

GENERAL ADMINISTRATION MANUAL

Part 30 Environmental Protection

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30-00-00 PURPOSE

Part 30 of the General Administration Manual establishes Departmental policy and procedures with respect to protection of the environment, and the preservation of historic properties and other valuable national resources. Under Federal laws, regulations and Executive Orders, all Federal Departments and agencies must take into account the environmental consequences of their activities. Included are the activities of non-Federal organizations which operate under the authority or with the support of Federal Departments or agencies. The terminology in this Part differs in some respects from that associated with any particular environmental law due to the fact that this Part is intended to implement a number of laws with varying requirements.

30-00-10 CHAPTER ORGANIZATION AND CONTENT

The chapters of Part 30 are **organized** as follows:

- Chapter 30-00 provides a summary of major **procedural** requirements, a list of Public Laws, Executive Orders, Federal regulations and other authorities covered **by** Part 30, and a list of **definitions**.
- Chapters 30-10 and 30-20 provide overall Departmental policy with **respect** to environmental protection and a summary of internal administrative **procedures** which Departmental components **must** implement.

- o Chapter 30-30 provides a general summary of the environmental review process for Departmental activities under all the environmental acts covered by Part 30.
- o Chapters 30-40, 30-50 and 30-60 provide detailed requirements for each of the different environmental acts covered by Part 30.
- o Chapter 30-70 provides Departmental procedures for reviewing environmental documents prepared outside of the Department.

30-00-20 SUMMARY REQUIREMENTS FOR DEPARTMENTAL COMPONENTS

The following is a summary of the principal requirements established by the Part.

A. Administrative Requirements

1. **POCs** must review all their activities and determine:
 - a. those activities which normally do not cause an environmental effect (as **defined by the** environmental acts), and therefore can be categorically excluded from subsequent environmental review or documentation requirements;
 - b. those activities which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset; and
 - c. those activities which normally do cause a significant environmental effect **under NEPA** or affect a cultural or natural asset and therefore require preparation of an **environmental** document.
2. An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts. (See 30-20-30, -40.)
3. **POCs** shall adopt operating procedures for **conducting** environmental **reviews** of those proposed actions which have not been categorically excluded.

B. Review Procedures for Individual Proposed Actions

1. Environmental Reviews - Prior to taking an action not categorically excluded from review requirements, conduct an **environmental review** to determine the probably **environmental effects** of the proposed action.

2. Consultation - Carry out the requirements for public involvement and intergovernmental consultation as prescribed in the applicable environmental acts.
3. Documentation - Prepare any required documentation depending on the applicable environmental act and the kind and degree of environmental effects caused by a proposed action. Finalize any draft documents on the basis of public comments and intergovernmental consultation, as appropriate.
4. Decision-making - Take environmental effects and values, discussed in the final statement, into account in decision-making. Prepare a public "record of decision" or other final documentation if required by an environmental act.

30-00-30 PUBLIC LAWS, EXECUTIVE ORDERS AND REGULATIONS
IMPLEMENTED BY PART 30

The following list contains the various Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30:

- A. The National Environmental Policy Act (NEPA) (1) establishes a comprehensive policy for protection and enhancement of the environment by the Federal government, (2) creates the Council on Environmental Quality (CEQ), and (3) directs Federal agencies to carry out the policies and procedures of the act.
- b. Executive Order 11514, March 5, 1970, directs the heads of Federal agencies to monitor, evaluate and control their **agencies'** activities so as to protect and enhance the quality of the environment.
- C. Executive Order 11941, May 24, 1977, directs CEQ to **issue** regulations to Federal agencies for the implementation of the procedural provisions of NEPA.

- D. Executive Order 12114, January 4, 1979, directs Federal agencies to further the purpose of NEPA with respect to the environment outside the United States, its territories and possessions.
 - E. regulations of the Council on Environmental Quality, November 24, 1978, require Federal agencies to adopt procedures to supplement CEQ regulations for implementing the provisions of NEPA.
 - F. The Coastal Zone Management Act, 16 U.S.C. 1456 et. seq., directs Federal agencies to conduct activities consistent with an approved State coastal zone management program.
 - G. The Wild and Scenic Rivers Act, 16 U.S.C. 1278, directs Federal agencies to consider and preserve the values of wild and scenic areas in the use and development of water and land resources.
 - h. Executive Order 11990, May 24, 1977, directs heads of Federal agencies to avoid (1) the long- and short-term adverse impacts associated with the destruction or modification of wetlands and (2) direct or indirect support of new construction in wetlands whenever there is a practical alternative.
 - I. Executive Order 11988, May 24, 1977, directs Federal agencies to take action to avoid the occupancy or modification of floodplains and to avoid direct or indirect support of development in floodplain areas whenever there is a practical alternative.
 - J. U.S. Water Resources Council Floodplain Management Guidelines, February 10, 1978, provides guidance to Federal agencies for implementing Executive Order 11988.
 - K. Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1432f, provides for establishment of marine sanctuaries and directs Federal agencies to insure that their actions are consistent with the intended use of such areas.
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- L. The Safe Drinking Water Act, 42 U.S.C. 300f et seq., authorizes EPA to determine if an **action** which will have an environmental effect on a sole or principal drinking water source would also constitute a significant hazard to a human population and, if so, to prohibit such an action.
- M. The Clean Air Act, 42 U.S.C. 1857 h-7, requires EPA to review and comment on a Federal agency action which would create a significant environmental impact.
- N. Executive Order 11987, May 24, 1977, directs Federal agencies to prevent the introduction of exotic species into the natural ecosystems of the **United States**.
- O. The Endangered Species Act, 16 U.S.C. 1536, directs Federal agencies to conserve endangered and threatened species and their critical habitats.
- P. Fish and Wildlife Coordination Act, 16 U.S.C. 661-666c, directs Federal agencies to prevent loss and damage to, and provide for, development and improvement of wildlife resources.
- Q. The National Historic Preservation Act of 1966, 16 U.S.C. 470 as amended, directs heads of Federal agencies to preserve cultural heritage, particularly with respect to sites on/or eligible for listing on the National Register of Historic Places.
- R. Executive Order 11593, May 5, 1971, implements portions of the **National Historic Preservation Act of 1966** and require Federal agencies to nominate eligible properties which it owns, leases or otherwise controls.
- S. Regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) establish procedures for the protection of historic and cultural properties.
- T. Regulations of the Department of the Interior (36 CFR Parts 60 and 63) concern nominations to and determinations of eligibility for the National Register of Historic Places.

- U. The Archaeological and- Historic **Preservation** Act, 16 U.S.C. 469 a-1 et seq., directs Federal agencies to preserve **significant** scientific, prehistorical, historical and archaeological data.

All **components** of the Department are responsible **for** complying with the specific requirements **of** each of the above environmental acts. The procedures which follow supplements and provide guidance toward meeting the requirements.

30-00-40 DEFINITIONS

- A. Action - a signed decision by a responsible **Department** official resulting in:
1. approval, award, **modification**, cancellation, termination, use or commitment of Federal funds or property by means of a grant, contract, purchase, loan, guarantee, deed, lease, license or by any other means;
 2. approval, amendment or revocation of any policy, procedures or **regulations** including the establishment or elimination of a **Department** program; or
 3. submission to Congress of proposed legislation which, if enacted, the Department would administer.
- B. Asset - an entity, group of entities or specific environment as defined in the **individual** related acts and which the individual related acts seek to protect or preserve. Assets include cultural assets (e.g., historic properties) and natural assets (**e.g.**, wild and scenic rivers, and endangered species);

- C. environmental acts - all authorities listed in Section 30-00-30;
- D. environmental effect - a change which a proposed action will cause either within the human environment (in accordance with NEPA) or to a cultural or natural asset (as defined in one or more of the related acts);
- E. environmental review* - the process, including necessary documentation, which a Departmental component uses to determine whether a proposed action will cause an environmental effect, and whether to prepare a limited statement, full statement or no statement;
- F. environmental statement - either a limited statement or a full statement at either the draft or final stage (see G and H **below**);
- G. full statement* - a document which discusses a proposed action in terms of its purpose and environmental consequences and includes a discussion of alternatives to a proposed action;
- H. limited statement* - a brief concise analysis which **pro-**vides written evidence sufficient to meet the documentation requirements of the environmental acts or which supports a determination not to prepare a full statement;
- I. **POC** - Principal Operating Component, e.g., Office of Human Development Services, Public Health Service;
- J. program review - a review by **POCs** of all their actions to determine:
 - 1. those categories of actions which normally do not cause **environmental** effects sufficient to require environmental documentation and therefore may be categorically excluded from further environmental review; and

* Some **environmental** acts use different terms which are referenced in the section addressing such acts.

