COUNCIL ON ENVIRONMENTAL QUALITY
[40 CFR Ch. V.]
PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS

Proposed Guidelines

The Council on Environmental Quality invites comments and suggestions from interested parties, to the following proposed revisions of the Council’s guidelines on the preparation of environmental impact statements pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. section 4332(2)(C)). The present guidelines, dated April 23, 1971, are available from the Council and appear at 36 F.R. 7724–7729.

Comments should be sent to the Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, on or before June 18, 1973.

After considering the comments and views of interested parties, the Council will make appropriate revisions and codify these guidelines in final form in the Code of Federal Regulations, establishing a new chapter 5 to title 40 of that Code.

The proposed revisions and a section-by-section commentary follow:

1. Purpose and authority. (a) This directive provides guidelines to Federal departments, agencies, and establishments for preparing detailed environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment as required by section 102(2)(C) of the National Environmental Policy Act (Public Law 91–190, 42 U.S.C. sections 4321 et seq.) (hereafter “the Act”). Underlying the preparation of such environmental impact statements is the mandate of both the Act and Executive Order 11514 of March 5, 1970, that all Federal agencies, to the fullest extent possible, direct their policies, plans, and programs so as to meet national environmental goals, to protect and enhance man’s productive and enjoyable environment, to promote efforts preventing or eliminating damage to the environment and biosphere and stimulating the health and welfare of man, and to enrich the understanding of the ecological systems and natural resources important to the Nation. The objective of section 102(2)(C) of the Act and of these guidelines is to build into the agency decisionmaking process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed action and to assist agencies in implementing the policies as well as the letter of the Act. This directive also provides guidance to Federal, State, and local agencies and the public in commenting on statements prepared under these guidelines.

(b) Pursuant to section 204(3) of the Act the Council is assigned the duty and function of reviewing and appraising the programs and activities of the Federal Government, as the light of the Act’s purpose, for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such purpose, and to make recommendations to the President in respect thereof. Section 102(2)(B) of the Act directs all Federal agencies to identify and develop methods and procedures, in consultation with the Council, to assure that unquantifiable environmental values be given appropriate consideration in decisionmaking along with economic and technical considerations; section 102(2)(C) of the Act directs that copies of all environmental impact statements be filed with the Council; and section 102(2)(H) directs all Federal agencies to assist the Council in the performance of its functions. These provisions have been supplemented in sections 1(h) and (1) of Executive Order 11514 by directions that the Council issue guidelines to Federal agencies for preparation of environmental impact statements; and such other instructions to agencies and requests for reports and information as may be required to carry out the Council’s responsibilities under the Act.

2. Proposed revisions. (a) Applicable and in all cases prior to agency decision concerning recommendations or favorable reports on proposals for: (1) Legislation significantly affecting the quality of the human environment (see secs. 5(1) and 12, infra) (hereafter "legislative actions"), and (ii) all other major Federal actions significantly affecting the quality of the human environment (hereafter "environmental impact actions") Federal agencies will, in consultation with other appropriate Federal, State, and local agencies, consult the environmental aspects of proposed action and, where required, prepare a draft environmental impact statement prepared and circulated for comment in time to accompany the proposal through the existing agency review process for such action. In this process, Federal agencies shall: (i) Provide for circulation of draft environmental statements to other Federal, State, and local agencies, and for their availability to the public in accordance with the provisions of these guidelines; (ii) consider the comments of the agencies and the public; and (iii) issue final environmental impact statements responsive to the comments received. The purpose of this assessment and consultation process is to provide agencies and other decisionmakers as well as members of the public with an understanding of the environmental effects of proposed actions, to avoid or minimize adverse effects wherever possible, and to restore or enhance environmental quality to the fullest extent practicable. In particular, agencies should use the environmental impact statement process to explore alternative actions that will avoid or minimize adverse impacts and to evaluate both the long-and short-range implications of proposed actions to man, his physical and social surroundings, and to nature. Agencies should consider the results of their environmental assessments along with their implications of the net economic, technical, and other benefits of proposed actions and use all practicable means, consistent with other essential considerations of national policy, to avoid or minimize undesirable consequences for the environment.

