Departmental Manual 516, and Appendix 9

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

1.2 Policy. It is the policy of the Department:

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

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

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

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

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

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

G. To cooperate with and assist the CEQ.

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

A. Assistant Secretary--Policy, Budget and Administration.

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

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

(3) Assigns to the Director, Office of Environmental Project Review, the responsibilities outlined for that Office in this Part.

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

C. Assistant Secretaries.

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

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

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

D. Heads of Bureaus and Offices.

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

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

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

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

1.4 Consideration of Environmental Values.

A. In Departmental Management.

(1) In the management of the natural, cultural, and human resources under its jurisdiction, the Department must consider and balance a wide range of economic, environmental, and social objectives at the local, regional, national, and international levels, not all of which are quantifiable in comparable terms. In considering and balancing these objectives, Departmental plans, proposals,

and decisions often require recognition of complements and resolution of conflicts among interrelated uses of these natural, cultural, and human resources within technological, budgetary, and legal constraints.

(2) Departmental project reports, program proposals, issue papers, and other decision documents must carefully analyze the various objectives, resources, and constraints, and comprehensively and objectively evaluate the advantages and disadvantages of the proposed actions and their reasonable alternatives. Where appropriate, these documents will utilize and reference supporting and underlying economic, environmental, and other analyses.

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

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

C. In Externally Initiated Proposals. Officials responsible for development or conduct of loan, grant, contract, lease, license, permit, or other externally initiated activities shall require applicants, to the extent necessary and practicable, to provide environmental information, analyses, and reports as an integral part of their applications. This will serve to encourage applicants to incorporate environmental considerations into their planning

processes as well as provide the Department with necessary information to meet its own environmental responsibilities.

1.5 Consultation, Coordination, and Cooperation with Other Agencies and Organizations.

A. Departmental Plans and Programs.

(1) Officials responsible for planning or implementing Departmental plans and programs will develop and utilize procedures to consult, coordinate, and cooperate with relevant State, local, and Indian tribal governments; other bureaus and Federal agencies; and public and private organizations and individuals concerning the environmental effects of these plans and programs on their jurisdictions or interests.

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

B. Other Departmental Activities.

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

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

(3) Recognizing the worldwide and long-range character of environmental problems, where consistent with the foreign policy of the United States, appropriate support will be made available to initiatives, resolutions, and

programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

C. Plans and Programs of Other Agencies and Organizations

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

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

(3) Bureaus and offices will utilize to the fullest extent possible, existing Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

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

1.7 Mandate.

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

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

C. Instructions supplementing the CEQ regulations are provided in Chapters 2-7 of this Part. Citations in brackets refer to the CEQ regulations. Instructions specific to each bureau are appended to Chapter 6. In addition, bureaus may prepare a handbook(s) or other technical guidance for their personnel on how to apply this Part to principal programs.

D. Instructions implementing Executive Order 12114 will be provided in Chapter 8.

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

553

2.1 Purpose. This Chapter provides supplementary instructions for implementing those portions of the CEQ regulations pertaining to initiating the NEPA process.

2.2 Apply NEPA Early (1501.2).

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

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

C. Bureaus will revise or amend program regulations or directives to insure that private or non-Federal applicants are informed of any environmental information required to be included in their applications and of any consultation with other Federal agencies, and State, local or Indian tribal governments required prior to making the application. A list of these regulations or directives will be included in each Bureau Appendix to Chapter 6.

2.3 Whether to Prepare an EIS (1501.4).

A. Categorical Exclusions (CX) (1508.4).

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

(2) Based on the above criteria, the classes of actions listed in Appendix 1 to this Chapter are categorically excluded, Department-wide, from the NEPA process. A list of CX specific to Bureau programs will be included in each Bureau Appendix to Chapter 6.

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

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

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

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

9/26/84 #2596
Replaces 3/18/80 #2244

555

D. Notice of Intent (NOI) (1508.22). A NOI will be prepared as soon as practicable after a decision to prepare an environmental impact statement and shall be published in the Federal Register, with a copy to the Office of Environmental Project Review, and made available to the affected public in accordance with Section 1506.6. Publication of a NOI may be delayed if there is proposed to be more than three (3) months between the decision to prepare an environmental impact statement and the time preparation is actually initiated. The Office of Environmental Project Review will periodically publish a consolidated list of these notices in the Federal Register.

E. Environmental Impact Statement (EIS) (1508.11). See 516 DM 4. Decisions/actions which would normally require the preparation of an EIS will be identified in each Bureau Appendix to Chapter 6.

2.4 Lead Agencies (1501.5).

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

B. Bureaus will inform the Office of Environmental Project Review of any agreements to assume lead agency status.

C. A non-Federal agency will not be designated as a joint lead agency unless it has a duty to comply with a local or State EIS requirement that is comparable to a NEPA statement. Any non-Federal agency may be a cooperating agency by agreement. Bureaus will consult with the Solicitor's Office in cases where such non-Federal agencies are also applicants before the Department to determine relative lead/cooperating agency responsibilities.

2.5 Cooperating Agencies (1501.6).

A. The Office of Environmental Project Review will assist Bureaus and coordinate requests from non-Interior agencies in determining cooperating agencies.

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

2.6 Scoping (1501.7).

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

B. If a scoping meeting is held, consensus is desirable; however, the lead agency is ultimately responsible for the scope of an EIS.

2.7 Time Limits (1501.8). When time limits are established they should reflect the availability of personnel and funds.

Chapter 2 Appendix 1, Departmental Categorical Exclusions

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

1.1 Personnel actions and investigations and personnel services contracts.

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

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

1.4 Law enforcement and legal transactions, including such things as arrests, investigations, patents, claims, legal opinions, and judicial activities including their initiation, processing, settlement, appeal or compliance.

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

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

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

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

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

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

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

Chapter 2 Appendix 2. Exceptions to Categorical Exclusions

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

2.1 Have significant adverse effects on public health or safety.

2.2 Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.

2.3 Have highly controversial environmental effects.

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

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

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

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

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

2.9 Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.

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

9/26/84 #2596
New

559

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

3.2 When to Prepare (1501.3).

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

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

3.3 Public Involvement.

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

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

3.4 Content.

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

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

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

D. An EA will contain objective analyses which support its environmental impact conclusions. It will not, in and of itself, conclude whether or not an EIS will be prepared. This conclusion will be made upon review of the EA by the responsible official and documented in either a NOI or FONSI.

