

Reclamation Manual

Directives and Standards

Table 2. - Explanation of Laws, Regulations, Executive Orders, and Directives Applicable to Public Involvement.

Regulation/Executive Order	Applicable language	Actions required
Administrative Procedures Act U.S.C. 551 et seq. June 22, 1946	Statements of agency constitute legislative rules where they are within granted and delegated powers of the agency and are binding on the agency.	Reclamation will comply with its own policies, directives, and rules.
Cumulative Effects of Public Involvement (Rulemaking)	Grants the public the right to participate in rulemaking process and gives public right to comment on proposed rules.	Reclamation will make information available to the public, including rules, opinions, orders, records, and proceedings.
Customer Service E.O. 12862 September 11, 1993	All executive departments and agencies that provide significant services directly to the public shall provide those services in a manner that seeks to meet the customer service standard established in this order.	Agencies shall identify customers, survey customers, and front-line employees to determine kind and quality of services and barriers to those services; benchmark customer service performance against the best in the business; make information, services, and complaint systems easily accessible; and provide means to; address customer complaints. Office of Management and Budget (OMB) approval is required to survey customers. (See Paperwork Reduction Act.)
Enhancing Intergovernmental Partnership E.O. 12875	Agencies will reduce the imposition of nonstatutory unfunded mandates upon State, local, and tribal governments.	Reclamation will establish meaningful and timely mechanisms for consultation and coordination with these affected parties in the development of regulatory proposals containing significant nonstatutory unfunded mandates.
Freedom of Information Act (FOIA) of 1974	Provides access to information to public upon request.	Unless specific provisions of the Act or the Privacy Act deny access, information is to be released within 20 days of a FOIA request.
Government Performance and Results Act of 1993	To systematically hold Federal agencies accountable for achieving program results. To set program goals, measure performance against those goals, and report publicly on their progress.	To improve program effectiveness and accountability by promoting a new focus on results, service quality, and customer satisfaction. To improve service delivery by planning for meeting program objectives and providing information about program results and service quality.
Intergovernmental Cooperation Act of 1968 (P.L. 90-577)	Regulations shall promote sound and orderly development of urban and rural areas by considering such things as an appropriate choice of use for land development (e.g., housing, commercial, industrial), conservation of natural resources, balanced transportation systems, and adequate outdoor recreation and open space areas.	Public involvement—consult with other agencies and interface with social analysis infrastructure impact evaluation, e.g., transportation, hospitals, schools, public safety, housing, etc., staffing and facility impacts.
Paperwork Reduction Act 1996	Minimizes the public burden of data gathering. It also makes Federal information policies and strategies as uniform and as coordinated as possible. Reclamation will not ask 10 or more people the same question or conduct surveys, interviews, or questionnaires without clearance from the OMB.	Get clearance from OMB for surveys of 10 or more people. General requests for comment and collection of information from persons on a voluntary basis in public meetings, workshops, or similar public participation activities is exempted from this requirement. The public will be provided with a 60-day comment period on proposed collection of information and a 30-day comment period after information collection applications have been submitted for OMB approval.
Privacy Act of 1988, Section 552a of Title 5, U.S.C., revised 1993	An agency shall not act or engage in a practice that breaches an Information Privacy Principle. Personal information shall not be collected by a collector for inclusion in a record or in a generally available publication unless: (a) the information is collected for a lawful purpose directly related to a function or activity of the collector; and (b) the collection of the information is necessary for or directly related to that purpose.	Personal information means information or an opinion (including information or opinions forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Any personal record must be safeguarded in accordance with Privacy Act procedures. Contact Reclamation's Privacy Act Office regarding systems of records covered by this Act.
DM 301.2 Public Participation in Decisionmaking	Interior will offer the public meaningful opportunities for participation in decisionmaking processes leading to actions and policies which may significantly affect or interest them.	Reclamation will involve the public in the decision process and document that involvement.

