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COMDTINST M16475.1D  
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COMMANDANT INSTRUCTION M16475.1D

Subj: NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES AND POLICY FOR CONSIDERING ENVIRONMENTAL IMPACTS

- Ref: (a) National Environmental Policy Act (NEPA) , 42 U. S. C. 4321, et seq.  
 (b) 40 CFR Parts 1500 - 1508, Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act  
 (c) Civil Engineering Manual, COMDTINST M11000.11 (series)  
 (d) Shore Facilities Project Development Manual (SFPDM), COMDTINST M11010.14 (series)

1. PURPOSE. This Manual establishes policy and prescribes responsibilities and procedures for Coast Guard implementation of references (a) and (b) and other related laws and regulations.
2. ACTION. Area and district commanders, commanders of maintenance and logistics commands (MLCs), commanding officers of headquarters units, assistant commandants for directorates, Chief Counsel, and special staff offices at Headquarters shall ensure that the provisions of this Manual are followed in the consideration of environmental effects of Coast Guard actions. All program guidance in implementing this Manual shall be submitted by program managers to Commandant (G-SEC) for review and concurrence to ensure consistency with this Manual prior to issuance.
3. DIRECTIVES AFFECTED. National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1C is cancelled.
4. CHANGES. Recommendations and amendments for improvement of these Coast Guard NEPA implementing procedures shall be submitted to Commandant (G-SEC).

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## CHAPTER 1. INTRODUCTION

- A. **Purpose.** This Manual provides information pertaining to environmental planning and establishes policy and procedures to ensure timely environmental review for appropriate Coast Guard (USCG) actions. Furthermore, this Manual addresses the policy and responsibilities for USCG implementation of the National Environmental Policy Act, pertinent regulations, and other related laws and legislation.
- B. **Applicability.** All USCG actions shall be subject to and consistent with the procedures and intent of references (a), (b), the DOT Order [Enclosure (1)], and the requirements of this Manual.
- C. **Legal Basis.**
1. **National Environmental Policy Act (NEPA).** NEPA, reference (a), sets forth a national policy which encourages and promotes productive harmony between man and his environment. NEPA procedures require that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The NEPA process is intended to help public officials to make decisions that are based on an understanding of environmental consequences and take actions that protect, restore and/or enhance the environment.
  2. **Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500-1508).** The CEQ regulations, reference (b), establish policy requirements that are binding on all Federal agencies for implementing NEPA and related statutory requirements.
  3. **Department of Transportation (DOT) Order 5610.1C, Procedures for Considering Environmental Impacts.** DOT Order 5610.1C, Enclosure (1), sets the policy and procedures that supplement the CEQ regulations and applies them to DOT programs. The Coast Guard shall comply with the CEQ regulations and the provisions of the DOT Order.
- D. **Common Environmental Acronyms.**

ACHP	Advisory Council on Historic Preservation
AC&I	Acquisition, Construction, and Improvement
CAA	Clean Air Act
CBRA	Coastal Barriers Resource Act
CD	Consistency Determination
CE	Categorical Exclusion
CED	Categorical Exclusion Determination
CEQ	Council on Environmental Quality
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act

CFR	Code of Federal Regulations
CWA	Clean Water Act
CZM	Coastal Zone Management
DEIS	Draft Environmental Impact Statement
DOT	Department of Transportation
EA	Environmental Assessment
EIS	Environmental Impact Statement
E.O.	Executive Order
FEIS	Final Environmental Impact Statement
FONSI	Finding of No Significant Impact
FWPCA	Federal Water Pollution Control Act (also commonly referred to as the Clean Water Act)
FWS	Fish and Wildlife Service
FR	Federal Register
LESA	Land Evaluation and Site Assessment
NEPA	National Environmental Policy Act
NPDES	National Pollutant Discharge Elimination System
NPS	Non-Point Source
NSPS	New Source Performance Standard
NRHP	National Register of Historic Places
PCB	Polychlorinated Biphenyls
PL	Public Law
PPR	Project Proposal Report
RCRA	Resource Conservation and Recovery Act
ROD	Record of Decision
NRCS	Natural Resources Conservation Service
SDWA	Safe Drinking Water Act
SEIS	Supplemental Environmental Impact Statement
SHPO	State Historic Preservation Officer
THPO	Tribal Historic Preservation Officer
TSCA	Toxic Substance Control Act
TSDF	Treatment, Storage, and Disposal Facility
USACE	U. S. Army Corps of Engineers (Former Acronym - COE)
U.S.C.	United States Code
USCG	United States Coast Guard

**E. Responsible Parties.**

1. Assistant Commandant for Systems (G-S). The Assistant Commandant for Systems (G-S) has oversight responsibility for NEPA and establishes and maintains a coordinated USCG environmental planning program.

2. Director of Engineering (G-SE). The Director of Engineering (G-SE) ensures compliance with reference (a) and other related environmental legislation.
3. Chief, Office of Civil Engineering (G-SEC). The Chief, Office of Civil Engineering (G-SEC) is the process owner for NEPA and develops and promulgates procedures to implement and direct compliance with references (a), (b), and related legislation. Commandant (G-SEC) is the point of contact for coordination and review of USCG and non-USCG environmental documents submitted for Commandant level review.
4. Chief, Office of Bridge Administration (G-OPT). The Chief of the Office of Bridge Administration is responsible for environmental documentation and review for the Bridge Administration Program.
5. Assistant Commandants for Directorates, Chief Counsel, and Special Staff Offices at Headquarters. Assistant Commandants for Directorates, Chief Counsel, and Special Staff Offices at Headquarters shall implement the procedures of this Manual in consultation with G-SEC, for actions originated by the Commandant. This responsibility includes ensuring that the appropriate environmental planning, analysis, and documentation are completed for their respective programs and actions.
6. Commanding Officers of Headquarters Units. Commanding Officers of Headquarters Units shall implement the procedures of this Manual in consultation with environmental staff at either the unit or the MLC, as appropriate for the unit and the action, per reference (c) and related guidance issued. This responsibility includes ensuring that the appropriate environmental planning, analysis, and documentation are completed for their respective programs and actions.
7. Area and District Commanders. Area and District Commanders shall implement the procedures of this Manual, in consultation with MLC environmental staff, for all area and district originated actions and other actions as delegated by Commandant. Accomplishment of environmental support activities may be delegated to various Area or District program managers or the MLC.
8. Commanders of MLCs. Commanders of MLCs shall implement the procedures of this Manual for MLC actions, Headquarters Unit actions, as appropriate, and other delegated actions. Commanders of MLCs may delegate environmental support responsibilities to appropriate staff and commands. Commanders of MLCs shall ensure that sufficient expertise and capability are available to support their various environmental responsibilities. Commanders of MLCs are responsible for review of USCG and non-USCG environmental documents submitted for field level review.

**F. Use and Organization of this Manual.**

1. Use. This Manual should be used in conjunction with references (b), through (d) and as a supplement to DOT Order 5610.1C (Enclosure (1)) for consideration of environmental impacts of USCG actions.
2. Organization. Chapter 2 of this Manual supplements specific paragraphs in DOT Order 5610.1C (Enclosure (1)) and is cross-referenced by paragraph numbers (in parenthesis) to the DOT Order. It is important that reference should be made to those sections of the DOT Order (5610.1C) cross-referenced in this Manual. Cross-reference to the DOT Order will provide a wider perspective to the issue as well as provide details that may prove applicable to certain projects. Additional chapters and/or changes providing guidance in meeting new or changed requirements will be added to this Manual as necessary.

## CHAPTER 2. USCG IMPLEMENTING INSTRUCTIONS

### [Supplementary Instructions to DOT Order 5610.1C (ENCLOSURE (1))]

#### A. Planning and Early Coordination.

1. (3.c.) Scoping. The environmental checklist, Enclosure (2), is a tool to assist in scoping - identifying environmental requirements and potential consequences to consider in project planning efforts. Some consultation with Federal, state, or local expert agencies may be necessary in order to complete the environmental analysis checklist. The responsible official shall maintain a written record of contacts made and responses received. For all Coast Guard actions not categorically excluded (see Figure 2-1), all known interested or affected parties (Federal, state, local, and private) shall be notified and invited to participate in the consultation process. Any other parties having regulatory involvement or otherwise directly affected will also be notified in writing. All other interested parties may be informally contacted. For actions requiring preparation of an Environmental Impact Statement (EIS), the scoping process shall be followed as described in Section 1501.7 of reference (b). Policy regarding public notice and involvement is presented in Chapter 3, section A.
2. Environmental Planning Process. Consideration of the environmental consequences of a given project or action (scoping) should begin early in the project planning process. This is necessary not only for documentation purposes, but necessary because environmental factors and compliance with Federal law may alter the design, layout, or timing of a given action. Specific direction, for certain actions, follows:
  - a. Shore Facilities Management.
    - (1) Planning Proposal Stage. During preparation of the Planning Proposal one must make an initial judgment concerning the scope and magnitude of a given proposal. This initial judgment determines whether the project warrants preparation of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI), an EIS and Record of Decision (ROD), or a Categorical Exclusion (CE). The appropriate NEPA analysis or documentation must be submitted with the Planning Proposal to Commandant (see reference (d)) for specific guidance on Planning Proposals and environmental documentation.) Lack of completed environmental documentation may delay or prevent approval at the Planning Proposal Review Board (PPRB). In those cases where the Planning Proposal requirement has been waived, the appropriate NEPA analysis or documentation must be completed at the Project Proposal Report Part A stage.

- (2) Master Plans. Environmental documentation for master plans will parallel that for Planning Proposals.
  - (3) Minor AC&I Project Proposal Report (PPR) Submittal. Environmental documentation for Minor AC&I PPR's will parallel that for Planning Proposals.
  - (4) OE funded projects. Environmental documentation for OE funded projects will parallel that for Planning Proposals.
  - (5) Major AC&I PPR's and Design Stages. Major AC&I PPR's and other design stages shall incorporate the recommendations and mitigation measures as adopted and committed to by the USCG in the applicable FONSI or ROD. If the original plans change significantly at this stage of the process, then a supplemental NEPA analysis and/or document may be necessary. Any supplemental NEPA document prepared must be submitted with the Major AC&I PPR or design stages.
- b. Other Actions. Action is a comprehensive term used throughout this Instruction to cover all undertakings (including those other than shore facility management projects) which may have environmental impacts. For example, NEPA analysis and/or documentation is required for actions such as: research, development, test, and evaluation; promulgating regulations; granting permits; changing operations; conducting major acquisitions; and decommissioning of USCG facilities or equipment. Environmental analysis and documentation for such projects must be completed prior to initiation of the action.
3. Responsibilities.
- a. Area, District, and MLC Staff and Commands.
    - (1) Area and District Program Managers. Area and District Program Managers and project officers shall ensure that all environmental analysis and documentation for USCG actions (except bridge permit actions) initiated by the Area or District, or as directed by higher authority, are completed. Environmental specialists are available within the MLC, and environmental support activities may be delegated to the MLC. Area and District Program Managers shall ensure that MLC Shore Divisions are notified as soon as possible of any needed environmental analysis or documentation for Area or District proposed actions. Unit Commanders should be aware of the fact that the USCG must comply with a multitude of environmental laws, and what may appear to be a good idea initially may not be environmentally acceptable. It is, therefore, important that alternatives to a proposed action be available. Coordination of USCG environmental analyses and documents with Federal, state, and local

officials may be necessary. Questions concerning environmental matters should be directed to the appropriate MLC staff.

