  
ZONE MANAGEMENT CONSIDERATIONS

Paragraph Paragraph  
Titles Numbers  
General.....  
1 Environmental laws and regulations.....  
2 Reports of excess.....  
3 Disposal requirements.....  
4 Miscellaneous.....

CHAPTER 5. ENVIRONMENTAL, HISTORIC AND COASTAL  
ZONE MANAGEMENT CONSIDERATIONS

1. General. This chapter covers Federal environmental requirements related to the real property disposal program. In some instances, specific State and/or local environmental requirements, which are not covered in this chapter, may be applicable. Due to the evolving nature of the environmental field, laws, regulations and guidance are changing rapidly. To ensure site specific environmental compliance issues are being addressed appropriately, realty specialists should contact State and/or local regulators, as well as review the procedures in this handbook. If requirements are unclear, you should contact a Central Office Environmental Specialist.

2. Environmental laws and regulations. There are two major environmental laws that affect the GSA real property disposal program and apply to all GSA disposal actions. These are as follows:

a. National Environmental Policy Act of 1969, as amended (NEPA); 16 U.S.C. 470 et seq. GSA Order Environmental Considerations in Decisionmaking (ADM 1095.1D) is the implementing guidance that categorizes GSA activities into "classes of actions." This document instructs GSA officials on actions requiring preparation of an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). It also provides for "categorical exclusions" that do not require an EIS or an EA. Case files must document consideration of environmental factors and compliance with ADM 1095.1D in all disposal actions. Federal agencies reporting property excess must also comply with NEPA. Each agency has its own internal guidance for NEPA implementation. If available, this information may be helpful to regional personnel in fulfilling GSA's NEPA compliance requirements for disposal.

b. Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 2601, et seq. Section 120(h)(3) of CERCLA, created by the Superfund Amendments and Reauthorization Act (SARA), requires full disclosure of all known hazardous substance activity and specifies covenants be provided in deeds for disposal of Federal property. Sections 101-47.202-2(b)(10) and 101-47.304-14 of the FPMR, and EPA regulations at 40 CFR part 373, provide details regarding ROE and disposal requirements. The Community Environmental Response Facilitation Act (CERFA), enacted on October 18, 1992, amended CERCLA by adding paragraph (4) to section 120(h) of CERCLA. This new paragraph requires Federal agencies to identify uncontaminated parcels of land prior to terminating Federal Government operations and to include specific covenants in deeds used to transfer property. The law also details a process for agencies to follow in order to accomplish this identification. It may be necessary for realty specialists to request additional information along with the SF 118 to comply with CERFA. Specific questions regarding this law should be directed to an environmental specialist in the central office.

c. In addition to the above mentioned environmental statutes, the following table includes a listing of pertinent environmental laws which may affect disposal activities. Statutes are listed by acronyms in the table. A full listing by name and citation follows the table. The table includes reference to implementing guidance and/or regulations and has a brief description of effect on the real property disposal program:

Environmental Laws and Regulations Affecting  
Real Property Disposal Actions

Environmental Law/Statute	Purpose/Effect	Implementing Regulation &/or Guidance Document
Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.)	Addresses disposal actions affecting the coastal zone & requires consideration of State coastal zone management plans	15 CFR part 930
Community Environmental Response Facilitation Act	Requires identification of uncontaminated property	No implementing regulation

(42 U.S.C. 9601, et seq.) Comprehensive Environmental Response, Compensation, and Liability Act	Addresses reporting and disclosure requirements for hazardous substances	FPMR: 101-47.202-2(b)(10) 40 CFR part 373
Endangered Species Act of 1973 (16 U.S.C. 15301, et seq.)	Requires agency consultation with DOI to ensure actions do not jeopardize endangered or threatened species	50 CFR part 402
Farmlands Protection Act of 1981 (7 U.S.C. 4201, et seq.)	Establishes criteria for identifying and considering the effects of Federal actions on the conversion of farmland to non-agricultural uses.	7 CFR 658 see also 7 CFR 657 (Prime Farmlands)
Federal Facility Compliance Act (42 U.S.C. 6901, et seq.)	Requires compliance with State and Local Environmental laws at Federal facilities	No implementing regulation
Flood Disaster Protection Act of 1973 (43 U.S.C. 4001, et seq.)	Prohibits Federal actions in areas subject to flood hazards	E.O. 11988 & 11990 FPMR: 101-47.202-2(b)(6)
National Environmental Policy Act of 1969, as amended (NEPA); (16 U.S.C. 470, et seq.)	Requires agencies to consider environmental impacts in decision making	GSA Order ADM 1095.1D, 40 CFR part 1500
National Historic Preservation Act of 196 (16 U.S.C. 470, et seq.)	Requires identification of historically significant properties	36 CFR Chap. VIII GSA Order ADM 1020.1
Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, et seq.)	Regulates hazardous and solid waste activities and USTs	40 CFR part 260-281
Safe Drinking Water Act (42 U.S.C. 300, et seq.)	Sets standards for drinking water quality and regulates activities affecting drinking water supplies	40 CFR part 141-143, 146, 149
Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601, et seq.)	Addresses reporting and disclosure requirements for hazardous substances	FPMR: 101-47.202-2(b)(10) 40 CFR part 373
Toxic Substances Control Act, as amended (15 U.S.C. 2601, et seq.)	Regulates specific chemical substances, including PCBs and Asbestos	40 CFR part 761
Wild and Scenic Rivers Act (16 U.S.C. 1271, et seq.)	Requires agencies to review their actions for potential effects on wild and scenic rivers	CEQ Memorandum, Federal Register 9/8/90 President's 1979 environmental message: directive on wild and scenic rivers

3. Reports of excess (ROE). Section 101-47.202 of the FPMR details the requirements for reports of excess. Several environmental requirements are addressed in this section; however, each ROE must also include information pertaining to the following:

