

TRANSPORTATION COMPANY, P.O.B. G, Greeley, CO 80632. Representative: John T. Wirth, 717 17th St., Ste. 2600, Denver, CO 80202. *Food and related products*, from Larimer Cty., CO to Chicago, IL, Los Angeles, San Francisco and Stockton, CA; Oklahoma City, OK, Kansas City, MO; Omaha, NE; Salt Lake City and West Jordan, UT; and Wichita, KS, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Donoho Beef Co., Inc., 3541 E. Vine Dr., Ft. Collins, CO 80524.

MC 153896 (Sub-6-2TA), filed August 19, 1981. Applicant: LONNIE POWELL, d.b.a. PACIFIC TANK LINES, 825 W. Olympic Blvd., Montebello, CA 90640. Representative: Lonnie Powell (same address as applicant). *Contract Carrier*, Irregular routes: *Lacquers, Paint Resins and related commodities* from Los Angeles, CA and its commercial zone to points in NM and TX for the account McCloskey Varnish for 270 days. Supporting shipper: McCloskey Varnish, 5501 E. Slauson, Commerce, CA 90040.

MC 157770 (Sub-6-1TA), filed August 17, 1981. Applicant: RUBIN SINGH, d.b.a. PALOMINO EXPRESS, P.O. Box 859, Verdi, NV 89439. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract carrier*, irregular routes: *epoxy resin, plastic materials and molding compounding, granules or pellets* from the facilities of Morton Chemicals, a Division of Morton-Norwich Products, Inc., at McHenry County, IL and Milwaukee, WI to Long Beach, Los Angeles, Oakland, San Francisco, San Pedro and Wilmington, CA and Seattle, WA for 270 days under continuing contract(s) with Morton Chemicals. An underlying ETA seeks 120 days authority. Supporting shipper: Morton Chemicals, A Division of Morton-Norwich Products, Inc., 1275 W. Lake Avenue, Woodstock, IL 60098.

MC 157625 (Sub-6-1TA), filed August 21, 1981. Applicant: DEAN M. RETTINGER, d.b.a. RETTINGER RANCH AND TRUCKING, R.R. 2, Box 39, New England, ND 58647. Representative: Renée Rettinger, (same as applicant). *Processed wood* from Billings, MT to New England, ND for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Scenic Construction, New England, ND 58647.

MC 157824 (Sub-6-1TA), filed August 20, 1981. Applicant: SCOTT FREIGHT LINES, INC., 1765 6th Avenue So., Seattle, WA 98134. Representative: Robert G. Gleason, 1127 10th E., Seattle, WA 98102. *General commodities*, between points in WA and OR, for 270 days. Supporting shipper(s): There are nine supporting shippers. Their

statements may be examined at the Regional office listed.

MC 155155 (Sub-6-2TA), filed August 17, 1981. Applicant: E. S. VAN ETEN and LYLE E. VAN ETEN, d.b.a. VAN ETEN TRUCKING, P.O.B. 267, Umatilla, OR 97882. Representative: E. S. Van Eten and Lyle E. Van Eten (same as above). *Contract Carrier*, Regular routes: *Gravel and Sand*, in bulk from Jones Scott pit at Umatilla, OR to the St. Michelle job site at Patterson, WA on Hwy 14 and country roads for 270 days. Supporting shipper: Jones Scott Company, P.O.B. 29, Umatilla, OR 97882.

MC 157706 (Sub-6-1TA), filed August 21, 1981. Applicant: KENNETH LEON and KATHRYN WALKER, P.O. Box 286, Fort Laramie, WY 82212. Representative: Leon and Kathryn Walker (same as above). *Contract Carrier*, Irregular routes: *Limestone*, from Goshen County, WY to points in NE for the account of Holly Sugar Company for 270 days. An underlying E.T.A. seeks 120 authority. Supporting shipper: Holly Sugar Corporation, P.O. Box 1052, Colorado Springs, CO 80901.

MC 112989 (Sub-6-19TA), filed August 13, 1981. Applicant: WEST COAST TRUCK LINES, INC., 85647 Hwy. 99 So., Eugene, OR 97405. Representative: John T. Morgans (same as applicant). *Containers, container closures and container accessories*, from points in CA to points in AZ and NV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Glass Containers Corp., 535 North Gilbert Ave., Fullerton, CA 92634.

MC 142573 (Sub-6-1TA), filed August 20, 1981. Applicant: WORTHEN VAN SERVICE, INC., P.O.B. 2578, Gillette, WY 82716. Representative: Jack B. Wolfe, 1600 Sherman St., #665, Denver, CO 80203. *Contract carrier*, irregular routes: *passengers and their baggage in the same vehicle with passengers*, between points in Red Willow County, NE on the one hand, and, on the other points in Cheyenne, Sherman, Rawlins, Thomas, Decatur, Sheridan, Norton and Phillips Counties, NE and Logan and Washington Counties, CO for the account of Burlington Northern Railroad for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Burlington Northern Railroad, 3700 Globeville Rd, Denver, CO 80216.

Agatha L. Mergenovich,
Secretary.

(FR Doc. 81-25525 Filed 9-1-81; 8:45 am)

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INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO (UNITED STATES SECTION)

Operational Procedures for Implementing Section 102 of the National Environmental Policy Act of 1969, Other Laws Pertaining to Specific Aspects of the Environment and Applicable Executive Orders

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Final Operational Procedures for Implementing Section 102 of the National Environmental Policy Act of 1969, Other Laws Pertaining to Specific Aspects of the Environment and Applicable Executive Orders.

SUMMARY: This document prescribes policies and procedures utilized or to be utilized by the United States Section in implementing Section 102 of the National Environmental Policy Act of 1969, Other Laws Pertaining to Specific Aspects of the Environment and Applicable Executive Orders in the planning, design and construction of treaty projects along the United States and Mexico international boundary and to the United States Section's operation and maintenance activities in connection with treaty projects.

EFFECTIVE DATE: September 2, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Frank P. Fullerton, Legal Adviser, United States Section, International Boundary and Water Commission, United States and Mexico, 4110 Rio Bravo, El Paso, Texas 79902. Telephone: (915) 543-7393—FTS: 572-7393.

SUPPLEMENTARY INFORMATION: On October 28, 1979, the Section published proposed procedures in the Federal Register (44 FRR 61665), governing its procedures for implementing Section 102 of the National Environmental Policy Act of 1969, Other Laws, Pertaining to Specific Aspects of the Environment and Applicable Executive Orders. A 57-day period was provided during which comments were to be received from other federal agencies, state agencies, private businesses, universities, and individuals.

Comments were received only from the Council on Environmental Quality in response to the Federal Register notice containing the proposed procedures. The Council on Environmental Quality suggested revision of §100.3, *Applicability*, to provide that the Section shall comply with the procedures and CEQ regulations except where compliance would be inconsistent

with statutory or Treaty requirements and the deletion of those parts of the procedures inconsistent therewith; certain editing for clarity, consultation with CEQ regarding emergency actions; and provisions should be included for seeking recommendations from the Advisory Council on Historic Preservation. All the above recommendations are incorporated in the final version. Certain typographical errors were corrected as a result of internal United States Section review.

By letter dated August 3, 1981, the General Counsel, Council on Environmental Quality (CEQ) advised the Legal Adviser of the United States Section that the council has determined that the proposed procedures, as revised, address all the section's regulations of the Council required to be addressed by Section 1507.3(b) of the regulations.

Dated: August 24, 1981.

Frank P. Fullerton,

*Legal Adviser, United States Section,
International Boundary and Water
Commission, United States and Mexico.*

100. National Environmental Policy Act

The National Environmental Policy Act of 1969, as amended, (NEPA) (Public Law 91-190, 42 U.S.C.A. 4321); Executive Order No. 11514 (E.O. 11514), Protection and Enhancement of Environmental Quality, dated March 5, 1970; Executive Order No. 11991 (E.O. 11991), Relating to Protection and Enhancement of Environmental Quality, dated May 24, 1977; and the Regulations of the Council on Environmental Quality (CEQ or Council), dated November 29, 1978; provide that environmental considerations are to be given careful attention and appropriate weight in every recommendation or report on proposals for legislation and for other federal actions significantly affecting the quality of the human environment. The requirements of NEPA are to be integrated with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively. The United States Section will hereafter be referred to as the Section.

