



United States Department of the Interior

Office of the Secretary

Washington, D.C. 20240

PEP - ENVIRONMENTAL STATEMENT MEMORANDUM NO. ESM 13-5¹

To: Heads of Bureaus and Offices

From: Michaela E. Noble, Director /s/ 09/24/2018
Office of Environmental Policy and Compliance

Subject: Review and Approval of Bureau and Office National Environmental Policy Act (NEPA) Departmental Manual Chapters, Categorical Exclusions, Handbooks, and Other Guidance

PURPOSE

This memorandum provides guidance on NEPA implementation, including the review and approval of Departmental Manual chapters, categorical exclusions, and handbooks. Bureaus and offices must have the concurrence from the Office of Environmental Policy and Compliance (OEPC) before publishing changes to their NEPA implementing procedures. Changes may also require concurrence from the Council on Environmental Quality (CEQ).

DEPARTMENTAL MANUAL CHAPTERS

NEPA implementing procedures are subject to public notice and comment prior to their adoption. The NEPA implementing procedures include not only the departmental regulations implementing NEPA ([43 CFR Part 46](#)), but also chapters in the Departmental Manual addressing NEPA, categorical exclusions, and other procedures for implementing CEQ regulations. These requirements apply to all Federal agencies, and are found in the CEQ regulations at [40 CFR 1507.3](#).

Bureaus and offices are encouraged to seek OEPC assistance with initial drafting of proposed revisions to their NEPA chapters in the Departmental Manual. Absent any prior OEPC involvement, when a draft chapter has been reviewed by bureau/office subject matter experts and the Office of the Solicitor, it will be made available to OEPC for review. The OEPC will forward the draft chapter to CEQ requesting their review and comments. The OEPC will include

¹ The guidance in this Environmental Statement Memorandum (ESM) are being issued under the authority provided to the Office of Environmental Policy and Compliance (OEPC) by 381 Departmental Manual (DM) 4.5B, to convey instructions and guidance through its Environmental Memoranda Series, and by 516 DM 3.2, which authorizes OEPC to provide advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations, and 516 DM 1.21, which authorizes OEPC to provide further guidance concerning NEPA.

the appropriate bureau/office NEPA contacts and the Office of the Solicitor as appropriate, in any consultations with CEQ. If a bureau or office arranges and conducts its own meetings with CEQ, it must keep OEPC informed of any critical issues and the outcome. Upon receipt of OEPC and CEQ concurrence, the bureau or office may proceed with program assistant secretary review and approval. Upon program assistant secretary approval, the Director of OEPC will sign the *Federal Register* notice for the proposed chapter revision ([516 DM 3 Section 3.4](#)).

After publication of the draft, consideration of public comments, and revision, the bureau or office will submit its draft final copy to OEPC for OEPC and CEQ review in the manner previously described. Upon receipt of OEPC concurrence and CEQ letter of conformance, the bureau or office may proceed with program assistant secretary approval. Upon program assistant secretary approval, the Director of OEPC will sign the *Federal Register* notice ([516 DM 3 Section 3.4](#)).

HANDBOOKS, AND OTHER GUIDANCE

Bureaus and offices must contact OEPC when revising and publishing any NEPA-related guidance documents. Guidance is considered direction that assists a bureau or office to fulfill NEPA's procedural requirements, but does not, itself, establish such procedures. Bureaus and offices are encouraged to seek early OEPC assistance with revisions to NEPA handbooks and any NEPA-related guidance documents. Bureau and office NEPA handbooks will require concurrence from the Director of OEPC before being approved by the program assistant secretary ([516 DM 3 Section 3.4](#)). However, such guidance documents do not require review and concurrence from CEQ.

GENERAL

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Additionally, nothing in this guidance is intended to affect the authority and responsibility of the United States Department of Justice with respect to the conduct of litigation on behalf of the United States.

This memorandum replaces ESM 10-9.