- a. Asbestos-containing materials (ACM). Refer to FPMR at 101-47.202-2(b)(9) and be sure to include the following:
  - (1) A description of the type, location and condition of ACM and a description of any asbestos control measures taken.
  - (2) Any available indication of costs and/or time necessary to remove all or any portion of the ACM.
- b. Coastal zone. Be sure to include the following:
  - (1) A statement as to whether and what portion of the property would constitute an undeveloped coastal barrier as defined by the Department of Interior (DOI), Fish and Wildlife Service (FWS), for the Coastal Barrier Resources System (CBRS). This includes properties located along the Atlantic Ocean, Puerto Rico, United States Virgin Islands, Gulf of Mexico, and Great Lakes coasts.
  - (2) Any available information regarding State coastal zone management plans that may affect the property.
- c. Endangered species. Be sure to include the following:
  - (1) A statement regarding the presence, or likely presence of any threatened or endangered species on the property.
  - (2) Obtain any available information regarding consideration of, or adverse effect(s) to, these species for documentation as part of the real property case file. Any available information on candidate species should also be documented.
- d. Hazardous substance activity. Refer to FPMR at 101-47.202-2(b)(10) and be sure to include the following:



(1) A statement indicating whether any hazardous substance activity (as defined by EPA regulations at 40 CFR Part 373) took place on the property. If no such activity took place, disregard items (2) and (3).

(2) If such activity took place, include information on the type and quantity of such hazardous substance and the time at which storage, release or disposal took place.

(3) A statement warranting that all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date the property was reported excess.

(4) A covenant warranting that any additional remedial action found to be necessary (which was caused by and/or during ownership by the United States) after the date of transfer shall be conducted by the United States (reporting agency).

e. Historical significance. Refer to FPMR at 101-47.202-2(b)(8) and be sure to include the following:

(1) A statement regarding any historic significance of the property.

(2) A statement indicating whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic places or is in proximity to any such property.

f. Lead-based paint. Be sure to include the following:

(1) A statement by the reporting agency that the property contains no improvements thought, or known to have been, constructed and/or renovated prior to 1978, or

(2) A listing of the portions of the property constructed and/or renovated prior to 1978 and an indication of the probable presence of lead-based paint in such structures, along with any available information regarding the use of lead-based paint or test data indicating the presence or absence of lead-based paint.

g. National Priority List of Superfund Sites (NPL). Be sure to include a statement indicating whether this property, or any portion thereof, is on the proposed or final National Priority List (NPL) of Superfund Sites.

h. Polychlorinated biphenyls (PCB). Refer to FPMR 101-47.202-2(c)(3) and be sure to include the following:

(1) A certification by a responsible party stating whether the property does or does not contain PCB transformers or other equipment regulated by EPA under 40 CFR part 761.

(2) If any such PCB articles are present, an assurance statement that they are currently, and will continue to be, maintained (by the reporting agency) in a state of compliance until disposal of the property.

i. Underground storage tanks (UST). Be sure to include the following:

(1) A statement regarding the presence of UST on the property and, if any UST are present, a completed EPA Form 7530-1 (Notification of UST) or form containing this information.

(2) A statement indicating that the reporting/sponsoring agency is in compliance with the EPA UST provisions codified at 40 CFR Part 280.

j. Unexploded ordnance. Refer to FPMR 101-47.202-7 and be sure to include the following:

(1) A statement by the reporting agency regarding the presence, or likely presence, of unexploded ordnance on or associated with the property, and, if thought or known to be present,

(2) A listing of activities that are restricted on such property and plans to remediate the hazardous condition prior to disposal.

k. Wetlands and floodplains. Refer to FPMR 101-47.202-2(b)(6) and be sure to include the following:

(1) Detailed information regarding any known flood hazards or flooding of the property;

(2) If located in a floodplain or wetlands, a listing of, and citations to, those uses that are restricted under identified Federal, State, or local regulations as required by Executive Orders 11988 and 11990.

4. Disposal requirements. As stated previously, compliance with NEPA and CERCLA is a requirement of all disposal actions. NEPA compliance shall be in accordance with GSA ADM 1095.1D and shall be documented in each real property case file. Compliance with CERCLA requires providing deed covenants as specified in the FPMR. Full disclosure of all known environmental concerns is mandatory. This includes, but is not limited to, consideration and discussion of the following environmental issues/concerns:

a. Asbestos-containing materials (ACM). Provide full disclosure of all known information regarding asbestos-containing materials and the required "Notice" in any disposal instruments. Refer to FPMR 101-47.304-13.

b. Coastal zone.

(1) Properties included in the Coastal Barrier Resources System (CBRS) are those located along the Atlantic Ocean, Puerto Rico, United States Virgin Islands, Gulf of Mexico, and Great Lakes coasts. For these properties, realty specialists must provide Federal agency screening notice and property maps to the Fish and Wildlife Service (FWS) for determination as to whether and what portion of the property would constitute an undeveloped coastal barrier.

(2) If FWS makes a negative determination (i.e., determines property is not part of an undeveloped coastal barrier), GSA may proceed with normal disposal process. If a positive determination is rendered, GSA must provide notice in any conveyance document that property has been included in the CBRS and initiate further consultation with FWS.

(3) Uses that are restricted, and how they are restricted under State and coastal zone management plans must also be included in conveyance documents for properties on which a positive determination was rendered.

c. Endangered species.

(1) Review disposal action(s) for effects on threatened or endangered species, and where disposal actions might affect such species, contact the regional office of the Fish and Wildlife Service (FWS) to obtain additional information.

(2) Where contact with FWS indicates a potential impact on an endangered or threatened species or a designated critical habitat, initiate informal or formal consultation process in accordance with FWS guidance.

d. Hazardous substance activity.

(1) Provide all known information on the type and quantity of any hazardous substance stored, released, or disposed of on the property.

(2) Provide a statement warranting that "all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken" before the date the property was transferred.

(3) If no such activity took place, provide a statement, in accordance with 40 CFR part 373, that there is no evidence to indicate that hazardous substance activity took place on the property during the time the property was owned by the United States.