3. Agency and OMB procedures.—(a) Pursuant to section 204(3) of Executive Order 11514, the heads of Federal agencies have been directed to proceed with measures required by section 102(2)(C) of the Act. Previous guidelines of the Council on Environmental Quality directs that the agency establish an informal process for: (1) Identifying those agency actions requiring environmental statements, the appropriate time prior to decision for the consultations required by section 102(2)(C) and the agency review process for which environmental statements are to be available, (2) obtaining information required in preparation, (3) designating the officials who are to be responsible for the statements, (4) consulting with and taking account of the comments of appropriate Federal, State, and local agencies, including obtaining the comments of the Administrator of the Environmental Protection Agency when required under section 309 of the Clean Air Act, as amended, and (5) meeting the responsibilities of such other Federal, State, and local officials as may be necessary in order to respond to requirements imposed by these regulations. Any future revision of such procedures should consider the results of the actions of the agencies and the comments of the public. The Council, in the light of the Act’s purpose, for the purpose of determining the extent to which such programs and activities are contributing to the achievement of the purpose, and to make recommendations to the President to assure that unquantifiable environmental values be given appropriate consideration in decisionmaking along with economic and technical considerations; section 102(2)(C) of the Act directs all Federal agencies to identify and develop methods and procedures, in consultation with the Council, to ensure the preparation of environmental impact statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment as required by section 102(2)(C) of the National Environmental Policy Act (Public Law 91–190, 42 U.S.C. sections 4321 et seq.) (hereafter “the Act”). Underlying the preparation of such environmental impact statements is the mandate of both the Act and Executive Order 11514 of March 5, 1970, that all Federal agencies, to the fullest extent possible, direct their policies, plans, and programs so as to meet national environmental goals, to protect and enhance man’s productive and enjoyable environment, to promote efforts preventing or eliminating damage to the environment and biosphere and stimulating the health and welfare of man, and to enrich the understanding of the ecological systems and natural resources important to the Nation. The objective of section 102(2)(C) of the Act and of these guidelines is to build into the agency decisionmaking process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed action and to assist agencies in implementing the policies as well as the letter of the Act. This directive also provides guidance to Federal, State, and local agencies and the public in commenting on statements prepared under these guidelines.

(b) Each Federal agency should consult, with the assistance of the Council on Environmental Quality and the Office of Management and Budget if required, with other appropriate Federal agencies in the development and revision of the above procedures so as to achieve consistency in dealing with similar activities and to assure effective
coordination among agencies in their regulatory and program activities. Where applicable, State and local review of such agency procedures should be conducted pursuant to procedures established by Office of Management and Budget Circular A-55. Where appropriate, such procedures subject to OMB Circular No. A 30 day extension in the public comment period provided for in section 3(a) of the Act.

(c) Existing mechanisms for obtaining the views of Federal, State, and local agencies on proposed Federal actions should be utilized to the maximum extent practicable in dealing with environmental matters. The Office of Management and Budget will issue instructions, as necessary, to take full advantage of existing mechanisms.

4. Federal agencies included; effect of the Act on existing agency mandates.—Section 102(2)(C) of the Act applies to all agencies of the Federal Government. Section 102(2)(C) of the Act provides that "to the fullest extent possible: (1) The policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies and goals this Act," and section 102 of the Act provides that "the policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies." This means that each agency should interpret the provisions of the Act as a supplement to its existing authority and as a mandate to review traditional policies and missions in the light of the Act's national environmental objectives.

In accordance with this purpose, agencies should continue to review their policies, procedures, and regulations and to revise them as necessary to insure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 is meant to make clear that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

5. Actions included.—"Actions" include but are not limited to

(i) Recommendations or favorable reports relating to legislation including requests for appropriations. The requirement for following the section 102(2)(C) procedure as elaborated in these guidelines applies to both (i) agency recommendations on their own proposals for legislation (see section 12 infra); and
(ii) agency reports on legislation initiated elsewhere. In the latter case only the agency which has primary responsibility for the proposal will prepare an environmental statement.

(ii) New and continuing projects and program activities: directly undertaken by Federal agencies; or supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance (except where such assistance is solely in the form of matching funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. section 1231) at sea, with no Federal agency control other than the subsequent use of such funds; or involving a Federal lease, permit, license, certificate or other entitlement for use;

(iii) The making, modifying, or establishment of regulations, rules, procedures, and policy.

6. Identifying major actions significantly affecting the environment.—(a) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed by agencies with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated). Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed major actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases. In considering what actions are "significant" in terms of significantly affecting the environment, agencies should bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively significant. This effect can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, whereas a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. In all such cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from Federal action.

The Council on Environmental Quality, on the basis of a written assessment of the impacts involved, is available to assist agencies in determining whether specific actions require impact statements.

(b) Section 101(b) of the Act indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. The Act also indicates that adverse significant effect. The Act also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment, and serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. Adverse effects also include secondary effects, as described more fully, for example in section 8(a)(ii) (b), supra. The significance of a proposed action may also vary with the setting, since an action that would have little impact in a rural area may be significant in a rural setting or vice versa. While a precise definition of environmental "significant," as used in all contexts, is not possible, it is important to consider in assessing significance include, but are not limited, to those outlined in appendix II of these guidelines.

(c) Each of the provisions of the Act, except section 102(2)(C), applies to all Federal agency actions. Section 102(2)(C) requires the preparation of a detailed environmental impact statement in the case of "major Federal actions significantly affecting the quality of the human environment." The identification of actions significantly affecting the quality of the human environment is the responsibility of each Federal agency, to be carried out against the background of its own particular operations. The action must be (1) a "major" action, (ii) which is a "Federal action," (iii) which has a "significant" effect, and (iv) which involves the "quality of the human environment." The words "major" and "significant" are intended to imply thresholds of importance and impact that must be met before a statement is required. The action causing the impact must be by one where the current Federal control and responsibility to constitute "Federal action" in contrast to cases where such Federal control and responsibility are not present as, for example, where Federal action is distributed in the form of general revenue sharing to be used by State and local governments (see sec. 3(II) supra).