100.1 Purpose

The Operational Procedures:

a. Prescribe guides to be utilized by the Section to implement NEPA and supplement CEQ Final Regulations for Implementation of NEPA, dated November 29, 1978 (43 FR 55978).

b. Insure commencement of NEPA process by the Section at the earliest possible time, provide for assistance

and consultation to individuals and non-federal entities who plan to take action before involvement of the Section, appropriate state and local agencies, and with interested private persons and organizations.

d. Designate the major decision points for principal programs of the Section.

e. Advise where interested persons may obtain information or status reports on environmental impact statements and other elements of the NEPA process.

f. Identify categorical exclusions.

g. Provide that environmental information is to be made available to the public before decisions are made about actions that significantly affect the human environment.

h. Direct that documents are to concentrate on the issues that are timely and significant to the action in question.

i. Establish early identification of actions that have significant effects on the human environment.

100.2 Policy

The Section's Policy is to:

a. Give proper attention to actions that could impact the environment to enable early and appropriate consideration of such actions on all environmental values, and achieve the purposes and goals of Section 101 of NEPA and provide the means (Section 102) for carrying out the policies of NEPA.

b. Invite early and continued cooperation, where appropriate, from federal, state, local and regional authorities and the public, in the Section's planning and decision-making processes to develop alternatives and measures which will protect, restore or enhance the quality of the environment, and minimize and mitigate unavoidable harmful effects.

c. Recognize the international and long-range character of environmental concerns and, when consistent with the foreign policy of the United States and its own responsibilities, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation, anticipating and preventing a decline in the quality of the world environment.

d. Implementing domestic legislation to the extent practicable without impairing the Section's international mission because the international projects under the jurisdiction of the International Boundary and Water Commission are partly or wholly located within the United States.

100.3 Applicability

The operational Procedures apply to all Section programs and activities to

the maximum extent possible without impairing its international mission. Domestic requirements must not impair the Section's performance of the United States' international obligations with are carried out consistent with the treaties and foreign policy of the United States. The Section shall comply with these procedures and the CEQ regulations except where compliance would be inconsistent with statutory or treaty requirements.

100.4 References

a. *Treaties and International Agreements.* 1. Convention between the United States and Mexico concerning the equitable distribution of the waters of the Rio Grande (T.S. 455, 54 Stat. 2953, signed May 21, 1906, entered into force January 16, 1907).

2. Treaty Between the United States of America and Mexico entitled "Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande" (T.S. 994, 59 Stat. 1219, signed February 3, 1944, entered into force November 8, 1945).

3. Convention Between the United States of America and Mexico entitled "Rectification of the Rio Grande" (T.S. 864, 48 Stat. 1621, signed February 1, 1933, entered into force November 13, 1933).

4. Convention Between the United States of America and the United Mexican States for the Solution of the Problem of the Chamizal (T.S. 5515-15 U.S.T. 21, signed August 29, 1963, entered into force January 14, 1964).

5. Treaty Between the United States of America and the United Mexican States entitled "Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary (TIAS 7313, signed November 23, 1970, entered into force April 18, 1972).

b. *International Agreements.* International projects were constructed in accordance with the provisions of the above-referenced treaties. In addition, the United States and Mexico, through the International Boundary and Water Commission, have constructed international projects in accordance with each of the following agreements.

1. Minute No. 144, "Plans for Final Location of Rectified Channel of the Rio Grande in the El Paso-Juarez Valley," signed June 14, 1934.

2. Minute No. 148, "Allocation of Works for each Government to Undertake on the Rio Grande Rectification Project in Accordance with the Convention of February 1, 1933," signed October 28, 1935.

3. Minute No. 165, "Adoption of Rules and Regulations for the Maintenance and Preservation of the Rio Grande Rectification Project, in the El Paso-Juarez Valley," signed August 13, 1938.

4. Minute No. 174, "Supplemental Construction Work Which Each Government Should Undertake Under the Convention of February 1, 1933 to Preserve the Benefits that Have Been Obtained by Previous Construction on Rio Grande Rectification Project in the El Paso-Juarez Valley," signed March 3, 1942.

5. Minute No. 182, "Approval of Joint Report on Engineering Conference on Studies, Investigations and Procedures for the Planning of Works to be Built in Accordance with the Treaty of February 3, 1944," signed September 23, 1946.

6. Minute No. 187, "Determinations as to Site and Required Capacities of the Lowest Major International Storage Dam to be Built on the Rio Grande, in Accordance with the Provisions of Article 5 of the Treaty Concluded February 3, 1944," signed December 20, 1947.

7. Minute No. 190, "Allocation to the Two Sections of the Commission of Remaining Items of Work Preparatory to Construction of Falcon Dam," signed August 13, 1948.

8. Minute No. 192, "Plans and Procedures for Construction of Falcon Dam and Recommendations for Construction of Falcon Hydroelectric Plants," signed September 7, 1949.

9. The Lower Rio Grande Flood Control Project was approved in an exchange of Notes in 1932 between the two Governments in which each country agreed to a coordinated plan for flood protection and to perform the work within its own territory. Subsequently, additions and modifications to the plan were adopted in the following agreements: Minute No. 212,

"Improvement of the Channel of the Lower Rio Grande," signed December 22, 1961; and Minute No. 238, "Improvement of the International Flood Control Works of the Lower Rio Grande," signed September 10, 1970.

10. The Joint Report of the United States and Mexican Commissioners for a coordinated plan of international flood protection facilities for Nogales, Arizona and Nogales, Sonora, signed on November 22, 1932; was subsequently approved by the two Governments by an exchange of Notes.

11. Minute No. 202, "Bases for Joint Operation and Maintenance of the Falcon Dam and Hydroelectric Plant and for Division of Costs Thereof," signed January 11, 1955.

12. Minute No. 207, "Consideration of Joint Report of the Principal Engineers

on Site, Capacities and Type of Dam for the Second Major International Storage Dam on the Rio Grande," signed June 19, 1958.

13. Minute No. 210, "Recommendations Regarding Construction of Amistad Dam," signed January 12, 1961.

14. Minute No. 215, "Design and procedures for Construction of Amistad Dam," signed September 28, 1963.

15. Minute No. 217, "Clearing of the Colorado River Channel Downstream From Morelos Dam," signed November 30, 1964.

16. Minute No. 220, "Improvement and Expansion of the International Plant for the Treatment of Douglas, Arizona and Agua Prieta, Sonora Sewage," signed July 16, 1965.

17. Minute No. 222, "Emergency Connection of the Sewage System of the City of Tijuana, Baja California to the Metropolitan Sewage System of the City of San Diego, California," signed November 30, 1965.

18. Minute No. 224, "Recommendations Concerning the Lower Rio Grande Salinity Problem," signed January 16, 1967.

19. Minute No. 225, "Channelization of the Tijuana River," signed June 19, 1967.

20. Minute No. 227, "Enlargement of the International Facilities for the Treatment of Nogales, Arizona and Nogales, Sonora Sewage," signed September 5, 1967.

21. Minute No. 235, "Division of Operation and Maintenance Costs of Amistad Dam," signed December 3, 1969.

22. Minute No. 236, "Construction of Works for Channelization of the Tijuana River," signed July 2, 1970.

23. Minute No. 242, "Permanent and Definitive Solution to the International Problem of the Salinity of the Colorado River," signed August 30, 1973.

24. Minute No. 247, "International Plan for the Protection of the Presidio-Ojinaga Valley Against Floods of the Rio Grande," signed February 7, 1975.

25. Minute No. 258, "Modification of the United States Portion of the Plan for the Channelization of the Tijuana River," signed May 27, 1977.

26. Minute No. 262, "Recommendations for Works to Preserve for the Rio Grande its Character as the International Boundary in the Reach from Cajoncitos, Chihuahua to Haciendita, Texas," signed December 26, 1978.

c. Laws. 1. National Environmental Policy Act of 1969, as amended, 42 U.S.C.A. 4321.