(4) Provide a covenant warranting that any additional remedial action found to be necessary (which was caused by and/or during ownership by the United States) after the date of transfer shall be conducted by the United States.

(5) Include a statement providing for a right of entry for the United States in the event that remedial action is found to be necessary after the date of transfer.

e. Historical significance. Provide a statement detailing any, and all, restrictions or requirements imposed on potential purchasers as a result of the historical significance of the property.

f. Lead-based paint. Provide a statement regarding the likely presence or absence of lead-based paint on the property, and, if present, provide a notice, in accordance with the Department of Housing and Urban Development (HUD) regulations, in any disposal instruments.

g. Polychlorinated biphenyls (PCB).

(1) Provide a statement that the property does or does not contain any PCB equipment. (2) If present, provide a listing of the PCB equipment which was identified by the reporting agency in the ROE, and, (3) Provide a statement that any such equipment has been maintained, and is currently, in a state of compliance as of the date of transfer.

h. Underground storage tanks (UST). Provide all known information regarding the presence of UST on the property and a statement that the UST have been maintained, and is currently, in a state of compliance as of the date of transfer.

i. Unexploded ordnance. Provide a statement regarding the presence, or likely presence, of unexploded ordnance and include restrictions as identified by the reporting agency in any disposal instruments.

j. Wetlands and floodplains.

(1) Identify uses that are restricted, and how they are restricted under State and local floodplain and wetland regulations; and (2) Provide a statement which restricts these uses by the grantees or purchasers and any successors.

5. Miscellaneous. This section covers environmental requirements associated with the real property disposal program which were not addressed in the ROE or disposal sections of the chapter. Realty specialists should consider these issues where applicable.

a. Reverted properties. Generally, reverted properties are to be treated similar to reports of excess with regard to disclosure of any environmental considerations. Each property must be reviewed case-by-case with the sponsoring agency and a site inspection must be performed prior to reversion with the Government. Sponsoring agencies should be advised that GSA will not accept property which is environmentally impacted until all remedial action necessary has been taken.

b. On-site inspections. During property inspections, regional personnel should spot check any, and all, known environmental hazards or issues which were previously identified in the ROE and be alert to other environmental hazards/issues. In addition, safety precautions should be taken to prohibit contact with environmental hazards which might result in a threat to human health or the environment.

c. Interim use. All parties accessing the property for interim uses must be advised of any, and all environmental hazards known to be present on the property prior to their occupancy. In addition appropriate restrictions and prohibitions must be made a part of their interim use agreement to prevent any threat to human health or the environment.

d. Unique situations. Due to the sensitive and controversial nature of many environmental issues, regional personnel must advise and consult with a central office environmental specialist prior to taking actions that would be considered precedent setting.

e. Defense Environmental Restoration Program (DERP). The U.S. Army Corps of Engineers (COE) executes the portion of the DERP responsible for environmental restoration at active and formerly used Department of Defense (DOD) sites. Properties currently or formerly utilized by DOD, on which issues related to environmental contamination, unexploded ordnance, building demolition and/or debris removal arise, should be reported to the COE for their evaluation. Questions pertaining to the DERP should be discussed with a Central Office environmental specialist.

NEPA Time Frames		
GSA Activity	Timing or Time Limit	Reference
<p>Notice of Intent</p> <ul style="list-style-type: none"> <li>File in Federal Register</li> </ul>	GSA can choose how long to accept comments on the scope of a forthcoming EIS; usually no shorter than 30 days, often 45 or 90, depending on the project scope	40 CFR 1508.22
<p>Public hearing or meeting</p> <ul style="list-style-type: none"> <li>Notice in local newspaper, other media</li> </ul>	Usually 15 or more days from notification to meeting; often longer, depending on the scope of the project	40 CFR 1506.6
<p>Development of EIS</p> <ul style="list-style-type: none"> <li>Decision on whether to prepare an EIS</li> <li>Determination of the scope</li> <li>Preparation of the DEIS</li> <li>Preparation of the FEIS</li> <li>Decision on the final action</li> </ul>	<ul style="list-style-type: none"> <li>GSA can set time limits for each phase of the NEPA process for any specific action, and must do so if requested by an applicant, consistent with the purposes of NEPA and other essential considerations of national policy (see discussion in Chapter 2)</li> <li>Public review of a DEIS must be at least 45 days; this time limit can be extended by the agency</li> </ul>	<p>40 CFR 1501.8</p> <p>40 CFR 1506.10</p>
<p>Public review of FONSI</p> <ul style="list-style-type: none"> <li>If action similar to one that normally requires EIS</li> <li>If action is without precedent</li> </ul>	30 days	40 CFR 1501.4
GSA decision on an action subject to an EIS	Minimum of 30 days after publication of FEIS, 90 days after publication of DEIS	40 CFR 1506.10
Lead Agency determination	<ul style="list-style-type: none"> <li>45 days to select a lead agency</li> <li>20 days for CEQ to review request for determination</li> </ul>	40 CFR 1501.5

NEPA Time Frames		
GSA Activity	Timing or Time Limit	Reference
Referrals to CEQ <ul style="list-style-type: none"> <li>• Prior to Record of Decision</li> <li>• EPA review under §309 of the Clean Air Act results in a grade of “Environmentally unsatisfactory” OR if any Federal agency so requests</li> </ul>	<ul style="list-style-type: none"> <li>• The referring agency must request CEQ review within 25 days of FEIS publication</li> <li>• The lead agency has 25 days to respond</li> <li>• The CEQ has 25 days to take action; the CEQ has 60 days to complete its action</li> </ul>	40 CFR 1504.3
Notice that other compliance processes have their own timelines, which must be integrated with NEPA.	For example: <ul style="list-style-type: none"> <li>• Endangered Species Act</li> <li>• National Historic Preservation Act</li> <li>• CERCLA</li> </ul>	<ul style="list-style-type: none"> <li>• 50 CFR 402</li> <li>• 36 CFR 800</li> <li>• 40 CFR 373</li> </ul>