- (2) MLC Staff and Commands. MLC Staff and Commands shall ensure completion of all environmental analysis and documentation for USCG actions designated to them. Additionally, MLC staff and commands shall assist Headquarters Units, where appropriate, with their implementation of the procedures of this Instruction. Coordination of these environmental analyses and documents with Federal, state, and local officials may be necessary. MLC Staff and Commands shall maintain close coordination with appropriate Area and District elements during the execution of these tasks. Questions concerning environmental matters should be directed to appropriate MLC staff.
  - (3) Bridge Administration Staff. The Bridge Administration Staff shall complete environmental analysis and documentation for all district bridge projects and coordinate these environmental analyses, as appropriate, with the interested public and necessary Federal, state, and local officials.
  - (4) When any area or district staff element or command is uncertain regarding the need for environmental analysis or documentation for any project, early consultation with MLC shore division offices shall be initiated.
- b. Commandant. Commandant (G-SEC) shall review all USCG Commandant proposed projects and advise the responsible USCG official on the appropriate level of environmental analysis and documentation needed for the proposal. As early as possible in their decision making process, the project manager of a Headquarters Program Office should contact Commandant (G-SEC) to discuss possible environmental analysis and/or documentation necessary for Commandant originated actions. Commandant (G-SEC), as environmental reviewer, shall approve all environmental analysis and documentation for Commandant-initiated actions. (Commandant (G-SEC) review and approval are not necessary for environmental analysis and documentation supporting Bridge Administration projects.)
- c. Headquarters Units. Headquarters Unit staff and Commands shall ensure completion of all environmental analysis and documentation for Headquarters Unit-originated actions in consultation with environmental staff at either the unit or the MLC as appropriate for the unit and the action. This responsibility includes ensuring that the appropriate environmental planning, analysis, and documentation are completed for their respective programs and actions.

## **B. Environmental Documentation.**

1. (4.a.) Actions Affected. In addition to those actions listed in the DOT Order, this Instruction applies to all USCG actions including the decision to: acquire, establish, relocate, sell, dismantle, decommission or close USCG facilities; decommission or dispose of vessels; conduct research activities; promulgate regulations; grant permits; change operations; and conduct major acquisitions.
2. Categorical Exclusions (CEs).
  - a. Introduction. As defined by the Council on Environmental Quality (CEQ), a "categorical exclusion" or "CE" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an EA nor an EIS is required. The use of a CE is intended to reduce paperwork and delay by eliminating the unnecessary preparation of EAs and EIS's. A list of current USCG CEs can be found in Figure 2-1. The CEs listed in Figure 2-1 of this Instruction are subject to review and any suggested modifications should be provided to Commandant (G-SEC). Additional CEs should be suggested when it becomes clear, through the preparation of EAs, that FONSI's result after numerous analyses of similar types of actions.
  - b. Limitations on Using Categorical Exclusions. Some actions that normally would be categorically excluded in Figure 2-1 could require additional environmental review and, for this reason, responsible personnel should be alert for circumstances that dictate the need to prepare an EA or EIS. Enclosure (2) is provided to help identify extraordinary circumstances. A determination of whether an action that is normally excluded requires additional review must focus on the significance of the potential environmental consequences. The potential environmental consequences must be evaluated in their context (whether local, state, regional, tribal, national, or international) and in their intensity by considering whether the action is likely to involve one or more of the following:
    - (1) Public health or safety.
    - (2) A site that includes or is near a unique characteristic of the geographic area, such as a historic or cultural resource, park land, prime farmland, wetland, wild and scenic river, ecologically critical area, or property requiring special consideration under 49 U.S.C. 303(c). [Section 303(c) of Title 49 U.S.C. is commonly referred to as section 4(f) of the Department of Transportation (DOT) Act which includes any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site].

- (3) The quality of the human environment that is likely to be highly controversial in terms of scientific validity or public opinion.
- (4) An effect on the human environment that is highly uncertain or involves unique or unknown risks.
- (5) Future precedent setting actions with significant effects or a decision in principle about a future consideration.
- (6) An individually insignificant, but cumulatively significant, impact when considered along with other past, present, and reasonably foreseeable future actions.
- (7) A district, site, highway, structure, or object that is listed in or eligible for listing in the National Register of Historic Places, or the loss or destruction of a significant scientific, cultural, or historical resource.
- (8) Species or habitats protected by the Endangered Species Act.
- (9) A potential or threatened violation of a Federal, state, or local law or requirement imposed for the protection of the environment.
- (10) An impact that may be both beneficial and adverse. A significant impact may exist even if it is believed that, on balance, the effect will be beneficial.

The simple existence of any of the situations as described in (1)-(10) above is not necessarily a reason to prepare an EA or EIS. The determination that a CE is inappropriate and more environmental analysis is needed, or that an EA or EIS is needed, must be based on the potential significance of the proposed action's effects on the environment. The proposed action must be evaluated in its context (whether local, state, regional, tribal, national, or international) and in its intensity by considering the level of possible effects as listed in (1)-(10) above. However, a CE may not be used if the proposed action is likely to involve any of the circumstances set forth in section 20.b.(2) of DOT Order 5610.1 series (Enclosure 1). The ten listed circumstances and those in the DOT Order are addressed in the Environmental Analysis Checklist (Enclosure 2). If a CE is not appropriate, an EA or an EIS must be prepared.

- c. Documentation. When the specific CE requires that a checklist be completed, an environmental analysis checklist (Enclosure 2) will be completed and used to substantiate the use of the CE. The checklist must be submitted with, and accompany, the proposal for the action. If a CE is not appropriate, the environmental analysis checklist will be used for developing an EA or EIS. A written Categorical Exclusion Determination (CED) (Enclosure 3) must be

prepared when a CE will be relied on to promulgate a regulation that requires an environmental checklist. Checklists and CEDs supplementary to the requirements of this Instruction may be developed by subordinate commands for specific types of actions. Those documents must be approved by Commandant (G-SEC) before they are adopted for use.’

- d. Compliance With Other Laws and Requirements. Even though an EA or EIS may not be indicated for a Federal action because of a CE, that fact does not exempt the action from compliance with any other Federal law or any review or consultation requirements contained in any applicable agreement. For example, compliance with the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Clean Water Act, the Clean Air Act (conformity requirements), etc., is always mandatory, even for actions that do not require an EA or EIS.
3. (4.d) Environmental Assessment (EA). An EA is a brief report that provides sufficient evidence and analysis to determine the significance of the potential environmental effects of the proposed action and its alternatives. The EA documents, in summary fashion, the consideration of environmental effects in the planning for the action. The EA is the document used to determine whether to prepare an EIS or a Finding of No Significant Impact (FONSI) (40 CFR 1508.9). The Area and District program managers or their delegated representatives make this determination with the assistance of MLC staff (see also section B. 7. of this Chapter). For Headquarters-originated actions, the responsible program office makes this determination in consultation with G-SEC (see also section B. 7. of this Chapter).
    - a. Content of USCG EAs. All EAs prepared by the USCG shall contain:
      - (1) The environmental assessment cover sheet, in the format outlined in Enclosure (4), evidencing the date attested to be in conformance with reference (b) and this Instruction by signature and title of the preparer, the person responsible for the environmental review, and the responsible official having direct responsibility and authority for implementing the proposed action;
      - (2) A brief description of the proposed action;
      - (3) A statement of need for the proposed action;
      - (4) The alternatives considered;
      - (5) A summary of the environmental impacts of the proposed action and alternatives;
      - (6) A comparative analysis of the proposed action and alternatives;

- (7) A statement of environmental significance of the proposed action (the responsible official's recommended or preferred course of action); and,
- (8) A list of all agencies and persons contacted during the environmental assessment.

The EA, supported by the necessary appendices and technical data, shall be concise for meaningful review and decision. It should not normally exceed 15 pages.

- b. Projects for which environmental assessments are normally completed include, but are not limited to:
  - (1) Dredging projects that increase water depth over the previously dredged or natural depths, and/or requiring new spoil designations except where prior negotiations with the Corps of Engineers indicate no EIS or EA is required for the purposes of permit authorization.
  - (2) Changes in mission, base closures, relocations, consolidations, and deployments which will have long term population increases or decreases in affected areas.
  - (3) Proposed utilization of tidelands and freshwater wetlands.
  - (4) Exercises conducted at the request of a state(s) (such as ship sinkings for artificial reefs) wherein environmental impact might be expected.
  - (5) Any activity proposed in a designated or recommended "critical" habitat of an endangered species, except where prior negotiations with the Fish and Wildlife Service/National Marine Fisheries Service indicate no EA is required for the purposes of continued operations and compliance with the Endangered Species Act.
  - (6) Construction or any other action affecting an EPA designated aquifer or recharge zone (as specified by Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C. 201, et seq.). The above referenced section states that "no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator (of the EPA) determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

