

INDIAN AFFAIRS MANUAL

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Environmental Management
Environmental Analysis and Review

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3.1 Purpose. This chapter establishes the basic requirements, guidance, and responsibilities for complying with the National Environmental Policy Act (NEPA) and other environmental analysis and review requirements.

3.2 Scope. NEPA requires that the environmental effects of any major federal action be evaluated prior to initiation of the action. Other statutes may impose similar requirements. Environmental analysis and review activities are also required before land can be taken into trust and before property is transferred from Indian Affairs to Tribes or other parties.

3.3 Requirements. The following statute, regulations, and executive orders impose requirements on Indian Affairs regarding compliance with NEPA and other environmental analysis and review programs:

A. 42 U.S.C. §§ 4321 - 4347, National Environmental Policy Act of 1969 (NEPA), as amended;

B. 40 CFR Part 373, Reporting Hazardous Substance Activities When Selling or Transferring Federal Real Property;

C. 40 CFR Parts 1500 - 1508, Regulations of the Council on Environmental Quality (CEQ);

D. Other Environmental Review and Consultation Requirements. Numerous statutes, in addition to NEPA, establish environmental review and consultation requirements (See the NEPA Handbook referenced in 3.4B of this Chapter for examples). The determination as to whether any of these requirements apply to a particular action proposed to be taken by Indian Affairs is independent from the determination as to whether NEPA requires the preparation of an Environmental Impact Statement (EIS). If any of these requirements apply to a particular proposed action for which an EIS is prepared under NEPA, the CEQ regulations require that these requirements be addressed in the draft EIS (40 CFR Part 1502.25);

E. Executive Order 11514, Protection and Enhancement of Environmental Quality, Section 2, March 5, 1970, as amended by Executive Order 11991, Relating to Protection and Enhancement of Environmental Quality, May 24, 1977; and

F. Tribal Environmental Laws. Whenever Indian Affairs proposes to take an action which would be regulated by any tribal environmental, cultural, or natural resource code or standard, an environmental assessment will be prepared (516 DM 2.3 A (3)(I)).

3.4 Guidance. The following guidance documents are available to assist Indian Affairs in complying with NEPA. All guidance documents listed below are available from the Chief, Division of Environmental and Cultural Resources Management, MS 4513-MIB, 1849 C Street, NW, Washington, DC 20240.

A. Departmental Manual Part 516, Environmental Quality;

B. Departmental Manual Part 602, Land Acquisition, Exchange and Disposal;

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C. NEPA Handbook. Provides guidance for Indian Affairs personnel in preparing documents required by NEPA;

D. Environmental Justice Guidance Under the National Environmental Policy Act, Council on Environmental Quality; and

E. Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses, April 1998, Environmental Protection Agency.

3.5 Responsibilities.

A. Assistant Secretary - Indian Affairs. Reviews and acts on any NEPA documents, including Categorical Exclusions, Environmental Impact Statements, Environmental Assessments, or Findings of No Significant Impact that are raised to the Assistant Secretary level.

B. Commissioner/Deputy Commissioner of Indian Affairs. Reviews and acts on any NEPA documents, including Categorical Exclusions, Environmental Impact Statements, Environmental Assessments, or Findings of No Significant Impact that are raised to the Commissioner/Deputy Commissioner level.

C. Director, Office of Trust Responsibilities. Ensures the interdisciplinary capabilities of the Division of Environmental and Cultural Resources Management as required by Section 102(2)(A) of NEPA.

D. Chief, Division of Environmental and Cultural Resources Management. Coordinates Indian Affairs NEPA and other environmental analysis and review activities.

E. Regional Directors.

(1) Ensure that all acquisitions of trust lands and transfers of trust lands to Tribes meet all environmental requirements; and

(2) Review and act on any NEPA documents, including Categorical Exclusions, Environmental Impact Statements, Environmental Assessments, and Findings of No Significant Impact that are not otherwise delegated to the Agency level.

F. Regional NEPA Coordinators or Regional Environmental Scientists.

(1) Coordinate NEPA and other environmental review and analysis activities in the Region;

(2) For any Indian Affairs action originated in the Region or requiring Regional Director's approval for which NEPA analysis or other environmental analysis or review is required, take the lead for conducting the analysis, or ensuring that it is conducted, in accordance with the authorities and guidance referenced in Sections 3.3 and 3.4 of this Chapter; and

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- (3) Review Environmental Assessments conducted at the Agency level; and
- (4) Inspect projects to ensure that all required mitigation measures are carried out.

G. Agency Superintendents. Review and act on any NEPA documents, including Categorical Exclusions, Environmental Impact Statements, Environmental Assessments, and Findings of No Significant Impact that are delegated to the Agency level.

H. Agency Environmental Specialists. For any action which has been delegated to the Agency level, and for which NEPA analysis or other environmental analysis or review is required, take the lead in conducting the analysis, or ensuring that it is conducted, in accordance with the requirements and guidance referenced in Sections 3.3 and 3.4 of this Chapter.