NEPA-Related Legal Requirements and Their Implications		
ENVIRONMENTAL LAW / EXECUTIVE ORDER	FORMAL REQUIREMENTS	NEPA IMPLICATIONS, REGULATIONS
American Indian Religious Freedom Act (AIRFA)	Requires agencies to respect the practice of traditional American Indian religions, including access to religious sites and use of ceremonial items.	Identify potentially concerned tribes, consult with them during NEPA analyses.
Archeological and Historical Preservation Act (AHPA)	Requires Federal agencies to identify and recover data from archeological sites threatened by their actions.	Conduct surveys, identify archeological sites, consult with specialists and others during NEPA analyses, fund data recovery as mitigation.
Archeological Resources Protection Act (ARPA)	Requires permits, and provides for civil and criminal penalties for persons disturbing archeological resources on Federal and tribal land without a permit.	Archeologists performing NEPA-related work on Federal or Indian land must meet permit requirements. (43 CFR 7; see also 36 CFR 79, and 43 CFR 3)
Architectural Barriers Act	Requires public buildings to be accessible to persons with disabilities.	Consider accessibility issues, and the environmental impact of accessibility solutions, during NEPA review. See Uniform Federal Accessibility Standards (UFAS).
Clean Air Act (CAA)	Requires agencies to comply with State air quality standards set in State Implementation Plans (SIPs).	Review SIP, measure current air quality, project potential changes, seek alternatives that meet standards in NEPA analyses. (40 CFR 50)
Clean Water Act (CWA)	Requires a permit from the U.S. Army Corps of Engineers for any actions affecting "waters of the United States".	Identify potentially affected waters, consult with Corps during NEPA analyses, explore alternatives to minimize filling. (33 CFR 320-330; 40 CFR 35, 116, 117, 122, 124, 125, 131, 133, 220, 401, 403)
Coastal Zone Management Act of 1972 (CZMA)	Addresses property actions affecting coastal zone, and requires that Federal actions be consistent with State coastal zone management plans.	Review State coastal zone management plan, pursue alternatives that are consistent with it. (15 CFR 930)
Community Environmental Response Facilitation Act	Requires identification of uncontaminated property.	Phase I and sometimes Phase II remediation studies.
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	Requires reporting of releases and clean up of hazardous substances.	Phase I and sometimes Phase II remediation studies. (40 CFR 373; 41 CFR 101-47)

NEPA-Related Legal Requirements and Their Implications		
ENVIRONMENTAL LAW / EXECUTIVE ORDER	FORMAL REQUIREMENTS	NEPA IMPLICATIONS, REGULATIONS
Endangered Species Act (ESA)	Requires consultation with U.S. Fish and Wildlife Service to ensure actions do not jeopardize threatened or endangered species, or their critical habitat.	Analyze impacts on fish, wildlife, plants, habitats. Ecosystem analysis. Consult with Fish and Wildlife Service where potential effect. (50 CFR 402)
Environmental Quality Improvement Act	Declares a national policy for enhancement of environmental quality, assigns primary responsibility to State and local governments, and mandates that agencies' conducting or supporting public works activities implement existing environmental protection and enhancement policies.	Underscores the need for quality NEPA studies and environmentally sensitive decisions, consults with state and local governments.
Farmlands Protection Policy Act	Establishes criteria for identifying and considering the effects of Federal actions on the conversion of farmland to non-agricultural uses.	Identify potentially affected prime farmland (including lands subject to indirect or cumulative effect), explore alternatives to minimize impacts. (7 CFR 658; see also 7 CFR 657 [Prime Farmlands]).
Federal Facility Compliance Act	Requires Federal facilities to comply with State and local environmental laws as well as Federal environmental laws.	Ascertain applicable state and local laws, apply in NEPA analyses and alternative selection.
Federal Property and Administrative Services Act	Gives GSA responsibility for acquiring and using Federally owned and leased office buildings and space.	Conduct NEPA review on real estate transactions. (41 CFR 101)
Federal Records Act	Controls maintenance and disposal of government documents with historical value.	Identify potentially affected documents (e.g., in buildings being disposed of) and address in NEPA review per applicable regulations. (36 CFR 1222, 1228, 1230, 1232, 1234, 1236, and 1238).
Fish and Wildlife Coordination Act	Requires consultation with Fish and Wildlife Service on actions affecting stream modifications.	Study potential impacts on streams, consult as needed.
Flood Disaster Protection Act	Prohibits Federal actions in areas subject to flood hazards.	Delineate floodplain, seek alternatives that do not promote floodplain development. (See EO 11988 and EO 11990).

NEPA-Related Legal Requirements and Their Implications		
ENVIRONMENTAL LAW / EXECUTIVE ORDER	FORMAL REQUIREMENTS	NEPA IMPLICATIONS, REGULATIONS
Historic Monuments Preservation Act	Authorizes GSA to convey to local public bodies at no cost National Register of Historic Places' properties deemed appropriate by the Secretary of the Interior for historic monument purposes.	Such transfers can be useful mitigation measures.
Historic Sites Act	Establishes National Historic Landmark (NHL) program and declares a national policy to preserve sites, buildings and objects significant in American history.	Consider impacts on NHLs (Note: GSA manages many NHL buildings). (36 CFR 65)
National Environmental Policy Act of 1969 (NEPA)	Requires agencies to consider and document environmental impacts during project planning.	Consider impacts on the quality of the human environment, be guided by national policy. (40 CFR 1500-1508)
National Historic Preservation Act (NHPA)	Requires agencies to identify historic properties subject to effect by their actions, and to consult with State Historic Preservation Officer and others about alternatives and mitigation.	Conduct surveys, etc., to identify historic properties, determine potential effects. Consult, execute and implement agreements, document in NEPA documents. (36 CFR 800.; see also 36 CFR 60, 61, 65, 68)
Native American Graves Protection and Repatriation Act (NAGPRA)	Requires consultation with Indian tribes and Native Hawaiian groups; repatriation of human remains, associated cultural items, certain other items. Requires development and implementation of a Plan of Action for the treatment of such items, or 30-day work stoppage and consultation with Tribes if cultural items are found during a project on Federal or tribal land.	Identify culturally affiliated Tribes or groups, consult with them, seek to develop plans of action, report in NEPA documents and implement as mitigation. (43 CFR 10)
Public Buildings Act	Provides GSA mandate to acquire and manage lands and buildings.	Actions under the Act require NEPA review.
Public Buildings Amendments of 1972	Permits GSA to enter into purchase contracts to acquire space.	Actions under the Amendments require NEPA review.
Public Buildings Cooperative Use Act	Requires GSA to give priority to the use of historic buildings to meet government space needs.	Actions under the Act require NEPA review. Identify historic buildings and consider uses.