Finally, the action must be one that is significantly affecting the human environment either by directly affecting human beings or by indirectly affecting human beings through adverse effects on the environment. Each agency should review those actions that it undertakes and, in consultation with the Council on Environmental Quality, should develop specific criteria and methods for identifying those actions likely to require environmental statements and those actions likely not to require environmental statements. Normally this will involve:

(i) Identifying an action as falling in one of the environmental impacts typically associated with principal types of agency action;

(ii) Identifying on the basis of this assessment, types of actions which normally do, and types of actions which normally do not, require statements;

(iii) With respect to remaining actions that may require statements depending on the circumstances, and those actions determined under the preceding paragraph (ii) as likely to require statements, identifying: (1) What basic information needs to be gathered; (2) how and when such information is to be assembled and analyzed; and (3) on what bases environmental assessments and decisions to prepare impact statements will be made. Agencies may either include this guidance in the procedures issued pursuant to section 3(a) of these guidelines, or issue such guidance as supplemental instructions to aid relevant agency personnel in implementing the impact statement process. Pursuant to section 15 of these guidelines, agencies...
shall report to the Council by December 1, 1973, on the progress made in developing such substantive guidance.

(d) In determining when statements are required, agencies should give careful attention to identifying and defining the scope of the action which would most appropriately serve as the subject of the statement. In many cases, broad program statements will be desirable, assessing the environmental effects of a number of individual actions or a given geographical area (e.g., coal leases), or environmental impacts that are generic or common to a series of agency actions (e.g., harbor maintenance dredging), or the overall impact of a large-scale program or chain of contemplated projects (e.g., major lengths of highway as opposed to small segments), or the environmental implications of research activities that have reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives. Subsequent statements for major individual actions should be necessary only where such actions have significant environmental impacts not adequately evaluated in the program statement.

7. Procedures for preparing draft environmental statements; hearings.—(a) In accord with the policy of the Act and Executive Order 11514 agencies have a responsibility to develop procedures to insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain maximum public input and the fullest possible involvement, and their relative expertise as necessary, the Council on Environmental Quality will assist in providing the public with relevant information, including information on alternative courses of action. In deciding whether a draft environmental statement is required, the Council should take into account the nature and extent of the Federal action and the probable impact of the proposed action on the environment.

(b) Each environmental impact statement shall be prepared and circulated in draft form for comment in accordance with the provisions of these guidelines. Where an agency has an established practice of favoring public comments on a proposed action, the draft environmental statement may indicate that two or more alternatives are under consideration. Comments on draft statements shall be carefully evaluated and considered in the decision process. A final statement with substantive comments attached shall be prepared and circulated in accordance with applicable provisions of sections 10, 11, or 12 of this directive. It is important that draft environmental statements be prepared and circulated for comment and furnished to the Council as early as possible in the agency review process in order to permit agency decisionmakers and outside reviewers to give meaningful consideration to the environmental issues involved. In particular, agencies should keep in mind that such statements are to serve as the means of assessing the environmental impact of the proposed agency actions, rather than as a justification for the action itself or ready made. This means that draft statements on administrative actions should be prepared and circulated for comment prior to the first significant point of decision in the agency review process. For major categories of agency action, this point should be identified in the procedures issued pursuant to section 3(a).

(c) Where more than one agency directly sponsors an action, or is directly involved through funding, licenses, or permits, to the maximum extent possible one statement should serve as the means of compliance with section 102(2)(C) for all Federal action involved. Agencies in such cases should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of one agency to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multiagency actions.

(d) Where an agency relies on an applicant to submit initial environmental information, the agency should assist the applicant by outlining the types of information required. In all cases, the agency should make its own evaluation of the environmental issues and take responsibility for the scope and content of the final environmental statement.

(e) Agency procedures developed pursuant to section 3(a) of these guidelines shall provide for public hearings on actions with environmental impact whenever appropriate for providing the public with relevant information, including information on alternative courses of action. In deciding whether a public hearing is appropriate, an agency should consider: (I) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved; (II) the degree of interest in the proposal, as evidenced by requests from the public and from Federal, State and local authorities that a hearing be held; (III) the complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under the Act; (IV) the extent to which public involvement already has taken place, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action. Agency procedures should also indicate, as expeditiously as possible, those types of agency decisions or actions which utilize hearings as part of the normal agency review process, either as a result of statutory requirement or agency practice. Agencies should make any draft environmental statement available to the public at least 15 days prior to the time of such hearings.

8. Content of environmental statements.—(a) The following points are to be covered:

(I) A description of the proposed action and of the environment affected, including a statement of the purpose and need for the action, and a statement of the alternative courses of action considered and the basis for the selection of the proposed action. The amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decisionmaking (planning, feasibility, design, etc.). In order to insure accurate descriptions and environmental assessments, site visits should be made where feasible. Agencies should also take care to identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program. In discussing these population aspects, agencies should give consideration to using the rates of growth in the region of the project contained in the projection compiled by the Water Resources Council for the State, projects and special purpose agencies.