3.5 Format.

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

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

9/26/84 #2596
Replaces 3/18/80 #2244

561

3.6 Adoption.

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

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

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

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

4.2 Statutory Requirements (1502.3). NEPA requires that an EIS be prepared by the responsible Federal official. This official is normally the lowest-level official who has overall responsibility for formulating, reviewing, or proposing an action or, alternatively, has been delegated the authority or responsibility to develop, approve, or adopt a proposal or action. Preparation at this level will insure that the NEPA process will be incorporated into the planning process and that the EIS will accompany the proposal through existing review processes.

4.3 Timing (1502.5).

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

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

4.4 Page Limits (1502.7). Where the text of an EIS for a complex proposal or group of proposals appears to require more than the normally prescribed limit of 300 pages, bureaus will insure that the length of such statements is no greater than necessary to comply with NEPA, the CEQ regulations, and this Chapter.

4.5 Supplemental Statements (1502.9).

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

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

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

9/26/84 #2596
Replaces 3/18/80 #2244

4.6 Format (1502.10).

A. Proposed departures from the standard format described in the CEQ regulations and this Chapter must be approved by the Office of Environmental Project Review.

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

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

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

4.7 Cover Sheet (1502.11). The cover sheet will also indicate whether the EIS is intended to serve any other environmental review or consultation requirements pursuant to Section 1502.25.

4.8 Summary (1502.12). The emphasis in the summary should be on those considerations, controversies, and issues which significantly affect the quality of the human environment.

4.9 Purpose and Need (1502.13). This section may introduce a number of factors, including economic and technical considerations and Departmental or bureau statutory missions, which may be beyond the scope of the EIS. Care should be taken to insure an objective presentation and not a justification.

4.10 Alternatives Including the Proposed Action (1502.14).

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

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

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

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

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

4.11 Appendix (1502.18). If an EIS is intended to serve other environmental review or consultation requirements pursuant to Section 1502.25, any more detailed information needed to comply with these requirements may be included as an appendix.

4.12 Incorporation by Reference (1502.21). Citations of specific topics will include the pertinent page numbers. All literature references will be listed in the bibliography.

4.13 Incomplete or Unavailable Information (1502.22). The references to overall costs in this section are not limited to market costs, but include other costs to society such as social costs due to delay.

4.14 Methodology and Scientific Accuracy (1502.24). Conclusions about environmental effects will be preceded by an analysis that supports that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public.

4.15 Environmental Review and Consultation Requirements (1502.25).

A. A list of related environmental review and consultation requirements is available from the Office of Environmental Project Review.

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

4.16 Inviting Comments (1503.1).

A. Comments from State agencies will be requested through procedures established by the Governor pursuant to Executive Order 12372, and may be requested from local agencies through these procedures to the extent that they include the affected local jurisdictions. See 511 DM.

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

4.17 Response to Comments (1503.4).

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

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

C. For those EISs requiring the approval of the Assistant Secretary - Policy, Budget and Administration pursuant to 516 DM 6.3, bureaus will consult with the Office of Environmental Project Review when they propose to prepare an abbreviated final EIS (1503.4(c)).

4.18 Elimination of Duplication with State and Local Procedures (1506.2). Bureaus will incorporate in their appropriate program regulations provisions for the preparation of an EIS by a State agency to the extent authorized in Section 102(2)(D) of NEPA. Eligible programs are listed in Appendix 1 to this Chapter.

4.19 Combining Documents (1506.4). See 516 DM 4.6D.

4.20 Departmental Responsibility (1506.5). Following the responsible official's preparation or independent evaluation of and assumption of responsibility for an environmental document, an applicant may print it provided the applicant is bearing the cost of the document pursuant to other laws.

4.21 Public Involvement (1506.6). See 516 DM 1.6 and 301 DM 2.

4.22 Further Guidance (1506.7). The Office of Environmental Project Review may provide further guidance concerning NEPA pursuant to its organizational responsibilities (110 DM 22) and through supplemental directives (381 DM 4.5B).

4.23 Proposals for Legislation (1506.8). The Legislative Counsel, in consultation with the Office of Environmental Project Review, shall:

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

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

4.24 Time Periods (1506.10).

A. The minimum review period for a draft EIS will be sixty (60) days from the date of transmittal to the Environmental Protection Agency.

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

Chapter 4 Appendix 1. Programs of Grants to States in Which Agencies Having Statewide Jurisdiction May Prepare EISs.

1.1 Fish and Wildlife Service.
A. Anadromous Fish Conservation (#15.600).
B. Fish Restoration (#15.605).
C. Wildlife Restoration (#15.611).
D. Endangered Species Conservation (#15.612).
E. Marine Mammal Grant Program (#15.613).

1.2 Bureau of Land Management.
A. Wildlife Habitat Management Technical Assistance (#15.219).

1.3 National Park Service.
A. Historic Preservation Grants-in-Aid (#15.904).
B. Outdoor Recreation—Acquisition. Development and Planning (#15.916).

1.4 Bureau of Reclamation.
A. National Water Research and Development Program (#15.505).

1.5 Office of Surface Mining.
A. Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (#15.250).
B. Abandoned Mine Land Reclamation (AMLR) Program (#15.252).

1.6 Office of Territorial and International Affairs.
A. Economic and Political Development of the Territories and the Trust Territory of the Pacific Islands (#15.875).

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

5.1 Purpose. This Chapter provides supplementary instructions for implementing those portions of the CEQ regulations pertaining to decisionmaking.

5.2 Predecision Referrals to CEQ [1504.3].

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

B. Upon any referral of a Departmental matter to CEQ by another Federal agency, the Office of Environmental Project Review will be responsible for coordinating the Department's position.

5.3 Decisionmaking Procedures [1505.1].

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

B. Bureaus will incorporate in their formal decisionmaking procedures and NEPA handbooks provisions for consideration of environmental factors and relevant environmental documents. The major decision points for principal programs likely to have significant environmental effects will be identified in the Bureau Appendix to Chapter 6.

C. Relevant environmental documents, including supplements, will be included as part of the record in formal rulemaking or adjudicatory proceedings.

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

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

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

5.4 Record of Decision [1505.2].

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

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

5.5 Implementing the Decision [1505.3]. The terms "monitoring" and "conditions" will be interpreted as being related to factors affecting the quality of the human environment.

5.6 Limitations on Actions [1506.1]. A bureau will notify its Assistant Secretary, the Solicitor, and the Office of Environmental Project Review of any situations described in Section 1506.1(b).

5.7 Timing of Actions [1506.10]. For those EISs requiring the approval of the Assistant Secretary--Policy, Budget and Administration pursuant to 516 DM 6.3, the responsible official will consult with the Office of Environmental Project Review before making any request for reducing the time period before a decision or action.

