

## 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 with respect 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 FR 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 consideration of the comments and views of interested parties, the Council will make appropriate revisions and will 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 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 statements is the mandate of both the Act and Executive Order 11514 (35 FR 4247), 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 encourage productive and enjoyable harmony between man and his 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, in the light of the Act's policy, for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto. Section 102(2)(B) of the Act directs all Federal agencies to identify and develop methods and procedures, in consultation with the Council, to insure that unquantified 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 3 (h) and (i) 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. *Policy.*—As early as possible and in all cases prior to agency decision concerning recommendations or favorable reports on proposals for: (i) Legislation significantly affecting the quality of the human environment (see secs. 5(i) and 12, *infra*) (hereafter "legislative actions"), and (ii) all other major Federal actions significantly affecting the quality of the human environment (hereafter "administrative actions"), Federal agencies will, in consultation with other appropriate Federal, State, and local agencies, assess in detail the potential environmental impact. Initial assessments of the environmental impacts of proposed action should be undertaken concurrently with initial technical and economic studies and, where required, a draft environmental impact statement prepared and circulated for comment in time to accompany the proposal through the existing agency review processes 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 potential 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 assessments 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 2(f) 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 directed each agency to establish its own formal procedures 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 their 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 comment of the Administrator of the Environmental Protection Agency when required under section 309 of the Clean Air Act, as amended, and (5) meeting the requirements of section 2(b) of Executive Order 11514 for providing timely public information on Federal plans and programs with environmental impact. Each agency shall review the procedures it has established pursuant to the above directives and shall revise them, in consultation with the Council on Environmental Quality, as may be necessary in order to respond to requirements imposed by these revised guidelines as well as by such previous directives. After such consultation, proposed revisions of such agency procedures shall be published in the FEDERAL REGISTER no later than 90 days after the date that these guidelines are published in final form. A minimum 45-day period for public comment shall be provided, followed by publication of final procedures no later than 45 days after the conclusion of the comment period. Each agency shall submit seven copies of all such procedures to the Council on Environmental Quality. Any future revision of such agency procedures shall similarly be proposed and adopted only after prior consultation with the Council and, in the case of substantial revision, opportunity for public comment.

(b) Each Federal agency should consult, with the assistance of the Council on Environmental Quality and the Office of Management and Budget if desired, 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 review of proposed 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 No. A-85. For those revised agency procedures subject to OMB Circular No. A-85 a 30-day extension in the public comment period provided for in section 3(a) is granted.

(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 such 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 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 set forth in this Act," and section 105 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 shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view 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:

(1) 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 subject matter involved will prepare an environmental statement.

(2) 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 general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C.

section 1221 *et seq.* with no Federal agency control over the subsequent use of such funds); or involving a Federal lease, permit, license, certificate or other entitlement for use;

(3) The making, modification, 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 constitutes major action 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 considerable. This can occur when one or more agencies over a period of years puts 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 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 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. Significant effects also include secondary effects, as described more fully, for example in sec. 8(a)(ii)(B), *infra*. The significance of a proposed action may also vary with the setting, with the result that an action that would have little impact in an urban area may be significant in a rural setting or vice versa. While a precise definition of environmental "significance," valid in all contexts, is not possible, effects to be considered in assessing significance in-

clude, 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 major actions significantly affecting the environment is the responsibility of each Federal agency, to be carried out against the background of its own particular operations. The action must be (i) 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 "significantly" are intended to imply thresholds of importance and impact that must be met before a statement is required. The action causing the impact must also be one where there is sufficient Federal control and responsibility to constitute "Federal action" in contrast to cases where such Federal control and responsibility are not present as, for example, when Federal funds are distributed in the form of general revenue sharing to be used by State and local governments (see sec. 5(ii) *supra*). Finally, the action must be one that significantly affects the quality of 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 the typical classes of 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:

(1) Making an initial assessment of the environmental impacts typically associated with principal types of agency action;

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

(3) With respect to remaining actions that may require statements depending on the circumstances, and those actions determined under the preceding paragraph (2) 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 on 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 on 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 the views of interested parties. In furtherance of this policy, agency procedures should include an appropriate early notice system for informing the public of the decision to prepare a draft environmental statement on proposed administrative actions (and for soliciting comments that may be helpful in preparing the statement) as soon as is practicable after the decision to prepare the statement is made. In this connection, agencies should: (i) Maintain a list of administrative actions for which environmental statements are being prepared; (ii) revise the list at regular intervals specified in the agency's procedures developed pursuant to section 3(a) of these guidelines; and (iii) make the list available for public inspection on request.

(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 declining to favor an alternative until public comments on a proposed action have been received, the draft environmental statement may indicate that two or more alternatives are under consideration.) Comments received shall be carefully evaluated and considered in the decision process. A final statement with substantive comments attached shall then be issued 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 proposed agency actions, rather than as a justification for decisions already 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 a single "lead 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, should 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 the project's 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 draft and final environmental statements.