- (7) New or revised regulations, directives or policy guidance concerning activities that are likely to have significant environmental effects.
- 4. Finding of No Significant Impact (FONSI). A FONSI is a statement that a proposed action has been environmentally assessed (EA completed) and determined not to "significantly affect the quality of the human environment." The FONSI shall briefly present the reasons why the action will not have a significant impact on the quality of the human environment. Authority for approving Findings of No Significant Impact rests with the area or district commander, the responsible parties in Headquarters program offices, or a designee (see also section B. 7. of this Chapter). The FONSI and EA will be made available to the public and notice will be provided in accordance with 40 CFR 1501.4(e)(2) and 1506.6.
  - a. (5.a.) Format. For USCG purposes a FONSI should be a separate, one page document to which an EA is attached and which notes any other environmental document related to it. When a FONSI is based on a USCG prepared EA, the format should be as outlined in Enclosure (5). When a FONSI is based on an adopted EA or an applicant or contractor-prepared EA, the format should be as outlined in Enclosure (6).
  - b. (5.b.) Coordination. To ensure copies of the FONSI and the EA are available to the public upon request, the originator shall forward one copy each to Commandant (G-SEC) and the responsible Commandant level program office, and retain one copy each in the office of the preparer and the appropriate program office.
- 5. (4.b.) Environmental Impact Statement (EIS). An EIS is prepared when it is concluded that an action will have a "significant" environmental impact. It describes in detail the nature and extent of the environmental impacts of the proposed action and each alternative. The EIS should discuss appropriate mitigation measures for any adverse impacts associated with the proposed action or alternative. An EIS may take a year or more to complete. USCG actions which normally require an EIS include:
  - a. Actions assessed and found to have significant environmental effects;
  - b. Actions having significant environmental effects on the global commons as described in section 2-3 of E.O. 12114 dated 5 January 1979. This is applicable to major Federal actions outside the United States, its territories and possessions. If any doubt exists regarding applicability refer to the above referenced E.O. or contact Commandant (G-SEC);
  - c. Large dredging projects;
  - d. Establishment of major new installations;

- e. Major land acquisitions that will result in changed use of the property;
  - f. Actions which generate significant controversy because of effects on the human environment;
  - g. Deepwater Port permit applications; and
  - h. Actions having a significant effect on:
    - (1) Property protected under section 4(f) of the DOT Act;
    - (2) Wetlands or floodplains;
    - (3) Endangered species; and
    - (4) Significant archaeological, cultural or historical resources.
6. Signatories on, and Preparers of, USCG NEPA Documents. Documentation resulting from USCG NEPA processes may require the signature of the preparer/environmental project manager, environmental reviewer, and/or the responsible official. USCG documents which require such signatures consist of the following:
- a. The Environmental Checklist (Enclosure 2);
  - b. The Categorical Exclusion Determination (Enclosure 3);
  - c. The cover page of an Environmental Assessment (Enclosure 4);
  - d. The Finding of No Significant Impact document (Enclosure 5);
  - e. The Finding of No Significant Impact document for adopted, contractor, or applicant-prepared NEPA documents (Enclosure 6);
  - f. The cover page for an Environmental Impact Statement (EIS), (Enclosure 7); and
  - g. The Record of Decision (ROD) for an EIS (Enclosure 8).
7. Signatory Policy. Where a signature is required on each of the signature pages listed in section 6 above, the following policy applies. (G-OPT guidance on signatories for G-OPT NEPA documents can be found in the Bridge Administration Manual, COMDTINST M16595.5(series).)
- a. Signature of the Responsible Official. The responsible official is the person with the authority for either making the decision or developing the final

recommendation for a decision on the actions analyzed in the NEPA document. The Commandant or Commandant's designee with the authority to decide whether or, at a minimum, how to proceed with every action the USCG undertakes is the decision-maker and the responsible official. (Authority to sign EIS's as the responsible official will be governed by section C. 4. of this chapter.) The purposes of the responsible official's signature are to:

- (1) Provide a means to monitor NEPA activity in the USCG and;
- (2) Demonstrate that relevant environmental information was considered by the decision-maker when the decision was made.

For NEPA purposes, the following examples are provided to assist in identifying the responsible official for NEPA documents other than EIS's:

- (1) For marine event permits, the Group Commander frequently has been delegated the decision-making authority.
- (2) For planning proposals that involve shore facility assets, the responsible official is the individual with the field level approval defined in Section 5.E. of reference (d).
- (3) For field regulations, the responsible official is the person having the delegated authority to issue the regulation.
- (4) Typically, for Commandant-initiated actions, the responsible official is the office chief for the program sponsoring the action (for Commandant-initiated regulations, the responsible official is the person with the delegated authority to issue the regulation.)

- b. Signature of the Environmental Reviewer. The environmental reviewer is the individual responsible for reviewing the environmental content of the document to ensure that the environmental analysis and documentation complies with NEPA, and CEQ, DOT, and USCG NEPA policies and procedures. For Commandant-initiated actions including those where document preparation has been delegated to the field, the environmental reviewer shall be a member of the USCG environmental staff in Commandant (G-SEC) or (G-OPT) for Bridge Administration program actions. For Commandant-initiated actions where document preparation has been delegated to the field, Commandant (G-SEC) may also delegate environmental review of the document to the field. However, such delegation must be documented in formal correspondence between Commandant (G-SEC) and the applicable field office. For field initiated actions, the environmental reviewer shall be a member of the environmental staff in the MLC organization. For actions initiated by Headquarters Units, the environmental reviewer shall be a member of the USCG environmental staff either at the unit or the servicing MLC as appropriate for the unit and the action.

In all cases, the environmental reviewer cannot be the same individual as the preparer of the NEPA document.

- c. Signature of the Preparer/Environmental Project Manager. For all NEPA documents that are prepared with in-house staff, the staff member coordinating the preparation is the preparer. In this case, the preparer is the writer and is responsible for the quality of the environmental and technical analysis and documentation. This guidance also applies to Commandant-initiated actions where Commandant has delegated preparation of the NEPA document to the field. All contractor prepared documents shall indicate the contractor's level of involvement the following ways. If contractor involvement is minimal and only for part of the NEPA document, then the contractor shall be included in the list of preparers and the USCG preparer will sign as preparer. Where the contractor has major involvement in the preparation of the NEPA document or where the contractor and the USCG preparer have equal involvement in the preparation, then the cover page of the NEPA document will indicate that the CED and/or checklist, EA, and/or EIS was prepared by the contractor for the USCG or that the documentation was prepared by the contractor *and* the USCG, respectively. In all cases where there is substantial contractor involvement, the USCG environmental project manager – the USCG person responsible for overseeing the NEPA analysis and documentation for the USCG - shall sign as environmental project manager in place of a preparer signature. The signature of the environmental project manager indicates that the USCG has overseen and participated in the preparation of the document, has independently evaluated the document, and has approved and accepted the content and scope of the document.
- d. List of Preparers. The EA and the EIS shall contain a list of preparers and contributors who assisted in the information collection and analysis. The list may also include contributing members of other government entities when they are cooperating in the preparation of the document.

### **C. Preparation and Processing of EIS's.**

1. Preparation of EIS's. All draft, final, and supplemental EIS's (DEIS's, FEIS's, SEIS's) shall be prepared as directed in 40 CFR Part 1502. A template for the cover page of a USCG EIS is included in Enclosure (7).
2. (7.f. and 8.a. and 11.f.) Circulation of EIS's. With the exception of Bridge Administration projects, the originator or the responsible Commandant level program office shall forward twelve (12) copies of the DEIS, FEIS, and SEIS, as applicable, to Commandant (G-SEC ) for distribution among Commandant level offices and DOT elements, as appropriate, and for filing with the Environmental Protection Agency's (EPA's) Office of Federal Activities. The 12 copies should be forwarded to Commandant (G-SEC) in sufficient time for review and comment by Commandant level offices and DOT elements as appropriate. For EIS's on bridge projects, follow

the guidance in the Bridge Administration Manual, COMDTINST M16590.5(series), for filing with EPA and other appropriate distribution.

Where the state process for intergovernmental review provides that comments are obtained through a designated agency, the DEIS shall be circulated to that agency. When there is no designated agency for intergovernmental review, the USCG project manager shall obtain comments directly from interested state and local agencies. Additionally, comments shall be solicited from: the affected and interested public, Federal agencies that have jurisdiction by law or expertise with respect to any environmental impact involved or which are authorized to develop and enforce environmental standards, and any other Federal agency that is affected by the proposed action or has requested a copy of the DEIS. The FEIS and SEIS will be circulated to all those who commented on the DEIS or requested copies of the FEIS, and to any other interested or affected organizations, agencies or individuals.

3. (11.c.) Legal Review. Area, District, and MLC legal officers shall provide legal sufficiency review of DEIS's, FEIS's and SEIS's for actions that originate within their area of responsibility. The Office of Chief Counsel (G-L) shall provide final legal sufficiency review of all USCG FEIS's and SEIS's prepared for Commandant level actions. A copy of all DEIS's, FEIS's and SEIS's, as applicable, shall be presented to the Area or District commanders legal offices Commandant (G-LEL) for Commandant level actions) allowing sufficient time for their review and comment.
4. (11.d.) Environmental Review and Approval. Commandant (G-SEC) shall have authority to approve all USCG DEIS's, FEIS's, SEIS's in conjunction with the responsible official in the originating program office. With the exception of highly controversial EIS's (as defined by Section 11.d. of DOT Order 5610.1C), this approval authority is delegated to Area and District Commanders or their designees for USCG DEIS's, FEIS's and SEIS's for actions that originate within, and having effects confined to, their respective area or district. Highly controversial EIS's require approval by Commandant (G-SEC) and the appropriate Commandant level program office, or (G-OPT) for Bridge Administration projects. Before final USCG approval of a controversial FEIS, Commandant (G-SEC) or (G-OPT) for Bridge Administration projects, will notify (P-1) and (C-1) that a controversial FEIS is under review and will provide them a copy of the summary section contained in the FEIS. Commandant (G-SEC) or (G-OPT), as appropriate, will give (P-1) and (C-1) two weeks notice prior to final approval of a highly controversial FEIS. For all other FEIS's, only a notice of approval will be made to DOT (P-1) by the responsible Commandant level program office via Commandant (G-SEC) or via (G-OPT) for Bridge Administration projects.
5. (40 CFR 1505.2) Records of Decision. A concise public Record of Decision shall be completed for projects requiring an EIS [See Enclosure (8)]. As required by 40 CFR 1505.2, the record shall "(a) State what the decision was, (b) Identify all alternatives considered by the agency in reaching its decision, specifying the alternative or

alternatives which were considered to be environmentally preferable. An agency may discuss preferences among alternatives based on relevant factors including economic and technical considerations and agency statutory missions. An agency shall identify and discuss all such factors including any essential considerations of national policy which were balanced by the agency in making its decision and state how those considerations entered into its decision and (c) State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not. A monitoring and enforcement program shall be adopted and summarized where applicable for any mitigation."

