

Department of the Interior Departmental Manual

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Series: Intergovernmental Relations

Part 511: Coordination with State and Local Governments

Chapter 8: Direct Federal Development, Leases, Licenses, and Permits

Originating Office: Office of Acquisition and Property Management

511 DM 8

8.1 **Purpose.** The purpose of this chapter is to:

- A. Provide State and local governments with information on projected Federal development to facilitate coordination with State, areawide, and local plans and programs. Such information includes leases, licenses, permits for the use of lands administered by the Department, and the protection, acquisition, use and disposal of land.
- B. Provide bureaus and offices with information on the relationship of proposed direct Federal development projects, leases, licenses, permits, and related activities to State, areawide, and local plans and programs; and to assure maximum feasible consistency of Federal developments with State, areawide, and local plans and programs.

8.2 **Coordination.** 43 CFR '9.3 of the Department's Final Rule refers to a list of programs and activities that have existing consultation processes. When a State chooses to cover these programs and activities, the State must agree to adopt those existing processes. Under the OMB Circular A-95 system, the Department's policy was to provide State and area clearinghouses with information about plans or proposed actions early enough so that their views might be considered in making our decisions. The Department proposes to continue this arrangement when possible. This coordination procedure aims at fostering centralized decisions while providing State and area clearinghouses with important information on the Department's land use plans and proposals. Existing consultation processes which use other entities within the State will also be continued.

- A. Bureaus and offices should continue existing agreements with State and area clearinghouses when such agreements clarify and aid the processes of review. Such agreements may assist all parties by limiting the volume of transactions subject to review to those most useful to State and local planning. Copies of these agreements will be filed in the regional or equivalent field office, sent to the Secretary's Field Special Assistant if applicable, and be readily available to the public. Elements of agreements which are of special concern include the timing of the reviews and the Federal response to clearinghouse comments. Criteria useful in selecting transactions for clearinghouse review are:

- (1) the probable effect on the need for State or local government to plan public services in or near the site of the Department's action;
 - (2) consistency of the Department's action with State or local laws or ordinances, plans, programs, or projects;
 - (3) geographic areas of particular importance for State or area clearinghouses; and
 - (4) actions which once undertaken cannot be readily halted or reversed.
- B. Bureaus opting to enter into agreements with State and area clearinghouses will publish statements describing the various transactions executed by the bureau which affect development, leases, licenses, and permits. This information is published as appendixes to this chapter for use by clearinghouses in requesting review of and comments on proposed actions (see 511 DM 8.3).
- C. Each bureau or office which has actions covered by this chapter and which chooses to enter into agreements with State and area clearinghouses will develop a model memorandum of agreement for use by its field offices (regional, area, etc.). These model agreements should include proposed clearance arrangements for such actions.
- D. Bureaus which choose not to enter into agreements with State and area clearinghouses must, as a matter of routine practice, inform all cognizant area and State clearinghouses or other entities of all proposed or planned actions covered by this chapter (see 511 DM 8.4 below).
- E. Procedures to be adopted by bureaus under this chapter, whether or not they are made a part of a State or area clearinghouse agreement, will observe any timing constraints for review and notification. This includes matters such as:
- (1) the point in the proposed action or project planning at which the clearinghouse will be contacted;
 - (2) the minimum time clearinghouses will be afforded to review the proposed action;
 - (3) the minimum information to be provided to the clearinghouse; and
 - (4) procedures for notifying clearinghouses on actions to be taken where the bureau or office is deciding contrary to the advice or recommendations of the clearinghouse.

8.3 Bureau Statements. Each bureau listed below will publish as an Appendix to this chapter a statement of the types of development projects or proposed actions covered by this chapter, and as prescribed in 511 DM 8.2B. Internal bureau instructions for such projects or actions will include a description of the existing consultation process. The Appendix numbers

assigned to each bureau are as follows:

- A. Bureau of Reclamation (Appendix 1)
- B. Bureau of Land Management (Appendix 2)
- C. National Park Service (Appendix 3)
- D. Fish and Wildlife Service (Appendix 4)

8.4 **Guidelines.** There are no minimum levels in terms of size or dollar amounts concerning what projects, leases, licenses, or permits will be coordinated. The procedure relates to the construction of roads; lodge facilities; laboratories; recreation facilities; leases for mineral development; grazing and timber cutting; rights of way; permits; the acquisition of land through gift, purchase, or other means; and the sale or exchange of Federally owned land. Procedures call for:

- A. consulting at the earliest practicable stage in project or development planning on the relationship of the proposed action to the development plans and programs of the State, area, or locality in which it is to be located. In the case of the National Capital Region, such consultation should be undertaken in cooperation with the National Capital Planning Commission;
- B. assuring that the proposed action is consistent or compatible with State, areawide, and local development plans and programs identified in the course of such consultation. Explanation of any necessary inconsistency or incompatibility will be provided in writing, to the appropriate clearinghouses;
- C. providing State, areawide, and local agencies, which are authorized to develop and enforce environmental standards, with adequate opportunity to review such Federal plans and proposed actions pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Any comments of such agencies will accompany the environmental impact statement submitted by the Federal agency. (See 511 DM 7, Environmental Impact); and
- D. providing the State agency responsible for administration of the approved program for the management of the coastal zone an opportunity to review plans prior to the proposed action. This provision applies to those projects or land use actions which are located in the coastal zone as defined by a State's Coastal Zone Management Plan. (See Departmental Manual, Coordination Procedures, 702 DM 1.)

APPENDIX 1

BUREAU OF RECLAMATION

Direct Federal Development - Investigations

The Bureau of Reclamation Federal resources management and development program is basically limited to the 17 westernmost contiguous States under the provisions of the Reclamation Act of 1902 and subsequent amendments. Investigation of management actions include distribution of:

1. Notice of Initiation of Investigation
2. Appraisal study (level B)
3. Feasibility report

Congressional authorization for a feasibility study (level C) is based on Congressional hearings and authorization for each specific project.

A public involvement plan is typically developed and followed to explain the planning study's goals and the range of options to be considered during the study, and to receive information from the public about the views, opinions, and interests of individuals and groups favoring or opposing the potential action being investigated, so that such feedback can be considered and dealt with as the investigation planning process.

Environmental statements accompany feasibility reports.

Congressional appropriations are obtained annually for specific investigations.

Direct Federal Development - Construction

Each Federal project is specifically authorized by the Congress for construction following public hearings. The act includes authority to accomplish project purposes, and further notification to clearinghouses should not be necessary. Title to all constructed works and rights-of-way is vested in the United States. Such constructed works include dams, power plants, pumping plants, canals, laterals, pipelines, and physical support structures.

Direct Federal Development Water and Lands Operations

Following construction, the operation and maintenance of the project facility may be accomplished by the Bureau of Reclamation. However, under contract provisions, such operation and maintenance usually is turned over to the repaying (contracting) entity. Activities necessary to operation and maintenance include: repair of project facilities; acquisition of land or interests in land required for project purposes; disposal of excess lands; and issuance of permits, licenses, or leases for a variety of purposes on retained lands.

For transactions involving land acquisition, disposal, permits, licenses, and leases, which occur during the operation and maintenance of the project, the responsible Regional Director will cooperate with State clearinghouses by notification of such transactions, allowing the prescribed time for review before final action.

BUREAU OF LAND MANAGEMENT

In the discharge of its responsibilities for managing the public lands, the Bureau of Land Management:

1. constructs facilities such as office buildings, warehouses, telecommunication relay stations, supply yards, roads and trails, recreation facilities, fences, water retention facilities, and stock water facilities;
2. sells tracts of public lands;
3. grants lands to States;
4. issues mineral prospecting permits and leases on public or acquired lands;
5. records mining claims and issues patents;
6. makes land exchanges;
7. leases land;
8. holds timber sales;
9. grants permits for cutting firewood;
10. issues lease or permits for grazing domestic livestock;
11. holds mineral materials sales;
12. grants free use permits for minerals materials;
13. adjudicates rights-of-way applications;
14. nominates areas for inclusion in the National Trails System, the National Wild and Scenic River System, the National Wilderness System, the Natural Landmarks program, and the National Register of Historic Places;
15. processes applications for the withdrawal or reservation of public lands for such Federal purposes as defense, reclamation, public works, natural area;
16. surveys and resurveys the public lands;
17. issues recreation permits;
18. provides, and receives, wildfire protection in cooperation with State and local governments;
19. coordinates and receives assistance in law enforcement matters including trespass;
20. acquires lands (in fee) or interests in land (easements) for various purposes including acquisitions under special acts;
21. conducts in connection with range management and watershed conservation brush control and grass seeding and reseeding projects;
22. protects and manages wild, free-roaming horses and burros;
23. prepares environmental assessments and environmental impact statements with respect to public land policies and programs and reviews such analyses and statements which other Federal agencies prepare;
24. conducts habitat management projects and programs for aquatic and terrestrial wildlife including game, non-game, and threatened and endangered species and devises programs of wildlife habitat protection and mitigation;
25. develops land use plans; and
26. protects cultural and historic properties.