(e) Agency procedures developed pursuant to section 3(a) of these guidelines shall include provision for public hearings on actions with environmental impact whenever appropriate, and 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 been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action. Agency procedures should also indicate as explicitly 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 information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be avoided in the body of the draft impact statement. Such materials should be attached as appendices or footnoted with adequate bibliographic references. The statement should also succinctly describe the environment of the area affected as it exists prior to a 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 or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see par. (ii)(B), *infra*). 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 for the Water Resources Council by the Office of Business Economics of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the OBERS projection). In any event it is essential that the sources of data used be identified.

(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, scale, and location of proposed actions. Among factors to consider should be the potential effect of the action on such aspects of the environment as those listed in appendix II of these guidelines. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(B) Secondary, as well as primary consequences for the environment should be included in the analysis. Many major Federal actions, in particular those that involve the construction or licensing of infrastructure investments (e.g., highways, airports, sewer systems, water resource projects, etc.), stimulate or induce secondary effects in the form of associated investments and changed patterns of social and economic activities. Such secondary effects, through their impacts on existing community facilities and activities and through inducing new facilities and activities, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated if expected to be significant (using data identified as indicated in section 8(a)(1), *supra*) and an assessment made of the effect of any possible change in population patterns or growth upon the resource base, including land use, water, and public services, of the area in question.

(iii) Alternatives to the proposed action, including, where relevant, those not within the existing authority of the responsible agency. (Section 102(2)(D) of the Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal 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 their environmental costs and impact on the environment 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: The alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts (e.g., nonstructural alternatives to flood control programs, or mass transit alternatives to highway construction); alternatives related to 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 statement already contains 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, undesirable 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 proposed action. Included for 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.

(v) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of 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 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 from its survey of unavoidable 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 "resources" 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, giving attention to the substance of the information conveyed rather than to the particular form, or length, or detail of the statement. Each of the above points, for example, need not always occupy a distinct section of the statement if it is otherwise adequately covered in discussing the impact of the proposed action and its alternatives—which items should normally be the focus of the statement. Draft statements should indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered by the agency in

preparing the statement including any cost-benefit analyses prepared by the agency. In the case of documents not likely to be easily accessible (such as internal studies or reports), the agency should indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference.

(c) Each environmental statement should be prepared in accordance with the precept in section 102(2)(A) of the Act that all agencies of the Federal Government, "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision-making which may have an impact on man's environment." Agencies should attempt to have relevant disciplines represented on their own staffs; where this is not feasible they should make appropriate use of relevant Federal, State, and local agencies or the professional services of universities and outside consultants. The interdisciplinary approach should not be limited to the preparation of the environmental impact statement, but should also be used in the early planning stages of the proposed action. Early application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences.

(d) Appendix I prescribes the form of the summary sheet which should accompany each draft and final environmental statement.

9. *Review of draft environmental impact statements by appropriate Federal, Federal-State, State, and local agencies and by public.*—(a) *Federal agency review.*—In general, a Federal agency considering an action requiring an environmental statement should consult with, and (on the basis of a draft environmental statement for which the agency takes responsibility) obtain the comment on the environmental impact of the action of Federal and Federal-State agencies with jurisdiction by law or special expertise with respect to any environmental impact involved. These Federal and Federal-State agencies and their relevant areas of expertise include those identified in appendix II to these guidelines. It is recommended that the listed departments and agencies establish contact points, which may be regional offices, for providing comments on the environmental statements. The requirement in section 102(2)(C) to obtain comment from Federal agencies having jurisdiction or special expertise is in addition to any specific statutory obligation of any Federal agency to coordinate or consult with any other Federal or State agency. Agencies should, for

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 possible, statements or findings 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 requirements of section 102(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 not forthcoming under the environmental impact statement process.

(b) *EPA review under Clean Air Act.*—Section 309 of the Clean Air Act, as amended (42 U.S.C. sec. 1857h-7), provides that the Administrator of the Environmental Protection Agency shall comment in writing on the environmental impact of any matter relating to his duties and responsibilities, and shall refer to the Council on Environmental Quality any matter that the Administrator determines is unsatisfactory from the standpoint of public health or welfare or environmental quality. Accordingly, wherever an agency action related to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, generally applicable environmental radiation criteria 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 review and comment in writing. In all cases where EPA determines that proposed agency action is environmentally unsatisfactory, or where EPA determines that an 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 areawide clearinghouses provides a means for securing the views of State and local environmental agencies, which can assist in the preparation and review of environmental impact statements. Current instructions for obtaining the views 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 and by making copies available to organizations and individuals that have requested an opportunity to comment. Agencies should devise methods for publicizing 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 proposed actions on the basis of 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 on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Commenting entities may recommend modifications to 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 and its alternatives 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 attached to the final statement, 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 number of comments on a draft statement is such that distribution of the final statement to all commenting entities appears impracticable, the agency shall consult with the Council concerning 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 comments made thereon (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 (together with the substance of all comments received thereon by the responsible agency from Federal, State, and local agencies and from private organizations and individuals) shall be supplied 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). At the same 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 environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, 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 comments) has been made available to the Council, commenting agencies, and the public. If the final text of an environmental statement is filed within 90 days after a draft statement has been circulated for comment, furnished to the Council and made 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 possible need for or 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 described in 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 intragovernmental 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 implement these public information requirements and shall include arrangements for availability of environmental statements and comments at the head and appropriate regional offices of the responsible agency and 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 9(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 should 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)(H) of the Act and section 3(1) 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. In particular, agencies 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 guidance as needed to assist agencies in identifying legislative items believed to have environmental significance. Efforts shall be made to identify types of repetitive legislation requiring environmental 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 proposals for legislation to which section 102(2)(C) applies, the final text of the environmental statement and comments thereon should 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 furnished 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. *Supplementary guidelines, evaluations of procedures.*—(a) The Council on Environmental Quality after examining environmental statements and agency procedures with respect to such statements will 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 administrative procedures. Such reports shall also indicate what progress the agency has made in developing substantive criteria and guidance for making environmental assessments as required by section 6(c) of this directive and by section 102(2)(B) of the Act.