(ii) The probable impact of the proposed action on the environment.

(A) This requires agencies to assess the positive and negative effects of the
proposed action as it affects both the national and international environment.

The attention given to different environmental factors will vary according to the nature of the action. In each case, the analysis should be sufficiently detailed to permit comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative, provided, however, that where an existing impact cannot be completely ignored, such an analysis, its treatment of alternatives may be incorporated.

(iv) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, and desirable land use patterns, damage to life systems, urban congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of the Act). This should be a brief section summarizing in one place those effects discussed in paragraph (ii) that are adverse and unavoidable under the identified action, and for which purposes of contrast should be a clear statement of how other adverse effects discussed in paragraph (ii) will be mitigated to prevent apparent unavoidable consequences.

(iv) The relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity. This section should also define the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa. In this context short-term and long-term losses do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(vi) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires the agency to identify action directly or indirectly, impacts in paragraph (iv) the extent to which the action irreversibly curtails the range of potential uses of the environment. Agencies should avoid construing the term “irreversible” to mean only the labor and materials devoted to an action. “Resources” also means the natural and cultural resources committed to loss or destruction by the action.

(b) In developing the above points, agencies should make every effort to convey the required information succinctly in a form easily understood, both by members of the public and by public decisionmakers. It is recommended that the agencies utilize a systematic, interdisciplinary approach which involves unresolved conflicts concerning alternative uses of available resources. A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and the environmental costs and impacts of the action should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects. Examples of such alternatives include avoidance of taking action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different and more desirable impacts (e.g., nonstructural alternatives to flood control programs, or mass transit alternatives to highway construction); alternatives which substitute different designs or details of the proposed action which would present different environmental impacts (e.g., cooling ponds vs. cooling towers for a powerplant or alternatives that will significantly conserve energy). In each case, the analysis should be sufficiently detailed to permit comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative, provided, however, that where an existing impact cannot be completely ignored, such an analysis, its treatment of alternatives may be incorporated.
example, be alert to consultation requirements of the Fish and Wildlife Coordination Act, 16 U.S.C. sections 661 et seq., and the National Historic Preservation Act of 1966, 16 U.S.C. sections 470 et seq. To the extent that an environmental impact statement, after consideration of finding(s) concerning environmental impact required by such other statutes, as in the case of section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. section 1653(f), or section 106 of the National Historic Preservation Act of 1966, should be combined with compliance with the environmental impact statement provisions of the Fish and Wildlife Coordination Act of 1966, (2) (C) of the Act to yield a single document which meets all applicable requirements. The Advisory Council on Historic Preservation, the Department of Transportation, and the Department of the Interior, in consultation with the Council on Environmental Quality, will issue any necessary supplementing instructions for furnishing information or findings for incorporation under the environmental impact statement process.

(b) EPA review under Clean Air Act—Section 309 of the Clean Air Act, as amended, 18 U.S.C. section 110, provides that the Administrator of the Environmental Protection Agency shall, in writing, on the environmental impact of any matter relating to the administration of the Clean Air Act, or any rule or regulation promulgated thereunder, refer to the Council on Environmental Quality any matter that the Administrator determines is unsatisfactory from the standpoint of public health or welfare. Accordingly, whenever an agency action related to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, generally applicable environmental policies, and standards, or other provision of the authority of the Administrator is involved, Federal agencies are required to submit such proposed actions to the Administrator for comment in writing. In all cases where EPA determines that proposed agency action is environmentally unsatisfactory, or where EPA determines that the environmental statement is so inadequate that such a determination cannot be made, EPA shall notify the Council on Environmental Quality as soon as practicable. The Administrator's comments shall constitute his comments for the purposes of both section 309 of the Clean Air Act and section 102(2)(C) of the National Environmental Policy Act.

(c) State and local review.—Office of Management and Budget Circular No. A-95 (Revised) through its system of State and areae-wide clearinghouses provides a means for the Federal, State, and local environmental agencies, which can assist in the preparation and review of environmental impact statements. Current instructions for obtaining copies of such agencies are contained in the Joint OMB-CEQ memorandum attached to these guidelines as appendix III. A current listing of clearinghouses is issued periodically by the Office of Management and Budget.

(d) Public review.—Agency procedures should make provision for facilitating the comment of public and private organizations and individuals by announcing the availability of draft environmental statements in a manner available to organizations and individuals that have requested an opportunity to comment. Agencies should devise methods for publishing the existence of draft statements, for example, by publication in local newspapers or by maintaining a list of groups known to be interested in the agency's activities and directly notifying such groups of the existence of a draft statement, or sending them a copy, as soon as it has been prepared.

(e) Responsibilities of commenting entities.—Agencies and members of the public submitting comments on draft environmental impact statements should endeavor to make comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. Emphasis should be placed primarily on the assessment of the environmental impacts of the proposed action, and the acceptability of those impacts in light of the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Commenting entities may be invited to the public hearings to discuss the proposed action and/or new alternatives that will avoid or minimize environmental impacts.