2. Fish and Wildlife Coordination Act, 16 U.S.C.A. 661.

3. Endangered Species Act Amendments of 1978, 16 U.S.C.A. 1531.

4. National Historic Preservation Act of 1966, 16 U.S.C.A. 470 *et seq.*

5. Archeological and Historic Preservation Act of 1974, 16 U.S.C.A. 469a-1.

6. Archeological Resources Protection Act of 1979, 16 U.S.C.A. 470aa.

7. Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C.A. 1251.

8. Clean Water Act of 1977, 33 U.S.C.A. 1251 *et seq.*

9. The Clean Air Act Amendments of 1977, 42 U.S.C.A. 7401 *et seq.*

10. Safe Drinking Water Act, 42 U.S.C.A. 300f *et seq.*

11. Coastal Zone Management Act Amendments of 1976, 16 U.S.C.A. 1451 *et seq.*

12. Estuary Protection Act, 16 U.S.C.A. 1221 *et seq.*

13. Federal Water Project Recreation Act, 16 U.S.C.A. 4601-12 *et seq.*

14. Wild and Scenic Rivers Act, 16 U.S.C.A. 1271 *et seq.*

15. Resource Conservation and Recovery Act of 1976, 42 U.S.C.A. 6901 *et seq.*

16. Watershed Protection and Flood Prevention Act, 16 U.S.C.A. 1001 *et seq.*

17. River and Harbor Act of 1899, as amended, 33 U.S.C.A. 401 *et seq.*

18. Rio Grande Bank Protection Act, Public Law 40, 59 Stat. 89; Act of April 25, 1945.

d. Executive Orders. 1. Executive Order No. 11514, "Protection and Enhancement of Environmental Quality," March 5, 1970; 35 FR 4247.

2. Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," May 13, 1971; 36 FR 8921.

3. Executive Order No. 11752, "Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities," December 17, 1973; 38 FR 34793.

4. Executive Order No. 11988, "Floodplain Management," May 24, 1977; 42 FR 26951.

5. Executive Order No. 11990, "Protection of Wetlands," May 24 1977; 42 FR 26961.

6. Executive Order No. 11991, "Relating to Protection and Enhancement of Environmental Quality," May 24, 1977; 42 FR 26967.

7. Executive Order No. 12114, "Environmental Effects Abroad of Major Federal Actions," January 4, 1979; 44 FR 1957.

e. Regulation. Council on Environmental Quality: "National Environmental Policy Act, Implementation of Procedural

Provisions; Final Regulations," dated November 29, 1978; 43 FR 55978.

100.5 Responsibilities Within the Section

a. *Chief, Planning and Report Branch.* The Chief, Planning and Reports Branch, under the supervision of the Principal Engineer, Investigations and Planning Division, is designated as the responsible official within the meaning of Section 102 of NEPA and is responsible for the preparation and the processing of environmental assessments, environmental impact statements (EIS) (draft and final), and memorandums in implementing the requirements of the Act. For each proposed action, he will submit through the Principal Engineer to the Commissioner, Head of the Agency, an outline of the environmental actions to be taken including analyses and the coordination and consultation with other agencies, groups and individuals. When it is appropriate to obtain supplemental information in evaluating the environmental impact of a proposed action, he will solicit information from within the Section, other government agencies (federal, state and local) with jurisdiction by law or special expertise with respect to any environmental impact involved, and interested individuals, associations or groups.

Chief, Planning and Reports Branch, will draft and obtain Section approval of all notices to be published in the Federal Register except when another agency or agencies act as agent for the Section.

In the case of an agency or agencies acting as agent for the Section in the design and construction of a project (as distinguished from merely preparing an EIS for the Section's use) that agent will prepare, distribute, and coordinate the review of the EIS according to established procedures, except that the formal transmittal of the EIS to the Department of State and to EPA (as representing CEQ) will be by the Commissioner. The agent has the responsibility to confer with the Section through the agency's responsible official and to keep it fully informed.

Persons interested in obtaining information of status reports on EIS and other elements of the NEPA process should address their requests to: Chief, Planning and Reports Branch, United States Section, International Boundary and Water Commission, 4110 Rio Bravo, El Paso, Texas 79902.

b. *Principal Engineer, Investigations and Planning Division.* In addition to responsibilities under subparagraph a. above, the Principal Engineer, Investigations and planning Division, will assure review is made of studies

and analyses to insure the professional and scientific integrity of discussion, analyses and conclusions in the environmental documents, and that an interdisciplinary approach has been used in the evaluations.

The Principal Engineer will also be responsible for consultation with the Fish and Wildlife Service on mitigation and/or enhancement measures, the Advisory Council on Historic preservation regarding recommendations concerning historical properties and the transmittal to agencies, associations and individuals of draft statements.

c. *Secretary.* The Secretary will be responsible for providing policy guidance on the international aspects of proposals, inputs to the environmental documents pertaining to international consideration, including treaties and agreements, and review of draft environmental documents for international considerations.

d. *Legal Adviser.* The Legal Adviser shall provide staff advice concerning legislative actions covered by NEPA, interpretations of NEPA and other acts, executive orders, regulations, and all legal requirements pertaining to environmental actions.

When uncertainty exists within the Section as to the requirement in a specific case for preparing an environmental assessment or an EIS, the Legal Adviser will initiate consultations with the Office of Environment and Health (OES/ENH—Department of State), and follow through to a final determination. In every case where the Section determines from an environmental assessment that an EIS is not required, the Legal Adviser shall so inform OES/ENH.

The Legal Adviser will approve and be responsible for the publication of the necessary notices in the Federal Register.

100.6 Categories of Environmental Actions

a. *Categorical Exclusions.* Some Section program or activities, or parts thereof, do not normally create significant or cumulative impacts and therefore will not be considered a major federal action significantly affecting the quality of the human environment for the purposes of NEPA. For example, the following general classes of actions ordinarily do not require the preparation of an environmental assessment or an EIS.

1. Normal Section housekeeping functions (procedural, ministerial, internal) including, but not limited to, personnel actions, procurement for

general supplies, contract for personal services.

2. Reports or recommendations on legislation not initiated by the Section.

3. Legislative proposals that only request appropriations.

4. Participation in research or study projects which do not cause significant environmental impacts.

5. Actions specifically required under any treaty or international agreement, or pursuant thereto, to which the United States is a party, or required by the decision of international organizations (including courts), authorities or consultations in which the United States is a member or participant.

6. Mapping and surveying activities.

7. Stream gaging and sampling, routine hydrologic test drilling, well logging, aquifer response testing, and similar data-gathering activities in connection with water resources investigations.

8. Leases of government land for grazing and agricultural purposes.

9. Emergency actions after consultation with CEQ.

10. Recreational leases to any city, county, state or federal agency.

11. Leases of licenses regarding buried utilities, including gas, water and sewer pipelines, and telephone cables, irrigation drains, and storm sewers, sanitary sewers discharging treated effluent, telephone and electric power poles and lines, irrigation pumps, drain structures and ditches, fences, roads, highways and bridges, water wells, boat docks and boat launching facilities.

12. Temporary or single-time permit of project facilities.

13. Any actions or works for which an EIS or environmental assessment has been submitted and filed by others.

In an extraordinary circumstance, as determined by the Commissioner, in which a normally excluded action may have a significant environmental effect, an environmental assessment will be prepared.

b. *Criteria for Environmental Assessments.* An environmental assessment will be prepared for any proposed action which is not categorically excluded, or when there is not sufficient information to indicate whether the preparation of an EIS should be initiated. The environmental assessment will describe the proposed action, the need for the action, alternatives to the proposed action, discussion of the extent of impacts, if any, of the proposed action and alternatives, a summary of the agencies and persons consulted and the view of each, and conclude with a supported recommendation of whether to prepare

an EIS or a finding of no significant impact.

c. *Criteria for Environmental Impact Statements.* An EIS will be prepared when the proposed action is a "major Federal" action which involves the quality of the human environment, either by directly affecting human beings or by indirectly affecting human beings through adverse effects on the environment and are not listed as categorical exclusions. The following criteria will be employed in deciding whether a proposed action requires the preparation of an EIS.