The ROD is the official USCG decision that completes the EIS process and makes the determination on whether and how to proceed with the proposed action. With the exception of Commandant (G-OPT), the originator or the responsible Commandant level program office shall forward 12 copies of the ROD (these can be submitted along with the copies of the FEIS) through the appropriate chain of command to Commandant (G-SEC). The twelve copies of the ROD shall be forwarded to Commandant (G-SEC) in sufficient time for review and comment by Commandant level offices and DOT elements as appropriate. After the ROD is reviewed and signed, signed copies will be forwarded to Commandant (G-SEC) for distribution among Commandant level offices and DOT elements as appropriate and for publication in the Federal Register. The responsible USCG official shall distribute the ROD to appropriate agencies, organizations, and individuals. For EIS's on bridge projects, public notice and processing of RODs will be conducted per instructions in the Bridge Administration Manual, COMDTINST M16590.5(series).

#### **D. Special Areas of Consideration.**

1. National Historic Preservation Act (NHPA) and Related Executive Orders. The responsible USCG official shall comply with: the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470, et seq.) (NHPA); the regulations which implement the NHPA (36 CFR Part 800); and E.O. 11593, 36 FR 8291, *Protection and Enhancement of the Cultural Environment*. The responsible USCG official shall also take into account E.O. 13006, 61 FR 26071, *Locating Federal Facilities on Historic Properties in our Nation's Central Cities*, if the USCG action includes locating USCG facilities in metropolitan areas.
  - a. Responsibilities Under Section 110 of the NHPA.
    - (1) Administration of a Preservation Program. In compliance with Section 110 of NHPA and DOT Order 5650.1, the responsible USCG official shall administer (unless exempted pursuant to section 214 of the NHPA) a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places (NRHP) historic properties under the jurisdiction or control of the USCG.

- (2) Public and Agency Involvement. In carrying out Section 110 of the NHPA, the responsible USCG official shall carry out preservation related activities in consultation with other Federal, state, and local agencies, Indian tribes, Native Hawaiian organizations and the private sector, as appropriate.
- b. Responsibilities Under Section 106 of the NHPA.
- (1) General. The responsible USCG official shall comply with the NHPA Section 106 process regarding historic and cultural resources. Historic and cultural resources include any district, site, building, structure, or object significant in American history, architecture, archaeology, or culture. The regulations setting forth the NHPA Section 106 process were revised and finalized December 12, 2000 and became effective January 11, 2001 (65 FR 77697), and are codified at 36 CFR part 800. Citations to the NHPA section 106 regulations refer to the regulation published in the December 12, 2000, Federal Register notice (65 FR 77697). When a USCG proposed action triggers the requirements of Section 106 and NEPA, the Section 106 process shall be integrated with, and conducted concurrently with, any applicable NEPA environmental analysis, to the extent practicable (40 CFR 1502.25(a); 36 CFR 800.2(a)(4), 800.3(b) and 800.8).
  - (2) Determine If an Undertaking is Present. Before taking an action, the responsible USCG official shall determine if the action is an “undertaking” per 36 CFR Section 800.16(y) and, if so, whether it is a type of action that has the potential to cause effects on historic properties *if historic properties were present* (it is irrelevant whether historic properties are there or not at this point in the process.) If it is a type of action that has the potential to cause effects on historic properties, then the responsible USCG official shall investigate the project area to determine if the action may actually effect any resources listed, or eligible for listing, on the NRHP. Criteria for evaluating eligibility for listing on the NRHP is given in 36 CFR 60.4. (In brief, 36 CFR 60.4 states that properties of historical, architectural, or archaeological significance should be considered for NRHP evaluation if they are associated with events and persons significant in our past, or that have distinctive character, artistic values or are the work of a master, or have yielded or are likely to yield important information in pre-history or history. This section provides specific criteria and should be referenced.) If the type of action is one which does not have the potential to cause effects on historic properties if historic properties were present, then the responsible official has no further obligations under Section 106.
  - (3) For Undertakings, Identify the Appropriate SHPO/THPO and Consult. If a USCG action is an undertaking that could effect historic properties, then

the responsible USCG official shall identify the appropriate State Historic Preservation Officer (SHPO) and/or appropriate Tribal Historic Preservation Officer (THPO) or Indian tribe (36 CFR 800.3(c) and(d)) and plan for involving the public in carrying out and completing the section 106 process in consultation with the SHPO/THPO (36 CFR 800.3(e)).

- (4) Public and Agency Involvement. At all appropriate stages of the section 106 process, the responsible USCG official shall ensure proper public participation, as required by 36 CFR 800. The extent of public involvement will depend upon the specific action and the historic resources involved. In most cases, the responsible official must provide the public with information about the undertaking and its effects on historic properties and seek public comment and input (36 CFR Part 800.2(d)(2)). Consulting parties should be identified in consultation with the SHPO/THPO (36 CFR 800.3(f)). Consulting parties can include the Advisory Council on Historic Preservation; the National Park Service, Indian Tribes, Native Hawaiian Organizations; representatives of local governments; applicants for Federal assistance, permits, licenses and other approvals; and individuals and organizations with a demonstrated interest in the undertaking (36 CFR 800.2(b)-(c)).

- c. Content of NEPA Documentation. Unless the NEPA process is being used to comply with NHPA per 36 CFR 800.8, to the extent practicable, EAs and EIS's for projects that have the potential to, or will, significantly effect historic properties should summarize the results of the Section 106 process. The summary should include information on the presence or absence of historic properties; the significance of impacts to historic properties; any treatments/mitigation that may be developed to avoid significant adverse effects on historic properties, and a summary of the consultation and public notice efforts and results. The EA or EIS should also include a copy of any project Memorandum of Agreement/Programmatic Agreement developed in compliance with Section 106. EAs and EISs prepared as the main instrument for compliance with Section 106 must fulfill the requirements of 36 CFR 800.8.

## 2. Coastal Zone Management (CZM).

### a. Responsibilities.

- (1) All USCG activities within or outside the coastal zone that affect any land or water use or natural resource within the coastal zone shall be carried out in a manner that is consistent to the maximum extent practicable with the enforceable policies of approved state (and certain territory) management programs, per Section 307 amending the Coastal Zone Management Act of 1972 (CZMA) (Public Law 92-583) as implemented by 15 CFR Part 930. The "coastal zone" for each state/or territory is defined by its CZM

program document. As of the writing of this Instruction, 28 states and 5 territories have approved Coastal Zone Management Programs (see Enclosure 9). Federal lands are not considered part of the coastal zone for this purpose; however, the consistency requirement applies to activities on Federal lands that impact coastal zone resources outside those lands.

- (2) USCG activities listed in a state's/territory's CZM plan, and unlisted USCG activities for which coastal zone impacts are reasonably foreseeable, require "consistency determinations" (CDs), to be submitted by the USCG to the state(s)/territory (ies), attesting that the conduct of the proposed activities will satisfy the consistency requirement described in the preceding paragraph. CDs are only required in those states and territories that possess Federally approved CZM plans. The state/territory has 60 days from receipt of the CD to agree or disagree. State/territory agreement may be presumed if there is no timely response, unless the state/territory reviewing agency has requested additional time per 15 CFR Part 930.41(b). Final approval of the Federal action may not take place sooner than 90 days from the issuance of the CD unless the state/territory concurs, concurrence is presumed, or the state/territory agrees to an alternative period per 15 CFR Part 930.41(c).
- (3) Should a state/territory disagree with a USCG CD, the USCG may
  - (a) Attempt to persuade the state/territory to reverse its finding;
  - (b) Amend the proposed action to satisfy the state's/territory's objection;
  - (c) Implement the mediation procedures outlined in 15 CFR Part 930, subpart G. or
  - (d) Proceed with the action over the state's/territory's objection after consulting with the appropriate servicing legal office.
- (4) For permit applications (such as the Bridge Program and private aids to navigation) the applicant must certify to the state/territory that the proposed action complies with the enforceable policies of the state's/territory's approved CZM plan. The state/territory has six months from receipt to concur or object; after six months, concurrence may be presumed. A permit may not be issued prior to state/territory concurrence or presumed concurrence, nor if the state/territory finds the action to be inconsistent. Permit applicants have mediation and appellate procedures available to challenge state/territory non-concurrence.

- b. Public and Agency Involvement. The responsible USCG official shall consult with and/or advise the appropriate state Coastal Zone Management Program Office(s) of proposed projects listed in the state(s)/territory(ies') plan or identified as affecting, the state(s)/territory(ies') coastal zone(s).
  - c. Content of NEPA Documentation. Any EA, EIS, or other public notice document issued for a proposed action shall include a statement that indicates whether a proposed project is within, or affects, the state(s)/territory(ies') coastal zone(s), and where appropriate, whether it is consistent, to the maximum extent practical, with the enforceable policies of the approved state Coastal Zone Management Plan(s). Any measures included with the proposed action to ensure consistency shall also be summarized.
3. Coastal Barriers.
- a. Responsibilities. The Coastal Barrier Resources Act (CBRA), 16 U.S.C. 3501, et seq., has placed restrictions on construction and other activities taking place on lands within the Coastal Barrier System. However, under Section 6 of the CBRA, the USCG is granted exempted status. This exempted status is not applicable to the acquisition of land within the Coastal Barrier System, however.
  - b. Public and Agency Involvement. The responsible USCG official shall consult and/or advise the appropriate regional office of the U.S. Fish and Wildlife Service concerning projects or major activities within the Coastal Barrier System.
  - c. Content of NEPA Documentation. Any EA or EIS for a proposed action covered by the CBRA shall include a summary of both the CBRA related aspects of the action and the consultation with the U.S. Fish and Wildlife Service.
4. Wetlands.
- a. Responsibilities.
    - (1) All USCG actions require compliance with the provisions of Executive Order 11990, Protection of Wetlands (except as noted in Section 1(b) of the order); DOT Order 5660.1A, Preservation of the Nation's Wetlands.
    - (2) The responsible USCG official shall coordinate with the applicant and the lead Federal agency when applicable, to ensure the project is planned, constructed, and operated to assure the protection, preservation, and enhancement of wetlands to the fullest extent practicable.