15. *Effective date.*—The revisions of these guidelines shall apply to all draft and final impact statements filed with the Council more than 90 days after the publication of this directive in final form in the FEDERAL REGISTER.

RUSSELL E. TRAIN,  
Chairman.

#### APPENDIX I

(Check one) ( ) Draft. ( ) Final Environmental Statement.

Name of Responsible Federal Agency (with name of operating division where appropriate).

1. Name of Action. (Check one) ( ) Administrative Action. ( ) Legislative Action.

2. Brief description of action indicating what States (and counties) particularly affected.

3. Summary of environmental impact and adverse environmental effects.

4. List alternatives considered.

5. a. (For draft statements) List all Federal, State, and local agencies from which comments have been requested.

b. (For final statements) List all Federal, State, and local agencies and other sources from which written comments have been received.

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

##### Air Quality and Air Pollution Control

Department of Agriculture—  
Forest Service (effects on vegetation).  
Atomic Energy Commission (radioactive substances).

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 (wildlife).

National Aeronautics and Space Administration (remote sensing, aircraft emissions).

<sup>1</sup> 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.

Department of Transportation—  
Assistant Secretary for Systems Development and Technology (auto emissions).  
Coast Guard (vessel emissions).  
Federal Aviation Administration (aircraft emissions).

#### *Weather Modification*

Department of Commerce—  
National Oceanic and Atmospheric Administration.  
Department of Defense—  
Department of the Air Force.  
Department of the Interior—  
Bureau of Reclamation.  
Water Resources Council.

#### ENERGY

#### *Energy Conservation*

Department of the Interior—  
Office of Energy Conservation.  
Department of Commerce—  
National Bureau of Standards (energy efficiency).  
Department of Housing and Urban Development—  
Federal Housing Administration (energy conservation in housing standards).  
General Services Administration (energy conservation in design and operation of buildings).

#### *Environmental Aspects of Electric Energy Generation and Transmission*

Atomic Energy Commission (nuclear power).  
Environmental Protection Agency—  
Water Quality Office.  
Air Pollution Control Office.  
Department of Agriculture—  
Rural Electrification Administration (rural areas).  
Department of Defense—  
Army Corps of Engineers (hydro-facilities).  
Federal Power Commission (hydro-facilities and transmission lines).  
Department of Housing and Urban Development (urban areas).  
Department of the Interior—(facilities on Government lands).  
National Aeronautics and Space Administration (solar).  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

#### *Natural Gas Energy Development, Transmission and Generation*

Federal Power Commission (natural gas production, transmission and supply).  
Department of the Interior—  
Geological Survey.  
Bureau of Mines.

#### HAZARDOUS SUBSTANCES

#### *Toxic Materials*

Atomic Energy Commission (radioactive substances).  
Department of Commerce—  
National Oceanic and Atmospheric Administration.  
Department of Health, Education, and Welfare (Health aspects).  
Environmental Protection Agency.  
Department of Agriculture—  
Agricultural Research Service.  
Consumer and Marketing Service.  
Department of Defense.  
Department of the Interior—  
Bureau of Sport Fisheries and Wildlife.

#### *Pesticides*

Department of Agriculture—  
Agricultural Research Service (biological controls, food and fiber production).  
Consumer and Marketing Service.  
Forest Service.

Department of Commerce—  
National Marine Fisheries Service.  
National Oceanic and Atmospheric Administration.  
Environmental Protection Agency—  
Office of Pesticides.  
Department of the Interior—  
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife).  
Bureau of Land Management.  
Department of Health, Education, and Welfare (Health aspects).

#### *Herbicides*

Department of Agriculture—  
Agricultural Research Service.  
Forest Service.  
Environmental Protection Agency—  
Office of Pesticides.  
Department of Health, Education, and Welfare (Health aspects).  
Department of the Interior—  
Bureau of Sport Fisheries and Wildlife.  
Bureau of Land Management.  
Bureau of Reclamation.