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Federal Advisory Committee Act of 1972 (FACA) (P.L. 92-463, Section 2) Termination and Limitation of Federal Advisory Committees E.O. 12838 (Also E.O. 12875)	<p>Only advisory committees only when essential and terminated when they are no longer needed. Standards and uniform procedures should govern their establishment, operation, and duration. Congress and the public shall be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees. The function of advisory committees should be advisory only. All matters under their consideration should be determined in accordance with law by the official agency or officer involved.</p>	<p>While advisory committees frequently are useful to furnish expert advice and diverse opinions and ideas to the Federal Government, the law mandates limitations on their use.</p> <p>To fulfill Federal responsibilities under FACA, Reclamation will systematically ensure fair, open access to meetings and advisory committees, document advisory committee activities, govern the role of advisory committees in decisionmaking processes, and fulfill Federal responsibilities.</p>
DM 308 Committee Management	<p>Promote more efficient committee management through avoiding duplication and unnecessary committees, and provide for systematic recording and availability of information.</p>	<p>Reclamation will use DM 308 as implementation directives and policy guidance for compliance with FACA.</p>
Reclamation Project Act of 1989 (43 U.S.C. 485h) (43 CFR 425.2.2)	<p>Provide an opportunity for submission of written data, views, and arguments, and shall consider all substantive comments so received.</p>	<p>Reclamation will provide notice of contract actions 60 days before publishing announcements.</p>
Regulatory Planning and Review E.O. 12866	<p>Harmonize Federal regulatory actions with related state, local, and tribal regulatory and Government functions.</p>	<p>Reclamation will explore and, <i>where appropriate</i>, use consensual mechanisms for developing regulations, including negotiated rulemaking. Proposed rules will have a comment period of 60 days. Comments will be addressed in the final rulemaking package published in the <i>Federal Register</i>.</p>
Principles and Guidelines (Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, March 10, 1983)		
- 1.4.3 General Public Participation	Interested and affected agencies, groups, and individuals will be provided opportunities to participate throughout the planning process.	In consultation with affected publics, a coordinated public participation program should be established with agencies and groups. Efforts to secure public participation should be pursued through appropriate means such as public hearings, public meetings, workshops, information programs, and citizen committees.
- 1.4.4 Review and Consultation	Reviews and consults with interested and affected agencies, groups, and individuals are needed in the planning process.	Consult with all interested groups to ensure their input is part of the decisionmaking process. Seek their review and incorporate the resulting comments much the same as required by the National Environmental Policy Act (NEPA).
- 1.4.8 Scoping	Planning should include an early and open process to identify both the likely significant issues to be addressed and the range of those issues.	Scoping (similar to NEPA requirements) includes affected Federal, State, and local agencies and other interested groups or persons throughout planning to ensure that all significant decisionmaking factors are addressed and that unneeded and extraneous studies are not undertaken.
- 1.6.2 Alternative Plan Formulation	Alternative plans will be formulated in consideration of four criteria: completeness, effectiveness, efficiency, and acceptability. Acceptability is the workability and viability of the alternative plan with respect to acceptance by State and local entities laws, regulations, and public policies.	Reclamation will systematically formulate viable alternatives to maximize opportunities to solve problems. Analysis will establish the acceptability of alternatives to determine their viability in the planning process.
- 1.7.1 Accounts, General	Four accounts are established to facilitate evaluation and display of the effects of alternative plans: (1) National Economic Development, (2) Environmental Quality, (3) Regional Economic Development, and (4) Other Social Effects.	Public involvement provides essential information for analyzing and using all four accounts in the decision process.
Environmental Justice E.O. 12898 CEQs Environmental Justice guidance under NEPA (ECM 95-3 and 98-2)	<p>Federal agencies shall make achieving environmental justice part of their missions by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.</p>	<p>Federal agencies shall provide minority and low-income populations the opportunity to comment on the development and design of Reclamation activities and consider this in the decision.</p>

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National Historic Preservation Act [Section 110 (16 U.S.C. 470 h-2)]	The agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector.	Consultation is required with State Historical Preservation Offices when cultural resources are affected. Other cultural resources guidance is provided in the RM.
NEPA/CEQ - Scoping (40 CFR 40 CFR 1501-1508, 516 DM 2.6)	Scoping is the early and open process for determining significant issues related to a proposed action that will be addressed in NEPA compliance.	Use formal and informal scoping activities (e.g., meetings, workshops) throughout the decision process to look at various perspectives that define the critical elements, resources, and interactions in the study.
- Public Involvement (40 CFR 1506.6, 516 DM 3.3.)	Public involvement processes should begin early so that environmental concerns can be discussed with the public as the plans are developed and evaluated. Development and implementation of a plan should begin as soon as it is determined that NEPA compliance is necessary.	Participants are to be present at important scoping meetings, public hearings, etc., to provide information concerning non-Reclamation objectives associated with the proposed actions.
- Public Notification	Involve the public in preparing and implementing NEPA procedures.	Reclamation will provide public notice of intent to prepare an Environmental Impact Statements (EIS), NEPA-related hearings, public meetings, and the availability of EISs. Reclamation will provide information to those who have requested it on an action.
- Public Hearings, 455 DM 1.1 Discretionary Hearings	Public hearing(s) must be held on all draft EISs.	The draft EIS should be available to the public for at least 15, and preferably 30 days, before the hearing. A notice of the public hearing must appear in the <i>Federal Register</i> at least 30 days before the hearing date.
- Social Analysis (40 CFR 1502.6)	Include the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.	NEPA compliance documents will be prepared using an interdisciplinary approach, including social analysis, which will ensure the integrated use of the natural and social sciences and the environmental design arts.
- Public Review (40 CFR 1506.10, 516 DM 4.24)	The public will have time to review and comment on draft EISs and environmental assessments (EAs).	Draft EIS. —Minimum review of 60 days after the Environmental Protection Agency's (EPA) publication of the notice of availability. A notice of public hearing must be published in the <i>Federal Register</i> and at least one public hearing held during the draft EIS public review and comment period. Draft EA. —An informal notice that an EA has been prepared.
- Consultation and Coordination (CFR 1500.2 and 1502.25)	Consultation will be included in the NEPA compliance document with agencies or technical experts that participated in the project planning process and provided significant information and recommendations for inclusion into the analysis process.	The consultation and coordination chapter of a NEPA compliance document will contain a narrative history of the relevant public involvement actions that have taken place or are expected to take place during the planning of the project. It may list or describe specific work meetings, scoping sessions, public meetings, and any other consultation and coordination activities.
Protection and Enhancement of Environmental Quality E.O. 11514, amended by E.O. 11724	Agencies will develop procedures (i.e., public hearings, information on alternative courses of action) to ensure the provision of timely public review and understanding of Federal plans and programs with environmental impact in order to obtain interested party views.	Consultation may be required. The following provide guidance on this executive order: ! Reclamation Manual system ! Environmental Policy and Directives ! NEPA Handbook
Uniform Relocation Act of 1956	Provides for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally listed programs.	Whenever acquiring real property for a program or project by a Federal agency results in displacing anyone, the agency shall reimburse and provide relocation planning, assistance coordination, and advisory services.