5.8 Emergencies [1506.11]. In the event of an unanticipated emergency situation, a bureau will immediately take any necessary action to prevent or reduce risks to public health or safety or serious resource losses and then expeditiously consult with its Assistant Secretary, the Solicitor, and the Office of Environmental Project Review about compliance with NEPA. The Office of Environmental Project Review and the bureau will jointly be responsible for consulting with CEQ.

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

6.2 Organization for Environmental Quality.

A. Office of Environmental Project Review. The Director, Office of Environmental Project Review, reporting to the Assistant Secretary--Policy, Budget and Administration (PBA), is responsible for providing advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with NEPA, E.O. 11514, the CEQ regulations, and this Part. (See also 110 DM 22.)

B. Bureaus and Offices. Heads of bureaus and offices will designate organizational elements or individuals, as appropriate, at headquarters and regional levels to be responsible for overseeing matters pertaining to the environmental effects of the bureau's plans and programs. The individuals assigned these responsibilities should have management experience or potential, understand the bureau's planning and decisionmaking processes, and be well trained in environmental matters, including the Department's policies and procedures so that their advice has significance in the bureau's planning and decisions. These organizational elements will be identified in the Bureau Appendix to this Chapter.

6.3 Approval of EISs.

A. A program Assistant Secretary is authorized to approve an EIS in those cases where the responsibility for the decision for which the EIS has been prepared rests with the Assistant Secretary or below. The Assistant Secretary may further assign the authority to approve the EIS if he or she chooses. The Assistant Secretary--PBA will make certain that each program Assistant Secretary has adequate safeguards to assure that the EISs comply with NEPA, the CEQ regulations, and the Departmental Manual.

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

1.2 Policy. It is the policy of the Department:

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

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

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

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

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

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

G. To cooperate with and assist the CEQ.

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

A. Assistant Secretary--Policy, Budget and Administration.

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

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

(3) Assigns to the Director, Office of Environmental Project Review, the responsibilities outlined for that Office in this Part.

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

C. Assistant Secretaries.

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

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

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

D. Heads of Bureaus and Offices.

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

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

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

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

1.4 Consideration of Environmental Values.

A. In Departmental Management.

(1) In the management of the natural, cultural, and human resources under its jurisdiction, the Department must consider and balance a wide range of economic, environmental, and social objectives at the local, regional, national, and international levels, not all of which are quantifiable in comparable terms. In considering and balancing these objectives, Departmental plans, proposals,

and decisions often require recognition of complements and resolution of conflicts among interrelated uses of these natural, cultural, and human resources within technological, budgetary, and legal constraints.

(2) Departmental project reports, program proposals, issue papers, and other decision documents must carefully analyze the various objectives, resources, and constraints, and comprehensively and objectively evaluate the advantages and disadvantages of the proposed actions and their reasonable alternatives. Where appropriate, these documents will utilize and reference supporting and underlying economic, environmental, and other analyses.

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

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

C. In Externally Initiated Proposals. Officials responsible for development or conduct of loan, grant, contract, lease, license, permit, or other externally initiated activities shall require applicants, to the extent necessary and practicable, to provide environmental information, analyses, and reports as an integral part of their applications. This will serve to encourage applicants to incorporate environmental considerations into their planning

processes as well as provide the Department with necessary information to meet its own environmental responsibilities.

1.5 Consultation, Coordination, and Cooperation with Other Agencies and Organizations.

A. Departmental Plans and Programs.

(1) Officials responsible for planning or implementing Departmental plans and programs will develop and utilize procedures to consult, coordinate, and cooperate with relevant State, local, and Indian tribal governments; other bureaus and Federal agencies; and public and private organizations and individuals concerning the environmental effects of these plans and programs on their jurisdictions or interests.

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

B. Other Departmental Activities.

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

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

(3) Recognizing the worldwide and long-range character of environmental problems, where consistent with the foreign policy of the United States, appropriate support will be made available to initiatives, resolutions, and

programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

C. Plans and Programs of Other Agencies and Organizations

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

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

(3) Bureaus and offices will utilize to the fullest extent possible, existing Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

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

1.7 Mandate.

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

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

C. Instructions supplementing the CEQ regulations are provided in Chapters 2-7 of this Part. Citations in brackets refer to the CEQ regulations. Instructions specific to each bureau are appended to Chapter 6. In addition, bureaus may prepare a handbook(s) or other technical guidance for their personnel on how to apply this Part to principal programs.

D. Instructions implementing Executive Order 12114 will be provided in Chapter 8.

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

553

2.1 Purpose. This Chapter provides supplementary instructions for implementing those portions of the CEQ regulations pertaining to initiating the NEPA process.

2.2 Apply NEPA Early (1501.2).

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

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

C. Bureaus will revise or amend program regulations or directives to insure that private or non-Federal applicants are informed of any environmental information required to be included in their applications and of any consultation with other Federal agencies, and State, local or Indian tribal governments required prior to making the application. A list of these regulations or directives will be included in each Bureau Appendix to Chapter 6.

2.3 Whether to Prepare an EIS (1501.4).

A. Categorical Exclusions (CX) (1508.4).

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

(2) Based on the above criteria, the classes of actions listed in Appendix 1 to this Chapter are categorically excluded, Department-wide, from the NEPA process. A list of CX specific to Bureau programs will be included in each Bureau Appendix to Chapter 6.

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

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

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

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

9/26/84 #2596
Replaces 3/18/80 #2244

555

D. Notice of Intent (NOI) (1508.22). A NOI will be prepared as soon as practicable after a decision to prepare an environmental impact statement and shall be published in the Federal Register, with a copy to the Office of Environmental Project Review, and made available to the affected public in accordance with Section 1506.6. Publication of a NOI may be delayed if there is proposed to be more than three (3) months between the decision to prepare an environmental impact statement and the time preparation is actually initiated. The Office of Environmental Project Review will periodically publish a consolidated list of these notices in the Federal Register.

E. Environmental Impact Statement (EIS) (1508.11). See 516 DM 4. Decisions/actions which would normally require the preparation of an EIS will be identified in each Bureau Appendix to Chapter 6.

2.4 Lead Agencies (1501.5).

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

B. Bureaus will inform the Office of Environmental Project Review of any agreements to assume lead agency status.

C. A non-Federal agency will not be designated as a joint lead agency unless it has a duty to comply with a local or State EIS requirement that is comparable to a NEPA statement. Any non-Federal agency may be a cooperating agency by agreement. Bureaus will consult with the Solicitor's Office in cases where such non-Federal agencies are also applicants before the Department to determine relative lead/cooperating agency responsibilities.