#### *Transportation and Handling of Hazardous Materials*

Department of Commerce—  
Maritime Administration.  
National Marine Fisheries Service.  
National Oceanic and Atmospheric Administration (impact on marine life).  
Department of Defense—  
Armed Services Explosive Safety Board.  
Army Corps of Engineers (navigable waterways).  
Department of Health, Education, and Welfare—  
Office of the Surgeon General (Health aspects).  
Department of Transportation—  
Federal Highway Administration, Bureau of Motor Carrier Safety.  
Coast Guard.  
Federal Railroad Administration.  
Federal Aviation Administration.  
Assistant Secretary for Systems Development and Technology.  
Office of Hazardous Materials.  
Office of Pipeline Safety.  
Environmental Protection Agency (hazardous substances).  
Atomic Energy Commission (radioactive substances).

#### LAND USE AND MANAGEMENT

#### *Esthetics<sup>2</sup>*

*Coastal Areas; Wetlands, Estuaries, Waterfowl Refuges, and Beaches*  
Department of Agriculture—  
Forest Service.  
Department of Commerce—  
National Marine Fisheries Service (impact on marine life).  
National Oceanic and Atmospheric Administration (impact on marine life).  
Department of Transportation—  
Coast Guard (bridges, navigation).  
Department of Defense—  
Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits).  
Department of the Interior—  
Bureau of Sport Fisheries and Wildlife.  
National Park Service.  
U.S. Geological Survey (coastal geology).  
Bureau of Outdoor Recreation (beaches).  
Department of Agriculture—  
Soil Conservation Service (soil stability, hydrology).

<sup>2</sup> Numerous agencies have developed specific methods of assessing esthetics in relation to their area of responsibility.

Environmental Protection Agency—  
Water Quality Office.  
National Aeronautics and Space Administration (remote sensing).  
Water Resources Council.  
River Basin Commissions (as geographically appropriate).

#### *Historic and Archeological Sites*

Department of the Interior—  
National Park Service.  
Advisory Council on Historic Preservation.  
Department of Housing and Urban Development (urban areas).

#### *Flood Plains and Watersheds*

Department of Agriculture—  
Agricultural Stabilization and Research Service.  
Soil Conservation Service.  
Forest Service.  
Department of the Interior—  
Bureau of Outdoor Recreation.  
Bureau of Reclamation.  
Bureau of Sport Fisheries and Wildlife.  
Bureau of Land Measurement.  
U.S. Geological Survey.  
Department of Housing and Urban Development (urban areas).  
Department of Defense—  
Army Corps of Engineers.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

#### *Mineral Land Reclamation*

Appalachian Regional Commission.  
Department of Agriculture—  
Forest Service.  
Department of the Interior—  
Bureau of Mines.  
Bureau of Outdoor Recreation.  
Bureau of Sport Fisheries and Wildlife.  
Bureau of Land Management.  
U.S. Geological Survey.  
Tennessee Valley Authority.

#### *Parks, Forests, and Outdoor Recreation*

Department of Agriculture—  
Forest Service.  
Soil Conservation Service.  
Department of the Interior—  
Bureau of Land Management.  
National Park Service.  
Bureau of Outdoor Recreation.  
Bureau of Sport Fisheries and Wildlife.  
Department of Defense—  
Army Corps of Engineers.  
Department of Housing and Urban Development (urban areas).  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

#### *Soil and Plant Life, Sedimentation, Erosion and Hydrologic Conditions*

Department of Agriculture—  
Soil Conservation Service.  
Agricultural Research Service.  
Forest Service.  
Department of Defense—  
Army Corps of Engineers (dredging, aquatic plants).  
Department of Commerce—  
National Oceanic and Atmospheric Administration.  
Department of the Interior—  
Bureau of Land Management.  
Bureau of Sport Fisheries and Wildlife.  
Geological Survey.  
Bureau of Reclamation.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

#### NOISE

#### *Noise Control and Abatement*

Department of Health, Education, and Welfare (Health aspects).

Department of Commerce—  
National Bureau of Standards.  
Department of Transportation—  
Assistant Secretary for Systems Development and Technology.  
Federal Aviation Administration (Office of Noise Abatement).  
Environmental Protection Agency (Office of Noise).  
Department of Housing and Urban Development (urban land use aspects, building materials standards).  
National Aeronautics and Space Administration (aircraft noise abatement and control).

PHYSIOLOGICAL HEALTH AND HUMAN WELL BEING

*Chemical Contamination of Food Products*

Department of Agriculture—  
Consumer and Marketing Service.  
Department of Health, Education, and Welfare (health aspects).  
Environmental Protection Agency—  
Office of Pesticides (economic poisons).  
*Food Additives and Food Sanitation*

Department of Health, Education, and Welfare (Health aspects).  
Environmental Protection Agency—  
Office of Pesticides (economic poisons, e.g., pesticide residues).  
Department of Agriculture—  
Consumer and Marketing Service (meat and poultry products).

*Microbiological Contamination*

Department of Health, Education, and Welfare (Health aspects).

*Radiation and Radiological Health*

Department of Commerce—  
National Bureau of Standards.  
Atomic Energy Commission.  
Environmental Protection Agency—  
Office of Radiation.  
Department of the Interior—  
Bureau of Mines (uranium mines).