2. those categories of actions which require an environmental review **because** they may **cause a** significant environmental effect under NEPA or may affect an asset.
3. those categories of actions **which** normally do cause significant **environmental** effects under NEPA **or do** affect a cultural or **natural** asset and therefore require the preparation of an environmental document

POCs should complete an initial program review as soon as practicable following publication of this Part and should undertake subsequent program reviews when deemed appropriate.

- K. related acts - All Public Laws, Executive Orders, Federal regulations and other authorities listed in Section 30-00-30, **but** not including NEPA.

Subject: POLICY

30-10-00 Policy

Most of the contents of Part 30 address procedural **or** documentation requirements specified in the environmental acts. These procedures and documents are necessary in order for HHS components, before proceeding with an action, to take into account the environmental consequences of that action.

HHS components must also give weight to preservation of the environment and protection of historic or cultural assets in reaching substantive program decisions. All HHS components shall assess environmental costs and benefits as well as program goals and objectives in determining a particular course of action. In conducting this assessment, HHS components should afford reasonable time, effort and resources to a deliberation of environmental risks associated with a **program-** related course of action.

Subject: ADMINISTRATIVE REQUIREMENTS

30-20-00	Background
10	Responsibilities
20	Approval Authority and Redelegations
30	Process for Establishing Categorical Exclusions
40	Categories of Exclusion
50	Environmental Review Procedures

30-20-00 **BACKGROUND**

This chapter establishes an administrative framework in the Department for environmentally-related activities. Specifically, this chapter (1) describes the assignment of relative responsibilities in the Department regarding environmental activities, (2) establishes procedures for program reviews and (3) establishes other on-going administrative requirements,

30-20-10 **RESPONSIBILITIES**

A. Office of the Secretary

The Secretary shall designate an official, as the Departmental Environmental Officer, who will be responsible for:

1. **preparing** of Departmental guidelines and other policy documents for issuance by the Secretary or other appropriate Departmental official pertaining to environmental protection and preservation of natural or cultural assets;
2. **approving** of lead agency agreements having Department-wide **applicability**;
3. providing training to **HEW program** officials with **respect** to carrying out the **requirements** of the environmental acts;
4. maintaining liaison with CEQ, **EPA** and other **Federal** agencies charged with direct **responsibility** for administering the environmental acts;

5. coordinating **the** review of environmental statements originating from outside of HEW; and
6. reviewing and making recommendations to the Assistant Secretary for Xanagement and Budget with respect to determinations by **POCs** that certain activities are categorically excluded from **environ-mental** review.

B. Principal Operating Components

Heads of **POCs** are responsible for ensuring that organizational units under their authority comply with all Provisions of the **environmental** acts and with the procedures of this Part. A **POC** head may designate a **POC** environmental officer, who may act in either a **full-time** capacity or in addition to other duties, to assist in fulfilling these responsibilities.

c. Regional Offices

Principal Regional Officials (**PROs**) are responsible for complying with the provisions of the environmental acts and the **policies** in this part for those specific program responsibilities delegated to them.

In addition, the **PROs** shall:

1. serve as principal HEW regional liaison official with other Federal, State, and local agencies on matters pertaining **to** environmental preservation or protecting environmental, cultural or natural assets;
2. coordinate the timely **review** by regional program personnel of environmental impact statements forwarded to HEW by other agencies; and

3. periodically verify with the **POCs** that their regional program staff are aware of and are complying with the requirements of this Part.

30-20-20 APPROVAL AUTHORITY AND REDELEGATIONS

- A. The POC head and PRO may redelegate all their environmental responsibilities to subordinate program managers except for approving the designation of actions as categorically excluded by the POC head. POC heads shall obtain concurrence from the Assistant Secretary for Management and Budget with respect to activities designated to be categorically excluded from environmental reviews.
- B. The exclusion of material from environmental statements on the basis of national security and trade secrets requires approval by the HEW General Counsel. (See Section **30-30-40.**)
- c. Proposed actions which will have an effect on certain natural assets require concurrence or approval from other Federal agencies (see 30-50) prior to taking the action.
- D. POC heads shall sign determinations pursuant to Executive Order 11988 on Floodplain Management and Executive Order 11990 on Wetlands except:
 1. The Secretary shall approve proposed actions requiring full statements on projects affecting floodplains; and
 2. The Secretary **shall approve** proposed **actions** requiring limited or full statements for new construction in wetlands.

30-20-30 PROCESS FOR ESTABLISHING CATEGORICAL EXCLUSIONS

- A. All HEW activities which can be defined as "actions" (see Definitions, Section 30-00-40) require an environmental review unless a POC has determined, through a program review, that the activity will not cause a significant environmental effect under **NEPA** or will not affect any of the assets protected by the related acts.

B. Program Reviews

In a program review, a POC evaluates actions it will be taking in order to determine the potential of these actions to cause an environmental effect under any of the environmental acts. **POCs shall** complete an initial program review of all their actions as soon as practicable following publication of this Part. **POCs** may undertake additional program reviews subsequently whenever they deem it appropriate.

As a result of program review, a POC shall divide each of its actions in one of three groups:

- | | |
|--|---|
| <u>Group 1</u>
(Categorically Excluded) | --- those actions which normally <u>do not</u> cause a significant environmental effect under NEPA or affect one or more of the assets protected by the related acts |
| <u>Group 2</u> | --- those actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset. |
| <u>Group 3</u> | --- those actions which normally do cause a significant environmental effect under NEPA or <u>do</u> affect one of the assets protected by the related acts. |

An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts.

In grouping each of its actions, **POCs** shall use the exclusion categories described in Section 30-20-40. If action falls within one of these exclusion categories, then it may be included in Group 1. Such actions do not require further environmental reviews. If action does not fall within one of these exclusion categories, then a POC must perform an environmental review prior to taking this action. Chapter 30-30 describes the procedures for conducting an environmental review.

Each POC shall maintain as part of its administrative issuance system lists of those actions which it has determined fall under **Groups 1, 2 and 3**. These lists shall **supplement** other **internal** directives or instructions **relating to environment-related** responsibilities.

C. Approval

A determination by a **POC** that an action falls within Group 1 (Categorically Excluded) is effective upon approval by the POC head. However, **POCs must** forward these determinations to the Assistant Secretary for Management and Budget for concurrence. Determination that an action falls within Group 1 (Categorically Excluded) is effective for the shorter of (1) five years or (2) until rendered inapplicable because of changes in the underlying program authority.

30-20-40 CATEGORIES OF EXCLUSION

- A. **POCs** may exclude a proposed action from the environmental review process if it determines that the proposed action falls within one of the four exclusion **Categories** described in **this Section**. This determination may take **place** as the result of a program review of a **POC's** actions, in which case the action is listed in the **POC's** administrative issuance **system** as being categorically excluded from further environmental reviews.
- B. Categories of Actions Which May Be Excluded From Environmental Review
1. Category #1 - General Exclusions

POCs do not need to perform environmental reviews in the following instances:

- a. When a law grants an exception:
- b. When the courts have found that the action does not require environmental review (i.e., HHS is not required to prepare environmental statements concerning the termination of a hospital's status as a Medicare "provider" if termination **is statutorily** required because of a hospital's non-compliance with Federal fire safety regulations);
- c. When an action implements actions outside the territorial jurisdiction of the United States and such actions are excluded from review by Executive Order 12114.

2. Category #2 - Functional Exclusions

Actions associated with the following types of activities normally are not **subject** to environmental review requirements:

- a. **Routine** administrative and management support, including legal counsel, public affairs, program evaluation, monitoring and individual personnel actions;
- b. Appellate reviews when HHS was the plaintiff in the lower court decision (e.g., a case involving failure **by** a nursing home to comply with fire and safety regulations);
- c. **Data** processing and systems analysis;

- d. Education and training grants and contracts (e.g., grants for remedial training programs or teacher training) except projects involving construction, renovation and/or changes in land use;
- e. Grants for administrative overhead support (e.g., regional health or income maintenance program administration);
- f. Grants for social services (e.g., support for Headstart, senior citizen programs or drug treatment programs) except projects involving construction, **renovation** and changes in land use;
- g. Liaison functions (e.g., serving on task forces, ad hoc committees or representing HEW interests in specific functional areas in relationship with other governmental and non-governmental entities);
- h. Maintenance (e.g., undertaking repairs necessary to ensure the functioning of an existing facility), except for properties on or eligible for listing on the National Register of Historic Places;
- i. Statistics and information collection and dissemination (e.g., collection of health and demographic data and publication of compilations and summaries);
- j. Technical assistance by HEW program personnel (e.g., providing assistance in methods for reducing error rates in State public assistance programs or in determining the cause of a disease outbreak); and
- k. Adoption of regulations and **guidelines** pertaining ~~to the~~ above activities (except technical **assistance** and those **resulting in** population changes).