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Endangered Species Act of 1973 amended	This Act protects animal and plant species currently in danger of extinction (endangered) and those that may become endangered in foreseeable future (threatened).	Section 7 of this Act requires Federal agencies to ensure that all federally associated activities within the United States do not harm the continued existence of threatened or endangered species or designated areas (critical habitats) important in conserving those species. Agencies must consult with the U.S. Fish and Wildlife Service (FWS), which maintains current lists of species designated as threatened or endangered, when effects on a listed species may occur. The FWS has established a system of informal and formal consultation procedures.
Fish and Wildlife Coordination Act of 1958	Ensures that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.	Whenever Reclamation proposes to alter or modify any body of water for any purpose, Reclamation must first consult and coordinate with the FWS and the affected state fish and game agency(ies). This consultation and coordination will address ways to conserve wildlife resources by preventing loss of and damage to such resources, as well as to further develop and improve these resources.
Indian Trust Assets (ITA) Law Policy	The United States has a trust responsibility to protect and maintain rights reserved by or granted to American Indian tribes or individuals by treaties, statutes, and executive orders.	ITA identification will involve consultation with potentially affected tribes, Indian organizations or individuals, the Bureau of Indian Affairs, the Office of American Indian Trust, the Solicitor's Office, and Reclamation's Native American Affairs Office (or the regional Native American Affairs Coordinator). Reclamation will consult directly with the tribes potentially affected to identify and analyze potential impacts, and this consultation will be documented in the NEPA compliance document, along with a statement of potential impacts on ITA. Any anticipated impacts to Indian trust resources from a proposed project or action by bureaus and offices will be explicitly addressed in environmental documents.
Sacred Sites E.O. 13007	Each executive agency will, to the extent practicable, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of these sites. Where appropriate, agencies will maintain the confidentiality of sacred sites.	Agencies shall report procedures implemented or proposed to facilitate consultation with appropriate Indian tribes and religious leaders and the expeditious resolution of disputes relating to agency actions affecting sacred sites.
American Indian Religious Freedom Act of 1978	Protects and preserves the inherent right to believe, express, and exercise the traditional religions of American Indians, Eskimos, Aleuts, and Native Hawaiians.	Federal departments, agencies, and other instrumentalities responsible for administering relevant laws will consult with Native traditional religious leaders to determine changes necessary in policy to protect and preserve Native American cultural and religious practices.
Native American Grave Repatriation Act	This Act assigns ownership and control of Native American cultural items, human remains, and associated funerary objects to Native Americans. It also establishes requirements for the treatment of Native American human remains and sacred or cultural objects found on Federal land. This Act further provides for the protection, inventory, and repatriation of Native American cultural items, human remains, and associated funerary objects.	When these items are inadvertently discovered, cease activity, make a reasonable effort to protect the items and notify the appropriate Indian tribe(s) and/or Native Hawaiian organization(s).
Reclamation Policies		
RM CMP Social Evaluation	This policy is to ensure Reclamation will systematically consider potential social impacts on individuals, groups, and communities in its decisionmaking processes.	Public involvement and social assessment must be closely coordinated for consistency to similar subject matter, but analysis, techniques, and purpose must remain separate.
RM CMP P02, Internet Policy	Encourages Internet use and sets procedures and approval for placing information on the Internet.	Information that affects national policy will be approved by the Public Affairs Chief or the Director of External Affairs and Policy Analysis.