NEPA-Related Legal Requirements and Their Implications		
ENVIRONMENTAL LAW / EXECUTIVE ORDER	FORMAL REQUIREMENTS	NEPA IMPLICATIONS, REGULATIONS
Resource Conservation and Recovery Act (RCRA)	Regulates hazardous and solid waste activities and underground storage tanks (USTs).	Phase I and possible Phase II remediation studies. (40 CFR 260-281).
Rural Development Act	Directs Federal Agencies to site their facilities in such a way as to support appropriate rural development.	Consider requirements when identifying alternatives.
Safe Drinking Water Act	Sets standards for drinking water quality and regulates activities affecting drinking water supplies.	Analyze existing water quality and potential impacts on it. (40 CFR 141)
Superfund Amendments and Reauthorization Act (SARA)	Requires plans for clean up of contaminated sites, and disclosure to public of hazardous materials and processes.	Phase I and possible Phase II remediation studies. (40 CFR 373)
Toxic Substances Control Act (TSCA)	Regulates specific chemical substances, including PCBs and asbestos.	Address in NEPA review. (40 CFR 761)
Treasure Trove	GSA may enter into contracts for recovery and distribution of "treasure" in which the United States has an interest.	Contracts are subject to NEPA review.
Wild and Scenic Rivers Act	Requires agencies to review actions for possible impacts of wild and scenic rivers.	Consider impacts on wild and scenic rivers in NEPA analyses. (See President's 1979 environmental message: directive on wild and scenic rivers)
EO 11514 Protection and Enhancement of Environmental Quality	Requires agencies to monitor, evaluate, and control activities so as to protect and enhance the quality of the environment.	Underscores the need for quality NEPA analyses, monitoring of mitigation measures.
EO 11593 Protection and Enhancement of the Cultural Environment	Requires agencies to identify, evaluate and protect historic properties under their ownership or control.	Same requirements as National Historic Preservation Act.
EO 11988 Floodplain Management	Requires agencies to evaluate the potential effects of any action it takes in a floodplain, and consider alternatives to avoid adverse effects.	Delineate floodplain, project impacts on floodplain values, potential development of floodplain. Consider alternatives. Specific 8-step review process set forth in guidelines maintained by Federal Emergency Management Agency (FEMA).

NEPA-Related Legal Requirements and Their Implications		
ENVIRONMENTAL LAW / EXECUTIVE ORDER	FORMAL REQUIREMENTS	NEPA IMPLICATIONS, REGULATIONS
EO 11990 Protection of Wetlands	Requires agencies to minimize destruction, loss or degradation of wetlands.	Delineate wetlands, pursue alternatives and mitigation to minimize loss.
EO 12088 Federal Compliance with Pollution Control Standards	Requires an agency to prevent, control and abate environmental pollution with respect to Federal facilities and activities under its control.	Phase I, possible Phase II remediation studies.
EO 12072 Federal Space Management	Requires GSA to meet certain criteria, including consideration of socio-economic, environmental, and cultural criteria (for meeting space needs in urban areas).	Consider socioeconomic, cultural effects as well as effects on natural and built environment in NEPA analysis of urban real estate transactions.
EO 12372 Intergovernmental Review of Federal Programs	Requires Federal agencies to provide for review of its actions by State and local elected officials.	Consult State and local governments during NEPA review.
EO 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	Requires Federal agencies to identify and address any disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.	Conduct social impact analyses, identify potentially affected populations, involve them in NEPA review, make adjustments in public involvement to accommodate them, seek alternatives that avoid disproportionately high and adverse effects.
EO 13006 Locating Federal Facilities on Historic Properties in our Nations Central Cities	Requires Federal agencies to give priority to the use of historic buildings in historic districts in central business areas.	Identify historic buildings in central business areas, analyze their use potential, consider as priority alternatives in NEPA review.
EO 13007 Indian sacred sites	Requires Federal agencies to avoid where possible impeding access to, or physically damaging, Indian sacred sites.	Consult with Indian Tribes during NEPA analysis to identify possible impacts. Respect confidentiality of information on sacred sites.

If no implementing regulations are listed, none existed at the time this manual was written.

## Pertinent Agencies

### Natural Resources

1. U.S. Environmental Protection Agency, National and Regional Office
2. National Park Service (U.S. Department of the Interior)
3. National Biological Service (U.S. Department of Interior)
4. State Departments of Natural Resources
5. State and Local Parks and Recreation Departments
6. Indian Tribal National Resource Departments
7. National, State and Local Environmental Advocacy Groups

### Land/Climate Characteristics

1. United States Geological Survey (U.S. Department of the Interior)
2. Climate Monitoring and Diagnostic Laboratory, National Oceanic and Atmospheric Administration (U.S. Department of Commerce)
3. State Land Use Board/Commission/Department
4. Farmland Preservation Agencies
5. Local land use and/or zoning departments

### Soils

1. Natural Resource Conservation Service (U.S. Department of Agriculture)
2. Local Soil Conservation Services

### Minerals and Energy Resources

1. U.S. Department of Energy

### Coastal Zones

1. Office of Ocean and Coastal Resource Management  
National Oceanic and Atmospheric Administration  
(U.S. Department of Commerce)
2. State Coastal Zone Management Departments