3. Category X3 - Program Exclusions

These exclusions result from a substantive review and determination by a POC that certain programs or certain activities within a program will not normally (a) significantly **affect** the human environment (as defined in NEPA) or (b) affect an asset (as defined in the related acts) regardless of the location or magnitude of the action. For example, a POC, following its review, might determine that the following are unlikely to cause an environmental effect: assigning a member of the Health Service Corps to *a* locality to supplement existing medical personnel or providing funds to support expansion of emergency medical services in existing hospitals.

4. Category #4 - Partial Exclusions

- a. A POC may determine that certain programs or elements may cause environmental effects with respect to some, but not all, of the environmental acts. For example, a POC may determine that actions associated with a particular program might affect historical properties (e.g., the renovation of an SSA district office in an historical district), but would never "significantly affect the quality of the human environment" (NEPA) or affect cultural and natural assets addressed by other related acts. The component may then limit the environmental reviews to the provisions of the National Historic Preservation Act.
- b. An environmental review conducted previously may be broad to satisfy environmental review requirements for future similar to related actions. For instance, a POC may conduct an environmental review with respect to a particular type of biological research, no matter where the research is conducted. Environmental reviews of future similar or related research activities are not necessary if the effects of this new research have been already addressed in the previous environmental review.
- c. There are some programs which must take an action *in* thirty days in response to an emergency health situation or because a law requires a Department official to act within thirty days. Such circumstances must be identified in the Categorical Review process and appropriate measures provided *to* comply with *the* intent of the laws, including appropriate consultations as required by NEPA and the related environmental acts.

30-20-50 ENVIRONMENTAL REVIEW PROCEDURES

A POC must conduct environmental reviews with respect to all proposed actions which do not fall under categorical exclusions #1, #2 or #3. Chapter 30-30 discusses the process for conducting an environmental review with respect to a specific proposed action and for fulfilling documentation and other requirements. Each POC shall ensure that its programs have appropriate procedures for conducting environmental reviews, for completing required documentation and for ensuring public involvement and intergovernmental consultation. These procedures must be in writing and be included in the internal administrative issuance system. These procedures must, at a minimum, address the following:

- A. A list of those actions which the POC has categorically excluded from further environmental review requirements.
 - B. A list of those actions which require an environmental review prior to taking the action.
 - C. Designation of officials responsible for **environment-**related activities including determinations as to whether to prepare a full statement or a limited statement, if one is required.
 - D. Procedures for preparing and circulating environmental statements (including data required by the applicable environmental act for the **type** of action covered).
 - E. Procedures for ensuring the **coordination** of environmental review with program decision-making, including concurrent development and circulation of environmental documents with program documents and the identification of key decision-making points.
 - F. Procedures for consulting with other Federal agencies responsible for the environmental acts, if necessary.
 - G. Procedures for developing lead agency agreements (as described in 30-30-20 B below).
 - H. A prohibition against precluding **or** prejudicing selection **of** alternatives in a full statement without regard to environmental risks.
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- I. Procedures for establishing a **reviewable** record, including making environmental statements and **related** decision-making materials part of the record of formal rulemaking and adjudicatory proceedings.
- J. Provision for early consultation and assistance to potential applicants and non-Federal entities in planning actions and developing **information necessary** for later Federal involvement (as **described in 30-30-20C** below).
- K. Descriptions of circumstances which preclude completion of environmental reviews within reasonable time frames because of public health and safety considerations and procedures for after-the-fact completion.
- L. Provision for ensuring that applications and other materials from **potential grantees** or other recipients of Departmental funds, on a program-by-program basis, include information necessary to conduct an environmental review. Such information shall include the identification of any properties which may be eligible for listing on the National Register of Historic Places.
- M. Provision for identifying cultural assets **which** a program controls through leases or Federal ownership, and for nominating any eligible historical **properties** to the National Register of Historic Places...

Subject: **GENERAL** REVIEW PROCEDURES FOR ALL ENVIRONMENTAL
ACTS

30-30-00 Overview
 10 Summary Description
 20 Environmental Review
 30 Environmental Statements
 40 Intergovernmental Consultation and Document
 Review

Exhibit 30-30-A Requirements of NEPA and the Related Acts
Exhibit 30-30-B Flow Chart-Environmental Review Procedures

30-30-00 OVERVIEW

The environmental acts require a review of proposed Federal actions whenever they will bring about environmental effects, either within a human environment (as defined under N&PA) or **to an** historic property, endangered species or other asset (as defined in the related acts).

The purpose of this Chapter is to describe overall the steps which Department officials must take in conducting environmental reviews of specific proposed actions. Within these general steps, the individual environmental acts differ significantly with respect to **public** involvement, intergovernmental consultation and documentation required. The Chapters at 30-40, 30-50 and **30-60** following (entitled Cultural Asset Review, Natural Asset Review and NEPA Review) **discuss** these specific requirements in greater detail. Exhibit **30-30-A** summarizes these differences.

30-30-10 SUMMARY DESCRIPTION

The following is a summary description of the general types and sequence of activities which Departmental officials should carry out in reviewing specific proposed actions under this Part. Exhibit **30-30-B** summarizes these activities.

A. Determine that a proposed activity constitutes an action **as** defined under Section 30-00-40 (Definitions).

- B. Determine whether the proposed action is categorically excluded from all environmental review requirements. If so, no further environmental review is necessary.
- c. **For** proposed actions not categorically excluded, conduct an environmental review in accordance with applicable program environmental review procedures to determine whether the proposed action will cause an environmental effect under one or more of the environmental acts.
- D. Determine whether it is necessary to prepare a draft statement and, if so, circulate the statement among the public, Federal and non-Federal agencies and other interested parties, as appropriate.
- E. Carry out the requirements for public involvement and intergovernmental consultation as required under the applicable environmental acts, including any necessary approvals.
- F. Prepare a final statement **and** proceed with the program decision-making process.

30-30-20 ENVIRONMENTAL REVIEW

A. General

POCs must perform an environmental review for each proposed action not categorically excluded in accordance with the **POC's** environmental procedures. The purpose of an environmental review is to answer the following general questions. (Individual environmental acts differ with respect to the specific scope and methodology required in conducting an environmental review.):

1. Will a proposed action have an environmental effect under any of the environmental acts as defined in regulation or by court **interpretation**?

2. Which environmental acts apply to the proposed action?
3. Do any previous environmental reviews exist on similar or related actions which could satisfy the review requirements of a particular proposed action?
4. Should the HHS component prepare a limited statement or a full statement given the environmental acts involved and the kinds and degree of environmental effects anticipated?

B. Agreements with Other Agencies

When two or more agencies are engaged in the same action, a lead agency agreement provides one agency with the authority to conduct the environmental review. These agreements determine the content and type of statement and specify which Federal agency will prepare it. The agreement includes a schedule for the preparation and circulation of the document, as well as an assignment of important tasks among the agencies involved. Lead agency agreements may be signed with other agencies for individual actions or for a **particular** type of action.

C. Non-Federal Agencies

Whenever an HHS program requests or permits a **non-Federal** agency to perform an environmental review, the program shall outline the type of information required, perform an independent evaluation and assume responsibility for the scope and content of the material.

30-30-30 ENVIRONMENTAL STATEMENTS

- A. On the basis of the environmental review! POCs shall determine whether to prepare a limited environment&i statement or a full environmental statement.
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The designations "limited statement" and "full statement" refer to categories of documents as defined earlier under 30-00-40 G and H. Each of the environmental acts specifies different documentation and public involvement and consultation requirements within these two general categories.

Full statements are prepared in two stages: draft and final. A final statement includes a consideration of comments submitted by persons or organizations reviewing the draft statement. Under some laws covered by this Part, a limited statement may also have to be prepared in draft for review and comment, before being finalized.

The Chapters at 30-40, 30-50, and 30-60 following (Natural Asset Review, Cultural Asset Review and NEPA Review) discuss these different requirements in greater detail and **must** be consulted to ascertain the specific requirements of NEPA and each of the related acts.

B. Description

1. Full Statements

A full statement identifies the proposed action, its purpose and its associated environmental effects in comparison with no action **by** any organization to achieve the underlying purpose. It further compares no action with other alternative actions, including their environmental effects. Draft full statements shall not exhibit **biases** in favor of the proposed action. A final statement may include a recommendation with a rationale for a preferred action.

2. Limited Statements

A limited statement is generally a short concise **document** which describes the proposed action, identifies its environmental effects and lists any mitigating measures or safeguards that will lessen or **prevent certain** environmental changes from occurring. POCs generally can **use** a draft limited statement in order to satisfy any review, consultation and public notice requirements of the environmental acts and to otherwise inform individuals and organizations who **may** be interested in or affected by the proposed action (see Chapter 30-60 for correct NEPA terminology).