*Sanitation and Waste Systems*

Atomic Energy Commission (radioactive waste).  
Department of Health, Education, and Welfare—(Health aspects).  
Department of Defense—  
Army Corps of Engineers.  
Environmental Protection Agency—  
Solid Waste Office.  
Water Quality Office.  
Department of Transportation—  
U.S. Coast Guard (ship sanitation).  
Department of the Interior—  
Bureau of Mines (mineral waste and recycling, mine acid wastes, urban solid wastes).  
Bureau of Land Management (solid wastes on public lands).  
Office of Saline Water (demineralization of liquid wastes).  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

*Shellfish Sanitation*

Department of Commerce—  
National Marine Fisheries Service.  
National Oceanic and Atmospheric Administration.  
Department of Health, Education, and Welfare (Health aspects).  
Environmental Protection Agency—  
Office of Water Quality.

TRANSPORTATION

*Air Quality*

Environmental Protection Agency—  
Air Pollution Control Office.

Department of Transportation—  
Federal Aviation Administration.  
Department of the Interior—  
Bureau of Outdoor Recreation.  
Bureau of Sport Fisheries and Wildlife.  
Department of Commerce—  
National Oceanic and Atmospheric Administration (meteorological conditions).  
National Aeronautics and Space Administration (aviation).

*Water Quality*

Environmental Protection Agency—  
Office of Water Quality.  
Department of the Interior—  
Bureau of Sport Fisheries and Wildlife.  
Department of Commerce—  
National Oceanic and Atmospheric Administration (impact on marine life and ocean monitoring).  
Department of Defense—  
Army Corps of Engineers.  
Department of Transportation—  
Coast Guard.  
Water Resources Council.

URBAN

*Congestion in Urban Areas, Housing and Building Displacement*

Department of Transportation—  
Federal Highway Administration.  
Office of Economic Opportunity.  
Department of Housing and Urban Development.  
Department of the Interior—  
Bureau of Outdoor Recreation.

*Environmental Effects With Special Impact in Low-Income Neighborhoods*

Department of the Interior—  
National Park Service.  
Office of Economic Opportunity.  
Department of Housing and Urban Development (urban areas).  
Department of Commerce (economic development areas).  
Economic Development Administration.  
Department of Transportation—  
Urban Mass Transportation Administration.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

*Rodent Control*

Department of Health, Education, and Welfare (health aspects).  
Department of Housing and Urban Development (urban areas).

*Urban Planning*

Department of Transportation—  
Federal Highway Administration.  
Department of Housing and Urban Development.  
Environmental Protection Agency.  
Department of the Interior—  
Geological Survey.  
Bureau of Outdoor Recreation.  
Department of Commerce—  
Economic Development Administration.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

WATER

*Water Quality and Water Pollution Control*  
Department of Agriculture—  
Soil Conservation Service.  
Forest Service.  
Atomic Energy Commission (Radioactive substances).  
Department of the Interior—  
Bureau of Reclamation.  
Bureau of Land Management.  
Bureau of Sports Fisheries and Wildlife.  
Bureau of Outdoor Recreation.  
Geological Survey.  
Office of Saline Water.

Environmental Protection Agency—  
Water Quality Office.  
Department of Health, Education, and Welfare (Health aspects).  
Department of Defense—  
Army Corps of Engineers.  
Department of the Navy (ship pollution control).  
National Aeronautics and Space Administration (remote sensing).  
Department of Transportation—  
Coast Guard (oil spills, ship sanitation).  
Department of Commerce—  
National Oceanic and Atmospheric Administration  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

*Marine Pollution*

Department of Commerce—  
National Oceanic and Atmospheric Administration.  
Department of Transportation—  
Coast Guard.  
Department of Defense—  
Army Corps of Engineers.  
Office of Oceanographer of the Navy.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

*River and Canal Regulation and Stream Channelization*

Department of Agriculture—  
Soil Conservation Service.  
Department of Defense—  
Army Corps of Engineers.  
Department of the Interior—  
Bureau of Reclamation.  
Geological Survey.  
Bureau of Sport Fisheries and Wildlife.  
Department of Transportation—  
Coast Guard.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

WILDLIFE

Environmental Protection Agency.  
Department of Agriculture—  
Forest Service.  
Soil Conservation Service.  
Department of the Interior—  
Bureau of Sport Fisheries and Wildlife.  
Bureau of Land Management.  
Bureau of Outdoor Recreation.  
Water Resources Council.  
River Basins Commissions (as geographically appropriate).

FEDERAL AGENCY AND FEDERAL-STATE AGENCY OFFICES FOR RECEIVING AND COORDINATING COMMENTS UPON ENVIRONMENTAL IMPACT STATEMENTS

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Office of the Executive Director, suite 618, 801 19th Street NW., Washington, D.C. 20006, 343-8607.

DEPARTMENT OF AGRICULTURE

Office of the Secretary, Washington, D.C. 20250, 447-7803.

APPALACHIAN REGIONAL COMMISSION

Office of the Alternate Federal Co-Chairman, 1866 Connecticut Avenue NW., Washington, D.C. 20235, 967-4103.