1. "Major actions," defined by these operational procedures include, but are not limited to:

(a) Projects and activities, existing and proposed, that are part of treaties or other international commitments which significantly affect the quality of the human environment in the United States and to which domestic requirements may be applied without impairing the international obligations of the United States.

(b) Recommendations or reports to the Congress, or to others, for legislation authorizing a project or affecting existing projects, except for emergency measures.

(c) Initiation of construction or land acquisition on projects which are not yet started for which funds have been appropriated or are provided by an Appropriation Act.

(d) Budget submissions requesting funds for the initiation of construction or land acquisition on authorized projects.

(e) Policy and procedure making, especially proposed actions which are highly controversial.

2. The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated) and reasonable alternatives thereto, including those not within the authority of the Section. Such actions may be localized in their impact, but if there is potential that the quality of the human environment may be significantly affected, an EIS is to be prepared.

Proposed action, the environmental impact of which is likely to be highly controversial or where unresolved conflicts concerning alternative use of available resources exist, shall be covered by an EIS. In considering what constitutes a "major Federal action significantly affecting the quality of the human environment," the Section personnel will 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 can occur when one or more agencies over a period of years, put into a project, individually minor, but collectively major resources, when one decision involving 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 federal action. The lead agency shall prepare an EIS if it is reasonable to anticipate a cumulatively significant effect on the quality of the human environment from the federal action.

3. Section 101(b) of NEPA indicates the broad ranges of aspects of the environment to be surveyed in any assessment of significant effect. NEPA also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment or 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, an agency believes that the effect will be beneficial. Significant adverse effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human being through adverse effects on the environment.

Careful attention will be given to identifying and defining the purpose and scope of the action which would most appropriately serve as the subject of the EIS. In many cases, broad program statements will be required to assess the environmental effects of a number of individual actions on a given geographical area, or environmental impacts that are common to a series of agency actions, or the overall impact of a large-scale program or chain of contemplated projects. Subsequent EIS on major individual actions will be necessary where such actions have significant environmental impacts not adequately evaluated in the program statement.

d. *Criteria for Supplemental Statements.* A supplement may be prepared to either a draft or final EIS if the Section determines that:

1. The proposed action has been significantly changed to involve environmental concerns; or

2. New environmental concerns are found which had not been covered in the previously circulated document; or

3. One or more additional alternatives should be discussed; or

4. The purposes of NEPA will be furthered by doing so.

100.7 Procedures

a. *Categorical Exclusions.* An environmental memorandum will be prepared which includes a description of the proposed action, and a finding that the action is categorically excluded and no further environmental action is needed to comply with NEPA, executive orders, regulations and other acts. This memorandum shall be referenced in decision documents.

b. *Environmental Assessments.*—1. *Proposed Action and Alternatives.* The possible environmental effects of a proposed action must be considered along with technical, economic and other factors, in the earliest planning. At this stage, the responsible official shall take the necessary steps to comply with the requirements of NEPA by the preparation of an environmental assessment. The assessment, to be meaningful for review and decision, will provide a concise description of the proposed action, need for action, and alternatives to be considered. The assessment will be prepared using an interdisciplinary approach, with the discipline of the preparers appropriate to the environmental impacts of the proposed action and alternatives to be considered.

2. *Environmental Impacts.* The assessment is to be brief, yet provide sufficient evidence of environmental impacts to determine whether to prepare an EIS. It shall include an appraisal of environmental effects, good and bad, if any, of the proposed action and the alternatives. In no case will adverse effects, either real or potential be ignored or slighted. Similarly, care must be taken to avoid overstating favorable effects, unless a categorical exclusion applies. The National Register of Historic Places will be consulted and notation made whether National Register properties or properties eligible for listing in the Register will be affected by the proposed action and whether historical or archeological resources would be affected.

If the Chief, Planning and Reports Branch, determines, as a result of cultural resources investigations and coordination that there will be an effect on sites included in or determined by the Secretary of the Interior as being eligible for inclusion in the National Register, he will provide the Advisory Council on Historic Preservation an opportunity to comment on the matter. Any comments provided by the Advisory Council will be considered by the Chief, Planning and Reports Branch,

when he takes into account the effect of the project or other undertaking on any property included in or eligible for inclusion in the National Register. Section 106 of the National Historic Preservation Act states that the Advisory Council for Historic Preservation will have an opportunity to comment on any proposed federal undertaking which will affect a historic property which is listed or is eligible for listing in the National Register of Historic Places.

The assessment will note the result of the review of the lists of historic properties designated or proposed for designation, of the endangered species in the area, and have a sufficient basis to state the impact the proposed action will have on the historic properties, the endangered species or habitat critical to the continuation of these species. Discussion will be included in connection with the existing federal, state or local legislation action program or study on which the proposed action would have an effect.

3. Consultation with Agencies and Individuals. After preparing the draft description of the proposed action and alternatives, representatives of appropriate federal, state and local legislative agencies, conservation associations and individuals in the area will be consulted to obtain their views, comments, and suggestions on the effects, if any, of the proposed action and alternatives. The extent of these consultations will vary with the type and subject matter of the action being considered, with consideration being given to consultation on most matters with the Environmental Protection Agency, Fish and Wildlife Service, State Fish and Wildlife Agency, State Historical Preservation Officer and the regional council of governments or planning council. Individuals and environmental associations who have expressed an interest in specific areas or subjects will be contacted for their comments. The assessment will list the agencies and individuals consulted and summarize their views.

4. Finding of No Significant Impact. When an environmental assessment concludes the proposed action will not have a significant effect on the human environment, a draft "Finding of No Significant Impact" shall accompany the assessment through the Section's internal review process. The draft finding shall include a description of the proposed action and the alternatives considered, shall state an assessment has been made and the findings thereof, and the name and address of the person from whom additional information can

be obtained. The finding shall be circulated for comments to agencies, associations and individuals in the general area, or who have expressed an interest in the proposed action, with at least thirty (30) days allowed for comments, and be published in the Federal Register.

5. Recommendation. Findings in the environmental assessment, supported by the information obtained from various sources, will be summarized and lead to the recommendation that the Section:

(a) Prepare a finding of no significant impact, or

(b) Prepare an EIS.

The internal routing memorandum for Section review of the assessment will describe what further actions, if any, are necessary under other acts, regulations and executive orders, and recommend actions to accomplish such actions. As appropriate to the recommendation in the assessment, one of the following will accompany the assessment:

(a) A draft finding of no significant impact, including a mailing list for the finding.

(b) For the initiation of a draft EIS:

(1) A draft notice of intent to prepare an EIS.

(2) A mailing list for the notice.

(3) A draft letter inviting participation in a meeting for determining the scope of the EIS; and

(4) A list of individuals, associations and agencies to invite to participate in the scoping.

6. Circulation. After internal Section approval of the assessment one of the following two procedures will be adopted:

a. The finding of no significant impact shall be published in the Federal Register and mailed to federal, state and local agencies, conservation associations and individuals, and include the sentence, "An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within thirty (30) days of the date of this Notice."

b. A Notice of Intent to Prepare an Environmental Impact Statement will be circulated to federal, state and local agencies, conservation associations and individuals, be published in the Federal Register and sent to news media. This notice should describe the proposed action and include an invitation to federal, state and local agencies, conservation associations and individuals to participate in the scoping of the studies to be done.

c. Environmental Impact Statement.

The EIS process will usually have the following major stages, with some

variations depending upon the nature and extent of the proposed action:

(1) Defining the environmental studies to be done;

(2) Performing the studies;

(3) Concurrent action under other laws and executive orders;

(4) Assessing the impacts;

(5) Writing the draft EIS;

(6) Circulating the draft EIS; and

(7) Preparation of and circulation of the final EIS.

(1) *Defining the Environmental Studies to be Done.* CEQ Regulation 1501.7 describes the purpose and extent of the scoping process, and Regulation 1508.25 defines the scope and the range of actions, alternatives and impacts to be considered in an EIS. In scoping the Section will:

(1) Identify and categorize significant environmental issues so that an analytical EIS can be prepared that will reduce paperwork and avoid delay.