### Water Resources (Water Quality, Floodplains, Wetlands)

1. U.S. Army Corp of Engineers, National and Regional Offices
2. Federal Emergency Management Agency, National and Regional Offices
3. State and Local Water Boards

### Air Quality

1. Office of Air Quality Planning and Standards  
(U.S. Environmental Protection Agency)
2. State and/or Local Air Quality Boards

### Wildlife and Fish

1. U.S. Fish and Wildlife Service, National and Regional Offices  
(U.S. Department of the Interior)
2. State and Tribal Fish and Wildlife Agencies
3. National, State, and Local Wildlife Conservation Groups

Prime Farm Land, Timber, and Rangelands

1. Bureau of Land Management (U.S. Department of the Interior)
2. U.S. Forest Service (U.S. Department of Agriculture)
3. Natural Resource Conservation Service  
(U.S. Department of Agriculture)
4. State and Tribal Range, Forestry, and other Departments

**Infrastructure**

1. U.S. Department of Transportation
2. Federal Highway Administration (U.S. Department of Transportation)
3. State Departments of Transportation
4. County Planning Commissions
5. Fire/Police Departments
6. Utility Companies

**Economic Characteristics**

1. Deputy Assistant Secretary for Environmental Affairs  
(U.S. Department of Commerce)
2. Department of Housing and Urban Development
3. U.S. Census Bureau (U.S. Department of Commerce)
4. U. S. Small Business Administration
5. Community Development Agencies

**Sociocultural Characteristics**

1. Office of Environmental Affairs  
(Department of Health and Human Services)
2. National Environmental Justice Advisory Council  
(U.S. Environmental Protection Agency)
3. U. S. Department of Justice
4. Advisory Council on Historic Preservation
5. State Historic Preservation Officer
6. State Folklorist
7. Representatives of Low Income and Minority Groups
8. Tribal Historic Preservation or Cultural Resource Committees
9. Local Historic Preservation or Design Review Bodies
10. Civic and Neighborhood Organizations
11. Academic Departments of Anthropology and Sociology

**Miscellaneous**

1. Office of Environmental Policy (U.S. Army Corp of Engineers)
2. Public Works Committees of Congress
3. Office of Management and Budget
4. U.S. Senators of States affected
5. U.S. Representatives of district(s) affected
6. Governor of the affected State(s)
7. Elected Officials of the local jurisdictions

## Index to PBS NEPA Desk Guide

<u>Subject</u>	<u>Section</u>	<u>Subject</u>	<u>Section</u>
Action .....	3.1; 3.2.4; 3.3; 3.3.3.1; 3.4.2; 4.1.3; 5.1; 5.2; 8.7.2; 9.2.3	Contracting .....	7.13; Chapter 10
ADM 1020.2 .....	5.3; 9.4.1; 9.4.2	Cooperating agency .....	2.6.1; 2.6.2; 4.1.1; 4.1.5.1; 6.8; 7.7; 7.12.2.5; 7.12.3.1; Exhibit 7-2
ADM 1095.1F .....	1.1; 1.4.3; 2.1.1; 2.2.1; 2.3; 2.4.1; 2.2.2.4; 2.5.1; 5.4; Appendix 1	Coordination with other laws .....	1.4.1; 2.4.2; 5.11; 6.4; 6.11; 9.1.1; 9.13
Adverse effects .....	2.5.1; 7.11.4; 7.15.1; 9.2.3;	CERCLA .....	2.4.2; 4.2.3; 5.3; 5.4; 9.3.1; 9.5.1
Advisory Council on Historic Preservation .....	2.5.2; 9.4.2; 9.4.3; 9.4.4; 11.3.1.1	CEQ regulations:	
Affected environment .....	7.12.2.3; 9.2.3;	40 CFR 1500.1 .....	2.1.4
Air quality .....	9.8	40 CFR 1500.4 .....	7.9
Alternatives .....	2.4.1; 3.4.1; 4.1.3; 5.2; 6.6.1; 6.7.2.2; 7.1; 7.12.2.1; 7.12.2.2; 7.15.1; 7.15.2; 9.3.3	40 CFR 1501.2 .....	2.1.4; 7.11.2
Alternative, preferred .....	6.7.2.2; 6.7.2.4; 7.11.1; 7.12.2.2.4; 9.2.3	40 CFR 1501.3 .....	6.4
American Folklife Center .....	9.4.2	40 CFR 1501.4 .....	3.1; 6.6.2; 6.10.1
American Indian Religious Freedom Act .....	7.14.2.1; 9.3.1; 9.4.1	40 CFR 1501.5 .....	2.6.1
Applicability of NEPA .....	2.1.3	40 CFR 1501.6 .....	2.6.2
Archeological Resources Protection Act .....	5.4; 9.4.1	40 CFR 1501.7 .....	4.1.2.1
Architectural Barriers Act .....	9.4.1	40 CFR 1502.1 .....	6.3; 7.1; 7.5
Biological assessments and opinions .....	9.11.4	40 CFR 1502.2 .....	6.3; 7.5; 7.11
Categorical exclusions, general .....	3.3.1; 4.1.3; Chapter 5; 7.6	40 CFR 1502.4 .....	7.2.1
Categorical exclusion, automatic .....	3.3.1; 3.3.1.1; Chapter 5	40 CFR 1502.5 .....	7.6
Categorical exclusions, checklist .....	3.3.1; 3.3.1.2; 4.2.1; Chapter 5; 11.3.1.1	40 CFR 1502.6 .....	6.3; 6.6.3; 6.7.2.6; 7.5; 7.12.2.5
Clean Air Act .....	9.8.1	40 CFR 1502.7 .....	7.5; 7.12.1
Clean Water Act .....	9.7.2; 9.9.1	40 CFR 1502.8 .....	6.3; 7.5; 11.2
Commenting .....	2.6.3; Chapter 11	40 CFR 1502.9 .....	7.3; 8.2; 8.3
		40 CFR 1502.10 .....	7.12.2; 7.12.3
		40 CFR 1502.11 .....	7.12.3.1
		40 CFR 1502.12 .....	7.12.3.2
		40 CFR 1502.13 .....	7.12.2.1
		40 CFR 1502.14 .....	7.12.2.2.1
		40 CFR 1502.15 .....	7.12.2.2.1; 7.12.2.3
		40 CFR 1502.16 .....	7.12.2.2.1; 7.12.2.4
		40 CFR 1502.18 .....	7.12.2.7
		40 CFR 1502.20 .....	6.7.4.1; 7.12.1.1
		40 CFR 1502.21 .....	7.12.1.2
		40 CFR 1502.22 .....	7.11.4
		40 CFR 1502.24 .....	6.6.3; 6.9; 7.11.1
		40 CFR 1502.25 .....	9.1.1; 9.4.1; 9.11.1
		40 CFR 1503.1 .....	7.14.2.1
		40 CFR 1503.2 .....	11.2
		40 CFR 1503.3 .....	2.6.3; 11.2
		40 CFR 1503.4 .....	7.14.3
		40 CFR 1504.2 .....	7.16
		40 CFR 1505.2 .....	7.15.2
		40 CFR 1506.1 .....	7.15.1
		40 CFR 1506.5 .....	6.7.2.6; 6.8; 7.13; 10.2; 11.3.1.1
		40 CFR 1506.6 .....	7.9