2.5 Cooperating Agencies (1501.6).

A. The Office of Environmental Project Review will assist Bureaus and coordinate requests from non-Interior agencies in determining cooperating agencies.

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

2.6 Scoping (1501.7).

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

B. If a scoping meeting is held, consensus is desirable; however, the lead agency is ultimately responsible for the scope of an EIS.

2.7 Time Limits (1501.8). When time limits are established they should reflect the availability of personnel and funds.

Chapter 2 Appendix 1, Departmental Categorical Exclusions

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

1.1 Personnel actions and investigations and personnel services contracts.

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

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

1.4 Law enforcement and legal transactions, including such things as arrests, investigations, patents, claims, legal opinions, and judicial activities including their initiation, processing, settlement, appeal or compliance.

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

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

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

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

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

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

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

Chapter 2 Appendix 2. Exceptions to Categorical Exclusions

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

2.1 Have significant adverse effects on public health or safety.

2.2 Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks.

2.3 Have highly controversial environmental effects.

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

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

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

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

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

2.9 Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.

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

9/26/84 #2596
New

559

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

3.2 When to Prepare (1501.3).

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

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

3.3 Public Involvement.

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

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

3.4 Content.

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

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

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

D. An EA will contain objective analyses which support its environmental impact conclusions. It will not, in and of itself, conclude whether or not an EIS will be prepared. This conclusion will be made upon review of the EA by the responsible official and documented in either a NOI or FONSI.

3.5 Format.

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

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

9/26/84 #2596
Replaces 3/18/80 #2244

561

3.6 Adoption.

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

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

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

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

4.2 Statutory Requirements (1502.3). NEPA requires that an EIS be prepared by the responsible Federal official. This official is normally the lowest-level official who has overall responsibility for formulating, reviewing, or proposing an action or, alternatively, has been delegated the authority or responsibility to develop, approve, or adopt a proposal or action. Preparation at this level will insure that the NEPA process will be incorporated into the planning process and that the EIS will accompany the proposal through existing review processes.

4.3 Timing (1502.5).

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

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

4.4 Page Limits (1502.7). Where the text of an EIS for a complex proposal or group of proposals appears to require more than the normally prescribed limit of 300 pages, bureaus will insure that the length of such statements is no greater than necessary to comply with NEPA, the CEQ regulations, and this Chapter.

4.5 Supplemental Statements (1502.9).

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

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

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

9/26/84 #2596
Replaces 3/18/80 #2244

4.6 Format (1502.10).

A. Proposed departures from the standard format described in the CEQ regulations and this Chapter must be approved by the Office of Environmental Project Review.

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

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

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

4.7 Cover Sheet (1502.11). The cover sheet will also indicate whether the EIS is intended to serve any other environmental review or consultation requirements pursuant to Section 1502.25.

4.8 Summary (1502.12). The emphasis in the summary should be on those considerations, controversies, and issues which significantly affect the quality of the human environment.

4.9 Purpose and Need (1502.13). This section may introduce a number of factors, including economic and technical considerations and Departmental or bureau statutory missions, which may be beyond the scope of the EIS. Care should be taken to insure an objective presentation and not a justification.

4.10 Alternatives Including the Proposed Action (1502.14).

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

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

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

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

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

4.11 Appendix (1502.18). If an EIS is intended to serve other environmental review or consultation requirements pursuant to Section 1502.25, any more detailed information needed to comply with these requirements may be included as an appendix.

4.12 Incorporation by Reference (1502.21). Citations of specific topics will include the pertinent page numbers. All literature references will be listed in the bibliography.

4.13 Incomplete or Unavailable Information (1502.22). The references to overall costs in this section are not limited to market costs, but include other costs to society such as social costs due to delay.

4.14 Methodology and Scientific Accuracy (1502.24). Conclusions about environmental effects will be preceded by an analysis that supports that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public.

4.15 Environmental Review and Consultation Requirements (1502.25).

A. A list of related environmental review and consultation requirements is available from the Office of Environmental Project Review.

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

4.16 Inviting Comments (1503.1).

A. Comments from State agencies will be requested through procedures established by the Governor pursuant to Executive Order 12372, and may be requested from local agencies through these procedures to the extent that they include the affected local jurisdictions. See 511 DM.

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

4.17 Response to Comments (1503.4).

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

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

C. For those EISs requiring the approval of the Assistant Secretary - Policy, Budget and Administration pursuant to 516 DM 6.3, bureaus will consult with the Office of Environmental Project Review when they propose to prepare an abbreviated final EIS (1503.4(c)).

4.18 Elimination of Duplication with State and Local Procedures (1506.2). Bureaus will incorporate in their appropriate program regulations provisions for the preparation of an EIS by a State agency to the extent authorized in Section 102(2)(D) of NEPA. Eligible programs are listed in Appendix 1 to this Chapter.

4.19 Combining Documents (1506.4). See 516 DM 4.6D.

4.20 Departmental Responsibility (1506.5). Following the responsible official's preparation or independent evaluation of and assumption of responsibility for an environmental document, an applicant may print it provided the applicant is bearing the cost of the document pursuant to other laws.

4.21 Public Involvement (1506.6). See 516 DM 1.6 and 301 DM 2.

4.22 Further Guidance (1506.7). The Office of Environmental Project Review may provide further guidance concerning NEPA pursuant to its organizational responsibilities (110 DM 22) and through supplemental directives (381 DM 4.5B).

4.23 Proposals for Legislation (1506.8). The Legislative Counsel, in consultation with the Office of Environmental Project Review, shall:

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

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

4.24 Time Periods (1506.10).

A. The minimum review period for a draft EIS will be sixty (60) days from the date of transmittal to the Environmental Protection Agency.

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

Chapter 4 Appendix 1. Programs of Grants to States in Which Agencies Having Statewide Jurisdiction May Prepare EISs.

1.1 Fish and Wildlife Service.
A. Anadromous Fish Conservation (#15.600).
B. Fish Restoration (#15.605).
C. Wildlife Restoration (#15.611).
D. Endangered Species Conservation (#15.612).
E. Marine Mammal Grant Program (#15.613).

1.2 Bureau of Land Management.
A. Wildlife Habitat Management Technical Assistance (#15.219).

1.3 National Park Service.
A. Historic Preservation Grants-in-Aid (#15.904).
B. Outdoor Recreation—Acquisition. Development and Planning (#15.916).

