Environmental Statement Memorandum No. 98-2

PEP - ENVIRONMENTAL STATEMENT MEMORANDUM NO. ESM98-2

To: Heads of Bureaus and Offices

From: Willie R. Taylor, Director
Office of Environmental Policy and Compliance

Subject: Procedures for Approving and Filing Environmental Impact Statements

1. Purpose and Scope

This memorandum prescribes procedures for filing environmental impact statements (EIS) with the Environmental Protection Agency (EPA). It pertains to both draft and final EISs and both delegated and non-delegated EISs. This memorandum is issued pursuant to 516 DM 4.22. It replaces ESM95-2.

2. Delegated EISs

A delegated EIS is one for which the decision authority on the proposed action rests by delegation with a single Assistant Secretary or a subordinate officer.

3. Non-Delegated EISs

A non-delegated EIS is one for which the decision authority on the proposed action requires the approval of more than one Assistant Secretary (or bureaus under more than one Assistant Secretary), OR is an EIS reserved or elevated to the Secretary (or Office of the Secretary) by expressed interest of the Secretary, Deputy Secretary, the Chief of Staff, the Solicitor or the Assistant Secretary for Policy, Management and Budget, OR is of a highly controversial nature or one in which the Secretary has taken a prominent public position in a highly controversial issue, OR faces a high probability of judicial challenge to the Secretary.

4. Notification

a. As early as possible in the NEPA compliance process for all proposed Departmental programs and projects, a bureau or office will notify the Office of Environmental Policy and Compliance (OEPC) of its determination under Sections 2 and 3. Bureaus will also notify OEPC when EISs are required for proposals where the determination of delegated

vs. non-delegated is unclear.

b. The responsible bureau or office decides whether a particular EIS is delegated or non-delegated. OEPC may advise the bureau or office and the Assistant Secretary/Policy, Management and Budget (AS/PMB) on the bureau or office decision.

c. If OEPC does not concur with the determination, OEPC will advise the bureau in writing setting forth its reasons for the non-concurrence. When the determination is unclear, OEPC will advise the bureau in an effort to assist the bureau in making the determination.

d. Bureaus will make this determination no later than the filing of a Notice of Intent (NOI) and/or the conducting of scoping meetings.

e. OEPC will use the Quarterly Report of Environmental Impact Statements (ESM96-3) to track the notification process.

5. Procedures for Delegated EISs

a. Assistant Secretaries, bureaus, or offices, upon approval of a delegated EIS, but before its release to EPA and the public, are to contact OEPC by telephone and inform it of the title of the EIS and the date of its transmittal. The OEPC will assign the document a DOI control number and log it. Control numbers will only be given to authorized bureau personnel involved with the processing of the EIS. Control numbers will not be given to unauthorized persons such as contractors, joint lead agencies, or cooperating agencies. Control numbers should be secured as late as practicable, but prior to filing with EPA. Control numbers shall be stamped or written in ink on the outside cover of all copies transmitted to EPA and Interior bureaus and offices.

b. Before calling for a DOI control number, determine the exact status of the printing job. If the documents are printed and mailed or awaiting mailing from the printer, request a number. If the documents are printed and in transit back to the bureau for mailing, wait until the documents are ready for mailing to request a control number. If the document has not yet been given to the printer, do not request a control number.

c. At the time of transmittal to EPA, Assistant Secretaries, bureaus, and offices will file delegated EISs directly with EPA and publish separate bureau notices of availability in the Federal Register for all draft, final and supplemental EISs. The time period for review in the bureau notice must be consistent with the time period for review in EPA's notice of availability. The time period for review is also governed by ESM94-8. Five (5) copies of the EIS are required by EPA. The EPA will not accept the EIS without the DOI control number.

d. Concurrent with the filing of an EIS with EPA, bureaus are to distribute the document to

Federal agencies with jurisdiction by law or special expertise and to State and local agencies, including Indian Tribes, that are authorized to set and enforce related environmental standards, and to make it available to the public. Upon transmittal, the responsible official will promptly provide two (2) copies to the Department's Natural Resources Library, and four (4) copies to OEPC. In addition, OEPC will be furnished a copy of the transmittal letter to EPA and the bureau Federal Register notice.

e. Circulation to Interior bureaus will take place in accordance with ESM98-3.

f. Circulation to other Federal and State agencies is governed by ESM94-3.

6. Procedures for Non-Delegated EISs

a. Non-delegated EISs must be approved and filed with EPA by the AS/PMB. The AS/PMB has assigned this responsibility to OEPC.

b. Bureaus are encouraged to consult early with OEPC in scheduling and preparing these documents to avoid delays in their approval. The OEPC is available for guidance and associated review of preliminary drafts (or portions of drafts) at headquarters and, subject to the availability of resources, at OEPC's or bureau field offices. This advance consultation and coordination with OEPC will facilitate granting clearances to print documents with a minimum of formal correspondence and associated processing and mailing delays.

c. A clearance to print is OEPC's substantive approval of non-delegated EISs. It generally takes the form of a memorandum from the bureau to the Director, OEPC requesting a clearance to print. A concurrence line is provided at the bottom for the Director's signature. Once signed, OEPC will provide a fax transmission of the document so printing may commence. An example is shown in Attachment 1.

d. Where adequate, early consultation and coordination is not achieved with OEPC, bureaus will transmit proposed EISs to OEPC for review and approval. This should be done concurrently with any bureau headquarters review. Bureaus should allow at least 2 weeks for OEPC's review, comment, and approval. In such cases, bureaus will also provide in their preparation schedules sufficient time to accommodate comments by OEPC.

e. In order to file non-delegated EISs with EPA, bureaus will forward, through their Assistant Secretary to OEPC:

a transmittal letter (Attachment 2)
a notice of availability (Attachment 3)
a draft press release (if required by any Interior process), and
five (5) printed copies of the EIS.