<u>Subject</u>	<u>Section</u>	<u>Subject</u>	<u>Section</u>
40 CFR 1506.8(b) .....	7.6	Environmental Assessment .....	3.3.2; 4.1.3; 4.2.1; Chapter 6; 9.2.3; 9.6.3; 11.3.1.1
40 CFR 1506.9 .....	7.14.4.1	Environmental justice .....	<i>see EO 12898</i>
40 CFR 1506.11 .....	2.5.2	EIS .....	3.3.3; 3.3.3.1; 4.1.1; 4.1.3; 4.2.1; Chapter 7; 7.14.2.2; 9.6.3; 11.3.1.1
40 CFR 1507.1 .....	6.10.1	EIS, draft .....	7.3; 7.10; 7.12.2.2.4; 7.14.3
40 CFR 1507.3 .....	1.3	EIS, Programmatic .....	6.2.2; 7.3
40 CFR 1508.4 .....	3.3.1; 5.2	EPCRA .....	4.2.3
40 CFR 1508.7 .....	3.2.2; 7.12.2.4	Executive Order 11593 .....	9.4.1
40 CFR 1508.8 .....	3.2.2; 7.12.2.4	Executive Order 11988 .....	2.4.2; 4.2.3; 9.6
40 CFR 1508.9 .....	3.3.2; 6.2.1; 6.7.2; 6.7.2.6	Executive Order 11990 .....	4.2.3; 9.9
40 CFR 1508.11 .....	3.3.3	Executive Order 12348 .....	5.3
40 CFR 1508.13 .....	6.10.1	Executive Order 12372 .....	4.2.3
40 CFR 1508.14 .....	9.2.3	Executive Order 12898 .....	2.4.3; 7.10; 7.14.2.1; 9.2; 9.3.1
40 CFR 1508.18 .....	3.2.4	Executive Order 13006 .....	2.4.2; 9.4.1
40 CFR 1508.23 .....	7.2.2	Executive Order 13007 .....	7.14.2.1
40 CFR 1508.22 .....	7.8	Extraordinary circumstances .....	3.3.1; 3.3.1.2; 3.4.3; 3.5; 5.7
40 CFR 1508.25 .....	4.1.2.2; 6.7.2.2	Federal Advisory Committees Act .....	2.4.3; 4.2.2
40 CFR 1508.27 .....	3.2.3; 6.7.2.4; 9.2.3	Federal Emergency Management Agency .....	2.5.2; 9.6.1
40 CFR 1508.28 .....	6.2.2	Floodplains .....	<i>see EO 11988</i>
Coastal Zone Management .....	5.9.2.1; 6.6.2	FONSI .....	3.3.2; 6.4; 6.6.2; 6.10; Exhibit 6-2; 7.6; 9.2.3
Cultural resources .....	2.11; 2.4.3; 3.2.1; 3.5.1.5; 4.1.4.3; 4.2.2; 5.3; 5.9.2.5; 5.9.2.6; 5.9.3; 6.6.2; 7.12.2.3; 9.4	FONSI, mitigated .....	6.10.1
Cumulative impact .....	3.2.2; 3.5.1.7; 5.9.2.9; 6.7.2.4; 7.12.2.4; 9.2.2; 9.2.3; 9.9.3; 9.11.4	Hazardous materials .....	5.3; 5.9.2.3; 9.5.1
Decisionmaking .....	1.4.1; 2.1; 2.1.1; 2.4.1; 2.4.3; 2.5; 4.2.3; 9.2.2; 10.4.2	Historic building preservation plans .....	9.4.3
Disposal of property .....	2.1.3; 2.2.1.3; 2.2.2.4; 3.5.1.3; 5.3; 5.4; 5.9.3		
Distribution .....	7.12.2.6; 7.14.1; 7.14.2; 7.14.4.1; Exhibit 7-2; 8.4; 8.7.2;		
Due diligence .....	9.5		
Early application of NEPA .....	2.1.1; 2.1.4		
Effects .....	1.4.1; 3.2.2; 6.7.2.3; 6.7.2.4; 7.1; 7.12.2.4; 9.2.1; 9.2.3; 9.3.2; 9.3.3		
Emergencies .....	2.5.2		
Endangered Species Act .....	2.4.2; 9.11		
Environmental analysis .....	7.11; 7.12.2.3; 9.2.3		