- (3) The responsible USCG official shall document the effects of each project on wetlands in accordance with DOT Order 5660.1A.
  - b. Public and Agency Involvement. Appropriate opportunity for early review of proposals for new construction in wetlands should be provided to the public and to agencies with special interest in wetlands. When applicable, the public notice shall state the acreage of wetland taken or impacted. This will include the U.S. Fish and Wildlife Service, state wildlife and/or natural resources agencies, and other parties as appropriate.
  - c. Content of NEPA Documentation. Information developed in accordance with DOT Order 5660.1A, along with the "Wetlands Findings," shall be included in either the EA, EIS, or in the Environmental Analysis Checklist and/or CED if required. Any measures included with the proposed action to protect wetlands shall also be summarized.
5. Floodplains.
  - a. Responsibilities.
    - (1) All USCG actions require compliance with the provisions of Executive Order 11988, Floodplain Management, and DOT Order 5650.2, Floodplain Management and Protection. An excellent reference recommended for floodplain matters and requirements of E.O. 11988 is "Floodplain Management Guidelines" by the U. S. Water Resources Council.
    - (2) The responsible USCG official shall determine if a project is located in a base floodplain (100 year floodplain). This determination should be made using the official floodplain maps (known as Flood Insurance Rate Maps or FIRM maps) prepared by the Federal Emergency Management Agency (FEMA), or the best maps available, if no FIRM maps exist. E.O. 11988 requires that agencies avoid the base floodplain unless it is the only practicable alternative. If the base floodplain cannot be avoided, design or modify the proposed action to (1) reduce the hazard and the risk of flood loss; (2) minimize the impact of floods on human safety, health, and welfare; and (3) restore and preserve the natural and beneficial floodplain values. The framework for meeting these requirements is the Water Resources Council's "Unified National Program for Flood Plain Management."
    - (3) An action within the limits of the base floodplain is defined as an encroachment. Furthermore, an encroachment shall be based upon any part of the project being located in the floodplain. Any project or action located in whole, or in part, in the floodplain shall be evaluated as to

whether it is a significant encroachment. DOT Order 5650.2 outlines criteria that constitute significant encroachments.

(4) An encroachment shall be based solely upon any part of the project being located in the floodplain. An encroachment does not exist in projects when it is only the piers, pilings or pile bents that are located in the floodplain. For purposes of these Orders, the waterway itself is considered part of the floodplain.

- d. Public and Agency Involvement. Where any of the alternatives identified are proposed for location in the 100 year floodplain, opportunity shall be provided for early public review and comment. Agencies notified should include the local, county, or regional planning boards as well as any parties with a unique interest in the project or site area. If one or more alternatives under consideration include significant encroachments, any public notices, hearings, or notices of availability for negative declarations shall make reference to that fact.
- e. Content of NEPA Documentation. The responsible USCG official shall document the effects of each project on floodplains in accordance with DOT Order 5650.2, in particular, paragraphs 7 and 8. This information shall be included in either the EA or EIS, or in the Environmental Analysis Checklist and/or CED, if required.
6. Endangered Species.
- a. Responsibilities. Following are requirements related to the NEPA process. More detailed information on the requirements of the Endangered Species Act can be found in the Natural Resources Management Manual, COMDTINST M5090.3.
- (1) During the scoping process, the responsible USCG official shall request from the Regional Directors of the Fish and Wildlife Service (FWS) and the National Marine Fisheries Services (NMFS), information on whether any species which is listed, or proposed to be listed, on the Federal Endangered Species List may be present in the area of a proposed action.
- (2) The responsible USCG official shall ensure that an action is not likely to jeopardize the continued existence of any species listed as endangered or threatened and also enhances the species' continued existence. If a proposed action may effect any species that is listed, or is proposed for listing, as an endangered or threatened species, then the responsible USCG official shall initiate informal or formal consultation with the following: Terrestrial Species - Department of Interior, FWS and for Marine Species - Department of Commerce, NMFS. Any consultation shall be reflected in the resulting environmental documentation.

- (3) When applicable, the responsible USCG Official shall ensure that the environmental documentation in the case file includes the biological assessment, the results of the consultation process, the analysis of any procedures taken to avoid impacts on the species, and any other pertinent information to document compliance with this law.
  - b. Public and Agency Involvement. The responsible USCG official shall coordinate with the FWS and the NMFS regarding the initiation of a consultation process as well as to explore the necessity to prepare a biological assessment, as required by Section 7 of the Endangered Species Act (ESA) (16 U.S.C. 1531, et seq.) and the ESA implementation regulations (50 CFR Part 402). A copy of the EA, EIS, or any other public notice document prepared for a proposed action affecting, or potentially affecting, endangered species, shall be sent to the Endangered Species Specialist of the appropriate FWS and NMFS field and regional offices.
  - c. Content of NEPA Documentation. Any EA or EIS for a proposed action shall state the presence or absence of endangered species within the physical area of the action. If endangered species are likely to be present, the EA or EIS shall describe the species, summarize the potential for effects on the species, and if necessary, summarize the biological assessment, the results of the consultation process, the analysis of any procedures taken to avoid impacts on the species, and any other pertinent information to document compliance with this law.
7. Prime and Unique Farmlands.
  - a. Responsibilities.
    - (1) All USCG actions will comply with the Farmland Protection Policy Act (7 U.S.C. 4201, et seq.). The intent of the Act is to preserve prime farmland for agricultural purposes whenever possible. The Act requires that before taking or approving any action that would result in conversion of farmland as defined in the Act, the agency shall examine the effects of the action, and if there are adverse effects, consider alternatives to lessen them. The agency shall assess actions using the criteria provided by regional, state, or local land evaluation and site assessment (LESA) systems or if unavailable, use the criteria set forth in 7 CFR 658.5.
    - (2) The responsible USCG official shall first make a request to the Natural Resources Conservation Service (NRCS) on Form AD 1006, the Farmland Conversion Impact Rating Form, available at NRCS offices, for determination of whether the site is farmland subject to the Act. If neither the entire site nor any parts of it are subject to the Act, then the Act will not apply and NRCS will so notify the agency. If the site is determined by

SCS to be subject to the Act, then NRCS will measure the relative value of the site as farmland. Further information on the assessment process and site evaluation criteria may be found at 7 CFR 658.4 and 658.5.

- (3) The following activities are exempt from the requirements of paragraphs 7.a.(1) and (2) above:
  - (a) Issuance of permits or licensing for activities on private or non-federal lands, e.g., bridge permits.
  - (b) Acquisition or use of farmland for national defense purposes.

b. Public and Agency Involvement. The appropriate NRCS Office should be consulted to confirm the existence of any applicable LESA systems and to discuss any related concerns.

8. Determinations Under Section 4(f) of the DOT Act [ 49 U.S.C. 303(c)].

a. Responsibilities.

- (1) Section 4(f) of the DOT Act states that "The Secretary shall not approve any program or project which requires the use of any land from a public park, recreation area, wildlife and waterfowl refuge, or historic site unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreation area, wildlife and waterfowl refuge, or historic site resulting from such use." Furthermore, direct use of the land is not the sole qualifier for considering 4(f). Should the action be in close proximity so as to affect the lands in question, one will normally prepare a 4(f) statement. See Enclosure (1), DOT Order 5610.1C, for further direction.
- (2) The responsible USCG official shall ensure that Section 4(f) statements and determinations are prepared per Section 4(f) of the DOT Act of 1966, as amended (49 U.S.C. Section 303), and Section 12 of DOT Order 5610.1C.
- (3) A 4(f) analysis consists of an investigation by the responsible USCG official who determines if there is use of 4(f) property. Even when there is no direct use of a 4(f) property, an analysis supporting this finding must be prepared. When there is use of 4(f) property, a 4(f) statement is required. Based on this 4(f) statement, a 4(f) determination will be prepared for signature by the appropriate area and district or Commandant level official. The 4(f) determination may be made part of the 4(f) statement.

- b. (12.a.) Integration of 4(f) Statement with EIS's. Originators of EIS's for USCG actions requiring determinations under section 4(f) of the DOT Act shall incorporate the required 4(f) determination in the EIS. The form and content of 4(f) statements, and data needed to support the 4(f) determinations and conclusion are contained in Enclosure (10).
  - c. Public and Agency Involvement. The responsible USCG official shall give the official having jurisdiction over the Section 4(f) property, the Department of Interior, and as appropriate, the Department of Agriculture and the Department of Housing and Urban Development an opportunity to review all draft Section 4(f) statements. When the 4(f) statement is contained within an EIS, consultation with the departments shall be performed in accordance with procedures for review of the draft EIS. When the 4(f) statement is associated with a FONSI, the statement shall be sent to the above Departments for review, using the same procedures and points of contact as used for an EIS.
  - d. (12.b.) Legal Review. District legal officers shall provide legal sufficiency review of USCG section 4(f) determinations for projects that originate within their district. The Office of Chief Counsel (G-L) shall provide final legal sufficiency review of all other USCG Section 4(f) determinations.
  - e. Approval of 4(f) Statements. The responsible USCG official has the authority to approve 4(f) statements.
9. Other. This section does not cover all environmental and historic and cultural resource mandates that may fall under the umbrella of the NEPA environmental planning process. For a more complete list of environmental and historic and cultural resource laws, consult Enclosure (11) of this Instruction.

## **Figure 2-1** **Coast Guard Categorical Exclusions**

The following are actions that, unless consideration of the factors in section 2.B.2.b. trigger the need to conduct further analysis, are categorically excluded from further analysis and documentation requirements under NEPA. (Note: Unless otherwise indicated, completion of an environmental checklist (Enclosure 2) and preparation of a CED (Enclosure 3) are not required):

- (1) Routine personnel, fiscal, and administrative activities, actions, procedures, and policies which clearly do not have any environmental impacts, such as military and civilian personnel recruiting, processing, paying, and record keeping.
- (2) Routine procurement activities and actions for goods and services, including office supplies, equipment, mobile assets, and utility services for routine administration, operation, and maintenance.
- (3) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an existing approved disposal site. (Checklist required).
- (4) Routine repair, renovation, and maintenance actions on aircraft and vessels.
- (5) Routine repair and maintenance of buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, or an impact on a historically significant element or setting.
- (6) Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use, a historically significant element, or historically significant setting. (Checklist required.)
- (7) Routine repair and maintenance to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables.
- (8) Minor renovations and additions to waterfront facilities, including mooring piles, fixed floating piers, existing piers, and unburied power cables, which do not require special, site-specific regulatory permits. (Checklist required.)
- (9) Routine grounds maintenance and activities at units and facilities. Examples include localized pest management actions and actions to maintain improved grounds (such as landscaping, lawn care and minor erosion control measures) that are conducted in accordance with applicable Federal, state, and local directives.
- (10) Installation of devices to protect human or animal life, such as raptor electrocution prevention devices, fencing to restrict wildlife movement on to airfields, and fencing and grating to prevent accidental entry to hazardous areas. (Checklist required.)
- (11) New construction on heavily developed portions of USCG property, when construction, use, and operation will comply with regulatory requirements and constraints. (Checklist required.)