(f) Agencies seeking comment may establish time limits of not less than 45 days for reply, after which it may be presumed, unless the agency or party consulted requests a specified extension of time, that the agency or party consulted has no comment to make. Agencies seeking comment should endeavor to comply with requests for extensions of time of up to 15 days.

10. Preparation and circulation of final environmental impact statements.—(a) Agencies should make every effort to discover and discuss all major points of view on the environmental effects of the proposed action. The comments received in the draft statement itself. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are brought to the agency's attention through the commenting process, the agency should review the environmental effects of the action in light of those views and should make a meaningful reference in the final statement to the existence of any responsible opposing view not adequately discussed in the draft statement, indicating the agency's response to the issues raised. All substantive comments received on the draft (or summaries thereof where response has been exceptionally voluminous) should be available to the public, whether or not each such comment is thought to merit individual discussion by the agency in the text of the statement.

(b) Copies of final statements, with comments attached, shall be sent to all Federal, State, and local agencies and private organizations that made substantive comments on the draft statement and to individuals who requested a copy of the final statement. Where the comments on a draft statement is such that distribution of the final statement to all commenting entities appears impracticable, the agency in consultation with the Council on Environmental Quality, may make arrangements to distribute alternative arrangements for distribution of the statement.

11. Distribution of statements to Council on Environmental Quality; minimum periods for review and advance availability; availability to public.—(a) As soon as they have been prepared, 10 copies of draft environmental statements, 5 copies of all other statements, to be forwarded to the Council by the entity making comment at the time comment is forwarded to the responsible agency, and 10 copies of the final text of environmental statements available in the President, with the substance of all comments received thereon by the responsible agency from Federal, State, and local agencies and from private organizations and individual citizens (together with Advance public disclosure will result in significantly increased costs of environmental statements) shall be submitted to the Council on Environmental Quality in the Executive Office of the President (this will serve to meet the statutory requirement to make environmental statements available to the President when time that copies are sent to the Council, copies of final statements should also be sent to relevant commenting entities as set forth in section 10(b) of these guidelines.

(b) To the maximum extent practicable no administrative action subject to section 102(2)(C) is to be taken sooner than 90 days after a draft statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of environmental statements, shall be submitted to the President; Where a copy (or summaries thereof) has the comments) has been made available to the public pursuant to these guidelines; neither should such administrative action be taken sooner than 30 days after the final text of an environmental statement (together with the comments) has been made available to the public pursuant to this section of these guidelines, the 30-day period and 90-day period may run concurrently to the extent that they overlap. An agency may supplement or amend a draft or final environmental statement. In such cases the agency should consult with the Council on Environmental Quality with respect to the possibility and desirability of recirculation of the statement for the appropriate period.

(c) The Council will publish weekly in the Federal Register lists of environmental statements received during the preceding week that are available for public comment. The date of receipt by the Council, as noted in the Federal Register publication, shall be the date from
which the minimum periods for review and advance availability of statements shall be calculated.

(d) The Council's publication of notice of the availability of statements is in addition to the agency's responsibility, as determined under section 9(d) of these guidelines, to insure the fullest practicable provision of timely public information concerning the existence and availability of environmental statements. The agency responsible for the environmental statement is also responsible for making the statement, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C., sec. 552), without regard to the exclusion of intragency or interagency memoranda when such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action pursuant to section 9 of these guidelines. Agency procedures prepared pursuant to section 3(a) of these guidelines shall specify the information requirements and shall include arrangements for availability of environmental statements and comments at the head and appropriate regional offices of the responsible agency at appropriate State, regional, and metropolitan clearinghouses unless the Governor of the State involved designates some other point for receipt of this information. Notice of such designation of an alternate point for receipt of this information shall be included in the Office of Management and Budget listing of clearinghouses referred to in section 3(c).

(e) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these guidelines concerning minimum periods for agency review and advance availability of environmental statements, the Federal agency proposing to take the action shall consult with the Council on Environmental Quality about alternative arrangements. Similarly where there are overriding considerations of expense to the government or impaired program effectiveness, the responsible agency should consult with the Council concerning appropriate modifications of the minimum periods.

(f) In order to assist the Council on Environmental Quality in fulfilling its responsibilities under the Act and under Executive Order 11514, all agencies shall (as required by Section 102(2) of the Act and section 3(c) of Executive Order 11514) be responsive to requests by the Council for reports and other information dealing with issues arising in connection with the implementation of the Act. Agencie shall be responsive to requests by the Council for either the preparation and circulation of environmental statements or, in the alternative, if the responsible agency determines that an environmental statement is not required, for an environmental assessment and a publicly available record briefly setting forth the reasons for that determination. In no case, however, shall the Council's silence or failure to request action with respect to an environmental statement be construed as bearing in any way on the question of the legal requirement for or the adequacy of such statements under the Act.