C. Validity

Statements for continuing actions are valid for three years, unless a change occurs in carrying out the actions or pivotal new data concerning the effects of each action is identified.

Statements for an individual action are valid for a period of 18 months after the issuance of the documentation. Reviews for individual actions not initiated within 18 months require review and reissuance.

D. Alternatives

Full statements must explore and evaluate reasonable alternatives to the proposed action in terms of their environmental consequences, benefits and costs and contribution to the underlying purpose or goal. Discussion of alternatives must be sufficiently in-depth to permit a meaningful comparison of alternative courses of action.

Full statements shall consider the following categories of alternatives, as appropriate:

1. No action by any organization - This alternative serves as a baseline against which to measure the environmental consequences, costs and benefits of the proposed action and other alternatives.
2. Action Alternatives - One or more alternative courses of **action** directed at achieving the underlying purpose or goal. The full statement cannot automatically exclude actions.
 - o outside of the expertise or jurisdiction of Departmental components, e.g., examining the possible use of other real properties other than that proposed for transfer by HEW; or
 - o which only partially achieve an underlying goal or objective, e.g., funding a health care facility at a lower capacity for patient care.

However, action alternatives considered must be reasonably available, practicable and be related to the underlying purpose or goal. A full statement must include all reasonable alternatives.

3. Alternative Safeguards - These are alternative actions which could mitigate the adverse environmental consequences of one or more of the action alternatives.
4. Delayed Action Alternative - This alternative is to postpone or delay a proposed action in order to conduct more research or for other reasons.
5. Alternative Uses - When a proposed action would affect a scarce or valuable resource (e.g., prime agricultural farmland), the potential alternative uses of the resource must be identified so that they may be compared with the value of the proposed action.

30-30-40 INTERGOVERNMENTAL CONSULTATION AND DOCUMENT
REVIEW

POCs are responsible for meeting the various requirements under environmental acts for intergovernmental consultation and public involvement. These requirements differ significantly. POCs should refer to the more detailed descriptions in Chapters 30-40, 30-50, and 30-60 and should consult an environmental officer for guidance.

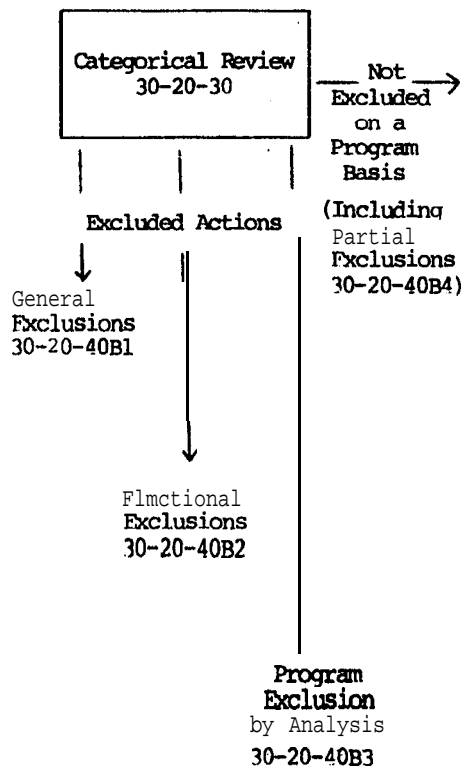
As required, POCs shall circulate draft statements for review and comment, and otherwise make them available to the public upon request. Statements should be circulated to the Federal Agency responsible for administering the applicable environmental act, involved non-Federal agencies at the State or local level, including A-95 clearinghouses, and interested public persons or groups within the geographic area of the environment affected. The review period is generally no less than 30 days for a draft limited statement and no less than 60 days for a draft full statement. Whenever a draft statement is significantly revised because of comments received or because the nature or scope of the proposed action changes significantly, POCs shall prepare a new draft statement for circulation. Circulation of certain portions of the document is not necessary when it involves the following:

- A. National Security. Circulation of classified sections of environmental documents are subject to regulations pertaining to matters of national security.
- B. Trade Secrets. Circulation of sections of environmental documents that disclose a trade secret is limited to those who need to have access in order to take appropriate action.

AUTHORITY	DOCUMENTATION AND CIRCULATION				TYPE OF RESPONSE OR PERMISSION REQUIRED
	#1 Draft Limited* Statement	#2 Final Limited Statement or Draft Full Statement	Draft Full Statement	#3 Final Full Statement	
National Historic Preservation Act	a) Finding of Effect (but not Adverse) b) Finding of Adverse Effect	(Finalize - if Council does not object) (Finalize - if Council concurs with mitigation measures)	- Preliminary Case Report (as requested by the Council)	- Case Report	Yes. The Council Staff (or Chairman must concur or the issue is brought to the full Council at a quarterly meeting. The final decision belongs to the agency.
National Archeological Data Preservation Act	Information Provided to Secretary of Interior	(Finalize)	-		None, but delay is possible if the Secretary of the Interior wants to pay for recovery.
Coastal Zone Management Act	To State CZM Agency To Secretary of Commerce	(Finalize)	As Requested by the Secretary of Commerce		Yes. For certain projects no further action may be taken until the Secretary of Commerce determines that it is consistent with CZM or needed for national security.
Floodplains E.O. 11987	-		For Review by the Secretary (Of HEW)	(Finalize)	Yes. By the Secretary (of HEW) (applies to capitol improvements only)
Endangered Species Act	To DCC or DOI	(Finalize)		-	Yes. Response required from DOI and action prohibited if species endangered by the project.
Fish and Wildlife Act	To DOI	(Finalize)	-	-	Yes. Response from DOI required before #2.
Wild and Scenic Rivers Act	To Ag or DOI	(Finalize)	-	-	Yes. Prohibited without approval of appropriate Secretary (Ag or DOI)
Wetlands E.O. 11990	For POC Review	(Finalize)	For Review by the Secretary (construction actions) and as requested by the POC	(Finalize)	Yes. By the Secretary (of HEW) if new construction. By POC for all others.
Safe Drinking Water Act (Aquifers)	To EPA	(Finalize)	-	-	Yes. Administrator of EPA may prohibit the action if it will contaminate a sole source aquifer.
Marine Sanctuaries Act	To DOC	(Finalize)	-	-	Yes. The Secretary of Commerce must certify that action is consistent with purposes of Act.
National Environmental Policy Act		Finding of No Significant Impact (Publish notice when appropriate)	Draft Environmental Impact Statement (Program Decision)	Final Environmental Impact Statement	Agency may make own decision after issuing final EIS except when another federal agency requests CEQ intervention.

FLOW CHART - ENVIRONMENTAL REVIEW PROCEDURES

PROGRAM-WIDE REVIEW

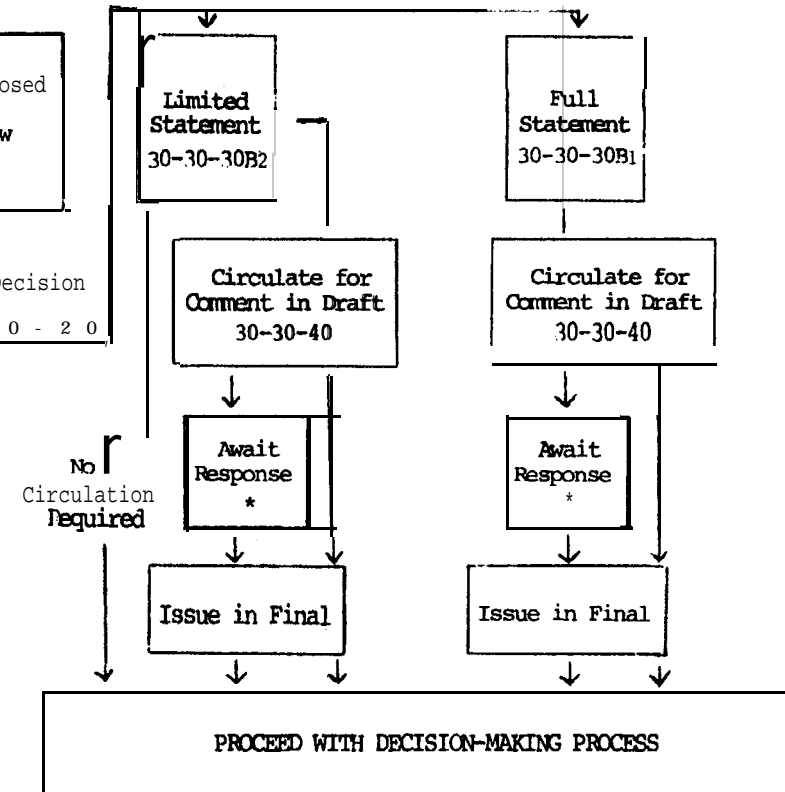


Distribution

Document Decision
30-30-20

* Several Related Acts require the Department to receive comments from or gain the permission of other Departments before taking actions which will have certain types of effects (e.g., the Safe Drinking Water Act). Exhibit. 30-30-A

INDIVIDUAL ACTION REVIEW



PROCEED WITH DECISION-MAKING PROCESS

Subject: CULTURAL ASSET REVIEW

- 30-40-00 Historic Preservation
 - 10 Applicability
 - 20 Identification of Historic Properties
 - 30 How a Property is Affected
 - 40 Limited Statement
 - 50 Full statement
 - 60 Disagreement
 - 70 Archeological Data: Notification
 - 80 Archeological Data: Recovery

30-40-00 HISTORIC PRESERVATION

section 106 of the National Historic Preservation Act **states** that the Advisory Council for Historic Preservation (ACHP) will have an opportunity to comment on any proposed Federal undertaking which will affect a historic property which is listed on or is eligible for listing in the National Register of Historic Places. The Archeological Data Preservation Act states that the Secretary of the Interior shall have an opportunity to recover significant historical **or** scientific data irrevocably lost through a Federal undertaking. In addition, the latter permits agencies to spend up to one percent of project funds for the recovery of data.

