

Department of the Interior Departmental Manual

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Series: Environmental Quality Programs

Part 516: National Environmental Policy Act of 1969

Chapter 12: Managing the NEPA Process--National Park Service

Originating Office: National Park Service

516 DM 12

12.1 Purpose. This Chapter provides supplementary requirements for implementing provisions of 516 DM 1 through 6 within the Department's National Park Service. This Chapter is referenced in 516 DM 6.5.

12.2 NEPA Responsibility.

A. The Director is responsible for NEPA compliance for National Park Service (NPS) activities.

B. Regional Directors are responsible to the Director for integrating the NEPA process into all regional activities and for NEPA compliance in their regions.

C. The Denver Service Center performs most major planning efforts for the National Park Service and integrates NEPA compliance and environmental considerations with project planning, consistent with direction and oversight provided by the appropriate Regional Director.

D. The Environmental Compliance Division (Washington), which reports to the Associate Director-Planning and Development, serves as the focal point for all matters relating to NEPA compliance; coordinates NPS review of NEPA documents prepared by other agencies; and provides policy review and clearance for NPS EISs. Information concerning NPS NEPA documents or the NEPA process can be obtained by contacting this office.

12.3 Guidance to Applicants. Actions in areas of NPS jurisdiction that are initiated by private or non-Federal entities include the following:

A. Minerals. Mineral exploration, leasing and development activities are not permitted in most units of the National Park System. There are exceptions where mineral activities are authorized by law and all mineral activities conducted under these exceptions require consultation with and evaluation by officials of the NPS and are subject to NEPA compliance. Some procedures whereby mineral activities are authorized are outlined below. For site-specific proposals, interested parties should contact the appropriate NPS Regional Director for a determination of whether authorities for conducting other types of mineral activities in particular areas exist and, if so, how to obtain appropriate permits. For further information about NPS

minerals policy, interested parties should contact the Energy, Mining, and Minerals Division (Denver, Colorado).

(1) **Mining Claims and Associated Mining Operations.** All Units of the National Park System are closed to mineral entry under the 1872 Mining Law, and mining operations associated with mining claims are limited to the exercise of valid prior existing rights. Prior to conducting mining operations on patented or unpatented mining claims within the National Park System, operators must obtain approval of the appropriate NPS Regional Director. The Regional Directors base approval on information submitted by potential operators that discusses the scope of the proposed operations, evaluates the potential impacts on park resources, identifies measures that will be used to mitigate adverse impacts, and meets other requirements contained in 36 CFR Part 9, Subpart A, which governs mining operations on mining claims under the authority of the Mining in the Parks Act of 1976.

(2) **Non-Federal Mineral Rights.** Privately held Oil, gas and mineral rights on private land or split estates (Federally-owned surface estate and non-Federally owned subsurface estate) exist within some park boundaries. Owners of outstanding subsurface oil and gas rights are granted reasonable access on or across park units through compliance with 36 CFR Part 9, Subpart B. These procedures require an operator to file a plan of operations for approval by the appropriate NPS Regional Director. An approved plan of operations serves as the operator's access permit.

(3) **Federal Mineral Leasing and Mineral Operations.**

(a) **Leasing of Federally-owned minerals** is restricted to five national recreation areas in the National Park System, where leasing is authorized in the enabling legislation of the units. According to current regulations (43 CFR 3100.0-3(g)(4); 43 CFR 3500.0-3(c)(7)). These areas are: Lake Mead, Glen Canyon, Ross Lake, Lake Chelan, and Whiskeytown National Recreation Areas. However, Lake Chelan was designated in 1981 as an "excepted" area under the regulations and is closed to mineral leasing. The Bureau of Land Management (BLM) issues leases on these lands and controls and monitors operations. Applicable general leasing and operating procedures for oil and gas are contained in 43 CFR Part 3100, et seq, and for minerals other than oil and gas in 43 CFR 3500 et seq. Within units of the National Park System, the NPS, as the surface management agency, must consent to the permitting and leasing of park lands and concur with operating conditions established in consultation with the BLM. Leases and permits can only be granted upon a finding by the NPS Regional Director that the activities authorized will not have a significant adverse effect on the resources and administration of the unit. The NPS can also require special lease and permit stipulations for protecting the environment and other park resources. In addition, the NPS participates with BLM in preparing environmental analyses of all proposed activities and in establishing reclamation requirements for park unit lands.