1.4 Bureau of Reclamation.
A. National Water Research and Development Program (#15.505).

1.5 Office of Surface Mining.
A. Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (#15.250).
B. Abandoned Mine Land Reclamation (AMLR) Program (#15.252).

1.6 Office of Territorial and International Affairs.
A. Economic and Political Development of the Territories and the Trust Territory of the Pacific Islands (#15.875).

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

5.1 Purpose. This Chapter provides supplementary instructions for implementing those portions of the CEQ regulations pertaining to decisionmaking.

5.2 Predecision Referrals to CEQ [1504.3].

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

B. Upon any referral of a Departmental matter to CEQ by another Federal agency, the Office of Environmental Project Review will be responsible for coordinating the Department's position.

5.3 Decisionmaking Procedures [1505.1].

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

B. Bureaus will incorporate in their formal decisionmaking procedures and NEPA handbooks provisions for consideration of environmental factors and relevant environmental documents. The major decision points for principal programs likely to have significant environmental effects will be identified in the Bureau Appendix to Chapter 6.

C. Relevant environmental documents, including supplements, will be included as part of the record in formal rulemaking or adjudicatory proceedings.

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

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

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

5.4 Record of Decision [1505.2].

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

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

5.5 Implementing the Decision [1505.3]. The terms "monitoring" and "conditions" will be interpreted as being related to factors affecting the quality of the human environment.

5.6 Limitations on Actions [1506.1]. A bureau will notify its Assistant Secretary, the Solicitor, and the Office of Environmental Project Review of any situations described in Section 1506.1(b).

5.7 Timing of Actions [1506.10]. For those EISs requiring the approval of the Assistant Secretary--Policy, Budget and Administration pursuant to 516 DM 6.3, the responsible official will consult with the Office of Environmental Project Review before making any request for reducing the time period before a decision or action.

5.8 Emergencies [1506.11]. In the event of an unanticipated emergency situation, a bureau will immediately take any necessary action to prevent or reduce risks to public health or safety or serious resource losses and then expeditiously consult with its Assistant Secretary, the Solicitor, and the Office of Environmental Project Review about compliance with NEPA. The Office of Environmental Project Review and the bureau will jointly be responsible for consulting with CEQ.

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

6.2 Organization for Environmental Quality.

A. Office of Environmental Project Review. The Director, Office of Environmental Project Review, reporting to the Assistant Secretary--Policy, Budget and Administration (PBA), is responsible for providing advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with NEPA, E.O. 11514, the CEQ regulations, and this Part. (See also 110 DM 22.)

B. Bureaus and Offices. Heads of bureaus and offices will designate organizational elements or individuals, as appropriate, at headquarters and regional levels to be responsible for overseeing matters pertaining to the environmental effects of the bureau's plans and programs. The individuals assigned these responsibilities should have management experience or potential, understand the bureau's planning and decisionmaking processes, and be well trained in environmental matters, including the Department's policies and procedures so that their advice has significance in the bureau's planning and decisions. These organizational elements will be identified in the Bureau Appendix to this Chapter.

6.3 Approval of EISs.

A. A program Assistant Secretary is authorized to approve an EIS in those cases where the responsibility for the decision for which the EIS has been prepared rests with the Assistant Secretary or below. The Assistant Secretary may further assign the authority to approve the EIS if he or she chooses. The Assistant Secretary--PBA will make certain that each program Assistant Secretary has adequate safeguards to assure that the EISs comply with NEPA, the CEQ regulations, and the Departmental Manual.

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

6.4 List of Specific Compliance Responsibilities.

A. Bureaus and offices shall:

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

(2) Prepare program regulations or directives for applicants.

(3) Propose categorical exclusions.

(4) Prepare and approve EAs.

(5) Decide whether to prepare an EIS.

(6) Prepare and publish NOIs and FONSIs.

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

B. Assistant Secretaries shall:

(1) Approve bureau handbooks.

(2) Approve regulations or directives for applicants.

(3) Approve categorical exclusions.

(4) Approve EISs pursuant to 516 DM 6.3.

C. The Assistant Secretary--Policy, Budget and Administration shall:

(1) Concur with regulations or directives for applicants.

(2) Concur with categorical exclusions.

(3) Approve EISs pursuant to 516 DM 6.3.

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

6.5 Bureau Requirements.

A. Requirements specific to bureaus appear as appendices to this Chapter and include the following:

(1) Identification of officials and organizational elements responsible for NEPA compliance (516 DM 6.2B).

(2) List of program regulations or directives which provide information to applicants (516 DM 2.2B).

(3) Identification of major decision points in principal programs (516 DM 5.3B) for which an EIS is normally prepared (516 DM 2.3E).

(4) List of categorical exclusions (516 DM 2.3A).

B. Appendices are attached for the following bureaus:

(1) Fish and Wildlife Service (Appendix 1).

(2) Geological Survey (Appendix 2).

(3) Heritage Conservation and Recreation Service (Appendix 3).

(4) Bureau of Indian Affairs (Appendix 4).

(5) Bureau of Land Management (Appendix 5).

(6) Bureau of Mines (Appendix 6).

(7) National Park Service (Appendix 7).

(8) Office of Surface Mining (Appendix 8).

(9) Water and Power Resources Service (Appendix 9).

C. The Office of the Secretary and other Departmental Offices do not have separate appendices, but must comply with this Part and will consult with the Office of Environmental Project Review about compliance activities.

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

6.6 Information About the NEPA Process. The Office of Environmental Project Review will publish periodically a Departmental list of contacts where information about the NEPA process and the status of EISs may be obtained.

3/18/80 #2244
Replaces 9/17/70 #1222 and 9/27/71 #1341

516 DM Appendix 1

Fish and Wildlife Service

1.1 *NEPA Responsibility.*

A. The *Director* is responsible for NEPA compliance for Fish and Wildlife Service (FWS) activities.

B. Each *Associate Director* (Wildlife Resources, Fishery Resources, Research, Federal Assistance, and Environment) is responsible for general guidance and compliance in their respective areas of responsibility.

C. The *Associate Director—Environment* has been delegated oversight responsibility for FWS NEPA compliance.

D. The *Office of Environmental Coordination* (Washington), which reports to the Associate Director—Environment, is responsible for internal control of both environmental reviews of documents prepared by other agencies and environmental statements prepared by the various FWS Divisions. This Office is also responsible for preparing FWS NEPA procedures, guidelines, and instructions, and for supplying technical assistance in NEPA matters to FWS entities.