30-40-10 APPLICABILITY

Unless a categorical exclusion applies, each proposed HEW action must be reviewed in order to determine whether it will affect a property which is on or eligible for the National Register of Historic Places.

30-40-20 IDENTIFICATION OF HISTORIC **PROPERTIES**

Each Federal agency has a responsibility for identifying potential properties for the National Register of Historic Places. It must nominate to the National Register of Historic Places, eligible properties which it owns or otherwise controls and seek eligibility determinations from the Secretary of the Interior for potentially eligible properties which it will affect by a proposed action. (See 35 CFH 60.6.) Implementation of a proposed action may not occur until the completion process, and any appropriate additional requirements, are met (e.g., consultation with the Advisory Council).

A. Eligible Properties

1. Properties are districts, sites, buildings, structures or objects.
2. Properties may be eligible because of their association with significant historical events, or the lives of persons significant in our past; because of distinctive artistic characteristics; or because they are likely to yield important historical information.

B. Eligibility Determinations

Departmental components, in consultation with the State Historic Preservation Officer (SHPO), shall apply the National Register Criteria for Eligibility to each property to determine which may be affected by a proposed action. If either party concludes that the property may be eligible, components shall submit a letter to the Department of the Interior requesting the Keeper of the National Register to make a decision concerning eligibility. The Keeper may request additional information. The action cannot be taken until the Keeper responds or until 45 days have passed, whichever occurs first. Consultation with the Advisory Council can be conducted simultaneously. If the Keeper finds the property eligible, Cultural Asset Review procedures apply. If the Keeper finds the property ineligible, the cultural identification process is complete.

C. Nominations

Each Federal agency is responsible for nominating to the National Register those eligible properties which it owns or otherwise controls. Each POC head shall develop and implement procedures for nominating all such eligible properties which it currently administers or controls.

30-40-30 HOW A PROPERTY IS AFFECTED

An historical review is an examination and analysis of changes in an historic property which occur as a result of the proposed action. (See 36 CFR 800.3(a).) An historic property is affected whenever one or more of the following changes occurs:

30-40-30 HOW A PROPERTY IS AFFECTED

A historical review is an examination and analysis of changes in a historic property which occur as a result of the proposed action. (See 36 CFR 800.3(a).) A historic property is affected whenever one or more of the following changes occur:

- A. altering or destroying its physical characteristics;
- B. altering the physical setting (normally the boundary of a setting does not extend beyond a circle having a 500 yard radius);
- C. moving the property;
- D. altering the type or level of use; or
- E. altering the type of level of activity occurring in the physical setting.

30-40-40 LIMITED STATEMENT

If a proposed action will affect a property which is on or determined eligible for the Register by the Secretary of the Interior, **POCs** shall develop a draft limited statement and submit it to the appropriate State Historic Preservation Officer (SHPO). Following the receipt of comments from the SHPO (or after a period of 30 calendar days) the statement is then sent to the Advisory Council for comment. A cover letter shall state whether the program considers the effects to be adverse within the context of the historic value of the property (see 36 CFR 800.3(b)). If the Advisory Council fails to respond within 30 days, the review is complete. The Council can request additional data from the program whenever it finds the statement incomplete. If the Council concurs that the proposed action will not adversely affect the property, the review is complete. The Chairman of the Council may choose to develop a Memorandum of Agreement for actions which will affect a property adversely in order to mitigate the effect. Such memoranda will specify the various mitigation measures (e.g., record data prior to destruction) that the various involved parties agree to follow.

30-40-50 FULL STATEMENT

The Advisory Council may request the POC to prepare a full statement (known as a draft case report) prior to discussing a Memorandum of Agreement. **POCs** shall submit a full statement, if required, to the SHPO and the Council. HEW or the Council may develop a Memorandum of Agreement after discussing the statement. Among the **alternatives** in a full statement which **POCs** must include are alternative uses of a historic property other than for the underlying purpose of the proposed action.

30-40-60 DISAGREEMENT

If the Council staff cannot find a common ground upon which to develop a Memorandum of Agreement or if one or more of the parties fail to sign the Memorandum, the proposal must go to the members of the full Council for their review during a public meeting. The review is complete when the Council provides its advice or it has been 15 days since the review by the Council members, whichever is less. HEW **must** respond to the Council's comments.

30-40-70 ARCHEOLOGICAL DATA: NOTIFICATION

If the proposed action will bring about the irretrievable loss of significant scientific, archeological, historic or prehistoric data, program personnel shall inform the Secretary of the Interior. If the Secretary does not respond within 60 days, the review is complete. If the Secretary offers to pay for the recovery of the data, he shall have a least six months to effect recovery.

30-40-80 ARCHEOLOGICAL DATA: RECOVERY BY HEW

If a proposed action involves a Federal construction project or a Federally-licensed project, and the action will result in the irretrievable loss of scientific, archeological, historic or prehistoric data, up to one percent of the project costs **may be** used to recover the data.

Subject: NATURAL ASSET **REVIEW**

- 30-50-00** Natural Assets
- 05** Applicability
- 10** Coastal **Zone Management Act (CZMA)**
- 20 Floodplain Management
- 30 Endangered **Species Act**
- 40** Fish and Wildlife Coordination **Act**
- 50** Wild and Scenic Rivers **Act**
- 60 Protection of Wetlands
- 70 Safe Drinking Water Act (Sole Source Aquifers)
- 80 **Marine Sanctuaries Act**

30-50-00 NATURAL ASSETS

The related acts require the consideration of the effects of **a proposed** action on specific types of places, on specific places and on specific species. **Most of these acts prohibit** further action until the agency responsible for administering the act provides advice or gives permission to proceed with the action. The species requiring consideration are listed by the Department of the Interior. The places requiring consideration are:

- A. Coastal Zones (as identified in a State **CZM** plan):
- B. Floodplains (as identified on HUD floodplain maps);
- C. Habitats of Endangered Species {as identified by the Department of the **Interior**};
- D. Streams and other bodies of water (in excess of 10 surface acres);
- E. Wild and Scenic Rivers (as identified by the Departments of the Interior and Agriculture);
- F. Wetlands (all);
- G. Sole Source Aquifers (as **identified by** the **Environmental Protection Agency**); and

H. Marine Sanctuaries (as identified by the Secretary of Commerce).

30-50-05 APPLICABILITY

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions to determine whether they will affect places and species referenced above.

30-50-10 ZONE MANAGEMENT ACT (CZMA)

A. Purpose

The Coastal Zone Management Act of 1972 declares that it is the national policy "to preserve, protect, develop, and where possible, to restore enhance, the resources of the Nation's coastal zone." The term "coastal zone" means that area which is identified as such in a State CZM plan. In furtherance of this policy, the Act provides Federal assistance to States for developing and implementing coastal zone management programs. The Act also requires that "Each Federal agency conducting or supporting activities directly effecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs." Federal agencies are specifically prohibited from undertaking or assisting certain activities without a determination by the State or local coastal management agency that the activity is consistent with the State management program. The CZM Act excludes from the definition of coastal zone lands the use of which is by law subject solely to the direction of or which is held in trust by the Federal Government, its officers or agencies (e.g., non-terminated California Indian rancherias).

B. Responsibilities and Consultation Requirements

1. If the proposed action will affect a place which is within or contains a geographical area that is part of an approved CZM plan, POCs shall forward a draft limited statement to the State CZM agency for comment and a determination as to whether the proposed action is consistent with the approved CZM plan. The review period is at least 30 days for a limited statement and 60 days for a full statement,

except where an applicant for a Departmental license or permit submits a Certification of Compliance to the State CZM agency. In the latter case, the minimum period is the amount of time remaining on the six month review period, but not less than the 30 or 60 days referred to above.