**Figure 2-1**  
**Coast Guard Categorical Exclusions**

- (12) Decisions to decommission equipment or temporarily discontinue use of facilities or equipment. This does not preclude the need to review decommissioning under section 106 of the National Historic Preservation Act. (Checklist required for vessels and aircraft.)
- (13) Demolition or disposal actions that involve buildings or structures when conducted in accordance with regulations applying to removal of asbestos, PCB's, and other hazardous materials, or disposal actions mandated by Congress. In addition, if the building or structure is listed, or eligible for listing, in the National Register of Historic Places, then compliance with section 106 of the National Historic Preservation Act is required. (Checklist required.)
- (14) Outleasing of historic lighthouse properties as outlined in the Programmatic Memorandum of Agreement between the USCG, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers. (Checklist required.)
- (15) Transfer of real property from the USCG to the General Services Administration, Department of the Interior, and other Federal departments and agencies, or as mandated by Congress; and the granting of leases, permits, and easements where there is no substantial change in use of the property. (Checklist required.)
- (16) Renewals and minor amendments of existing real estate licenses or grants for use of government-owned real property where prior environmental review has determined that no significant environmental effects would occur.
- (17) New grants or renewal of existing grants of license, easement or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles; for such existing rights-of-way as electrical, telephone, and other transmission and communication lines; water, wastewater, storm water, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses. (Checklist required.)
- (18) Defense preparedness training and exercises conducted on other than USCG property, where the lead agency or department is not USCG or DOT and the lead agency or department has completed its NEPA analysis and documentation requirements.
- (19) Defense preparedness training and exercises conducted on USCG property that do not involve undeveloped property or increased noise levels over adjacent property and that involve a limited number of personnel, such as exercises involving primarily electronic simulation or command post personnel.
- (20) Simulated exercises, including tactical and logistical exercises that involve small numbers of personnel.
- (21) Training of an administrative or classroom nature.
- (22) Operations to carry out maritime safety, maritime law enforcement, search and rescue, domestic ice breaking, and oil or hazardous substance removal programs.

**Figure 2-1**  
**Coast Guard Categorical Exclusions**

- (23) Actions performed as a part of USCG operations and the Aids to Navigation Program to carry out statutory authority in the area of establishment of floating and minor fixed aids to navigation, except electronic sound signals.
- (24) Routine movement of personnel and equipment, and the routine movement, handling, and distribution of non-hazardous and hazardous materials and wastes in accordance with applicable regulations.
- (25) USCG participation in disaster relief efforts under the guidance or leadership of another Federal agency that has taken responsibility for NEPA compliance.
- (26) Data gathering, information gathering, and studies that involve no physical change to the environment. Examples include topographic surveys, bird counts, wetland mapping, and other inventories.
- (27) Natural and cultural resource management and research activities that are in accordance with inter-agency agreements and which are designed to improve or upgrade the USCG's ability to manage those resources.
- (28) Contracts for activities conducted at established laboratories and facilities, to include contractor-operated laboratories and facilities, on USCG-owned property where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, state, and local laws and regulations. (Checklist required.)
- (29) Approval of recreational activities (such as a USCG unit picnic) which do not involve significant physical alteration of the environment, increased disturbance by humans of sensitive natural habitats, or disturbance of historic properties, and which do not occur in, or adjacent to, areas inhabited by threatened or endangered species. (Checklist required unless the activity will take place at a location developed or created for that type of activity.)
- (30) Review of documents, such as studies, reports, and analyses, prepared for legislative proposals that did not originate in DOT and that relate to matters that are not the primary responsibility of the USCG.
- (31) Planning and technical studies which do not contain recommendations for authorization or funding for future construction, but may recommend further study. This includes engineering efforts or environmental studies undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed and does not exclude consideration of environmental matters in the studies.

**Figure 2-1**  
**Coast Guard Categorical Exclusions**

- (32) Bridge Administration Program actions which can be described as one of the following:
- (a) Modification or replacement of an existing bridge on essentially the same alignment or location. Excluded are bridges with historic significance or bridges providing access to undeveloped barrier islands and beaches.
  - (b) Construction of pipeline bridges for transporting potable water.
  - (c) Construction of pedestrian, bicycle, or equestrian bridges and stream gauging cableways used to transport people.
  - (d) Temporary replacement of a bridge immediately after a natural disaster or a catastrophic failure for reasons of public safety, health, or welfare.
  - (e) Promulgation of operating regulations or procedures for drawbridges.
  - (f) Identification of advance approval waterways under 33 CFR 115.70.
  - (g) Any Bridge Program action which is classified as a CE by another Department of Transportation agency acting as lead agency for such an action.
- (33) Preparation of guidance documents that implement, without substantive change, the applicable Commandant Instruction or other Federal agency regulations, procedures, manuals, and other guidance documents.
- (34) Promulgation of the following regulations: (Note: When relying upon a CE in promulgating regulations, an environmental analysis checklist and an attached CED (Enclosure (6)) must be filed in the rulemaking docket before publication of a Notice of Proposed Rulemaking (NPRM), or an Interim or Final Rule not preceded by an NPRM unless specifically indicated.)
- (a) Regulations which are editorial or procedural, such as those updating addresses or establishing application procedures.
  - (b) Regulations concerning internal agency functions or organization or personnel administration, such as funding, establishing Captain of the Port boundaries, or delegating authority.
  - (c) Regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel.
  - (d) Regulations concerning manning, documentation, admeasurement, inspection, and equipping of vessels.
  - (e) Regulations concerning equipment approval and carriage requirements.

**Figure 2-1**  
**Coast Guard Categorical Exclusions**

- (f) Regulations establishing, disestablishing, or changing the size of Special Anchorage Areas or anchorage grounds. (Checklist and CED not required for actions that disestablish or reduce the size of the Area or grounds).
  - (g) Regulations establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones. (Checklist and CED not required for actions that disestablish or reduce the size of the area or zone. For temporary areas and zones that are established to deal with emergency situations and that are less than one week in duration, the checklist and CED are not required. For temporary areas and zones that are established to deal with emergency situations and that are one week or longer in duration, the checklist and CED will be prepared and submitted after issuance or publication.)
  - (h) Special local regulations issued in conjunction with a regatta or marine parade; provided that, if a permit is required, the environmental analysis conducted for the permit included an analysis of the impact of the regulations. (Checklist and CED not required)
  - (i) Regulations in aid of navigation, such as those concerning rules of the road, International Regulations for the Prevention of Collisions at Sea (COLREGS), bridge-to-bridge communications, vessel traffic services, and marking of navigation systems.
- (35) Approvals of regatta and marine parade event permits for the following events:
- (a) Events that are not located in, proximate to, or above an area designated environmentally sensitive by an environmental agency of the Federal, state, or local government. For example, environmentally sensitive areas may include such areas as critical habitats or migration routes for endangered or threatened species or important fish or shellfish nursery areas.
  - (b) Events that are located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal state, or local government and for which the USCG determines, based on consultation with the Governmental agency, that the event will not significantly affect the environmentally sensitive area. (Checklist and CED required)

## CHAPTER 3. PUBLIC INVOLVEMENT, LEGISLATIVE, AND INTER-AGENCY COORDINATION

### A. Citizen Involvement and Public Notice Process.

1. (14.b.) Notice of Intent. As soon as the decision to prepare an EIS has been made, the responsible USCG official, via Commandant (G-SEC), shall publish the required Notice of Intent (40 CFR 1508.22) in the Federal Register. Procedures may provide that where there is a lengthy period between the decision to prepare an environmental impact statement and the time of actual preparation, the Notice of Intent may be published at a reasonable time in advance of preparation of the draft statement.
2. (14.d.) Intergovernmental Review. Responsible USCG officials are encouraged to provide notice to the general public as well as other state and local government agencies when proposed actions are likely to involve public interest. Originators of EA's or EIS's shall solicit comments on the environmental consequences of the proposed action from all interested parties. The EA or EIS shall evidence this solicitation as well as consideration of comments received.

### B. Proposals for Legislation.

1. (15.a.) Preparation. The originating Commandant level program office shall ensure completion of the environmental analysis and/or documentation for legislative proposals or reports on proposed legislation for which the USCG is primarily responsible.
2. (15.b.) Processing. An EIS, if necessary, shall be processed as required in paragraph 15.b. of DOT Order 5610.1C via Commandant (G-SEC).

### C. Mitigating Measures.

1. The appropriate responsible USCG official shall assure the execution and monitoring of all mitigating measures committed to in any environmental document (i.e., EA, FONSI, EIS) and/or record of decision for any USCG action.

### D. Inter-Agency Coordination.

1. Lead Agencies and Cooperating Agencies.
  - a. (6.a.) Responsibility. For Area or District-originated actions, the Area or District commander or his designee will assume responsibility for maintaining USCG lead agency status. The chief of the responsible Commandant level program office or his designee will assume this responsibility for Commandant-originated actions. In extraordinary circumstances (e.g., an action transcends

more than one district, etc.) the responsible Commandant level program office via Commandant (G-SEC) shall designate the individual responsible for maintaining USCG lead agency status.

- b. (6.d.) CEQ Resolution. Request for Council on Environmental Quality (CEQ) resolution concerning lead agency designation shall be made via Commandant (G-SEC).
  - c. (6.d.) Refusal to Participate. Provide any agency refusing to participate with a draft EIS for comment. Negative and/or controversial comments may be referred to CEQ for resolution via Commandant (G-SEC).
  - d. (6.d.) Adverse Comments and Delays. Matters to be discussed with the Council on Environmental Quality (CEQ) shall be coordinated with Commandant (G-SEC).
2. Timing of Agency Action.
- a. (17.b.) Reduction of Prescribed Time Periods. Request to reduce prescribed time periods for EIS processing shall be made via Commandant (G-SEC) to EPA.
  - b. (17.c.) Emergency Circumstances. In emergency circumstances, CEQ will be consulted via Commandant (G-SEC). In no event shall the USCG delay an emergency action necessary to the preservation of national defense security or preservation of human life or property for the purpose of complying with this regulation or the CEQ Regulations (40 CFR Part 1500-1508). This is only applicable to actions necessary to control the immediate effects of the emergency; other actions remain subject to NEPA review (40 CFR Part 1506.11).
3. Distribution of Environmental Documents.
- a. Provide a written notification to state, area-wide, regional, and local officials through the state process or otherwise, of any plan or project proposed in the state or locality. Direct Federal development includes the planning and construction of public works, physical facilities, and installations or land and real property development (including the acquisition, use and disposal of real property and the issuance of permits and licenses) undertaken by and for the use of the Federal government. Note that notification is not required for permits issued for the construction of bridges over navigable waters on Federal-aid or direct Federal highway projects, providing the project has complied with the

provision of 49 CFR Part 17. Notification shall take place at the earliest practicable time in project planning. The notification shall contain:

- (1) Name of the organization proposing the project;
- (2) Geographic location of the project;
- (3) Brief description of the project that will ensure appropriate distribution;
- (4) Program to be supported by the project; and
- (5) Date on which the actual development, construction, or other activities involved in the physical implementation of the project are scheduled to begin.