(b) Arrange "Scoping meeting" with federal, state or local agencies that have special expertise or legal jurisdiction concerning resource values that may be significantly affected. The meeting will identify agencies that may become cooperating agencies.

(c) Determine and define the range of actions, alternatives and impacts to be included in the EIS. Tiering may be used to define the relation of the proposed EIS to other statements.

(d) Schedule periodic meetings of the cooperating agencies which are to be held at important decisionmaking points to provide timely interagency interdisciplinary participation.

(e) Include the items listed in Section 1501.7(a) of the CEQ Regulation dated November 29, 1978, and may also include any of the activities in Section 1501.7(b).

(f) Promote public participation by making timely notifications. The objective of the scoping process is to determine the significant issues to be analyzed in depth in the EIS, to eliminate from detailed study the issues which are not significant, and to narrow the discussion of these issues in the EIS to a brief presentation of why they do not have a significant impact.

Where appropriate and possible, a field examination of the area of the proposed action should be made in conjunction with the scoping meeting. The invitation to participate in the scoping meeting should include a description of the proposed action and the alternatives to be considered.

The time schedule for the studies will be established, the preparation of the draft EIS will be initiated at or immediately following the scoping

meeting, consistent with Regulation 1501.8, and agreement will be reached between the Section and cooperating agencies on the details of assignments and the time schedule for completing the assignments. In drafting the time schedule, consideration will be given to having periodic meetings between representatives of the Section, other interested agencies, associations and individuals to discuss the results being obtained and to receive further input on the studies.

A federal agency which has jurisdiction by law regarding a specific aspect of the environment shall be a cooperating agency. In addition, any other federal agency which has special expertise with respect to any environmental issue which should be addressed in the EIS may be a cooperating agency upon request of the Section while acting as the lead agency.

The Section will request the participation of each cooperating agency at the earliest possible time and in advance of the initial scoping meeting.

The extent of participation desired from each cooperating agency will be described by the Section in accordance with CEQ Regulation 1501.6.

The Section's staff will make diligent efforts to involve the public in implementing its NEPA procedures in accordance with CEQ Regulation 1506.6. Notices of public meetings and of the availability of environmental documents will be sent to interested conservation associations, individuals, and to the news media. The notices of public meetings will include requests for information from the public and encourage their participations. The notices will also provide a clear description of the proposed action and the alternatives being considered so the public can provide meaningful information and data contributions. Additional meetings with the public may be scheduled at intervals during the planning stage to provide additional opportunities for public participation in the environmental considerations. The Section's responsible official shall maintain lists of agencies, associations and individuals to whom notices will be provided.

(2) *Performing the Studies.*

Environmental studies to provide basic information and to forecast changes under proposed conditions will be performed by professionally competent personnel using generally recognized and accepted scientific methods. The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process. Studies may be performed by the staff, by consultants, including university

personnel, and by federal, state or local agencies. Staff studies will be scheduled with the approval of the Principal Engineer, Investigations and Planning Division. The scope of studies to be performed by consultants and agencies and the agencies or consultants to perform the studies will be recommended to the Commissioner by the Principal Engineer, Investigations and Planning Division. The Section's responsible official will be the Section's representative in monitoring studies being performed for it, and be responsible for review of the draft reports of the studies.

(3) *Concurrent Action Under Other Laws, Regulations and Executive Orders.* During planning and environmental studies, the responsible official will take all appropriate actions to assure that there will be concurrent consideration of the requirements established in other laws, regulations and in executive orders, as stated in CEQ Regulation 1502.25 and by these operational procedures. This concurrent consideration will be documented and summarized in the draft EIS.

(4) *Assessing the Impacts.* Interdisciplinary evaluations will be made of the proposed actions and alternatives considered, and will include comparison between the proposed action and the no-action alternative. Evaluations will give emphasis to the significant issues selected in the scoping process for in-depth analysis. For evaluations of proposed projects, the analyses shall consider separately the impacts from initial construction, and from the operation and maintenance. The evaluations shall be objective appraisals of the effects, good and bad, and where possible, include the benefit to cost ratios of the alternatives or the differences in annual costs. In no case will adverse effects, either real or potential, be ignored or slighted in an attempt to justify a proposed action. Similarly care must be taken to avoid overstating favorable effects.

Impacts should be quantified where possible, and described and compared qualitatively where it is not possible to quantify impacts. The comparisons should describe the impacts of alternatives in terms and with understandable illustrations so that the severity or mildness of the adverse or beneficial impacts is clear.

Evaluations should provide responses to the five points in NEPA and the international considerations and, as appropriate, the engineering, hydraulic and hydrologic, social and economic, and the ecological consequences of the alternatives. The engineering analyses

shall include a comparison of initial and annual energy requirements.

The reports of investigations and of the analyses of impacts should contain a description of the methodology used and make explicit reference to the scientific and other sources relied upon. Methods which are in general use can be referenced by name and publication citation, while new or relatively unknown methods should be described.

Analyses shall include the requirements for mitigation, if needed, for proposed action and each alternative, in accordance with CEQ Regulations 1502.14(f), 1502.16(h), 1503.3(d), 1505.2(c), 1505.3 and 1508.20. The methodology used in determining mitigation needs shall be described in a supporting memorandum. Mitigation may include a monitoring and/or enforcement program where such is applicable.

(5) *Writing the Draft Statement.* The EIS shall be written in plain language and make use of appropriate illustrations so that the public can readily understand its contents, meaning and application and the effect of the proposed project. The preliminary draft EIS shall be prepared minimizing the use of technical terms and shall be rewritten or edited to assure clarity. The edited draft shall be given a thorough review by qualified personnel to assure its accuracy. The statement length shall be limited to not more than 150 pages, and the appended material (appendix) limited to not more than 150 pages.

The format shall follow that described in CEQ Regulations 1502.10 through 1502.18. The focus of the EIS should be on the alternatives including the proposed action, the affected environmental and the environmental consequences. The EIS will be analytic and be directed to the significant issues determined during the scoping process while avoiding unnecessary detail. The affected environment will be described only in sufficient detail for the reviewer to understand the alternatives and consequences. Where possible, photographs which assist in understanding important topics will be used. Extraneous data and information should be omitted from the statement and be included in the investigation's supporting information file or record.

The EIS will cover the five points in NEPA: primary and secondary impacts; impacts on environmental resources of national or regional significance when the impact extends beyond the immediate area; and discuss the significant relationships between the proposal and other existing, authorized or proposed developments. A section

will be included describing the scoping, coordination and consultation procedures; the views including objections raised by other agencies, interested individuals, associations and groups; and the disposition of these issues.

The EIS shall state which of the alternatives the Section considers to be (1) its preferred alternative, and (2) the environmentally preferred alternative; and the reasons for the selection of each.

Where international consequences of the proposed action are a significant factor, the preliminary draft EIS shall be provided to the Department of State for its consideration and comment.

The approach to preparing the appendix shall be to limit its length and include only that information which is required in the CEQ Regulations and relevant to the decision to be made. Other information shall be included in supporting reports which will be prepared in limited number and be provided to libraries and specific agencies for the convenience of the public when reviewing the EIS. The appendix shall include the list of preparers, the list of supporting reports, the list of agencies, organizations and persons to whom copies of the statement are sent, the listing of references, bibliography, a summary of the scoping meeting(s), tables, photographs, and exhibits. Generally correspondence, reports and methodology will be included where appropriate as supporting reports, but a particularly relevant letter, such as the Fish and Wildlife Service advice on endangered species, may be included in the appendix.

(6) *Circulating the Draft Statement.* The draft EIS shall be circulated in accordance with CEQ Regulations 1502.19 and 1503.1, with five copies sent to the Environmental Protection Agency, Washington, D.C. which acts as the reviewer for CEQ. A notice of availability of the EIS shall be published in the Federal Register and information furnished to news media should include a description of the proposed action and alternatives considered, the environmental consequences, the coordination and consultation procedure, and prior public meetings. The letter transmitting the draft EIS should include the date and place for a public meeting on the draft EIS, if such a meeting is planned. This information will also be furnished to the news media.