<u><b>Subject</b></u>	<u><b>Section</b></u>	<u><b>Subject</b></u>	<u><b>Section</b></u>
Historic resources .....	2.5.2; 2.6.3; 3.2.2; 3.2.3; 3.5; 3.5.1.2; 3.5.1.5; 4.1.5.1; 5.3; 5.4; 5.9.2.1; 5.9.2.5; 5.9.2.6; 5.9.3; 5.11; 6.6.2; 6.7.2.1; 6.7.2.2; 6.7.2.4; 6.10.1; 9.2.3; 9.4.1; 9.4.2; 9.4.3 (see also NHPA and EO 13006)	Notice of Availability .....	7.14.2.2; 7.14.4.2; Exhibit 7-4
Human environment.....	1.4.1; 3.2.1; 3.3.3.1; 6.6.1	Notice of Intent .....	3.3.2; 7.8; 7.14.1; Exhibit 7-1
Impacts .....	see effects	NHPA .....	2.4.2; 4.2.3; 5.3; 6.6.2; 7.14.2.1; 9.3.1; 9.4.2; 9.4.3; 9.4.4
Incomplete information.....	7.11.4; 8.7	Office of Environmental Business Strategies .....	1.6
Incorporation by reference .....	6.7.4.2; 7.12.1.2; 7.12.2.4; 9.1	PBS P 4000.1 .....	1.4.3; Appendix 1
Indian Tribes .....	2.4.1; 4.1.5.1; Exhibit 7-2; 9.2.1; 9.2.3; 9.4.1; 9.4.3; 9.12	Professional integrity .....	6.9; 7.11.1
Intensity.....	3.1; 3.2.3; 3.2.4; 6.7.2.4; 6.7.4; 9.2.3; 9.4.3	Proposed action .....	1.4.1; 2.1
Interdisciplinary approach .....	4.1.4.1; 6.6; 7.12.2.5; 8.7; 9.1.1; 9.12	Public Buildings Cooperative Use Act .....	9.4.1
Jurisdiction by law or expertise .....	2.1.2; 2.6.3; 4.1.5; 4.1.5.1; 5.7; 6.6.1; 7.9; 7.14.1; Exhibit 7-2; 9.1.2; 10.3.2; 11.3.1.1	Public involvement .....	2.4.1; 2.4.3; 2.5.1; 2.7; Chapter 4; 5.7; 6.6.2; 6.10.1; 7.10; 7.14.1; 7.15.1; 7.15.3; 8.7.2; 9.2.2; 9.2.3; 9.3.3; 9.4.3; 9.7.1; 9.12;
Lead agency .....	2.6.1	Public meetings .....	4.2.2; 2.4.3; 5.7; 6.6.2; 7.9; 9.2.3
List of preparers .....	7.12.2.5	Purpose and need of action .....	3.4.1; 6.7.2.1; 7.12.2.1; 8.7.2
Low-income populations .....	see EO 12898	Purposes of NEPA .....	2.1.1
Magnitude .....	3.2.2	Record of Decision .....	3.3.2; 7.12.2.1; 7.15; Exhibit 7-5; 9.2.3
Minority populations .....	see EO 12898	Response to comments.....	7.14.3
Mitigation.....	2.5.1; 6.4; 6.10.1; 9.2.2; 9.2.3; 9.3.3	Responsible official .....	2.3; 2.4.3; 2.6.1; 2.6.3; 7.15.2
NAGPRA.....	4.2.3; 7.14.2.1; 9.4.1; 9.4.3; 9.4.4	Responsibilities	
National Archives and Records Administration .....	9.4.2	Asst. Regional Administrator .....	2.2.2.3; 11.3.1.1
Natural resources.....	3.2.1; 3.5.1.4; 5.9.2.4; 5.9.2.6; 9.10	General Counsel .....	2.2.1.6; 2.5.1
No Action alternative.....	6.7.2; 6.7.2.2; 7.12.2.2.2	GSA Environmental Executive .....	2.2.1.4
		Heads of Services and Business Lines .....	2.2.1.5; 2.4.3; 2.6.3
		NEPA Liaison .....	2.2.1.2; 2.2.2.1; 2.3; 2.5.2; 2.6.3; 5.8; 5.9.3; 7.6; 7.7;
		PBS Commissioner .....	2.2.1.1
		Program staff.....	2.2.2.4; 2.3; 2.5.1; 5.6; 6.5; 7.7; 8.6; 11.3.1.1

<u>Subject</u>	<u>Section</u>	<u>Subject</u>	<u>Section</u>
Regional Administrator.....	2.2.1.3; 2.2.2.2; 11.3.1.1		
REQA.....	2.2.2.3; 2.3; 2.5.1; 2.5.2; 2.6.3; 4.1.3; 4.1.4; 5.6; 5.9.3; 6.5; 6.6.2; 6.9; 6.10.1; 7.9; 7.11.3; 8.6; 11.3.1.1		
RHPO.....	9.4.2		
Scoping.....	3.5; Chapter 4; 5.7; 6.6.1; 6.6.2; 7.2.2; 7.9; 7.12.2.3; 7.14.1; 8.7.1; 9.1; 9.2.3		
Significance.....	3.2.3; 3.4.1; 3.5; 6.6.1; 6.7.2.4; 7.11		
Significant effect on the quality of the human environment	6.7.1; 7.4		
Social Impact Assessment.....	9.3		
State and local governments.....	2.4.1; 4.1.5.1, Exhibit 7-2		
State Historic Preservation Officer.....	2.5.2; 9.4.2; 11.3.1.1; Exhibit 7-2		
Supplements to NEPA documents.....	6.12; 7.3; Chapter 8		
Tiering.....	6.2.2; 6.7.4.1; 7.12.1.1		
Timing.....	2.1.4; 5.5; 6.4; 7.6; 8.5; Appendix 2		
Traffic.....	5.9.2.2; 5.9.2.5; 5.9.2.6; 5.9.2.9; 6.7.2.4; 9.12		
U.S. Fish and Wildlife Service.....	9.11.2; 9.11.3; 9.11.4; 11.3.1.1		
Visual resources.....	5.9.2.1; 5.9.2.2; 5.9.2.5; 9.12		
Water quality.....	9.9		
Wetlands.....	<i>see EO 11990</i>		