DEPARTMENT OF THE ARMY (CORPS OF ENGINEERS)

Executive Director of Civil Works, Office of the Chief of Engineers, Washington, D.C. 20314, 693-7168.

ATOMIC ENERGY COMMISSION

For nonregulatory matters: Director, Office of Environmental Affairs, Washington, D.C. 20545, 973-5391.



## PROPOSED RULES

For regulatory matters: Office of the Assistant Director for Regulation, Washington, D.C. 20545, 973-7531.

## DEPARTMENT OF COMMERCE

Office of the Deputy Assistant Secretary for Environmental Affairs, Washington, D.C. 20230, 987-4335.

## DEPARTMENT OF DEFENSE

Office of the Assistant Secretary for Defense (Health and Environment), Room 3E172, the Pentagon, Washington, D.C. 20301, 697-2111.

## DELAWARE RIVER BASIN COMMISSION

Office of the Secretary, P.O. Box 360, Trenton, N.J. 08603, 609-883-9500.

ENVIRONMENTAL PROTECTION AGENCY<sup>2</sup>

Director, Office of Federal Activities, Environmental Protection Agency, 401 M Street NW., Washington, D.C. 20460, 755-0777.

## FEDERAL POWER COMMISSION

Commission's Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 386-6084.

<sup>2</sup> 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 proposed action (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 I, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203, 617-223-7210; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Regional Administrator II, Room 908, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2525; New Jersey, New York, Puerto Rico, Virgin Islands.

Regional Administrator III, Curtis Building, Sixth Floor, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-9901; Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.

Regional Administrator IV, Suite 300, 1421 Peachtree Street NE., Atlanta, Ga. 30309, 404-526-5727; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Regional Administrator V, 1 North Wacker Drive, Chicago, Ill. 60606, 312-353-5250; 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, 1735 Baltimore Avenue, Kansas City, Mo. 64108, 816-374-5493; Iowa, Kansas, Missouri, Nebraska.

Regional Administrator VIII, Suite 900, Lincoln Tower, 1860 Lincoln Street, Denver, Colo. 80203, 303-837-3895; Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Regional Administrator IX, 100 California Street, San Francisco, Calif. 94111, 415-556-2320; Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island.

Regional Administrator X, 1200 Sixth Avenue, Seattle, Wash. 98101, 206-442-1220; Alaska, Idaho, Oregon, Washington.

## GENERAL SERVICES ADMINISTRATION

Office of Environmental Affairs, Office of the Commissioner, Public Buildings Service, Washington, D.C. 20405, 343-4193.

## GREAT LAKES BASIN COMMISSION

Office of the Chairman, 3475 Summit Road, Ann Arbor, Mich. 48106, 313-769-7431.

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Environmental Affairs, Office of the Assistant Secretary for Community and Field Services, Washington, D.C. 20202, 962-5895.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT<sup>4</sup>

Director, Office of Community and Environmental Standards, room 7206, Washington, D.C. 20410, 755-5977.

## DEPARTMENT OF THE INTERIOR

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

## MISSOURI RIVER BASIN COMMISSION

Office of the Chairman, 10050 Regency Circle, Omaha, Nebr. 68114, 402-397-5714.

## NATIONAL CAPITAL PLANNING COMMISSION

Office of the Executive Director, Washington, D.C. 20576, 382-1163.

## NEW ENGLAND RIVER BASINS COMMISSION

Office of the Chairman, 55 Court Street, Boston, Mass. 02108, 617-223-6244.

<sup>4</sup> Contact the Director with regard to environmental impacts of legislation, policy 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 I, Environmental Clearance Officer, room 405, John F. Kennedy Federal Building, Boston, Mass. 02203, 617-223-4066.

Regional Administrator II, Environmental Clearance Officer, 26 Federal Plaza, New York, N.Y. 10007, 212-264-8068.

Regional Administrator III, Environmental Clearance Officer, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106, 215-597-2560.

Regional Administrator IV, Environmental Clearance Officer, Peachtree-Seventh Building, Atlanta, Ga. 30323, 404-526-5585.

Regional Administrator V, Environmental Clearance Officer, 360 North Michigan Avenue, Chicago, Ill. 60601, 312-353-5680.

Regional Administrator VI, Environmental Clearance Officer, Federal Office Building, 819 Taylor Street, Fort Worth, Tex. 76102, 817-334-2867.

Regional Administrator VII, Environmental Clearance Officer, 911 Walnut Street, Kansas City, Mo. 64108, 816-374-2661.

Regional Administrator VIII, Environmental Clearance Officer, Samsonite Building, 1051 South Broadway, Denver, Colo. 80209, 303-837-4061.

Regional Administrator IX, Environmental Clearance Officer, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, Calif., 94102, 415-556-4752.

Regional Administrator X, Environmental Clearance Officer, room 226, Arcade Plaza Building, Seattle, Wash. 98101, 206-583-5415.

## OFFICE OF ECONOMIC OPPORTUNITY

Office of the Director, 1200 19th Street NW., Washington, D.C. 20506, 254-6000.