2. If the CZM agency fails to respond within the appropriate time period, or states that the proposed action is consistent with the CZM plan, a program is in compliance with the review requirements of the Act:
 - a. unless the proposed action is an application for a license or permit to conduct an activity affecting land or water use that is not accompanied by an applicant's certification that it complies with the CZM plan; or
 - b. unless the proposed action involves an application for Federal assistance from a State or local government agency which is not accompanied by the views of the CZM agency.
 3. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan and the proposed action involves one of the types of actions described in 2a or b above, POCs shall forward the draft limited statement to the Secretary of Commerce. The Secretary may request additional data in the form of a full statement. In any case, no further action will take place until and unless the Secretary of Commerce finds that the proposed action is consistent with the purposes of the CZM Act or is necessary for national security.
 4. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan, and the proposed action does not involve one of the types of actions described in 2 above, the proposed action must have the approval of the responsible POC before proceeding.
 5. The above requirements shall not apply to those types of actions which are specifically excluded by the approved CZM plan.
-

30-50-20 FLOODPLAIN MANAGEMENT

A. Purpose

Executive Order 11988 of May 24, 1977, directs each Department to avoid **long-** and short-term adverse impacts associated with the occupancy and modification of floodplains, including the direct and indirect support of floodplain development, whenever there is a practicable alternative. Floodplains are those areas identified as such according to a Department of Housing and Urban Development floodplain map. (See U.S. Water Resources Council Floodplain Management Guidelines for further information.)

B. Responsibilities and Circulation Requirements

1. If a proposed action will result in a capital improvement occurring within a floodplain, the cost of which will exceed 50% of the estimated reconstruction costs of an entire facility or \$100,000, or clearly will provide direct or indirect support of subsequent floodplain development, **POCs** will prepare a draft full statement. (A limited statement is not acceptable in this instance.)
2. The draft full statement shall contain, in addition to identifying practicable alternatives to avoid affecting a floodplain, the following information:
 - a. the reasons for locating the proposed action in a floodplain; and
 - b. a statement indicating whether the action conforms to applicable State or local floodplain protection standards.

For those actions subject to OMB Circular A-95, the **POC** shall send the notice to the State and **areawide** clearinghouses for the geographical area affected and include a location map.

3. **Circulation** of draft full statements shall include the public and other interested individuals, including concerned Federal, non-Federal and private organizations. Interested parties shall have a period of 60 days for the review and comment on **draft** full statements.

4. **No** action shall take place without a finding **by the Secretary** that the only practicable alternative **requires** siting in a floodplain and until 30 days after the issuance of the final statement which shall constitute a notice of finding as required **by** the WRC guidelines.
5. An action taken in a floodplain **must** incorporate design features consistent with the standards in the Flood Insurance Program of the Federal Insurance Administration to minimize substantial harm to the floodplain.

30-50-30 ENDANGERED SPECIES ACT

The Endangered Species Act establishes a policy to conserve endangered and threatened species, both within the U.S. and elsewhere.

A. Purpose

Section 7 of the Endangered Species Act requires each Department to take "such action necessary to insure that their actions . . .do not jeopardize the continued existence of endangered or threatened species..." as listed in the Federal Register from **time** to time **by** the **Secretaries of Commerce** and Interior. Federal Departments shall, in consultation with these Secretaries, carry **out** the purpose of the Act.

B. Responsibilities and Consultation Requirements

1. a. If the proposed action is a construction project which requires the preparation of an environmental impact statement (EIS) '(see Chapter **30-60**) program personnel shall contact the Office of Endangered Species (OES), Department of Interior, and provide a brief description, including the location of the proposed project. The OES will provide program personnel with a list **of** endangered species and critical habitats for the specific geographic area to use in determining whether the action will have an effect upon a member of an endangered or threatened species or an identified critical habitat. If it will, program personnel will prepare a draft limited statement.

- b. If **the proposed** action is not a construction project, or a construction project not requiring an EIS, program personnel shall determine if the proposed action will have an effect upon species or habitats listed in the Federal Register and, if so, prepare a draft limited statement. (See appropriate environmental officer for F.R. listings.)
2. All draft statements are sent, together with a request for consultation, to the Regional Director of the Fish and Wildlife Service or National Marine Fisheries Service as appropriate. No further action shall take place pending completion of the consultation process.
3. If the Service does not respond within 90 days, the Department may reach its own conclusion with respect to whether the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat.
4. If the Service or the Department determines that the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat, program personnel may submit an exemption application to the Secretary of the Interior for consideration by the Endangered Species Committee (ESC). **No** action shall occur unless or until the ESC approves the exemption.

30-50-40 FISH AND WILDLIFE COORDINATION ACT

A. Purpose

The Fish and Wildlife Coordination Act provides for equal consideration of wildlife with other features of water resource development programs with a view toward conservation of wildlife resources.

B. Responsibilities and Consultation Requirements

1. When the waters of any stream, or other body of water which exceeds 10 acres, will become impounded, diverted, deepened, or otherwise **con-**

trolled or modified for **any purpose**, the Department shall consult first with the U.S. Fish and Wildlife Service, Department of the Interior, and the State agency head responsible for administering wildlife resources.

2. Program personnel shall prepare **a draft** limited statement, describing the effects of an action which will result in effects described in **1** above and submit it to the Secretary of the Interior.
3. No further action shall take place pending receipt of a report from the Secretary of the Interior.
4. **POCs** shall consider the report of the Secretary of the Interior, together with its recommendations in developing the project plan. The plan shall include such justifiable means and measures as are necessary to obtain maximum overall project benefits.
5. All reports and recommendations of the Secretary of the Interior and State wildlife agencies constitute an integral part of any environmental report prepared pursuant to the action.

30-50-50 WILD AND SCENIC RIVERS ACT

A. Purpose

The purpose of the Act is to preserve selected **free-flowing** rivers, along with their immediate environments, for **the** benefit of immediate and future generations. These include river components and potential components of the National Wild and Scenic River System and study areas designated by the Secretaries of Agriculture and Interior. (Environmental officers keep a list of these rivers and related study areas.) Designations used to describe these components, or parts thereof, include the following: (1) wild, (2) scenic, and (3) recreational.

B. Responsibilities and Consultation Requirements

1. When a proposed action will have an effect upon an environment within or including a portion of a component, potential component or study area, program personnel shall **send a** draft limited statement to the Heritage Conservation and Recreation Service (**HCRS**), Department of Interior for review.

The following are examples of circumstances which can affect a river component or study area:

- a. Destruction or alteration of all or part of the **free** flowing nature of the river;
 - b. Introduction of **visual**, audible, or other sensory intrusions which are **out of** character with the river or alter its setting;
 - c. Deterioration of water quality; or
 - d. Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.
2. If HCRS does not respond within 30 calendar days or states that the proposed action will not **directly** or adversely affect the area, the Department is in compliance with the review requirements of the Act. However, in those instances where HCRS does not respond, programs shall take care to always avoid or mitigate adverse effects on river components and study areas*
 3. If the HCRS determines that the proposed action will directly and adversely affect the area, no further action shall take place whenever the proposed action involves the construction of a water resources project.
 4. The above requirements do not apply to types of actions excluded from the review process by appropriate Department of Interior or Agriculture regulations.

30-50-60 PROTECTION OF WETLANDS

A. Purpose

Executive Order 11990 of May **24**, 1977, directs each Department to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance such wetlands **in carrying out their program responsibilities**. Consideration must include a variety of

factors, such as water supply, erosion and flood prevention, maintenance of natural systems and potential scientific benefits. Wetlands generally include swamps, marshes, bogs and similar **areas** inundated by water to a degree which permits the support of aquatic life.

B. Responsibilities and Circulation Requirements

1. If a proposed action will have an environmental effect upon a wetland, the draft limited statement shall contain a section which compares the purpose of the proposed action with the purposes of this Executive Order.
2. No further action shall take place until the POC makes a decision that the proposed action includes all reasonable measures to minimize harm to the wetlands as a result of the proposed action.
3. Draft limited statements and draft full statements for actions involving changes in title to wetlands or leases, easements or permits, shall contain, as mitigation measures, proposed restrictions and reservations developed pursuant to the purpose of the Executive Order.
4. Draft full statements are required for proposed actions involving new construction in or on wetlands. No further action shall take place until the Secretary of HEW determines that there is no **practicable** alternative to such construction and that the proposed action includes all practicable measures to minimize harm to the wetlands.
5. These requirements do not apply to the issuance to individuals of permits and licenses and the allocation of funds made to individuals.