12. Legislative actions.—(a) The Council on Environmental Quality and the Office of Management and Budget will cooperate in giving assistance as needed to assist agencies in identifying legislative items believed to have environmental significance. Efforts shall be made to identify types of repetitive legislative requirements relating to total impact statements (such as certain types of bills affecting transportation policy or annual construction authorizations) to assure preparation of impact statements prior to submission of such legislative proposals to the Office of Management and Budget.

(b) With respect to recommendations or reports on proposed legislation to which section 102(2) of the Act applies, the final text of the environmental statement and comments thereon shall be available to the Congress and to the public for consideration. In connection with the proposed legislation or report. In cases where the scheduling of congressional hearings on recommendations or reports on proposals for legislation which the Federal agency has forwarded to the Congress does not allow adequate time for the completion of a final text of an environmental statement (together with comments), a draft environmental statement may be submitted to the Congress and made available to the public pending transmittal of the comments as received and the final text.

13. Application of section 102(2) (C) procedure to existing projects and programs.—The section 102(2) (C) procedure shall be applied to further major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the Act on January 1, 1970. While the status of the work and degree of completion may be considered in determining whether to proceed with the project, it is essential that the environmental impacts of proceeding are reassessed pursuant to the Act's policies and procedures and, if the project or program is continued, that further incremental major actions be shaped so as to minimize adverse environmental consequences. It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program.

14. Supplemental guidelines, evaluations of procedures.—(a) The Council on Environmental Quality after examining environmental statements and agency procedures with respect to such statements shall issue such supplements to these guidelines as are necessary.

(b) Agencies will continue to assess their experience in the implementation of the section 102(2) (C) provisions of the Act and in conforming with these guidelines and report thereon to the Council on Environmental Quality by December 1, 1973. Such reports should include an identification of the problem areas and suggestions for revision or clarification of these guidelines to achieve effective coordination of views on environmental aspects (and alternatives, where appropriate) of proposed actions without imposing unproductive and administrative burdens.

Russell E. Train, Chairman

Appendix I

1 Name of Responsible Federal Agency (with name of operating division where appropriate)
2. Name of Action. (Check one) ( ) Administrative Action. ( ) Legislative Action
3. Brief description of action indicating what States (and counties) particularly affected.
4. Summary of environmental impact and adverse environmental effects.
5. A statement of the purpose of the legislation.
6. Dates draft statement and final statement made available to Council on Environmental Quality and Public

APPENDIX II—FEDERAL AGENCIES AND FEDERAL STATE AGENCIES WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT ON VARIOUS TYPES OF ENVIRONMENTAL IMPACTS

Air Quality and Air Pollution Control
Department of Health, Education, and Welfare (Health aspects).
Environmental Protection Agency—Air Pollution Control Office.
Department of the Interior—Bureau of Mines (fossil and gaseous fuel combustion), Bureau of Sport Fisheries and Wildlife (wetlands).
National Aeronautics and Space Administration (remote sensing, aircraft emissions).

River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red-Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.
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DEPARTMENT OF COMMERCE
Office of the Deputy Assistant Secretary for Environmental Affairs, Washington, D.C. 20230, 657-4331.

DEPARTMENT OF DEFENSE
Office of the Assistant Secretary for Defense (Health and Environment), Room 38172, the Pentagon, Washington, D.C. 20301, 697-2111.

DELAWARE RIVER BASIN COMMISSION
Office of the Secretary, P.O. Box 360, Trenton, N.J. 08602, 609-983-9200.

ENVIRONMENTAL PROTECTION AGENCY

FEDERAL POWER COMMISSION

§ Contact the Office of Federal Activities for environmental statements concerning legislation, regulations, national program proposals or other major policy issues.

For all other EPA consultation, contact the Regional Administrator in whose area the program (e.g., highway or water resource construction projects) will take place. The Regional Administrators will coordinate the EPA review. Addresses of the Regional Administrators, and the areas covered by their regions are as follows:


Regional Administrator IV, Suite 300, 1421 Peacotree Street NE, Atlanta, Ga. 30309, 404-526-5737, Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.

Regional Administrator V, 1 North Wacker Drive, Chicago, Ill. 60606, 312-833-8300, Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Regional Administrator VI, 1600 Patterson Street, Suite 1100, Dallas, Tex. 75201, 214-749-1962, Arkansas, Louisiana, New Mexico, Texas, Oklahoma.

Regional Administrator VII, 1715 Baltimore Avenue, Kansas City, Mo. 64104, 816-774-5403, Iowa, Kansas, Missouri, Nebraska.

Regional Administrator VIII, Suite 900, Lincoln, Nebraska Lincoln Street, Denver, Colo. 80203, 303-387-3956, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Regional Administrator IX, 100 California Street, San Francisco, Calif. 94111, 415-556-4763, Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island.


GENERAL SERVICES ADMINISTRATION

GREAT LAKES BASIN COMMISSION
Office of the Chairman, 3475 Summit Road, Ann Arbor, Mich. 48106, 313-765-7431.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Environmental Affairs, Office of the Assistant Secretary for Community and Field Services, Washington, D.C. 20205, 662-5895.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Director, Office of Community and Environmental Standards, room 7206, Washington, D.C. 20410, 755-5977.