(b) **Glen Canyon National Recreation Area** is the only unit of the National Park System containing special tar sands areas as defined in the Combined Hydrocarbon Leasing Act of 1981. In accordance with the requirements of this Act, the BLM has promulgated regulations governing the conversion of existing oil and gas leases located in special tar sands

areas to combined hydrocarbon (oil, gas, and tar sands) leases and for instituting a competitive combined hydrocarbon leasing program in the special tar sands areas. Both of these activities, lease conversions and new leasing, may occur within the Glen Canyon NRA provided that they take place commensurate with the unit's minerals management plan and that the Regional Director of the NPS makes a finding of no significant adverse impact on the resources and administration of the unit or on other contiguous units of the National Park System. If the Regional Director does not make such a finding, then the BLM cannot authorize lease conversions or issue new leases within the Glen Canyon NRA. The applicable regulations are contained in 43 CFR 3140.7 and 3141.4-2, respectively. Intra-Departmental procedures for processing conversion applications have been laid out in a Memorandum of Understanding (MOU) between the BLM and the NPS. For additional information about combined hydrocarbon leasing, interested parties should contact the Energy, Mining and Minerals Division (Denver, Colorado).

B. Grazing. Grazing management plans for NPS units subject to legislatively-authorized grazing are normally prepared by the NPS or jointly with the BLM. Applicants for grazing allotments must provide the NPS and/or the BLM with such information as may be required to enable preparation of environmental documents on grazing management plans. Grazing is also permitted in some NPS areas as a condition of land acquisition in instances where grazing rights were held prior to Federal acquisition. The availability of these grazing rights is limited and information should be sought through individual Park Superintendents.

C. Permits, Rights-of-Way, and Easements for Non-Park Uses. Informational requirements are determined on a case-by-case basis, and applicants should consult with the Park Superintendent before making formal application. The applicant must provide sufficient information on the proposed non-park use, as well as park resources and resource-related values to be affected directly and indirectly by the proposed use in order to allow the Service to evaluate the application, assess the impact of the proposed use on the NPS unit and other environmental values, develop restrictions/stipulations to mitigate adverse impacts, and reach a decision on issuance of the instrument. Authorities for such permits, rights-of-way, etc., are found in the enabling legislation for individual National Park System units and 16 U.S.C. 5 and 79 and 23 U.S.C. 317. Right-of-way and easement regulations are found at 36 CFR Part 14. Policies concerning regulation of special uses are described in the NPS Management Policies Notebook.

D. Archaeological Permits. Permits for the excavation or removal of archaeological resources on public and Indian lands owned or administered by the Department of the Interior, and by other agencies that may delegate this responsibility to the Secretary, are issued by the Director of the NPS. These permits are required pursuant to the Archaeological Resources Protection Act of 1979 (Pub. L. 96-95) and implementing regulations (43 CFR Part 7), whenever materials of archaeological interest are to be excavated or removed. These permits are not required for archaeological work that does not result in any subsurface testing and does not result in the collection of any surface or subsurface archaeological materials. Applicants should contact the Departmental Consulting Archaeologist in Washington about these permits.

E. Federal Aid. The NPS administers financial and land grants to States, local governments and private organizations/individuals for outdoor recreation acquisition,

development and planning (Catalog of Federal Domestic Assistance (CFDA #15.916), historic preservation (CFDA #15.904), urban park and recreation recovery (CFDA #15.919) and Federal surplus real property for park recreation and historic monument use (CFDA #15.403). The following program guidelines and regulations list environmental requirements which applicants must meet:

- (1) Land and Water Conservation Fund Grants Manual, Part 650.2;
- (2) Historic Preservation Grants-in-Aid Manual, Chapter 4;
- (3) Urban Park and Recreation Recovery Guidelines, NPS-37;
- (4) Policies and Responsibilities for Conveying Federal Surplus Property Manual, Part 271.

Copies of documents related to the Land and Water Conservation Fund and the Historic Preservation Fund have been provided to all State Liaison Officers for outdoor recreation and all State Historic Preservation Officers. Copies of these documents related to the Urban Park and Recreation Recovery Program are available for inspection in each NPS Regional Office as well as the NPS Office of Public Affairs in Washington, D.C. Many State agencies which seek NPS grants may prepare related EISs pursuant to section 102(2)(D) of NEPA. Such agencies should consult with the NPS Regional Office.