30-50-70 SAFE DRINKING WATER ACT (SOLE SOURCE AQUIFERS)

A. Purpose

Section 1424(e), the Safe Drinking Water Act, provides for the protection of those aquifers which have been designated by the Administrator of the Environmental Protection Agency as the sole or principal source of drinking water for a community.

B. Responsibilities and Consultation Requirements

1. A review shall determine if a proposed action will directly or indirectly affect a designated aquifer.
2. If the action will affect an aquifer, program personnel shall send a draft limited statement to the Regional Administrator, Environmental Protection Agency, who shall review the action in order to determine if it will create a public health hazard.
3. The action shall not proceed any further unless and until the Administrator of the Environmental Protection Agency determines that the proposed action will not contaminate the designated aquifer so as to create a hazard to public health,

30-50-80 MARINE SANCTUARIES ACT

A. Purpose

Title III of the Marine Protection, Research and Sanctuaries Act prohibits Federal Departments from taking actions which will affect a Marine Sanctuary **unless** the Secretary of Commerce certifies that the activity is consistent with the purposes of the Act. Listings of sanctuaries are designated by the Secretary of Commerce **and** maps of sanctuaries appear in the Federal Register.

B. Responsibilities and Consultation Requirements

1. If the proposed action will create an environmental effect on a marine sanctuary, program personnel shall prepare a draft limited statement and forward it to the Secretary of Commerce.
2. No further action **shall** take place unless and until the Secretary certifies that the action is consistent with the purposes of the Act.

Subject: NEPA REVIEW

- 30-60-00** Background
- 05 Applicability
- 10 Responsibilities
- 20 Determining Appropriate NEPA Documentation
- 30 Findings of No Significant Impact
- 40 Environmental Impact Statements
- 50 Contents of an EIS
- 60 Public Involvement and Circulation of NEPA Environmental Statements

30-60-00 BACKGROUND

The National Environmental Policy Act of 1969 (**P.L. 91-190**), as amended, establishes policy and requirements governing all Federal Departments and agencies with respect to protecting the environment. This chapter supplements Specific requirements established by NEPA and by the associated implementing regulations promulgated by the Council on Environmental Quality (CEQ). (40 CFR **1500-1508**)

NEPA requires **all** Federal Departments and agencies to take into account all potential environmental consequences of their activities prior to initiation of these activities. Specifically, Section 102(2)(c) of NEPA requires all **agencies** of the Federal government to include an environmental statement **"in every** recommendation or report on proposals **for** legislation and other major Federal actions significantly affecting the quality of the human environment." The purpose of this and other requirements is to ensure that environmental information is available to public officials and citizens before Federal agencies make decisions to take actions which could significantly affect the environment.

30-60-05 APPLICABILITY

Unless a categorical exclusion applies, **POCs** are responsible for reviewing all proposed actions. **CEQ** regulations require each Department to establish criteria for determining categorical exclusions. A POC must determine that the action taken by a program would never significantly affect the quality of the human environment in accordance with the criteria discussed in 30-60-20.

30-60-10 'RESPONSIBILITIES

POCs shall review each of their programs to determine those which may be categorically excluded and provide the Office of Environmental Affairs with a list which shall be submitted to CEQ **for** approval pursuant to 40 CFR 1507.3 (b) (2) and then published. The **POCs** shall develop procedures for each program not categorically excluded in order to determine the data needed for environmental assessments* and a system for acquiring such data. The **POCs** shall prepare an environmental assessment for each proposed action not categorically excluded and, as a result, prepare a Finding of No Significant Impact (**FONSI**)* or an Environmental Impact Statement (EIS)*.

30-60-20 DETERMINING APPROPRIATE NEPA DOCUMENTATION

A. General

In order to identify the required documentation, an environmental assessment must be performed. This assessment eventually will be used to prepare a FONSI **or** EIS. An action will result in a series of consequences. One or more **of** these consequences may change the manner in which an environment would function without the action. In preparing the assessment, it is necessary to clearly identify the consequences, the environments affected, and the changes that would occur if the action were taken.

B . Criteria

In determining whether a proposed action **will or** will not "significantly affect the quality of the human environment," **POCs** should evaluate the expected environmental consequences of a proposed action **by** means of the following steps:

* **CEQ** terminology is used in this chapter. For purposes of coordination with other previous sections, an "environmental assessment" is an "environmental review", a "**FONSI**" is a "limited statement" and an "**EIS**" is a "full statement."

Step One - Identify those things that will happen as a result of the proposed **action**

An action normally produces a number of consequences. For example, a grant to construct a hospital...

- may terminate human services;
- will involve destruction and construction;
- will provide a service.

Step Two - Identify the 'human environments' that the proposed **action will affect**

In accordance with Section 1508.27 pertaining to context, the human environments **affected** by the action must be identified. These include terrestrial, aquatic, subterranean and aerial environments, such as islands, cities, rivers **or** parts thereof. However, a human environment must be of reasonable size in order to require an EIS. (Note that a mud puddle is an environment and that, if destroyed, it would be "significantly affected".) Therefore, the environmental assessment need not address the **significance** of effects pertaining to environments which are smaller than the following:

<u>Type of Environment</u>	<u>with clearly defined boundaries</u>	<u>without clearly defined boundaries</u>
Terrestrial Space	1 acre	160 acres
Subterranean Space	1,000 cubic yards	500,000 cubic yards
Aquatic Space	5,000 cubic yards	50,000 cubic yards
Aerial Space	1 'cubic mile	10 cubic miles
Human Settlements (density exceeding one person per acre)	160 acres	160 acres

A proposed action may affect both smaller and larger "human environments" (e.g., part of a city, the whole city, the metropolitan area, the State, the region). In determining the environmental consequences of a proposed action under NEPA, **POCs** should identify barriers (e.g., a river or a highway) which tend to give geographic definition to an environment (e.g., a super-highway or river **may** tend to separate one terrestrial ecosystem from another).

Step Three - Identify the kinds of effects that the proposed action will cause on these "human environments."

A change occurs when a proposed action causes the "human environment" to be different in the future than it would have been absent the proposed action. These changes involve the introduction of various "resources" (including those often characterized as waste).

Example: an increase in a human or wild animal population; a decrease in the amount of soil entering a stream; the introduction of a new chemical compound to natural environments.

In **addition** to organisms, substances, and compounds, the term "resources" include energy (in various forms), elements, structures, and systems (such as a trash collection service in a city). Time periods in both the near term and long term must be considered.

Example: a change in regulations permits the use of a new compound in small quantities. In the near term the compound does not affect any organisms. However, the compound eventually becomes concentrated in specialized localities and **does** affect organisms.

Example: a hospital is renovated, requiring a detour in traffic through residential neighborhoods and an increase in the number of patients in other hospitals. However, following completion of the work, the traffic flow and patient loads resemble those that would have occurred **without** the renovation.

In identifying changes caused by the proposed action, **POCs** should identify the magnitude of the changes likely to be caused within smaller and larger "human environments" affected (e.g., part of a city, the whole city, the metropolitan area, etc.).

Example: the closure of a hospital in a neighborhood may not only affect that neighborhood but the delivery of health services to the city as a whole.,

Step Four - Identify whether these changes are
significant

Determining whether **or** not a proposed action will cause **significant change** in the human environment involves a **subjective judgment**. The following points should be considered in conjunction with 40 CFR 1508.8 (effects) and 40 CFR 1508.14 (human environment) in making a decision concerning **significance**:

- 0 a change in the characterization of an environment is significant (e.g., from terrestrial to aquatic);
- 0 the establishment of a species in or removal of a species from an environment is significant;
- 0 the more **dependent** an environment becomes on external resources, the larger the magnitude of change (and the more likely to be significant);
- 0 the larger the environment under consideration, the lower the amount of change needed before the change should be judged significant;
- 0 changes which do not produce direct, indirect, or cumulative effects which will last beyond one year would not be judged significant; and
- 0 changes which are remotely possible and involve a relatively small environment should not be judged significant.

NOTE: The above criteria considers and supplements the CEQ definition of "**significantly**" at 40 CFR 1508.27, except for the following terms which shall follow requirements issued by CEQ pursuant to 40 CFR 1506.7:

1. "affected interests" as used in 40 CFR 1508.27(a);
2. "public health or safety" as used in 40 CFR 1508.27(b) (2);
3. "highly controversial" as used in 40 CFR 1508.27(b)4;

4. actions affecting cultural assets as described in 40 CFR 1508.27(b)(8) except as such changes may significantly affect the environment of the cultural resource; and
5. applicable Federal, State or local laws or requirements in 40 CFR **1508.27(b)(10)**, except as listed in Subsection 30-10-20.