MISSOURI RIVER BASIN COMMISSION
Office of the Deputy Assistant Secretary for Programs, Washington, D.C. 20240, 343-6181.

NEW ENGLAND RIVER BASIN COMMISSION
Office of the Chairman, 55 Court Street, Boston, Mass. 02108, 617-223-6244.

NATIONAL CAPITAL PLANNING COMMISSION
Office of the Executive Director, Washington, D.C. 20576, 386-6084.

NEW YORK RIVER BASIN COMMISSION
Office of Assistant Secretary for Economic Affairs, Washington, D.C. 20590, 426-4474.

OFFICE OF ECONOMIC OPPORTUNITY

OHIO RIVER BASIN COMMISSION
Office of the Chairman, 36 East 4th Street, suite 208-20, Cincinnati, Ohio 45202, 513-684-3831.

PACIFIC NORTHWEST RIVER BASIN COMMISSION

SOUTHERN RIVERS COMMISSION
Office of the Chairman, suite 6, 610 Professional Building, Holiday Mall, Mooshead, Maine 04856, 701-227-5227.

SUSQUEHANNA RIVER BASIN COMMISSION
Office of the Water Resources Coordinator, Department of Environmental Resources, 105 South Office Building, Harrisburg, Pa. 17120, 717-777-2312.

TENNESSEE VALLEY AUTHORITY

UPPER MISSISSIPPI RIVER BASIN COMMISSION
Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Washington, D.C. 20260, 343-6442.

WATER RESOURCES COUNCIL
Office of the Associate Director, 3120 L Street NW., suite 800, Washington, D.C. 20007, 204-6442.

APPENDIX III—STATE AND LOCAL AGENCY

Review of Impact Statements

1. OMB Circular A-95 through its system of clearinghouses provides a means for reviewing the adequacy of environmental impact statements, program regulations and procedures and precedent-making project decisions. For all other HUD consultation, contact the HUD Regional Administrator in whose jurisdiction the project lies, as follows:


Regional Administrator II, Environmental Clearance Officer, 26 Federal Plaza, New York, N.Y. 10007, 212-264-6068.


Regional Administrator IV, Environmental Clearance Officer, Peacotree-Seventh Building, Atlanta, Ga. 30323, 404-526-5956.

Regional Administrator V, Environmental Clearance Officer, 300 North Michigan Avenue, Chicago, Ill. 60601, 312-353-5680.

Regional Administrator VI, Environmental Clearance Officer, Federal Office Building, 810 Taylor Street, Fort Worth, Tex. 76102, 817-334-2867.

Regional Administrator VII, Environmental Clearance Officer, Office Building, 810 Taylor Street, Fort Worth, Tex. 76102, 817-334-2867.

Regional Administrator VIII, Environmental Clearance Officer, 911 Walnut Street, Kansas City, Mo. 64106, 816-374-2661.

Regional Administrator IX, Environmental Clearance Officer, Sansom Building, 1051 South Broadway, Denver, Colo. 80209, 303-387-4061.

Regional Administrator X, Environmental Clearance Officer, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, Calif. 94126, 415-563-4755.

Regional Administrator X, Environmental Clearance Officer, room 226, Arcade Plaza Building, Seattle, Wash. 98101, 206-223-5415.
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mental agencies through clearinghouses, in the course of the A-95 review should be attached to the draft impact statement when it is circulated for review. Copies of the statement should be sent to the agencies making such comments. Whether those agencies then elect to comment and again on the basis of the draft statement, and whether the draft statement is not subject to the discretion of the commenting agency depending on its resources, the significance of the project to its resources, the significance of the issues to which it is pertinent, and the earlier comments were considered in preparing the draft statement.

4. The clearinghouses may also be used, by mutual agreement, for securing reviews of the draft environmental impact statement. However, the Federal agency may wish to deal directly with appropriate State or local agencies in the review of impact statements because the clearinghouses may be unwilling or unable to handle this phase of the process. In some cases, the Governor may have designated a specific agency, other than the clearinghouse, for securing reviews of impact statements. In any case, the clearinghouses should be sent copies of the impact statements. The present section 2(c), for example, contains many of the same provisions as State and local comments, draft statements should include copies of State and local agencies' reviews of impact statements. In any case, the clearinghouses should be sent copies of the impact statements.

5. To aid in coordinating State and local reviews, draft statements should include copies of State and local agencies' views of the NEPA process and should indicate on the summary sheet those other agencies from which comments have been requested, and that additional language clarifying the requirements of section 102(2)(C) in the course of the A-95 review should be attached to the draft statement when it is circulated for review. Copies of the statement should be sent to the agencies making such comments. Whether those agencies then elect to comment and again on the basis of the draft statement, and whether the draft statement is not subject to the discretion of the commenting agency depending on its resources, the significance of the project to its resources, the significance of the issues to which it is pertinent, and the earlier comments were considered in preparing the draft statement.