F. Conversion of Acquired and Developed Recreation Lands. The NPS must approve the conversion of certain acquired and developed lands prior to conversion. These include:

(1) All State and local lands and interests therein, and certain Federal lands under lease to the States, acquired or developed in whole or in part with monies from the Land and Water Conservation Fund Act are subject to section 6(f) of the Act which requires approval of conversion of use.

(2) All recreation areas and facilities (as defined in section 1004), developed or improved, in whole or in part, with a grant under the Urban Park and Recreation Recovery Act of 1978 (Pub. L. 95-625, Title 10) are subject to section 1010 of the Act which requires approval for a conversion to other than public recreation uses.

(3) Most Federal surplus real property which has been conveyed to State and local governments for use as recreation demonstration areas, historic monuments or public park and recreation areas (under the Recreation Demonstration Act of 1942 or the Federal Property and Administrative Services Act of 1949, as amended) are subject to approval of conversion of use.

(4) All abandoned railroad rights-of-way acquired by State and local governments for recreational and/or conservation uses with grants under section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976, are subject to approval of conversion of use. Application for approval of conversion of the use of these lands must be submitted to the appropriate Regional Director of the NPS. Early consultation with the Regional Office is

encouraged to insure that the application is accompanied by any required environmental documentation. If the property was acquired through the Land and Water Conservation Fund, then the application must be submitted through the appropriate State Liaison Officer for Outdoor Recreation. If the property was acquired under the Federal Property and Administrative Services Act of 1949, as amended, approval of an application for conversion of use must also be concurred in by the General Services Administration.

12.4 Major Actions Normally Requiring Environmental Impact Statements.

A. The following types of NPS proposals will normally require the preparation of an EIS:

- (1) Wild and Scenic River proposals;
- (2) National Trail proposals;
- (3) Wilderness proposals;
- (4) General Management Plans for major National Park System units;
- (5) Grants, including multi-year grants, whose size and/or scope will result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes within the project area or its immediate environs;
- (6) Grants which foreclose other beneficial uses of mineral, agricultural, timber, water, energy or transportation resources important to National or State welfare.

B. If for any of these proposals it is initially decided not to prepare an EIS, an EA will be prepared and made available for public review in accordance with section 1501.4(e)(2).

12.5 **Categorical Exclusions.** In addition to the actions listed in the Departmental categorical exclusions in Appendix 1 of 516 DM 2, many of which the Service also performs, the following NPS actions are designated categorical exclusions unless the action qualifies as an exception under Appendix 2 to 516 DM 2.

A. Actions Related to General Administration.

- (1) Changes or amendments to an approved action when such changes would cause no or only minimal environmental impact.
- (2) Land and boundary surveys,
- (3) Minor boundary changes,
- (4) Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts,

(5) Conversion of existing permits to rights-of-way, when such conversions do not continue or initiate unsatisfactory environmental conditions,

(6) Issuances, extensions, renewals, reissuances or minor modifications of concession contracts or permits not entailing new construction,

(7) Commercial use licenses involving no construction,

(8) Leasing of historic properties in accordance with 36 CFR Part 18 and NPS-38,

(9) Preparation and issuance of publications,

(10) Modifications or revisions to existing regulations, or the promulgation of new regulations for NPS-administered areas, provided the modifications, revisions or new regulations do not:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it,

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it,

(c) Conflict with adjacent ownerships or land uses, or

(d) Cause a nuisance to adjacent owners or occupants.

(11) At the direction of the NPS responsible official, actions where NPS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau.

B. Plans, Studies and Reports.

(1) Changes or amendments to an approved plan, when such changes would cause no or only minimal environmental impact.

(2) Cultural resources maintenance guides, collection management plans and historic furnishings reports.

(3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans).

(4) Plans, including priorities, justifications and strategies, for non-manipulative research, monitoring, inventorying and information gathering.

(5) Statements for management, outlines of planning requirements and task directives for plans and studies.

(6) Technical assistance to other Federal, State and local agencies or the general public.

(7) Routine reports required by law or regulation.

(8) Authorization, funding or approval for the preparation of Statewide Comprehensive Outdoor Recreation Plans.

(9) Adoption or approval of surveys, studies, reports, plans and similar documents which will result in recommendations or proposed actions which would cause no or only minimal environmental impact.