30-60-30 Finding of No Significant Impact - FONSI (Limited Statement)

For the purposes of NEPA, a FONSI is used to document, per section 1508.13, a POC judgement that a proposed action-not categorically excluded from NEPA requirements (see **30-60-10A** above) will not significantly affect the quality of the human environment. A FONSI should meet the criteria described in Chapter 30-30-3082 and, in addition,

- A. include a list of agencies and persons consulted during its preparation;
- B. discuss why the proposed action will not significantly affect the human environment, including the environmental assessment **or** a summary thereof;
- C. discuss alternatives whenever an unresolved conflict exists with respect to alternative uses of available natural resources; and
- D. be made available to the public and other interested parties including, when appropriate, publication of a notice announcing its availability consistent with 40 CFR 1506.6(b) and 1501.4 (e) (2).

30-60-40 Environmental Impact Statement - **EIS** (Full Statement)

A. General

A POC responsible for carrying out a specific action is responsible for preparation of an EIS, if one is required.

B. Intolvement of Other Federal Agencies

In cases in which **HHS** participates with other Federal agencies in a proposed action, one agency will be the lead agency and will supervise preparation of an EIS if one is required. A Memorandum of Understanding among all involved agencies may be useful in summarizing the relative responsibilities of all involved agencies. Lead agency responsibility should be determined in accordance with Section 1501.5.

C. Involvement of States

In cases in which a POC participates with State and local governments in a proposed action, the POC is responsible for preparing an EIS except that a State agency may jointly prepare the statement if it has State-wide jurisdiction, and **HHS** participates in its preparation including soliciting the views of other State or Federal agencies affected by the statement.

D. Notice of Intent

Upon deciding to prepare an EIS, a POC shall publish a Notice of Intent in the Federal Register in accordance with **Section 1508.22**.

E. Draft and Final Statements

Except for proposals for **legislation**, POCs shall prepare **EISS** in two stages: draft and final.

Statements relating to proposals for legislation shall be submitted to Congress at the time the legislation is proposed to Congress or up to 30 days afterwards. Except under certain circumstances described in CEQ regulations (see 40 CFR **1506.8**), draft statements shall accompany legislative proposals.

F. Supplements

POCs shall prepare supplements to either draft or final statements if there is substantial change in the proposed action or if significant new information **becomes** available or new circumstances occur. Preparation and circulation of supplements is the same as that for draft and final **EISS**.

30-60-50 CONTENTS OF AN EIS

An EIS consists of three sections: a forward, main text and appendices. If a proposed action will also affect a cultural or natural asset (as defined in the related acts), the statement shall incorporate the material required by the applicable related acts.

A. Cover Sheet

This shall be one page and state whether the document is a draft or final, the title and location of the proposed action, the name of the agency responsible for the EIS, including the lead agency and any cooperating agencies, the name, address and telephone number of a knowledgeable agency contact, a one paragraph abstract, and the date by which comments must be received.

B. Summary

The summary summarizes the main text, lists the names of those who assisted in preparing the statement and lists the government and private agencies or organizations requested to comment on the draft statement.

c. Main Text

The main text describes the proposed action, its underlying purpose and need, alternatives considered to the proposed action and, in conjunction with these alternatives, the environments which would be affected. (See the discussion of alternatives at Chapter 30-30.) It contains an analysis of the environmental, economic and social consequences of the proposed action and the alternative actions and a discussion of alternative safeguards which could mitigate these environmental consequences. If the proposed action involves using a scarce resource (e.g., prime agricultural land), the text will address alternative uses of that resource, including uses which may not contribute to the underlying purpose of the proposed action. The text shall list the preparers.

The text of a draft and final statement are the same (with appropriate revisions and additions) except that a final statement:

1. shall identify the preferred alternatives;
2. shall identify alternatives which are environmentally preferable with a rationale; and
3. shall respond to comments made by reviewers of the draft statement; all comments by Federal and other public agencies must appear in their entirety in the appendix.

D. Appendices

Appendices contain supporting documentation, if **needed**, and any scientific information that **is** too technical **or** detailed for complete presentation in the **main** text of the statement.

30-60-60 PUBLIC INVOLVEMENT AND CIRCULATION OF NEPA
ENVIRONMENTAL STATEMENTS

A. Public Notice

POCs must give public notice in the following instances:

1. prior to preparing a draft statement in order to solicit public participation; and
2. prior to any public hearings.

EPA will publish in the Federal Register notice of the availability of **HHS draft and final EISs**.

Notice shall **be** made through direct mail, the Federal Register, local media or other means appropriate **to** the scope, **issues** and extent of public concern. **Public** notices shall include the name and location of **a contact** official through whom additional material may be obtained.

B. Public Hearings

HHS components shall hold public hearings as part of the NEPA environmental review process when hearings will assist substantially in forming environmental judgements and when hearings correspond with **customary** practice of the component.

C. Draft EISs

Copies of draft statements shall **be** provided to:

Environmental Protection Agency;

Council on Environmental Quality;

Other Federal agencies having related special expertise or jurisdiction by law;

Appropriate local and national organizations; including A-95 clearinghouses;

Appropriate State and local agencies, including those authorized **to** develop and enforce environmental standards;

Indian tribes **as appropriate**; and

Others requesting a copy of the draft statement.

There shall be a **45-day** minimum comment period for draft statements after EPA publishes a notice of availability in the Federal Register.

If a draft statement is substantially revised, it must be recirculated as a draft statement. If revisions to a draft statement are minor, only the comments, responses and revisions need be recirculated.

D. Final EISs

Copies of final statements shall be provided in accordance with the above list and to all agencies, persons or organizations who submitted comments regarding the draft statement.

E. Record of Decision

When a POC reaches a decision on a proposed action after preparing an EIS, the POC shall prepare a public record of decision which includes:

- o the decision;
- o alternatives considered;
- o a discussion of factors which were involved in the decision;
- o a discussion of steps to **be** taken to minimize potential environmental harm; and
- o a public record of decision pursuant to 40 CFR 1502.2.

Subject: REVIEWING EXTERNAL EISS

30-70-00 Reviewing External EISS
10 Jurisdiction by law
20 Jurisdiction by Special Expertise
30 Types of Comments

30-70-00 REVIEWING EXTERNAL EISS

HEW has a **responsibility** under Section 102(2)(C) of the National Environmental Policy Act (NEPA) to review and **comment** on draft Environmental Impact Statements (EISS) developed by other Federal Departments. In accordance with CEQ regulations at 40 CFR 1503.2, HEW **must** comment on each EIS on issues for which it has "jurisdiction by law or special expertise."

30-70-10 JURISDICTION BY LAW

Jurisdiction **by** law reflects the Department's statutory responsibilities. An **operating** component reviewing a **draft EIS** should review each alternative action **discussed** in an EIS in terms of:

- A. Potential effects on the delivery or quality of health, social or **welfare** services.
- B. **Potential effects** associated with the **manufacture**, transportation, use and **disposal** of chemicals or other hazardous materials.
- C. Potential effects associated with the **mining, milling, production, use, transportation, and disposal** of radioactive materials.
- D. Potential **changes** in plant or animal populations. This includes examination of the **potential effects** the **proposed** action may have on human health. **Changes** in natural predator populations may **upset** the ecological balance to the extent that an **increased** incidence of

morbidity or mortality will occur unless offsetting safeguards are instituted.

- E. Potential changes in the physical environment that could affect human health or welfare (e.g., air pollution, change in land use). This shall also include an examination of the availability and quality of water, sewage and solid waste disposal facilities.

30-70-20 JURISDICTION BY SPECIAL EXPERTISE

Individuals reviewing EISs may comment, in addition, in areas beyond their immediate job responsibilities when they have special expertise which may be appropriate. For example, a veterinarian employed in a disease prevention program can comment on an EIS discussion about the effects of a forestry project on animal populations.

30-70-40 TYPES OF COMMENTS

- A. A reviewer's comment on an external EIS can address one or more of the following:
1. That data are missing or inaccurate;
 2. That the organization of the EIS precludes a valid review;
 3. That the projections or descriptions of effects are not complete or are inaccurate;
 4. That the reviewer does not concur with the projections (for stated reasons);
 5. That certain safeguards will lessen the extent of an effect and/or the magnitude of an impact;
 6. State a preference for an action alternative (or no action); and

7. Object to an agency's preferred alternative (if one is identified in the draft CIS) and recommend adoption of new or existing alternatives. Such objections should be lodged on the basis of the direct or indirect effects of effects on HEW programs and/or mission. (See b below concerning referral of such objections to CEQ.)
- b. If a reviewing component objects to all or part of an agency's proposed action and, after consultation with the agency, is unable to resolve its differences, it shall determine if the proposed action meets the criteria for referral in Section 1502.4 of the CEQ regulations. If the criteria are met, the component shall request the POC head to refer its objection to CEQ within 25 days of the date that the final EIS is made available to EPA in accordance with Section 1504.3.