

**Questions and Answers Related to Deputy Secretary Memorandums (Memos)**  
**dated April 27, 2018**

1. *Question on Supplemental EIS timelines:* EIS timelines do not specify what to follow for a supplemental EIS, is it the same as a full DEIS or FEIS?

*Answer:* Yes, the time limits also apply to supplemental EISs. However, a Notice of Intent (NOI) is not required for supplemental EISs and, in cases where bureaus choose not to publish an NOI, the supplemental EIS shall be completed within 365 days from when the bureau emails the Review Team the Initial Action Notice for the supplemental EIS.

2. *Question on time between publication of Draft EIS and Final EIS -* Our interpretation of the referenced CEQ regulations (40 CFR 1506.10(b)(1)) is that we must wait 90 days after publication of the DEIS before making a decision (i.e., issuing a ROD), not 90 days between publication of the Draft EIS and the Final EIS. Please clarify.

*Answer:* Correct, the ROD may not be signed until 90 days after the publication of the DEIS and 30 days after the publication of the FEIS.

3. *Question on FEIS and ROD publication dates:* The timeline indicates the FEIS/ROD would be published concurrently, which does not align with the cited CEQ regulations (40 CFR 1506.10(b)(2)) which states a decision shall not be made until 30 days after a published Final EIS. Please clarify.

*Answer:* The instructions indicate that the draft ROD should be prepared and submitted with the FEIS when submitted for review and approval for publication. (See *NEPA Document Clearance Process* Memo and question below) In general, the FEIS and ROD should not be published concurrently; as indicated in the chart, bureaus sign RODs no earlier than 31st day after the FEIS is published in the Federal Register. While the CEQ regulations provide for exception to this timing framework, this exception is not commonly used by the Department's bureaus. Questions regarding this exception should be directed to the Office of the Solicitor.

4. *Statement on ROD development:* In cases where a FEIS/ROD can be issued concurrently, this phase should clarify that a ROD would need to be prepared during this time. This clarification would be consistent with the Memo *NEPA Document Clearance Process* which directs a ROD be available to the DOI Review Team at the same time as the Final EIS.

*Answer:* Correct, the draft ROD should be developed along with the development of the FEIS and should be submitted as part of the FEIS documents to the Review Team.

5. *Question on Pre-NOI actions:* Is the attachment #3 regarding the Pre-NOI stage directing us to begin analysis during the pre-NOI phase?

*Answer:* Yes. It is a NEPA best practice to begin analysis of the proposed action as soon as possible. This includes evaluating what information is needed, and beginning to analyze information as soon as it is obtained.

6. *Question regarding multiple waivers:* If an EIS gets a time waiver, will the waiver provide a new EIS deadline? If so, would we need to get another waiver if that time is not achieved, so there would be multiple waivers for the EIS? How does this relate to the pause status in the NEPA and Permit Tracking Database?

*Answer:* As stated in S.O. 3355, timelines that exceed the instruction must be included with the waiver request. If the waiver is approved, the bureau should stick to the timeline proposed (if approved with that time). If the bureau needs to deviate from the new timeline by more than 3 months an additional time waiver will be needed; however, this should be a rare occasion.

The pause status should only be used in the Database to represent when no work is being undertaken on an EIS as a result of an issue outside the control of the Bureaus. Any pause that would result in a proposed action exceeding the approved timeline by more than three months would require the preparation of a new project timeline and waiver request.

7. *Question on waiver timing:* For projects not expected to meet time or page limits, must the waiver be requested (and approved?) prior to the project being posted to the Database? If not, how should these be depicted in the Database (e.g., "paused")?

*Answer:* A project should be entered into the Database once a project timeline has been developed, prior to the issuance of an NOI. Bureaus should strive to meet the 365-day time limit; however, if a bureau develops a project schedule that is not consistent with the time limit, the bureau should submit a waiver request to the Deputy Secretary's Office to ensure the project schedule will be approved as soon as the Bureau has determined that an EIS will not comply with the time or page limit. Project information in the database should be updated, including when waivers are received, consistent with ERM 10-9, *Entering Information into the Department National Environmental Policy Act (NEPA) and Permit Tracking Database*.

8. *Question on waiver template:* Is it required that this exact waiver template (as is) be used? If so, would it be possible for OEPC to develop this as a form?

*Answer:* It is recommended that bureaus use the waiver template that is attached to the Memo as it captures the information being sought by the Deputy Secretary's Office. The word version of the template was made available for Bureau use.

9. *Question on time limit requirement:* Is the 365 days from NOI to ROD?

*Answer:* For any EISs with an NOI published on or after August 31, 2017, the ROD will need to be signed within 365 days after the NOI is published in the Federal Register. For any EISs with an NOI that was published prior to August 31, 2017, the ROD will need to be signed prior to April 27, 2019.

10. *Question on Appendix Length:* Any guidance on length of appendices? Is there a maximum page limit for appendices?

*Answer:* Appendices should only include data or reports that were substantively analyzed or relied upon by the Bureaus in the EIS. Bureaus should link to studies or references on project websites whenever possible to minimize the length of appendices. When a Bureau wants to draw particular attention to reports or data, and invite specific public comment on this material, or believes there is specific information would aid the reader in understanding material in the EIS, these items may be included as appendices instead of as links to references on project websites.

11. *Question on EO 13807 Status:* When and by whom will determine if an EIS falls under EO 13807? Will it occur as part of the briefings or need to be identified for the briefings and at what stage?

*Answer:* The Lead Bureau makes that determination and should discuss the applicability of the FAST Act and the One Federal Decision criteria in the Initial Action Notice submitted to the Review Team.

12. *Question on when to schedule briefings:* For briefings, is there a minimum date/time period that is needed for scheduling in advance of the briefing meeting?

*Answer:* Plan to begin scheduling the briefing 2-3 weeks in advance of your anticipated briefing date. However, due to the busy schedules of the Review Team, it is recommended that bureaus begin coordination of briefings as early as possible and keep in mind relevant timeframes for document review before the briefings are held.