

Department of the Interior
DEPARTMENTAL MANUAL

Part 516 National Environmental
Policy Act of 1969

Environmental Quality

Chapter 5

Relationship to Decisionmaking

516 DM 5.1

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

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 Decision making 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 decision making 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 decision maker 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 decision maker.

5.4 Record of Decision (1505-2).

- A. Any decision documents prepared pursuant to 301 DM 1 for proposals

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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.

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Chapter 6

Managing the NEPA Process

516 DM 1.1

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 Departments 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 bureaus plans and programs. The individuals assigned these responsibilities should have management experience or potential, understand the bureau's planning and decision making 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.

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- 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 FONSI.
 - (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--Policies 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.

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

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.

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Environmental Quality

Chapter 7	Review of Environmental Statements Prepared by Other Federal Agencies	516 DM 7.1
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7.1 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.

7.2 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.

7.3 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;
- (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;

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- (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.
- C. 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;
 - (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.

7.4 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.

(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.

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.

7.5 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) 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 capsule 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.
 - (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 7.5A of this chapter with the substitution of the bureau's or office's delegated jurisdiction or special environmental expertise for that of the Department.

B. 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 following the Review comments on the environmental statement.

- (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.

7.6 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.

7.7 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.
- (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 waiting period. Further extensions shall be handled in accordance with paragraph 7.7B(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.

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 Signature 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.

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(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 prepaid 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.

(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.

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