## OHIO RIVER BASIN COMMISSION

Office of the Chairman, 38 East 4th Street, suite 208-20, Cincinnati, Ohio 45202, 513-684-3831.

## PACIFIC NORTHWEST RIVER BASINS COMMISSION

Office of the Chairman, 1 Columbia River, Vancouver, Wash. 98660, 206-695-3606.

## SOURIS-RED-RAINY RIVER BASINS COMMISSION

Office of the Chairman, suite 6, Professional Building, Holiday Mall, Moorhead, Minn. 56560, 701-237-5227.

## DEPARTMENT OF STATE

Office of the Special Assistant to the Secretary for Environmental Affairs, Washington, D.C. 20520, 632-7964.

## SUSQUEHANNA RIVER BASIN COMMISSION

Office of the Water Resources Coordinator, Department of Environmental Resources, 105 South Office Building, Harrisburg, Pa. 17120, 717-787-2315.

## TENNESSEE VALLEY AUTHORITY

Office of the Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tenn. 37401, 615-755-2002.

## DEPARTMENT OF TRANSPORTATION

Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Washington, D.C. 20590, 426-4474.

## DEPARTMENT OF TREASURY

Office of Assistant Secretary for Administration, Washington, D.C. 20220, 964-5391.

## UPPER MISSISSIPPI RIVER BASIN COMMISSION

Office of the Chairman, Federal Office Building, Fort Snelling, Twin Cities, Minn. 55111, 612-725-4690.

## WATER RESOURCES COUNCIL

Office of the Associate Director, 2120 L Street NW., suite 800, Washington, D.C. 20037, 254-6442.

## APPENDIX III—STATE AND LOCAL AGENCY REVIEW OF IMPACT STATEMENTS

1. OBM Circular No. A-95 through its system of clearinghouses provides a means for securing the views of State and local environmental agencies, which can assist in the preparation of impact statements. Under A-95, review of the proposed project in the case of federally assisted projects (part I of A-95) generally takes place prior to the preparation of the impact statement. Therefore, comments on the environmental effects of the proposed project that are secured during this stage of the A-95 process represent inputs to the environmental impact statement.

2. In the case of direct Federal development (part II of A-95), Federal agencies are required to consult with clearinghouses at the earliest practicable time in the planning of the project or activity. Where such consultation occurs prior to completion of the draft impact statement, comments relating to the environmental effects of the proposed action would also represent inputs to the environmental impact statement.

3. In either case, whatever comments are made on environmental effects of proposed Federal or federally assisted projects by clearinghouses, or by State and local environ-

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 again on the basis of the draft impact statement is a matter to be left to the discretion of the commenting agency depending on its resources, the significance of the project, and the extent to which its 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 statement.

5. To aid clearinghouses in coordinating State and local comments, draft statements should include copies of State and local agency comments made earlier under the A-95 process and should indicate on the summary sheet those other agencies from which comments have been requested, as specified in appendix I of the CEQ guidelines.

#### SECTION-BY-SECTION COMMENT AND EXPLANATION OF MAJOR PROPOSED REVISIONS

1. *Purpose and authority.*—This section remains basically unchanged, except for minor stylistic revisions and expanded reference in subsection (a) (purpose) to national goals described in section 2 of NEPA. In addition a new subsection (b) has been added making explicit the basis of the Council's role in the NEPA process.

The former reference to EPA's implementation of section 309 of the Clean Air Act is replaced with a more general reference to all commenting entities in order to reflect more accurately the matters covered by the new directive.

2. *Policy.*—This section reinforces the former emphasis on early consideration of environmental issues in agency planning, and explains in general terms the function of the environmental impact statement process in meeting this objective. The emphasis on early preparation of statements accords with the directive in section 102(2)(C) of the Act that such statements "accompany the proposal through the existing agency review process." It also accords with results of review sessions held last July by the Council with major Federal agencies following issuance of the GAO Report on Improvements Needed in Federal Efforts to Implement NEPA.

3. *Agency and OMB Procedures.*—(a) [Requirement for Agency Procedures].—This subsection reaffirms the previous direction to agencies to develop their own NEPA procedures and requires further revision as necessary to reflect new changes in the CEQ guidelines. New provisions also require agencies to consult with CEQ in developing or revising procedures and to notice significant proposed revisions for public comment.

(b) [Consultation with other agencies].—This subsection retains the previous recommendation for consultation with other agencies in developing or revising NEPA procedures and incorporates and clarifies the previous reference (former sec. 3(c)) to OMB Circular A-85 as the means for obtaining State and local review of such procedures.

(c) [Use of existing mechanisms].—This is former section 3(d), essentially unchanged.

4. *Federal agencies included; effect of Act on existing agency mandates.*—This section adds additional language to former section 4 to emphasize that NEPA expands the traditional mandates of agencies covered by the Act—a view that is fully supported both by the legislative history of the Act, see, e.g., Hearings on S. 1075, S. 237, and S. 1752 Before Senate Committee on Interior and Insular Affairs, 91st Cong., 1st Sess. 206 (1969); 115 Cong. Rec. (part 30) 40416 (1969) (remarks of Senator Jackson), and by early and consistent judicial opinion. See, e.g., *Calvert Cliffs v. AEC*, 2 ERC 1779, 1780-81 (D.C. Cir. 1971); *Zabel v. Tabb*, 1 ERC 1449, 1457-59 (5th Cir. 1970).