- b. In areas where no state process exists, forward the notification letter directly to affected state, area, regional, and local entities with instructions to review and coordinate the project.
- c. It is recommended that interagency distribution of Environmental Assessments or Environmental Impact Statements be handled using a "Public Notice" type cover letter addressed to "All interested parties." It should announce the availability of the EA or EIS, describe the project, review environmental considerations, and solicit comments. This practice eliminates the need for individual distribution letters.

4. Adopting Environmental Documents Prepared by Other Agencies.

a. Summary.

- (1) Some actions which the USCG must process are based on environmental documentation that has been prepared by another Federal agency. The CEQ Regulations (40 CFR 1506.3) encourage agencies to adopt the environmental documentation of other Federal agencies whenever possible to reduce costs and processing time of Federal actions. This adoption may be complicated due to difference in internal agency judgement. What one agency will consider as a categorical exclusion, another may not.
- (2) Our policy in dealing with another agency's environmental documentation is to ensure that we are in agreement with the findings of the document.

- b. Specific Procedures. The following procedures shall be adhered to when adopting environmental documents produced by other agencies:
- (1) Categorical Exclusions. The responsibility for determining whether or not a proposed action meets the criteria for exclusion (section 2.B.2) rests solely with the USCG. When another Federal agency is the lead agency and they determine that a project is categorically excluded, and the USCG is in agreement, the responsible USCG official must prepare a USCG CED (Enclosure 3). CEDs of another Federal agency cannot be adopted. Their determination should, however, be attached as support to our own decision.
  - (2) Environmental Assessments (EA's). EA's produced by another agency may be adopted. The responsible USCG official must ensure that the EA prepared for, or by the agency, is adequate for USCG purposes. If the EA is in fact adequate from a NEPA standpoint and meets USCG requirements, the USCG may adopt the document. In doing so, the USCG accepts the EA and takes full responsibility for its scope and content. Should review of the EA by the responsible USCG official conclude in a FONSI, a FONSI statement must be prepared and should use the format provided in Enclosure (6). The FONSI should be attached to the front of the EA. The use of Enclosure (6) serves both as a statement adopting the lead agency's EA and as a Finding of No Significant Impact for the USCG. A separate adoption statement is not needed. When the responsible USCG official determines that the lead agency's EA is not adequate, the EA must be supplemented or rewritten. This may be done by the lead agency at the request of the USCG. Should the lead agency be unable to do so, or refuses, the responsible USCG official shall ensure that the EA is supplemented or rewritten, as appropriate. In this instance, the USCG does not adopt the lead agency's document. The lead agency's EA becomes the basis for the USCG's EA, and is incorporated in the USCG EA to the extent it is adequate.
  - (3) Finding of No Significant Impact (FONSI). A FONSI statement itself may not be adopted. However, an EA resulting in a FONSI may be adopted as discussed in paragraph b.(2).
  - (4) Environmental Impact Statement (EIS). The USCG may adopt the EIS of another agency if the EIS adequately addresses the impacts of the project within the USCG's area of jurisdiction and concern. The USCG may either adopt the entire EIS or just a portion of it, in accordance with the procedures described in 40 CFR 1506.3. When adopting the EIS of another agency, the responsible USCG official shall reflect such in the Record of Decision. A suggested format for the statement is as follows:

After an independent review of (specify lead agency) Environmental Impact Statement, I have determined that the document adequately addresses the impacts of the (specify project). Therefore, I hereby adopt the (specify entire EIS or portion thereof).

5. Review of Environmental Statements Prepared by Other Agencies.
  - a. (9.f.) Comments on Non-USCG EIS's. In many instances, other Federal agencies will submit copies of their EIS to the USCG for review. One copy of all USCG comments shall be sent to Commandant (G-SEC) and DOT (P-1).
  
6. Pre-decision Referrals to the Council on Environmental Quality.
  - a. (10.a.1) DOT Lead Agency Proposals. Area and District Commanders and Commandant level program offices receiving a notice of intended referral from another agency shall provide DOT (P-1) with a copy of the notice via Commandant (G-SEC).

**Department of Transportation  
Office of the Secretary  
Washington, D.C.**

**ORDER  
DOT 5610.1C  
9-18-79**

**SUBJECT: PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS**

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INTRODUCTION.

1. PURPOSE. This order establishes procedures for consideration of environmental impacts in decision making on proposed Department of Transportation (DOT) actions. The Order provides that information on environmental impacts of proposed actions will be made available to public officials and citizens through environmental impact statements, environmental assessments or findings of no significant impact. These documents serve as the single vehicle for environmental findings and coordination.
2. CANCELLATION. DOT 5610.1B, PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS, dated September 30, 1974.
3. AUTHORITY. This Order provides instructions for implementing Section 102(2) of the National Environmental Policy Act of 1969, as amended, (42 USC 4321-4347, hereinafter "NEPA") and the Regulations for Implementing NEPA issued by the Council on Environmental Quality, 11-29-78 (40 CFR 1500-1508); Sections 2(b) and 4(f) of the Department of Transportation Act of 1966 (49 USC 1653, hereinafter "the DOT Act"); Sections 309 and 176 of the Clean Air Act, as amended (42 USC 7401 et seq.); Section 106 of the National Historic Preservation Act of 1966 (16 USC 470, hereinafter "the Historic Preservation Act"); Sections 303 and 307 of the Coastal Zone Management Act of 1972 (43 USC 1241); Section 2 of the Fish and Wildlife Coordination Act (16 USC 661 et seq.); Section 7 of the Endangered Species Act, as amended (16 USC 1533); the Federal Water Pollution Control Act, as amended (33 USC 1314 et seq.); Executive Order 12114, Environmental Effects Abroad of Major Federal Actions; and various Executive Orders relating to environmental impacts. In addition, the Order provides instructions for implementing, where environmental statements are required, Sections 138 and 109 of Federal-aid highway legislation (Title 23, USC, hereinafter "the Highway Act"); Sections 16 and 18(a) of the Airport and Airway Development Act of 1970 (49 USC 1716, 1718, hereinafter "the Airport Act"); and Section 14 of the Urban Mass Transportation Act of 1964 (49 USC Section 1601 et seq., hereinafter "the Urban Mass Transportation Act").

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DISTRIBUTION: T-1 (All DOT Office and Regional  
Directors and Above), Including  
Coast Guard  
National Transportation Safety Board (Info)

OPI: Office of  
Environment  
and Safety

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**Attachment 1**

State and Localities with EIS Requirements

**Attachment 2**

Form and Content of Environmental Impact Statements

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## 1. **BACKGROUND.**

The National Environmental Policy Act (NEPA) establishes a broad national policy to promote efforts to improve the relationship between man and his environment. NEPA sets out certain policies and goals concerning the environment and requires that to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with those policies and goals.

Section 102 of NEPA is designed to insure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. Section 102(2)(C) requires that all agencies of the Federal Government shall

include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on -

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Section 102(2)(A) requires all agencies of the Federal Government to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment..."

The Council on Environmental Quality (CEQ) issued regulations for implementation of the procedural provisions of NEPA (40 CFR Parts 1500-1508) on 11-29-78. The CEQ regulations apply uniformly to and are binding upon all Federal agencies, and direct each agency to adopt implementing procedures which relate the CEQ regulations to the specific needs of that agency's programs and operating procedures.

This Order implements the mandate of NEPA, as defined and elaborated upon by CEQ's regulations, within the programs of the Department of Transportation. The Order is not a substitute for the regulations promulgated by CEQ, nor does it repeat or paraphrase the language of those regulations. Rather, the Order supplements the CEQ regulations by applying them to DOT programs. Therefore, all operating administrations and Secretarial Offices shall comply with both the CEQ regulations and the provisions of this Order.

This Order provides instructions for implementation of relevant environmental laws and executive orders in addition to NEPA. The environmental process established by this Order is intended to implement the Department's policy objective of one-stop environmental processing. To the maximum extent possible, a single process shall be used to meet requirements for environmental studies, consultations and reviews.

## **2. POLICY AND INTENT.**

- a. It is the policy of the Department of Transportation to integrate national environmental objectives into the missions and programs of the Department and to:
  - (1) avoid or minimize adverse effects wherever possible;
  - (2) restore or enhance environmental quality to the fullest extent practicable;
  - (3) preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites;
  - (4) preserve, restore and improve wetlands;
  - (5) improve the urban physical, social and economic environment;
  - (6) increase access to opportunities for disadvantaged persons; and
  - (7) utilize a systematic, interdisciplinary approach in planning and decision making which may have an impact on the environment.
  
- b. The purpose of the environmental procedures in this Order is to provide Department officials, other decision makers, and the public, as part of the decision making process, with an understanding of the potential effects of proposed actions significantly affecting the quality of the human environment. The environmental review process is to be used to explore and document alternative actions that will avoid or minimize adverse impacts.

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- c. The environmental impact statement (EIS), finding of no significant impact (FONSI, formerly "negative declaration") and determination that a proposed action is categorically excluded serve as the record of compliance with the policy and procedures of NEPA and the policy and procedures of other environmental statutes and executive orders. To the maximum extent possible, all environmental studies, reviews and consultations shall be coordinated into a single process, and requirements shall be reflected in the EIS or FONSI.

### **3. PLANNING AND EARLY COORDINATION.**

- a. The identification and evaluation of the social, economic and environmental effects of a proposed action and the identification of all reasonable measures to mitigate adverse impacts shall be initiated in the early planning stages of the action, and shall be considered along with technical and economic studies. Assessment of environmental impacts should be a part of regional transportation system planning and broad transportation program development.

General criteria for identification of social, economic, and environmental impacts in DOT planning programs are set forth in subparagraph 10.e., DOT 1130.4, Intermodal Planning Groups and Unified Planning Work Programs, of 2-12-79. Other guidance may be identified in the implementing procedures of the administrations.

