ADMINISTRATIVE CONFERENCE OF THE UNITED STATES



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Information Interchange Bulletin No. 012 National Environmental Policy Act Basics

What is the National Environmental Policy Act?

The National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321–4347) requires federal agencies to assess the environmental impacts of their proposed actions before making decisions. NEPA does not impose substantive duties mandating particular results; it simply prescribes a process for preventing uninformed agency action.

What is an environmental impact statement?

NEPA requires agencies to prepare a detailed study, called an environmental impact statement (EIS), when proposing a major federal action significantly affecting the quality of the human environment. The EIS must describe the proposed action and its purpose and need, describe the affected environment, presents the range of alternatives to the proposed action, and analyzes the environmental impact of the proposed action and the range of alternatives.

Who is responsible for implementing NEPA?

NEPA establishes the Council on Environmental Quality (CEQ), which advises the president on NEPA compliance and issues regulations and guidance to implement NEPA (40 C.F.R. §§ 1500– 1599). Agencies are required to develop their own specific policies and procedures to implement NEPA, in consultation with CEQ (42 U.S.C. § 4332; 40 C.F.R. § 1507.3). Agencies' procedures must be consistent federal statutes and CEQ's NEPA regulations.

Additional Resources

<u>NEPA.gov</u>, Council on Environmental Quality <u>National Environmental Policy Act</u>, ACUS Administrative Procedure Sourcebook

What is the NEPA review process?

1 Determine if the Action Fits Within a Categorical Exclusion

Categorical exclusions are classes of actions that a federal agency has determined, after review by CEQ, do not have significant environmental effects. Agencies promulgate categorical exclusions in regulations.

Further analysis is usually not Proceed required.

Proceed to step 2.

2 Determine if the Action Will Have a Significant Environmental Impact

When it is not obvious whether an action qualifies as a major federal action significantly affecting the quality of the human environment, agencies can conduct an environmental assessment (EA) to determine whether the action's impacts require preparation of an EIS.

YES Proceed to step 3.

3

5

NO Issue a Finding of No Significant Impact (FONSI) according to agency policy. No further analysis is required, and the agency may proceed to step 6.

Prepare a Draft Environmental Impact Statement

An agency formally commences preparing an EIS by publishing a Notice of Intent (NOI) in the *Federal Register*. Next, the agency determines the EIS's scope, i.e., what issues it will analyze. Once the agency determines the EIS's scope, it conducts a preliminary analysis of the relevant action's probable environmental consequences, and reports its findings in a draft EIS.

4 Provide an Opportunity for Public Comment

Once the agency completes the draft EIS, it must notify the public and request comments on the draft EIS.

Prepare a Final Environmental Impact Statement

After the period for commenting on the draft EIS has expired, the agency may prepare a final EIS. The final EIS must respond to timely, material comments. The agency must publish it in the *Federal Register*.

6 Publish a Record of Decision

After publishing the final EIS or FONSI, the agency publishes a Record of Decision (ROD), which states the agency's decision. If the agency prepared an EIS, the ROD must also identify alternatives the agency considered and state whether the agency has adopted all practicable means to minimize environmental harm from the action selected, and if not, why not.

7 Implement the Decision

An agency that decides to go ahead with a planned action must comply with the terms of the ROD, including enforcement and monitoring commitments that are part of any mitigation plans.