The letter of transmittal shall specify the date when comments are requested, and unless prior approval has been obtained from the CEQ for a shorter

time, at least forty-five days will be allowed for the receipt of comments.

The draft EIS shall be transmitted by the Commissioner or his designee to the United States Department of State and with their concurrence to the Environmental Protection Agency.

For international undertakings the United States Commissioner shall consult with the Mexican Commissioner and provide him a copy of the draft EIS at the time he deems appropriate for consideration by Mexico and submittal of such views and comments as it may desire to provide.

(7) *The Final Statement.* The final EIS shall be prepared in accordance with CEQ Regulations 1502.9(b) and 1503.4.

In instances where only minor comments are received, the final EIS may take the form of a description of comments received, the changes made to the text of the draft EIS, the change, if any, in the conclusions as a result of the comments and copies of the significant comments received.

For clarity or where the comments raise significant questions or issues, the Section may prepare the final EIS as a revision of the draft EIS, making such changes and additions as are determined appropriate to accurately reflect the pertinent comments received.

The final EIS shall contain a discussion of the pertinent comments received and the actions taken by the Section in response to the comments.

The final EIS will be circulated by providing copies to Environmental Protection Agency and to each agency, organization and individual who provided comments on the draft EIS. A notice of the availability of the final statement shall be published in the Federal Register and information furnished to news media on the availability of the final EIS.

d. *Supplemental Environmental Impact Statements.* The supplemental EIS will be prepared, circulated and filed in the same manner as a draft EIS except that the scoping process may be omitted.

(1) When a supplemental is issued to a draft EIS:

(a) Combined comments should be requested on the original draft, plus the supplement; and

(b) The final EIS should be issued as a new document covering the draft EIS as amended by the supplement and as a result of the comments received on the combined draft and supplement EIS.

(2) When a supplement is issued to a final EIS:

(a) Combined comments should be requested on the previously circulated final EIS, plus the supplement; and

(b) A revised final EIS shall be issued and include a discussion of the comments received on the combined EIS, and the responses made to these comments. If the supplement considers alternatives not previously considered or considers significant impacts not covered in the first EIS, the revised final EIS should reflect that the agency has reconsidered its preferred alternative and provide further discussion, as appropriate, for its selection of the preferred alternative.

e. *Exceptions.* The nature of negotiations and relations at the international level may make it necessary to depart in some instances from the procedures in the CEQ Regulations. CEQ foresaw the need for such departures in its Regulation 1507.3(c). Exceptions applicable to the Section are set forth below.

(1) The environmental documents which are written to comply with NEPA should not normally include any classified or administratively controlled material nor should they normally include statements with respect to positions other than the preferred position of the United States in any ensuing negotiation or discussion. Although environmental documents should, whenever possible, be unclassified and hence available to the public, there may be situations where such documents cannot adequately discuss environmental effects without disclosure of classified information. In these instances the EIS will be appropriately classified. Whenever possible, the classification should terminate on a specified date or upon the happening of a described event. Such EIS, so long as it is classified, will not be made available to the public. Consultation will be carried on with appropriate agencies on classified matters.

(2) Since final EIS may not be available until the conclusion of negotiations for an agreement or of a discussion, the 30-day time delay between submission of such a document and final federal action set out in CEQ Regulation 1506.10(b)(2) will not apply to actions taken in these situations. Every attempt will be made to comply with the 90-day period which Regulation 1506.10(b)(1) requires between submission of the draft EIS and final EIS, with the draft EIS circulation being limited to appropriate agencies. Where schedules of international conferences make this impossible, the Section will notify CEQ as soon as possible of the circumstances with the purpose of fulfilling the intent of NEPA insofar as possible.

(3) In certain exceptional instances it may be necessary to reduce the 45-day period for agency comments set out in CEQ Regulation 1506.10(c). When this is the case, all agencies to whom the draft EIS has been sent will be informed by the Section of the reduced time period. The reduced time period must also be included in the public notice published in the Federal Register.

(4) From time to time there will arise good and valid reasons for a deviation from these procedures. The procedures are not intended to be a substitute for sound professional judgment. Accordingly, if and as problems arise which justify a deviation, the proposed deviation and supporting rationale shall be forwarded to the United States Commissioner.

(5) Section 2(b) of Executive Order 11514 and CEQ Regulation 1506.6 establish requirements for providing public information on federal actions and impact statements, and envisions extensive use of public hearings. Public hearings will be utilized by the Section only upon a determination by the head of the Section (United States Commissioner) that the requirements of carrying on international relations, including the constraints of time and the posture of the United States in negotiations allow such hearings to be carried out without prejudice to the national interests.

(6) In those instances wherein the draft and/or final EIS is submitted to the Department of State (OES/ENH) for concurrence before distribution outside the Section, the Department has agreed to make its comments within thirty (30) days of receipt of an EIS from the Section.

f. Decision Documents. Environmental documents shall upon completion be made available to decision makers at each decision point.

At the time of the decision or, if appropriate, its recommendation to the Congress, a concise public record of decision shall be prepared in accordance with CEQ Regulation 1505.2 and shall:

- (1) State what the decision was;
- (2) Identify all alternatives considered and specify the Section's preferred alternative and the environmentally preferred alternative;
- (3) Identify and discuss the factors leading to the decision including international consideration, national policy, economic and technical factors, and the Section's statutory mission; and
- (4) Describe mitigation measures which are being included if the proposed action adversely impacts the environment.

No administrative action, to the maximum extent possible, is to be taken sooner than ninety (90) days after a draft EIS has been furnished to and received by the Environmental Protection Agency for CEQ, circulated for comment and, except where advance public disclosure will result in significantly increased cost of procurement to the Government, made available to the public. Further, no administrative action should be taken sooner than thirty (30) days after the final EIS, together with comments, has been received by the Environmental Protection Agency and made available to the public. In the event the final EIS is filed within ninety (90) days after a draft EIS has been circulated for comment, received by the Environmental Protection Agency and made public pursuant to these procedures, the thirty (30) day period and ninety (90) day period may run concurrently to the extent that they overlap. The time periods shall be computed from the date the Environmental Protection Agency publishes in the Federal Register that the EIS has been received and is available for public comment.

g. Actions Planned by Private Applicants. Actions planned by a private applicant or non-federal entities prior to or concurrent with the initiation of the Section's studies, or involving an existing project shall be handled in the following manner in accordance with CEQ Regulations 1501.2(d)(1), 1501.4(b), 1501.8(a), 1502.19(b), 1503.1(a)(3), 1506.1(d), 1506.5(a) and 1506.5(b):

(1) The potential applicant shall be advised by letter of the action being studied by the Section and that information pertaining to the studies is available and that the policies and types of information which may be required of a future applicant can be obtained from the Section's responsible official;

(2) Applicants shall be requested to participate in the Section's scoping process and any subsequent meetings;

(3) The Section shall provide time limits for processing the application if the applicant requests them;

(4) Copies of environmental documents prepared by the Section will be furnished to the applicant with a request for comments;

(5) The applicant will be informed of the results of studies conducted by the Section as to whether development by applicants of plans or designs or performance of other work necessary to support an application for federal, state or local permits or assistance is appropriate;

(6) The Section will assist the applicant by outlining the types of

information required for either an environmental assessment or an EIS;

(7) The Section will review any assessment or EIS prepared by a private applicant or a non-federal entity to verify its accuracy and shall make its own evaluation of the environmental document.

100.8 Definition of Key Terms

The definition contained within CEQ Regulations, Part 1508, apply to these Procedures.

100.9 Budget Process

The requirement of NEPA, Water Quality Improvement Act, Executive Order No. 11514, applicable Regulations and Office of Management and Budget Bulletin No. 72-6, shall be met through the Section's budget process to the maximum extent practicable. The following requirements of the budget process will be met:

a. Legislation. This Section is responsible for identifying those of its legislative proposals, or favorable reports on bills on which it is the principal agency concerned, that would require the preparation of the EIS and receipt of the comments required under Section 102 of NEPA. When there is doubt as to which is the principal agency concerned the Legal Adviser shall consult with the Office of Management and Budget's Legislative Reference Division.