(10) Preparation of internal reports, plans, studies and other documents containing recommendations for action which NPS develops preliminary to the process of preparing a specific Service proposal or set of alternatives for decision.

(11) Land protection plans which propose no significant change to existing land or visitor use.

(12) Documents which interpret existing mineral management regulations and policies, and do not recommend action.

C. Actions Related to Development.

(1) Land acquisition within established park boundaries.

(2) Land exchanges which will not lead to significant changes in the use of land.

(3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds and trails.

(4) Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide; or if the action would not adversely affect the cultural resource.

(5) Installation of signs, displays, kiosks, etc.

(6) Installation of navigation aids.

(7) Establishment of mass transit systems not involving construction, experimental testing of mass transit systems, and changes in operation of existing systems (e.g., routes and schedule changes).

(8) Replacement in kind of minor structures and facilities with little or no change in location, capacity or appearance.

(9) Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc., on existing roads.

(10) Sanitary facilities operation.

(11) Installation of wells, comfort stations and pit toilets in areas of existing use and in developed areas.

(12) Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair.

(13) Upgrading or adding new overhead utility facilities to existing poles, or replacement poles which do not change existing pole line configurations.

(14) Issuance of rights-of-way for overhead utility lines to an individual building or well from an existing line where installation will not result in significant visual intrusion and will involve no clearance of vegetation other than for placement of poles.

(15) Issuance of rights-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion in an NPS-administered area.

(16) Installation of underground utilities in previously disturbed areas having stable soils, or in an existing utility right-of-way.

(17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas.

(18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped.

(19) Landscaping and landscape maintenance in previously disturbed or developed areas.

(20) Construction of fencing enclosures or boundary fencing posing no effect on wildlife migrations.

D. Actions Related to Visitor Use.

(1) Carrying capacity analysis.

- (2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations.
- (3) Changes in interpretive and environmental education programs.
- (4) Minor changes in programs and regulations pertaining to visitor activities.
- (5) Issuance of permits for demonstrations, gathering, ceremonies, concerts, arts and crafts shows, etc., entailing only short-term or readily mitigable environmental disturbance.
- (6) Designation of trail side camping zones with no or minimal improvements.

E. Actions Related to Resource Management and Protection.

- (1) Archeological surveys and permits involving only surface collection or small-scale test excavations.
- (2) Day-to-day resource management and research activities.
- (3) Designation of environmental study areas and research natural areas.
- (4) Stabilization by planting native plant species in disturbed areas.
- (5) Issuance of individual hunting and/or fishing licenses in accordance with State and Federal regulations.
- (6) Restoration of noncontroversial native species into suitable habitats within their historic range and elimination of exotic species.
- (7) Removal of park resident individuals of non-threatened/endangered species which pose a danger to visitors, threaten park resources or become a nuisance in areas surrounding a park, when such removal is included in an approved resource management plan.
- (8) Removal of non-historic materials and structures in order to restore natural conditions.
- (9) Development of standards for, and identification, nomination, certification and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs.

F. Actions Related to Grant Programs.

- (1) Proposed actions essentially the same as those listed in paragraphs A-E above.
- (2) Grants for acquisition of areas which will continue in the same or lower density use with no additional disturbance to the natural setting.

(3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural resources of the area; or the integrity of the existing setting.

(4) Grants for construction of facilities on lands acquired under a previous NPS or other Federal grant provided that the development is in accord with plans submitted with the acquisition grant.

(5) Grants for the construction of new facilities within an existing park or recreation area, provided that the facilities will not:

(a) Conflict with adjacent ownerships or land use, or cause a nuisance to adjacent owners or occupants; e.g., extend use beyond daylight hours;

(b) Introduce motorized recreation vehicles;

(c) Introduce active recreation pursuits into a passive recreation area;

(d) Increase public use or introduce noncompatible uses to the extent of compromising the nature and character of the property or causing physical damage to it; or

(e) Add or alter access to the park from the surrounding area.

(6) Grants for the restoration, rehabilitation, stabilization, preservation and reconstruction (or the authorization thereof) of properties listed on or eligible for listing on the National Register of Historic Places at their same location and provided that such actions:

(a) Will not alter the integrity of the property or its setting;

(b) Will not increase public use of the area to the extent of compromising the nature and character of the property; and

(c) Will not cause a nuisance to adjacent property owners or occupants.

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