5. *Actions included.*—The nonapplicability of the impact statement process to general revenue sharing is confirmed.

The former section 5(d) of the CEQ guidelines, exempting all of EPA's environmental protective regulatory activities from the requirements of section 102(2)(C), has been deleted in recognition of the fact that new section 511(c) of the Federal Water Pollution Control Act Amendments of 1972 now specifically addresses this issue, requiring EPA to prepare impact statements in some cases, and exempting EPA from the requirement in other cases. This general matter will be addressed in EPA's NEPA procedures issued pursuant to section 3(a) of these guidelines.

6. *Identifying "major," environmentally "significant" actions.*—This new section combines parts of the existing guidelines with new directives for interpreting and applying these key words of the Act.

(a) General guidance from previous section 5(b) is included here about the statutory criteria for determining when an EIS is required. (The discussion of the "lead agency" concept has been moved to the following section (sec. 7(c)).)

(b) More specific guidance is included here concerning factors to consider in assessing "significance." Specific cross-reference is made to appendix II which contains a list of typical kinds of environmental impact to consider in making this assessment including a new reference to "energy conservation."

(c) This subsection indicates that each agency should supplement the general CEQ criteria with specific criteria, and review its typical actions to determine those that will require statements and those that will not. With respect to remaining actions and actions likely to require statements, agencies are to develop guidance, indicating for particular kinds of projects how environmental impact is to be determined. The emphasis on agency responsibility to develop such criteria for making environmental assessments accords with longstanding CEQ policy and with provisions contained in recommendation No. 1 of the CEQ's memorandum of May 16, 1972. See 3 Environmental Reporter 83 ("Current Developments," May 19, 1972).

(d) This subsection emphasizes the usefulness and desirability of program or overview statements, in accord with recommendation No. 9 of the CEQ May 16 memo, 3 ER 87.

7. *Procedures for preparing draft EIS's.*—This is a new section, discussing procedural aspects of preparing draft statements.

(a) Because the decision whether or not to prepare an impact statement is a crucial point in the 102 process, this subsection adds new provisions for making public the decision when it is made. The "notice of intent" device was previously recommended in the May 16 memo (see Rec. No. 5, 3 ER 85-86).

(b) This subsection provides a general overview of the 102 process from draft through final, emphasizing again the importance of early preparation pursuant to the policy of section 2.

(c) The "lead agency" concept is clarified here, and the desirability of joint statements is emphasized in accordance with Recommendation No. 8 of the May 16 memo, 3 ER 85-87 (attached, app. A), and with similar recommendations made both by agencies and environmental organizations. The section also makes clear that where a "lead agency" prepares the statement, input from other participating agencies should still be secured. Finally, additional factors relevant to selection of a lead agency are specified.

(d) This subsection responds to the decision in *Greene County Planning Board v. FPC*, 3 ERC 1595 (2d Cir., 1972), prohibiting the use of applicant EIS's. Some flexibility is preserved, however, to permit the use (after review) of initial information furnished by an applicant in the form of an EIS.

(e) This is a revision and codification of what appears in sections 6(d) and 10(e) of the existing guidelines, with some additional general guidance about when to hold hearings. Agencies are also asked to identify in their procedures contexts in which hearings are normally held as part of the review process. The final clause of the former section 10(e) has been deleted in response to the decision in *Greene County*, supra.

8. *Content of EIS's.* (a) The points to be covered have been reorganized and new language has been added: (1) Emphasizing the need for a comprehensive but comprehensible description of the proposed action and the existing environment and for accurate population data, identified by source, in making assessments of population impact; (2) Illustrating the range of environmental values which agencies should keep in mind in evaluating proposals, and indicating that the effect on the international environment is also to be assessed where relevant; and (3) discussing the kinds of secondary effects to which agencies should be alert in making environmental assessments.

Additional language in the discussion of alternatives (sec. 8(a)(iii)) 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.

(b) This subsection emphasizes the importance of substance over form in the content of EIS's, and stresses the primary EIS function of serving as a full disclosure document. The reference to incorporation of underlying documents is from Recommendation No. 6 of the May 16 memo, 3 ER 86.

(c) This is former section 6(c), with additional language clarifying the act's reference to use of an "interdisciplinary" approach.

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 first sentence of former section 7 is responsive to the decision in *Greene County*, supra. The list of relevant commenting agencies has been moved to the appendix.

(b) This subsection relates EPA review of EIS's under section 309 of the Clean Air Act to the EIS process generally and requires prompt notification of the Council where statements are rated inadequate or projects are determined to be environmentally unsatisfactory.

(c) Procedures for securing State and local review are referenced here to the recent joint CEQ-OMB memorandum. This joint memo-

randum 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.

(e) 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 10(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 (8th 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 90 days after the publication of the revised guidelines in final form.

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