E. Each *Regional Director* and the Alaska Area Director is responsible for NEPA compliance in his/her area of responsibility. An individual in each Regional Office and the Alaska Area Office, named by title and reporting to the Regional or Alaska Area Director, will have NEPA coordination duties at the regional level similar to those of the Office of Environmental Coordination.

F. Each *Area Office* will have an individual with similar NEPA coordination responsibilities.

1.2 *Guidance to Applicants.*

A. *FWS Permits.* The FWS has responsibility for issuing certain permits to Federal and State agencies and private parties for actions which would involve certain wildlife species and/or use of FWS-administered lands.

(1) *Permits for the Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, or Importation of Certain Wildlife Species.* The Code of Federal Regulations, Part 13, Title 50 (50 CFR 13) contains regulations for General Permit Procedures. Section 13.3 lists types of permits and the pertinent Parts of 50 CFR. These include: Import and Marking (Part 14), Feather Imports (Part 15), Injurious Wildlife (Part 16), Endangered Species (Part 17), Marine Mammals (Part 18), Migratory Birds (Part 21), Eagles (Part 22), and Endangered Species Convention (Part 23). Potential applicants should request information from the Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

(2) *Federal Lands Managed by the FWS.* The Administration of National Wildlife Refuge System Act (16 U.S.C. 668dd-668ee) allows the granting of public use rights in areas of the National Wildlife Refuge and Fish Hatchery System only when the FWS determines that such use is compatible with the purposes for which the area was established. Detailed procedures an applicant must adhere to are contained in the Code of Federal Regulations, Title 50, Parts 25–29, 31–35, 60, 70–71. These rules and regulations apply to all FWS-administered lands.

B. *Permits and Licenses Reviewed by FWS Under the Fish and Wildlife Coordination Act (FWCA).* Under provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661–667e; 48 Stat. 401, as amended), the FWS investigates and reports on proposals by any department or agency of the United States, or by any public or private agency under Federal permit or license that may impound, divert, deepen, or otherwise control or modify any stream or other waterbody. Private parties and government agencies' planning activities that may require a permit or license for activities of this kind are encouraged to consult with the FWS at the onset of planning. Applications to other Federal

9/28/82 #2439
Replaces 8/25/80 #2291

516 DM 6 Appendix 9

Bureau of Reclamation

9.1 *NEPA Responsibility.*

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

B. *Assistant Commissioners.* (1) are responsible to the Commissioner for supervising and coordinating NEPA activities in their assigned areas of responsibility.

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

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

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

C. *Regional Directors.* (1) are fully responsible to the Commissioner for integrating the NEPA compliance activities in their regional area.

(2) will designate a staff position with the full responsibility to the Regional Director for providing direction of the NEPA process including information, guidance, training, advice, consistency, quality, adequacy, oversight, and coordination on NEPA documents or matters.

D. *Division and Office Chiefs in E&R Center.* (1) are responsible for integrating the NEPA process into their activities.

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

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

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

9.2 *Guidance to Applicants.*

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

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

B. *Prepared Program Guidance for Applicants.* (1) Loans under the Small Reclamation Projects Act of 1956. U.S. Department of the Interior, Bureau of Reclamation, March 1976 (35 pages).

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

6/8/83 #2505
Replaces 8/25/80 #2291

#31,579

(3) The Rehabilitation and Betterment Program. U.S. Department of the Interior. Bureau of Reclamation. September 1978 (14 pages).

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

9.3 *Major Actions Normally Requiring and EIS.*

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

(1) Proposed Feasibility Reports on water resources projects.

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

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

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

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

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

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

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

A. General Activities

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

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

3. Research activities, such as nondestructive data collection and analysis, monitoring, modeling, laboratory testing, calibration, and testing of instruments or procedures and nonmanipulative field studies.

B. Planning Activities

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

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

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

C. Project Implementation Activities

1. Classification and certification of irrigable lands.

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

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

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

D. Operations and Maintenance Activities

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

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

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

4. Approval, execution, and implementation of water service contracts for minor amounts of long-term water use or temporary or interim water use where the action does not lead to long-term changes and where the impacts are expected to be localized.

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

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

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

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

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

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

11. Implementation of improved appearance and soil and moisture conservation programs where the impacts are localized.

12. Conduct of programs of demonstration, educational, and technical assistance to water user organizations for improvement of project and on-farm irrigation water use and management.

13. Follow-on actions such as access agreements, contractual arrangements, and operational procedures for hydropower facilities which are on or appurtenant to Bureau facilities or lands which are permitted or licensed by the Federal Energy Regulatory Commission (FERC), when FERC has accomplished compliance with NEPA (including actions to be taken by the Bureau) and when the Bureau's environmental concerns have been accommodated in accordance with the Bureau/FERC Memorandum of Understanding of June 22, 1981.

14. Approval, renewal, transfer, and execution of an original, amendatory, or supplemental water service or repayment contract where the only result will be to implement an administrative or financial practice or change.

15. Approval of second party water sales agreements for small amounts of water (usually less than 10 acre-feet) where the Bureau has an existing water sales contract in effect.

16. Approval and execution of contracts requiring the repayment of funds furnished or expended on behalf of an entity pursuant to the Emergency Fund Act of June 26, 1948 (43 U.S.C. 502) where the action taken is limited to the original location of the damaged facility.

17. Minor safety of dams construction activities where the work is confined to the dam, abutment areas, or appurtenant features, and where no major change in reservoir or downstream operation is anticipated as a result of the construction activities.

E. Grant and Loan Activities

1. Rehabilitation and Betterment Act loans and contracts which involve repair, replacement, or modification of equipment in existing structures or minor repairs to existing dams, canals, laterals, drains, pipelines, and similar facilities.

2. Small Reclamation Projects Act grants and loans where the work to be done is confined to areas already impacted by farming or development activities, work is considered minor, and where the impacts are expected to be localized.

3. Distribution System Loans Act loans where the work to be done is confined to areas already impacted by farming or developing activities, work is considered minor, and where the impacts are expected to be localized.

6/8/83 #2505
Replaces 8/25/80 #2291

A. General

(1) Inventory, data, and information collection, including the conduct of environmental monitoring and non-destructive research programs.

(2) Actions for which MMS has concurrence or co-approval with another Bureau if the action is a categorical exclusion for that Bureau.

B. Internal Program Initiatives

(1) All resource evaluation activities including surveying, mapping, and geophysical surveying which do not use solid or liquid explosives.