6. The clearinghouses may also be used, by mutual agreement, for securing reviews of the draft environmental impact statement. However, the Federal agency may wish to deal directly with appropriate State or local agencies in the review of impact statements because the clearinghouses may be unwilling or unable to handle this phase of the process. In some cases, the Governor may have designated a specific agency, other than the clearinghouse, for securing reviews of impact statements. In any case, the clearinghouses should be sent copies of the impact statements. The present section 2(c), for example, contains many of the same provisions as State and local comments, draft statements should include copies of State and local agencies' views of the NEPA process and should indicate on the summary sheet those other agencies from which comments have been requested, and that additional language clarifying the requirements of section 102(2)(C) in the course of the A-95 review should be attached to the draft statement when it is circulated for review. Copies of the statement should be sent to the agencies making such comments. Whether those agencies then elect to comment and again on the basis of the draft statement, and whether the draft statement is not subject to the discretion of the commenting agency depending on its resources, the significance of the project to its resources, the significance of the issues to which it is pertinent, and the earlier comments were considered in preparing the draft statement.

7. Procedures for preparing draft EIS's—This is a new section, discussing procedural aspects of preparing draft statements. A new subsection (b) has been added making explicit the basis of the Council's role in the NEPA procedures. The former reference to EPA's implementation of section 309 of the Clean Air Act is replaced with a more general reference to all environmental agencies through clearinghouses, in the course of the A-95 review should be attached to the draft impact statement when it is circulated for review. Copies of the statement should be sent to the agencies making such comments. Whether those agencies then elect to comment and again on the basis of the draft statement, and whether the draft statement is not subject to the discretion of the commenting agency depending on its resources, the significance of the project to its resources, the significance of the issues to which it is pertinent, and the earlier comments were considered in preparing the draft statement.

8. Additional language in the discussion of alternatives (sec. 8(a)(3)), reflects the decision in NRDC v. Morton, 3 ERC 1558 (D.C. Cir. 1972) and Recommendation No. 4 in the CEQ May 16 memo, 3 ER 83-84.

9. Review of draft EIS's—(a) Review by Federal agencies is discussed here, incorporating parts of former section 7 with minor revisions, and adding a discussion of the relationship of section 102(2)(C) to other Federal statutes requiring consultation and coordination. The deletion of the clause in the final language clarifying the act's reference to use of an "interdisciplinary" approach.

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random has been attached to the guidelines as an appendix, thus allowing modification as necessary without necessitating full revision of the CEQ guidelines. This subsection replaces former section 9 of the guidelines.

(d) A new subsection is added discussing arrangements for securing public review of statements. The discussion reflects Recommendation No. 7 of the May 16 memo, 3 ER 86.

(a) This subsection is new, providing general guidance for commenting entities.

(f) The time limits for review have been expanded to 45 days for all commenting entities. Under present guidelines, agencies must allow 45 days for comment by EPA in any event, so that there seems little reason not to make this commenting period uniform.

10. Preparation and circulation of final statements.—(a), (b) These subsections incorporate Recommendation No. 3 of the May 16 memo, 3 ER 84-85.

11. Distribution of statements; minimum periods for review and advance availability.—(a), (b) These subsections include relevant portions of former section 10(b), retaining provisions concerning number of copies to file with CEQ and waiting periods prior to action. Additional language at the end of subsection (b) draws attention to the possibility of amending and recirculating statements, as further discussed in the Council’s “Third Annual Report,” chapter 7, pages 238-239.

(c) This subsection indicates how time periods are to be calculated. The periods for review and advance availability of statements run from the date of receipt of the EIS by CEQ, as per Recommendation No. 7 of the May 16 memo, 3 ER 86.

(d), (e) Substantially unchanged.

(f) This subsection describes in general terms the Council’s role in the EIS process, including the Council’s authority to require agencies to prepare either an EIS or, if the responsible agency has determined an EIS is not required, a publicly available record of the reasons for that determination.

12. Legislative actions.—(a) This general language concerning application of section 102 in the legislative process corresponds to agreements reached between CEQ and OMB last fall after the July agency review sessions to followup the GAO report.

(b) Former section 19(c).

13. Application to existing projects and programs.—This section has been slightly revised to make clear that the act applies to major actions yet to be taken on environmentally significant projects, even though such projects were begun prior to passage of the act. This view is now supported by overwhelming judicial precedent, see, e.g., Jicarilla Apache Tribe v. Morton, 4 ERC 1933 (9th Cir. Jan. 2, 1973); EDF v. TVA, 4 ERC 1850 (6th Cir., Dec. 13, 1972) (Tellico Dam case), and is consistent with the intent of the former section 11 of the CEQ guidelines.

14. Supplementary guidelines and evaluations.—This section is former section 12, with a new sentence in subsection (b) requiring agencies to report on their progress in developing substantive guidance for making environmental assessments.

15. Effective date.—The amended guidelines will apply to all draft and final impact statements filed with the Council more than 60 days after the publication of the revised guidelines in final form.