The proposed Section 102(2) EIS and the required comments shall accompany legislative proposals and reports when these are sent to the Office of Management and Budget for clearance. Copies of this material shall have been previously furnished directly to the CEQ for its information. As a part of the normal clearance process, the Office of Management and Budget will circulate the proposed statements along with the proposals or reports to appropriate federal agencies and will consult with CEQ. In certain cases the clearance process may disclose the need for a Section 102(2)(C) EIS where none has been prepared. In this event the Office of Management and Budget will request the Section to develop and submit an EIS.

After differences, if any, with other agencies over the legislative proposals or report have been resolved and after the legislative proposal or report has been cleared by the Office of Management and Budget, the final EIS and comments shall accompany the proposal or report to the Congress as supporting material.

b. Annual Budget Estimates. In the event the Section has major program

actions which significantly affect the quality of the human environment, annual budget estimates shall be accompanied by a special summary statement explaining generally the environmental impact expected to result from those activities and programs for which it is not possible to make an assessment of the potential impact on specific areas of the environment. Special summary statements shall include relevant information about general environmental problems that may be caused by proposed actions but which still must be assessed as plans for programs and activities are further refined. The special summary statement shall also include the following information by appropriation or fund account:

1. *Action, project or activity.* Identify the agency actions and individual projects and activities and the amounts of funds involved that are considered subject to Section 102(2)(C). Where the action is a part of a larger activity, identify only the project or action subject to Section 102(2)(C) and the amount involved.

2. *Final EIS completed.* If there are significant unresolved issues with other agencies, include a copy of the EIS with the submission to the Office of Management and Budget.

3. *EIS being prepared.* Give the status (e.g.—awaiting comments from interested parties) and estimated completion date.

If the Section prepares an EIS for any of its authorizing legislation it shall submit the EIS in lieu of a special summary statement required by paragraph b. above, except that the information required for the special summary exhibit shall be submitted along with the EIS. Copies of the special summary statement or the EIS (accompanied by information for the special summary exhibit) shall be furnished directly to the CEQ.

100.10 Lease, License, and Permit Applications

Lease, license and permit applications except for those types of leases and licenses which were previously enumerated as Categorical Exclusions, will be coordinated with federal, state and local agencies which are authorized to develop and enforce environmental standards. (Comments from such agencies or from the Section will be presented to the applicant who will be given the opportunity to modify the application so as to remove the cause, if any, for an agency's objection that there will be a significant effect on the quality of the human environment.

The applicant may be required to develop at the applicant's expense the necessary environmental assessment as may be required by the Section, in addition to any information the applicant may wish to furnish in order to demonstrate that granting of the lease, license or permit is in the public interest. A summary of the information on which the EIS is based will be furnished to the public in the notice of public hearing and at the hearing if one is held. In the event an applicant does not take action to remove an objection, the Section will prepare the assessment or EIS required by Section 102(2)(C) of NEPA at the applicant's expense.

The applicant may propose mitigation measures to offset the ecological impacts of the proposed action, or the section may prescribe such mitigation measures as it deems appropriate. Any such measures will be made a requirement of the lease, license or permit.

The granting of the lease, license or permit is the "federal action" which may require an environmental document. While the applicant has the duty and responsibility to undertake the environmental assessment and investigation, the Section has the primary and non-delegable responsibility for determining environmental impact of an action at every distinctive and comprehensive state. The Section may adopt the assessment after verifying it and concurring with the scope and conclusions of the assessment.

Failure of an applicant to furnish the requested information shall result in the denial of an application.

Leases, licenses or permits granted or approved by the Section will contain provisions to assure compliance with applicable air and water quality standards; to conserve and protect the environment including wetlands and to avoid, minimize or correct hazards to the public health and safety. The lessee, licensee or permittee will be required to provide adequate measures (mitigation) to avoid, control, minimize or correct erosion, contamination or other abuses and damages to the environment within or without the premises under lease, license or permit that may result from or have been caused by operations conducted on the premises.

Farming and grazing operations shall be conducted in accordance with recognized principles of good practice, conservation and prudent management. Land use stipulations or conservation plans to define such use and the measures necessary for the conservation, protection and control of the environment shall be incorporated in

and made a part of the lease, license or permit.

Commercial and industrial developments may be permitted to be conducted on the premises under lease, license or permit if appropriate measures are taken so that the quality of the human environment will not be significantly affected, and providing such developments are in accord with the requirements of Executive Order No. 11988, "Floodplain Management," Executive Order No. 11990, "Protection of Wetlands," and the 1970 Boundary Treaty. Leases, licenses and permits shall contain provisions for the lessee, licensee or permittee to submit for advance approval, general and comprehensive plans of any proposed construction or developments for the use and conduct of operations as authorized for the premises prior to commencing any actual construction or development activities. Such plans, including architects' designs, construction specifications, machinery or equipment installation and operation or specifications for other operations or developments, shall provide measures necessary to protect, control or abate environmental pollution or abuses and avoid, minimize or correct hazards to the public health and safety.

Other uses as authorized by leases, licenses or permits issued shall conform to the requirements and provisions formulated for each such use as adapted to local conditions and the environmental factors which are in need of protection and control measures.

Due to the nature of this Section's leasing, licensing and permit program, all factors are to be carefully considered before determining what is needed for the protection of the environment, conservation and land use requirements.

Application involving power transmission lines will be prepared in accordance with the Bureau of Land Management, Department of the Interior, Regulations as published in Subchapter B, Subpart 2850 of Title 43 CFR 2851.2-1 or any revisions or amendments thereto.

100.12 Operations at Construction Sites

Some operations that contribute to pollution and noise at construction sites and therefore require close surveillance, are enumerated in the following list;

- a. *Air Pollution.*
 1. Burning.
 2. Earth moving operations (dust).
 3. Sandblasting.
 4. Sprayed-on coatings.
 5. Soil stabilization operations (cement or lime).
 6. Concrete mixing plant (dust).

7. Batch truck operation (dust).
8. Winter heating equipment (smoke and fumes).
9. Guniting operations (rebound).
10. Asphalt operations (dust, smoke, volatiles).

b. *Water Pollution.*

1. Solid wastes.
2. Earth moving operations (runoff).
3. Clearing operations (erosion).
4. Core drilling and grouting operations (waste water).
5. Wellpoint system runoff (erosion).
6. Concrete operations:
 - (a) Aggregate washing.
 - (b) Spillage.
 - (c) Water curing.
 - (d) Washing of mixers and batch trucks.

c. *Noise.*

1. Pile driving.
2. Equipment noise.
3. Drilling and blasting.
4. Rock crushing.

The construction engineer should ascertain that the contractor complies with:

1. The current applicable federal regulations.
2. The current applicable local regulations.
3. Methods and restrictions of operations that are contract, permit and license requirements.

On projects where regulations and contract requirements do not specifically outline procedures, the contractor's cooperation should be encouraged in an effort to obtain a clean and safe operation.

Appropriate provisions will be included in the contract specifications for the works to be performed requiring compliance with federal, state and local pollution laws, regulations and rules. Examples of contract specifications are attached at Appendix A.

100.1 Section 309 of the Clean Air Act Amendments of 1970

Sections 1504.1 and 1508.19 of the CEQ's Regulation require that, in addition to normal coordination procedures, the following procedures shall apply to coordination with the EPA:

a. Upon circulation of draft EIS to the EPA, comments shall be requested under both the NEPA and Section 309 of the Clean Air Act.

b. Comments of the administrator, EPA, or his designated representative will accompany each final EIS on matters related to air or water quality, noise control, solid waste disposal, radiation criteria and standards or other provisions relating to the authority of EPA.

c. Copies of basic proposals (studies, proposed legislation, rules, leases,

permits, etc.) will be furnished to EPA with each statement. For actions for which EIS are not being prepared but which involve the authority of EPA, EPA will be informed that no EIS will be prepared and that comments are requested on the proposal.

d. In the event EPA should, as a result of their considerations of factors covered during continuing coordination, indicate that the proposed action as presented is unsatisfactory from the standpoint of public health or welfare or environmental quality, the Principal Engineer, Investigations and Planning Division, shall make every attempt to resolve the differences with EPA prior to completion of the draft EIS.