(2) Collection of geologic data and samples including geologic, paleontologic, mineralogic, geochemical, and geophysical investigations which does not involve drilling beyond 50 feet of consolidated rock or beyond 300 feet of unconsolidated rock, including contracts therefor.

(3) Acquisition of existing geological or geophysical data from otherwise private exploration ventures.

(4) Well logging, digital modeling, inventory of existing wells, and installation of recording devices in wells.

(5) Establishment and installation of any research/monitoring devices.

(6) Test or exploration drilling and downhole testing included in a project previously subject to the NEPA process.

(7) Insignificant revisions to the approved 5-year leasing program.

(8) Prelease planning steps such as the Call for Information and Area Identification.

C. Permit and Regulatory Functions

(1) Issuance and modification of regulations, Orders, Standards, Notices to Lessees and Operators, Guidelines, and field rules for which the impacts are limited to administrative, economic, or technological effects and the environmental impacts are minimal.

(2) Approval of production measurement methods, facilities, and procedures.

(3) Approval of off-lease storage in existing facilities.

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

(5) Approval of commingling of production.

(6) Approval of suspensions of operations and suspensions of production.

(7) Approval of lease consolidation applications, lease assignments or transfers, operating rights, operating agreements, lease extensions, lease relinquishments, and bond terminations.

(8) Administration decisions and actions and recordkeeping such as:

(a) Approval of applications for pricing determinations under the Natural Gas Policy Act.

(b) Approval of underground gas storage agreements from a presently or formerly productive reservoir.

(c) Issuance of paying well determinations and participating area approvals.

(d) Issuance of drainage determinations.

(9) Approval of offshore geological and geophysical mineral exploration activities, except when the proposed activity includes the drilling of deep stratigraphic test holes or uses solid or liquid explosives.

(10) Approval of an offshore lease or unit exploration, development/production plan or a Development Operation Coordination Document in the central or western Gulf of Mexico (30 CFR 250.2) except those proposing facilities: (1) In areas of high seismic risk or seismicity, relatively untested deep water, or remote areas; or (2) within the boundary of a proposed or established marine sanctuary, and/or within or near the boundary of a proposed or established wildlife refuge or areas of high biological sensitivity; or (3) in areas of hazardous natural bottom conditions; or (4) utilizing new or unusual technology.

(11) Approval of minor revisions of or minor variances from activities described in an approved offshore exploration or development/production plan, including pipeline applications.

(12) Approval of an Application for Permit to Drill (APD) an offshore oil and gas exploration or development well, when said well and appropriate mitigation measures are described in an approved exploration plan, development plan, production plan, or Development Operations Coordination Document.

(c) If the Field Representative determines in the course of his review of the Department's comments that the review involves policy matters of Secretarial significance, he shall not sign and transmit the comments as provided in subparagraph (b) above, but shall forward the review to the Assistant Secretary - Program Policy.

B. Processing Environmental Reviews:

(1) The Assistant Secretary - Program Policy has delegated to the Director, Office of Environmental Project Review, the responsibility for distributing and monitoring the review of all environmental statements referred to the Department by other Federal agencies. In carrying out this responsibility, the Director, Office of Environmental Project Review, shall determine which bureaus and offices will review the statements, shall designate lead bureaus which shall prepare the Department's comments, shall indicate the intended signator of the comments, and shall set and monitor review schedules.

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

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

(4) Reviewing offices shall route their review comments through channels to the lead bureau, with a copy to the Office of Environmental Project Review. When, in cases, of headquarters-level response, review comments cannot reach the lead bureau within the established review schedule, reviewing bureaus and offices shall send a copy marked "Advance Copy" directly to the lead bureau.

3/15/72 (Release No. 1407)
Replaces 9/17/70 (Release No. 1222)

(5) In cases of headquarters-level response:

(a) The lead bureau shall route the completed comments through channels to the Office of Environmental Project Review. Copies shall be prepared and attached for all bureaus and offices from whom review comments were requested, for the Office of Environmental Project Review, and for the Field Representative when the review pertains to a project within his geographic jurisdiction. In addition, legible copies of all review comments received shall accompany the Department's comments through the clearance process and shall be retained by the Office of Environmental Project Review;

(b) The Office of Environmental Project Review shall review, secure any necessary additional surnames, surname, and transmit the Department's comments to the Assistant Secretary - Program Policy for signature or for his forwarding to another appropriate Secretarial Officer for signature. Upon signature, the Office of Environmental Project Review shall transmit the comments to the requesting agency, and shall reproduce and send ten (10) copies of the signed original to the Council on Environmental Quality.

(6) In cases of field-level response:

(a) The lead bureau shall route the completed comments to the appropriate Field Representative. Copies shall be prepared and attached for all offices from whom review comments were requested and for the Office of Environmental Project Review. In addition legible copies of all review comments received shall be attached to the Office of Environmental Project Review's copy and to the Field Representative's file copy;

(b) The Field Representative shall review, sign, and transmit the Department's comments to the agency requesting the review. In addition he shall reproduce and send ten (10) copies of the signed original to the Council on Environmental Quality and send a copy of the CEQ transmittal memorandum, the Department's comments, and the bureau review comments to the Office of Environmental Project Review.

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

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

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

(3) All bureaus and offices processing and reviewing environmental statements of other Federal agencies will do so within the time limits specified by the Assistant Secretary - Program Policy. From thirty (30) to forty-five (45) days are normally available for responding to other Federal agency review requests. Whenever possible the Assistant Secretary - Program Policy shall seek a forty-five (45) day review period. Further extensions shall be handled in accordance with paragraph .7B(3) of this chapter.

(4) The Department's review comments on other Federal agencies' environmental statements shall reflect the full and balanced interests of the Department in the protection and enhancement of the environment. Lead bureaus shall be responsible for resolving any intra-Departmental differences in bureau or office review comments submitted to them. The Office of Environmental Project Review is available for guidance and assistance in this regard. In cases where agreement cannot be reached, the matter shall be referred through channels to the Assistant Secretary - Program Policy or to the Field Representative, if appropriate.

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

.6 Availability of Review Comments

A. Prior to the public availability of another Federal agency's final environmental statement, the Department shall not independently release to the public its comments on that agency's draft environmental statement. In accordance with Section 10(f) of the Council on Environmental Quality's Guidelines [516 DM 2, App. A], the agency that prepared the statement is responsible for making the comments available to the public, and requests for copies of the Department's comments shall be referred to that agency. Exceptions to this procedure shall be made only by the Assistant Secretary - Program Policy in consultation with the Solicitor and the Director of Communications.