The Bureau of Land Management maintains State Offices in the following States: Alaska, Arizona, California, Colorado, Idaho, Montana (includes North Dakota and South Dakota),

Nevada, New Mexico (includes Oklahoma), Oregon (includes Washington), Utah, and Wyoming (includes Nebraska and Kansas).

For States bordering the Mississippi on the west and for States east of the Mississippi the Bureau of Land Management maintains an Eastern States Office in Alexandria, Virginia.

APPENDIX 3

NATIONAL PARK SERVICE

Bureau Statement

The fundamental mission of the National Park Service, as expressed in the language of the National Park Service Act, is "to promote and regulate the use of the Federal areas known as national parks, monuments, and reservations, hereinafter specified, by such means and measures as conform to the fundamental purpose of said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations". The National Park System presently consists of 369 natural, historical, cultural and recreational areas.

The National Park Service administers the Land and Water Conservation Fund program which was established in 1964 as a funding source for Federal acquisition of public park and recreation lands and for grants-in-aid to State and local governments for the acquisition and development of outdoor recreation areas. The Fund is also designed to stimulate, through its planning and matching requirements, greater non-Federal and private investments in the provision and maintenance of outdoor recreation facilities. A second National Park Service administered program is designed to assist in the revitalization of urban park and recreation systems. The Urban Park and Recreation Recovery program provides grants and technical assistance to local governments in urban areas for the rehabilitation of existing recreation facilities. The program also provides assistance to demonstrate innovative approaches to improve park system management and recreation opportunities and to plan for the overall revitalization of community recreation systems.

The National Park Service also exercises, within delegated limits, the authority of the Secretary in matters related to the preservation of historic and cultural resources of the Nation. This responsibility includes maintenance of the National Register of Historic Places and the administration of the Historic Preservation Certification program for Federal tax benefits. These functions are enhanced by administration of a grants-in-aid program to the States, Territories, and the National Trust for Historic Preservation for statutory responsibilities pertaining to survey, inventory, and protection of historic properties. The Service also issues Antiquities Act Permits on Federal lands, and administers a program of coordination and assistance in Federal responsibilities and activities in the preservation and salvage of historic resources.

Additionally, it administers the Historic American Buildings Survey and the Historic American

Engineering Record programs, maintains registers of natural and environmental education landmarks, and supports studies to identify significant historic and natural areas.

In exercising these responsibilities, the National Park Service:

- acquires lands and interests in land for authorized and established areas of the National Park System by purchase, exchange, donation, condemnation, and by transfer from other Federal agencies;
- constructs such park and recreation facilities as visitor information centers, parking and concessioner facilities, sanitation systems, roads and trails, and maintenance facilities;
- prepares Environmental Impact Statements and environmental assessments where applicable, and reviews the environmental statements and, assessments prepared by other agencies for impacts on the National Park System and other areas of jurisdiction and expertise;
- undertakes mission-oriented research related to natural, historical and cultural resources;
- negotiates contracts for the salvage of historical and cultural resources affected by Federal programs and activities;
- negotiates concession contracts and establishes new concession facilities, including the modification of existing facilities, in designated park areas;
- issues the following types of permits: right-of-way, scientific-collecting, special-use for the use of real property (land, including assets and resources or utilities); and Antiquity Act.

With respect to these actions and activities that frequently affect the interests of other organizations, the National Park Service exchanges information and technical assistance with other levels of government and with other nations. These efforts provide mutual benefits and contribute significantly to the accomplishment of the National Park Service mission.

APPENDIX 4

U.S. FISH AND WILDLIFE SERVICE

The U.S. Fish and Wildlife Service administers 504 units in the National Wildlife Refuge System, plus 149 waterfowl production areas, totaling 92 million acres in the system. Of this, 76 million acres are in Alaska.

In the discharge of its responsibilities, the U.S. Fish and Wildlife Service:

- constructs or modifies hatcheries and refuge facilities, including office buildings,

residences, laboratories, recreation facilities, water-control structures, and special purpose structures;

- acquires by purchase, easement, or exchange, wetlands and other suitable habitat for migratory birds, endangered species, and other wildlife.
- grants permits and enters into cooperative agreements for use of lands under Service control. Included are grazing, timber harvest, farming, and concession contracts, as well as agreements with States for operation of Service management units;
- issues permits and easements for rights-of-way;
- constructs visitor information and environmental education centers;
- constructs roadways, dikes, and dams;
- constructs sewerage facilities for domestic and hatchery effluent needs;
- issues permits for the import-export of regulated wildlife and plants, including interstate shipment of injurious wildlife;
- issues permits for the taking, or banding of migratory birds including falconry permits and eagle permits; and
- conducts a variety of support research at laboratories and field stations through cooperative agreements.

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