The transmittal letter, upon signature by the Director of OEPC, is the official document signifying AS/PMB approval. After signature, a bureau may hand carry it and five (5) copies of the EIS to EPA and the notice of availability to the Federal Register if it so chooses; otherwise OEPC will mail them. The notice of availability must be in the form of three originals with the OEPC original signature and date on each.

f. A DOI control number will also be obtained by the same method outlined in Part 5.a. and b. above.

g. Concurrent with the filing of an EIS with EPA, bureaus are to distribute the document to Federal agencies with jurisdiction by law or special expertise and to State and local agencies, including Indian Tribes, that are authorized to set and enforce related environmental standards, and to make it available to the public. In addition, bureaus will provide two (2) copies to the Department's Natural Resources Library, and four (4) copies to OEPC for its distribution and files.

h. Circulation to Interior bureaus will take place in accordance with ESM98-3.

i. Circulation to other Federal and State agencies is governed by ESM94-3.

Attachments

This memorandum was signed by Willie R. Taylor on October 6, 1998.

Attachment 1

To: Director, Office of Environmental Policy and Compliance
Department of the Interior, MS 2340 MIB

From: (*Authorizing Officer for the EIS*)

Subject: Request for Approval to Print the Draft (*or Final*) Environmental Impact Statement for the ...

In accordance with PEP Environmental Statement Memorandum ESM 98-2, we request clearance to print the subject draft (*or final*) environmental impact statement. Please document this approval by signing the "concur" line below and returning the signed memorandum to this office.

(*Any additional information may be given here.*)

The draft (*or final*) environmental impact statement for the ... is approved for printing.

Concur:_____ Date:_____
Director, Office of Environmental
Policy and Compliance

Note: This attachment may be updated as necessary without re-issuing the entire ESM.

Attachment 2

US Environmental Protection Agency
Office of Federal Activities; Mail Code 2252-A
401 M Street, SW
Washington, D.C. 20460

Dear Sir or Madam:

In compliance with Section 102(2)(C) of the National Environmental Policy Act of 1969 and in accordance with 40 CFR 1506.9, we are enclosing five (5) copies of a (*draft/final*) environmental impact statement for (*title of proposal*). This statement was prepared by the (*bureau*).

This EIS has been transmitted to all appropriate agencies, special interest groups, and the general public. The official responsible for the distribution of the EIS and knowledgeable of its content is (*name and phone number*).

Sincerely,

Willie R. Taylor
Director, Office of Environmental
Policy and Compliance

Enclosures

Note: If you are hand delivering your EIS, the inside address of the above letter will change to the following, and you will make your delivery to this address also.

US Environmental Protection Agency
Office of Federal Activities
Mail Code 2252-A, Room 7241
Ariel Rios Building (South Oval Lobby)
1200 Pennsylvania Ave., NW
Washington, D.C. 20044

Note: This attachment may be updated as necessary without re-issuing the entire ESM.

Attachment 3

DEPARTMENT OF THE INTERIOR
(*BUREAU*)

Notice of Availability of (*Draft/Final*) Environmental Impact Statement

AGENCY: (*Bureau*), Department of the Interior

ACTION: Notice of availability of a (*draft/final*) environmental impact statement (EIS) for the proposed (*title*)

*DATE: Comments will be accepted until (*date*)

*ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to (*office name and address*). You may also comment via the Internet to (*office Internet address*). Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: (*any identifying names or codes*)" and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (*office contact and phone number*). Finally, you may hand-deliver comments to (*office street address*). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.[1]

FOR FURTHER INFORMATION CONTACT: (*office and address*)

SUPPLEMENTAL INFORMATION: A limited number of individual copies of the EIS may be obtained from (*the above contact or wherever*).

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[1]This recommended text has its source in Alliance for the Wild Rockies, et al. v. Department of the Interior, et al., Civil No. 98-2912 (D.D.C., June 23, 1999). Its use is recommended by SOL memorandum dated August 20, 1999, and transmitted to NEPA contacts by OEPC memorandum dated September 10, 1999.

Copies are also available for inspection at the following locations:

** A public (*hearing/meeting*) will be held on the proposal on (*dates and locations*).

(*Include any other pertinent information which will assist the public.*)

Date	Willie R. Taylor Director, Office of Environmental Policy and Compliance

* Include only for draft EIS
** Include if appropriate to this notice

Note:
1. This attachment may be updated as necessary without re-issuing the entire ESM.
2. The date of this attachment is October 18, 1999.