100.13 Predecision Referrals to CEQ

If a federal agency should refer an unresolved difference to CEQ for decision under Regulation 1504, the responsible official shall in fifteen (15) days after the Section's response to the referring agency's recommendation addressing fully the issues raised in the referral, and providing evidence to support the Section's position.

If the Section determines, after unsuccessful attempts to resolve differences with a lead agency, an EIS for a proposed action has potential adverse environmental impacts, Chief, Planning and Reports Branch, shall document the impacts, the differences with the lead agency, the actions taken to resolve the differences, and include all information identified in CEQ Regulation 1504.3. The Legal Adviser shall prepare the outgoing documents listed in Regulation 1504.3 for consideration by the Commissioner after review by the Principal Engineer, Investigations and Planning.

100.14 Responsibility as a Commenting Agency

The Chief, Planning and Reports Branch, will review draft and final EIS submitted by other agencies and prepare the draft letter of comments for the Section in keeping with the intent of CEQ Regulations 1503.2 and 1503.3. Such comments should be as specific, substantive and factual as possible without undue attention to matters of form as in an EIS. Emphasis should be placed on the assessment of the environmental impacts of the proposed action, including the international aspects of the acceptability of those impacts on the quality of the environment, particularly as contrasted with impacts of reasonable alternatives to the action. The Section may in its comments recommend modifications to the proposed action and/or new alternatives that will enhance

environmental quality and avoid or minimize adverse environmental impacts. The Section's comments should indicate the environmental interrelationship of the proposed action to any of our existing projects, or those being planned. The comments may include the nature of any monitoring of the environmental effects of the proposed project that appears particularly appropriate. If comments cannot be provided in the forty-five (45) day comment period, a request should be made for an extension of time, normally fifteen (15) days. In the event there are significant international factors to be considered, and completion of comments will require a longer extension of time, the request should explain the reason for the longer periods.

100.15 Effective Date

These procedures supersede any draft of proposed procedures which has been published in the Federal Register and/or circulated to other agencies (local, state or federal), interested individuals, associations or groups. These procedures become effective upon the date of their publication in final form in the Federal Register.

Frank P. Fullerton,

Legal Adviser.

Appendix A

SC Landscape Preservation

A. General—The Contractor shall exercise care to preserve the natural landscape and shall conduct his construction operations so as to prevent any unnecessary destruction, scarring or defacing of the natural surroundings in the vicinity of the work. Except where clearing is required for permanent works, for approved construction roads and for excavation operations, all trees, native shrubbery, and vegetation shall be preserved and shall be protected from damage which may be caused by the Contractor's construction operations and equipment. Movement of crews and equipment within the right-of-way and over routes used for access to the work shall be performed in a manner to prevent damage to grazing land, crops, or property.

No special reseeded or replanting will be required under these specifications; however, on completion of the work all work areas shall be smoothed and graded in a manner to conform to the natural appearance of the landscape. Where unnecessary destruction, scarring, damage, or defacing may occur as a result of the Contractor's operations, as determined by the Contracting Officer, the same shall be repaired, replanted, reseeded, or otherwise corrected at the Contractor's expense.

B. Construction roads—The locations, alignment, and grade of construction roads shall be subject to approval of the Contracting Officer. When no longer required

by the Contractor, construction roads shall be made impassable to vehicular traffic and the surfaces shall be scarified and left in a condition which will facilitate natural revegetation.

C. Contractor's yard area—The Contractor's shop, office, and yard area shall be located and arranged in a manner to preserve trees and vegetation to the maximum practicable extent. On abandonment, all storage construction buildings including concrete footings and slabs, and all construction materials and debris shall be removed from the site, or subject to the Contracting Officer's approval, may be buried on the site. The yard area shall be left in a neat and natural appearing condition.

D. Costs—Except as otherwise provided, the cost of all work required by this paragraph shall be included in the prices bid in the schedule for other items of work.

SC Prevention of Water Pollution

The Contractor shall comply with applicable federal and state laws, orders, and regulations concerning the control and abatement of water pollution.

The Contractor's construction activities shall be performed by methods that will prevent entrance, or accidental spillage of solid matter, contaminants, debris, and other objectionable pollutants and wastes into streams, flowing or dry watercourses, lakes and underground water sources. Such pollutants and wastes include, but are not restricted to, refuse, garbage, cement, concrete, sewage effluent, industrial waste, radioactive substances, oil and other petroleum products, aggregate processing tailings, mineral salts, and thermal pollution. Sanitary wastes shall be disposed of in accordance with state and local laws and ordinances.

Unwatering work for structure foundations or earthwork operations near streams or watercourses shall be conducted in a manner to prevent excessive muddy water and eroded materials from entering the streams or watercourses by construction of intercepting ditches, bypass channels, barriers, settling ponds, or by other approved means.

Waste waters from aggregate processing, concrete batching, or other construction operations shall not enter streams, watercourses, or other surface waters without the use of such turbidity control methods as settling ponds, gravel filter entrapment dikes, approved flocculating processes that are not harmful to fish, recirculation systems for washing of aggregates, or other approved methods. Any such waste waters discharged into surface waters shall be essentially free of settleable material. For the purpose of these specifications, settleable material is defined as that material which will settle from the water by gravity during a 1-hour quiescent detention period.

Sanitary facilities shall be provided and maintained in accordance with the Department of Labor "Safety and Health Regulations for Construction."

The costs of complying with this paragraph shall be included in the prices bid in the schedule for the various items of work.

SC Abatement of Air Pollution

The Contractor shall comply with applicable federal, state, interstate, and local laws and regulations concerning the prevention and control of air pollution.

In the conduct of construction activities and operation of equipment, the Contractor shall utilize such practicable methods and devices as are reasonably available to control, prevent, and otherwise minimize atmospheric emissions or discharges of air contaminants. Equipment and vehicles that show excessive emissions shall not be operated until corrective repairs or adjustments are made.

The Contractor's methods of storing and handling cement shall include means of controlling atmospheric discharges of dust.

Burning of materials resulting from clearing of trees and brush, combustible construction materials, and rubbish will be permitted only when atmospheric conditions for burning are considered favorable and the burning is done in accordance with Texas Air Control Board and local air pollution regulations. In lieu of burning, such combustible materials shall be removed from the site and disposed of in accordance with applicable regulations and laws.

During the performance of the work required by these specifications or any operations appurtenant thereto, whether on right-of-way provided by the Government or elsewhere, the Contractor shall furnish all the labor, equipment, materials, and means required, and shall carry out proper and efficient measures wherever and as often as necessary to reduce the dust nuisance, and to prevent dust which has originated from his operations from damaging crops, vegetation, lands and dwellings, or causing a nuisance to persons. The Contractor will be held liable for any damages resulting from dust originating from his operations under these specifications on the Government right-of-way or elsewhere.

If the Contractor does not provide and perform the necessary dust control measures within a reasonable time after need for such control arises, the Government will cause the work to be performed and will backcharge the Contractor for such work.

The costs of complying with this paragraph, including the cost of sprinkling for dust control or other methods of reducing formation of air pollution shall be included in the prices bid in the schedule for the various items of work.

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INTERNATIONAL TRADE COMMISSION

Certain Tobacco; Report to the President on Investigation No. 22-43

August 21, 1981.

Findings and recommendations

On the basis of the information developed in the course of the

investigation, the Commission¹ finds and recommends that tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA), is not being and is not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the flue-cured tobacco program or the burley tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.

Background

The Commission instituted its investigation on March 5, 1981, following the receipt on January 18, 1981, of a request from the President. The investigation was instituted pursuant to section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the TSUSA, is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with, the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.

Notice of the Commission's investigation was published in the Federal Register of March 11, 1981 (46 F.R. 16162). A public hearing was held in Washington, D.C., on June 24 and 25, 1981. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

This report is being furnished to the President in accordance with section 22(a) of the Agricultural Adjustment Act. The information in the report was obtained at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal and State agencies, and from the Commission's files, submissions from the interested parties, and other sources.

¹ Commissioner Bedell dissents in part. Commissioner Bedell finds that flue-cured tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the TSUSA, is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the flue-cured tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.