B. Various internal Departmental memoranda, such as the review comments of bureaus, offices, task forces, and individuals, which are used as inputs to the Department's review comments are generally available to the public in accordance with the Freedom of Information Act (5 U.S.C. Section 552) and the Departmental procedures established by 43 C.F.R. 2. Upon receipt of such requests and in addition to following the procedures above, the responsible bureau or office shall notify and consult the Assistant Secretary - Program Policy.

.7 Procedures for Processing Environmental Reviews

A. General Procedures:

(1) All requests for reviews of draft and final environmental statements prepared by or for other Federal agencies shall be received and controlled by the Assistant Secretary - Program Policy.

(d) Detailed Comments

The format of this section shall follow the organization of the other agency's statement. These comments shall not approve, disapprove, support, or object to proposed actions of other Federal agencies, but shall constructively and objectively comment on the environmental impact of the proposed action, and on the adequacy of the statement in describing the environmental impacts of the action, the alternatives, and the impacts of the alternatives.

(e) Summary Comments, if any

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

B. Bureau and Office Comments:

(1) Bureau and office reviews of environmental statements prepared by other Federal agencies are considered informal inputs to the Department's comments and their content will generally conform to paragraph .5A of this chapter with the substitution of the bureau's or office's delegated jurisdiction or special environmental expertise for that of the Department.

C. Relationship to Other Concurrent Reviews:

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

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

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

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

(a) Control Number

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

(b) Introduction

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

(c) General Comments, if any

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

E. Draft Environmental Statements:

(1) Draft environmental statements are prepared by Federal agencies under the provisions of Section 102(2)(C) of the National Environmental Policy Act and provisions of the Guidelines of the Council on Environmental Quality. They are officially circulated to other Federal agencies for review from their jurisdiction by law or special environmental expertise.

(2) All requests from other Federal agencies for review of draft environmental statements shall be made through the Assistant Secretary - Program Policy. Review comments shall be handled in accordance with his instructions and the provisions of this chapter.

F. Final Environmental Statements:

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

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

.5 Content of Review Comments on Draft Environmental Statements

A. Departmental Comments:

(1) Departmental comments on draft environmental statements prepared by other Federal agencies shall be based upon the Department's jurisdiction by law or special expertise with respect to the environmental impact of the proposed action or alternatives to the action. The adequacy of the statement in regard to the Act and the Council on Environmental Quality's Guidelines is the responsibility of the Federal agency that prepared the statement and any comments on its adequacy shall be limited to the Department's jurisdiction or environmental expertise.

(2) Requests for reviews of environmental assessments or reports are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices, with the Field Representative and Assistant Secretary - Program Policy being advised of significant or highly controversial issues. Review comments are for the purpose of providing technical assistance to the requesting agency and should reflect this fact.

C. Negative Declarations:

(1) Negative declarations are prepared in lieu of environmental statements by Federal agencies and, in some cases, by applicants for Federal assistance. A negative declaration is a statement for the record by the proponent Federal agency that it has reviewed the environmental impact of its proposed action, that it determines that the action will not significantly affect the quality of the human environment, and that an environmental statement is not required. Such declarations are not normally circulated.

(2) Requests for reviews of negative declarations are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices and shall concur or not concur with the requesting agency. If a bureau or office does not concur, the Field Representative and Assistant Secretary - Program Policy will be advised promptly by copy of the comments with a copy of the negative declaration attached.

D. Preliminary, Proposed, or Working Draft Environmental Statements:

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

(2) Requests for reviews of these types of draft environmental statements are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices with the Field Representative and Assistant Secretary - Program Policy being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the review comments of the Department on the draft environmental statement.

(4) When designated lead bureau by the Assistant Secretary - Program Policy, shall prepare and forward the Department's review comments as instructed; and

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

.4 Types of Reviews

A. Descriptions of Proposed Actions:

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

(2) Requests for reviews of descriptions of proposed actions are not required to be processed through the Assistant Secretary - Program Policy. Review comments may be handled independently by bureaus and offices, with the Field Representative and Assistant Secretary - Program Policy being advised of significant or highly controversial issues. Review comments are for the purpose of providing technical assistance to the requesting agency and should reflect this fact.

B. Environmental Assessments or Reports:

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

3/15/72 (Release No. 1407)
Replaces 9/17/70 (Release No. 1222)

593

(5) Shall review, sign, and transmit the Department's review comments to the requesting agency and to the Council on Environmental Quality, unless he designates otherwise;

(6) Shall follow through on the Department's review comments transmitted to the requesting agency to ensure resolution of the Department's concerns, unless he designates otherwise; and

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

B. The Legislative Counsel:

(1) Shall ensure that requests for reviews of environmental statements prepared by other Federal agencies that accompany or pertain to legislative proposals are immediately referred to the Assistant Secretary - Program Policy.

C. Field Representatives:

(1) When designated by the Assistant Secretary - Program Policy, shall review, sign, and transmit the Department's review comments to the requesting agency and to the Council on Environmental Quality.

D. Assistant Secretaries and Heads of Bureaus and Offices:

(1) Shall designate officials and organizational elements responsible for the coordination and conduct of environmental reviews and report this information to the Assistant Secretary - Program Policy;

(2) Shall provide the Assistant Secretary - Program Policy with appropriate information and material concerning their delegated jurisdiction and special environmental expertise in order to assist him in assigning review responsibilities:

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

#2244

.1 Purpose. These procedures are to implement the policy and directives of Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91-190, 83 Stat. 852, January 1, 1970); Section 2(f) of Executive Order No. 11514 (March 5, 1970); the Guidelines issued by the Council on Environmental Quality (36 F.R. 7724, April 23, 1971); Bulletin No. 72-6 of the Office of Management and Budget (September 14, 1971); and provide guidance to bureaus and offices of the Department in the review of environmental statements prepared by and for other Federal agencies.

.2 Policy. The Department considers it a priority responsibility to provide competent and timely review comments on environmental statements prepared by other Federal agencies for their major actions which significantly affect the quality of the human environment. These reviews are predicated on the Department's jurisdiction by law or special expertise with respect to the environmental impact involved and shall provide constructive comments to other Federal agencies to assist them in meeting their environmental responsibilities.

.3 Responsibilities.

A. The Assistant Secretary - Program Policy:

(1) Shall be the Department's contact point for the receipt of requests for reviews of draft and final environmental statements prepared by or for other Federal agencies;

(2) Shall determine whether such review requests are to be answered by a Secretarial officer or by a Field Representative, and determine which bureaus and/or offices shall perform such reviews;

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

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