- b. Where the DOT action is initiated by a State or local agency or a private applicant, the responsible operating administration shall assure that the applicant is advised of environmental assessment and review requirements and that consultation with appropriate agencies and interested parties is initiated at the earliest possible time. (See paragraph 20.b. below.)
- c. Existing administration procedures for early consultation and citizen participation shall be modified to incorporate the scoping process (CEQ 1501.7). Implementing procedures shall assure that significant issues are identified and that all interested parties have an opportunity to participate in the scoping and early consultation process.
- d. Where the proposed action is initiated by a State and may have significant impacts on a Federal land management entity or any other State, the responsible Federal official shall provide early notice to and solicit the views of that Federal land management entity or other State.

**4. ENVIRONMENTAL PROCESSING CHOICE.**

- a. Actions covered. Except as provided in subparagraph c. below, the requirements of this Order apply to, but are not limited to, the following: all grants, loans, loan guarantees, construction, research activities, rulemaking and regulatory actions, certifications, licenses, permits, approval of policies and plans (including those submitted to the Department of State or local agencies), adoption or implementation of programs, legislation proposed by DOT, and any renewals or reapprovals of the foregoing. (CEQ 1508.18(b).)
- b. Environmental Impact Statements. An EIS shall be prepared for any proposed major Federal action significantly affecting the environment. (See also: CEQ 1508.27, paragraph 7 and 20 of this Order.)
- c. Categorical Exclusions. The following actions are not Federal actions with a significant impact on the environment, and do not require either an environmental assessment or an environmental impact statement:
  - (1) Administrative procurements (e.g. general supplies) and contracts for personal services;
  - (2) Personnel actions (e.g. promotions, hirings);
  - (3) Project amendments (e.g. increases in costs) which do not significantly alter the environmental impact of the action;
  - (4) Operating or maintenance subsidies when the subsidy will not result in a change in the effect on the environment; and
  - (5) Other actions identified by the administrations as categorical exclusions pursuant to paragraph 20.
  - (6) The following actions relating to economic regulation of airlines:
    - (a) Actions implementing the essential air service program;
    - (b) Enforcement proceedings;
    - (c) Actions approving a carrier agreement; acquisition of control, merger, consolidation, or interlocking relationship;

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- (d) Finding a carrier fit under section 401 of the Federal Aviation Act of 1958, as amended;
  - (e) Approving or setting carrier fares or rates;
  - (f) Route awards involving turboprop aircraft having a capacity of 60 seats or less and a maximum payload capacity of 18,000 pounds or less;
  - (g) Route awards that do not involve supersonic service and will not result in an increase in commercial aircraft operations of one or more percent;
  - (h) Determinations on termination of airline employees;
  - (i) Actions relating to consumer protection, including regulations;
  - (j) Authorizing carriers to serve airports already receiving the type of service authorized;
  - (k) Granting temporary or emergency authority;
  - (l) Negotiating bilateral agreements;
  - (m) Registration of an air taxi operator pursuant to the Department's Regulations (14 CFR Part 298); and
  - (n) Granting of charter authority to a U.S. or foreign air carrier under sections 401, 402 or 416 of the Federal Aviation Act or the Department's Economic Regulations.
- d. Environmental Assessment. An environmental assessment or EIS shall be prepared for actions normally categorically excluded, but which are likely to involve (1) significant impacts on the environment; (2) substantial controversy on environmental grounds; (3) impacts which are more than minimal on properties protected by section 4(f) and sections 106 of the Historic Preservation Act; or (4) inconsistencies with any Federal, State or local law or administrative determination relating to the environment.
- e. Exemptions. The provisions of this Order do not apply to actions that have an impact primarily outside the United States, except for those actions significantly affecting the environment of a foreign nation not participating in the action, or ecological natural resources designated for protection by the President or the Secretary of State, or the global commons.

**5. FINDING OF NO SIGNIFICANT IMPACT.**

- a. The FONSI may be attached to an environmental assessment or the environmental assessment and FONSI may be combined into a single document.
- b. Except as provided in subparagraph c. below, a FONSI or environmental assessment need not be coordinated outside the originating office, but must be made available to the public upon request. Notice of availability shall be provided (see suggestions for public notice in CEQ 1506.6(b)). In all cases, notice shall be provided to State and areawide clearinghouses.
- c. In the circumstances defined in CEQ 1501.4(e)(2), a copy of the environmental assessment should be made available to the public for a period of not less than 30 days before the finding of no significant impact is made and the action is implemented. Consultation with other Federal agencies concerning section 4(f) of the DOT Act, the Historic Preservation Act, section 404 permits and other Federal requirements should be accomplished prior to or during this period.

**6. LEAD AGENCIES AND COOPERATING AGENCIES.**

- a. The appropriate Operating Administration or Secretarial Office shall serve as the lead agency or joint lead agency for preparing and processing environmental documents when that element has the primary Federal responsibility for the action.
- b. An applicant should to the fullest extent possible serve as a joint lead agency if the applicant is a State agency with State-wide jurisdiction, or is a State or local agency, and the proposed action is subject to State requirements comparable to NEPA. (See CEQ 1506.2.)
- c. Coordination with cooperating agencies shall be initiated early in project planning and shall be continued through all stages of development of the appropriate environmental document.
- d. If an agency requested to be a cooperating agency replies that it will not participate, the agency shall be provided a copy of the draft EIS. If the agency makes adverse comments on the draft EIS (including the adequacy of the EIS or consideration of alternatives or of mitigating measures), or if the agency indicates that it may delay or withhold action on some aspect of the proposal, the matter may be discussed with CEQ.

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- e. Where a DOT element is requested to be a cooperating agency, it shall make every effort to participate.

## **7. PREPARATION AND PROCESSING OF DRAFT ENVIRONMENTAL STATEMENTS.**

- a. Scope of Statement. The action covered by the statement should have significance, and must be broad enough in scope to avoid segmentation of projects and to ensure meaningful consideration of alternatives. The scope of the statement should be decided upon during the scoping process. (See also CEQ 1502.20 and para. 7.g. below.) A general class of actions may be covered in a single EIS when the environmental impact of all the actions are similar.
- b. Timing of Preparation of Draft Statements. Draft statements shall be prepared at the earliest practical time prior to the first significant point of decision in the program or project development process. They should be prepared early enough in the process so that the analysis of the environmental effects and the exploration of alternatives are meaningful inputs to the decision making process. The implementing guidance (see paragraph 20) shall specify the point at which draft statements should be prepared for each type of action.
- c. Interdisciplinary Approach and Responsibilities for EIS Preparation. An interdisciplinary approach should be used throughout planning and preparation of environmental documents to help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences. At a minimum, operating administrations should have staff capabilities adequate to evaluate environmental assessments and environmental documents so that DOT can take responsibility for their content. Secretarial Offices may request assistance from P-30. If the necessary disciplines are not represented on the staff of the administration, the responsible official should obtain professional services from other Federal, State or local agencies, universities, or consulting firms.
- d. Preparation of Draft. Draft EISs shall be prepared concurrently with and integrated with environmental analyses required by other environmental review laws and executive orders. To the maximum extent possible, the EIS process shall be used to coordinate all studies, reviews and consultations. (See CEQ 1502.25.) The draft EIS should reflect the result of the scoping/early consultation process. Further guidance on compliance with the various environmental statutes is included in Attachment 2.

- e. Format and Content. Further guidance on the format and content of EISs is provided in Attachment 2.
- f. Circulation of the Draft Environmental Impact Statement.
  - (1) The originating operating administration or Secretarial Office shall circulate the draft environmental statement or summary to the parties indicated in paragraph 8 below. Copies of the draft EIS should be filed with the Environmental Protection Agency (EPA). (See also CEQ 1506.9 and 1506.10.)
  - (2) If a State agency with statewide jurisdiction is functioning as a joint lead agency and has prepared the draft EIS, the draft statement may be circulated by the State agency after the operating administration has approved it.
- g. Tiering. Tiering of EISs as discussed in CEQ 1502.20 is encouraged when it will improve or simplify the environmental processing of proposed DOT actions. Preparation of tiered EISs should be considered for complex transportation proposals (e.g. major urban transportation investments, airport master plans, aid to navigation systems, etc.) or for a number of discrete but closely related Federal actions. The first tier EIS should focus on broad issues such as mode choice, general location and areawide air quality and land use implications of the alternative transportation improvements. System planning activities should encompass environmental studies, as noted in subparagraph 3.a., and the first tier EISs should use information from these system planning studies and appropriate corridor planning and other planning studies. A second tier, site specific EIS should focus on more detailed project impacts and detailed mitigation measures (e.g. addressing detailed location, transit station locations, highway interchange configurations, etc.).

## **8. INVITING COMMENTS ON THE DRAFT EIS.**

The draft EIS shall be circulated with an invitation to comment to (1) all agencies having jurisdiction by law or special expertise with respect to the environmental impact involved; (2) interested parties; (3) EPA Office of Federal Activities; (4) the Assistant Secretary for Policy and International Affairs (P-1); and (5) other elements of DOT, where appropriate. A reasonable number of copies shall be provided to permit agencies and interested parties to comment expeditiously.

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a. State and Local Review.

(1) Review of the proposed action by State and local agencies, when appropriate, shall be obtained as follows:

(a) Where review of draft Federal development projects, and of projects assisted under programs listed in Attachment D to revised OMB Circular A-95 (as implemented by DOT 4600.4C, Evaluation, Review and Coordination of DOT Assistance Programs and Projects, of 4-12-79), takes place prior to preparation of a draft environmental statement, comments of the reviewing agencies on the environmental effects of the proposed project shall be attached to the environmental statement. Copies of the draft and final environmental statements shall be sent to clearinghouses and to the applicant whose project is the subject of the statement.

(b) Project applicants or administrations shall obtain comments directly from appropriate State and local agencies, except where review is secured by agreement through A-95 clearinghouses. Comments shall be solicited from all affected local governments.

(2) At the time a draft or final environmental statement is filed with EPA, the availability of the statement should be announced through advertisements in local newspapers and other effective methods. Copies of EISs shall be provided to the public upon request and made available at appropriate public places.

b. Review of EISs Prepared Pursuant to Section 102(2)(D) of NEPA. If the draft EIS is prepared by a State agency with statewide jurisdiction, and the proposed action will affect another State or Federal land management entity, the draft EIS shall be circulated to the affected State or Federal land management entity.

**9. REVIEW OF ENVIRONMENTAL STATEMENTS PREPARED BY OTHER AGENCIES.**

The purpose of DOT review and comment on environmental statements drafted by other agencies is to provide a competent and cooperative advisory and consultative service.

a. Comments should be limited to the impacts on areas within the Department's functional responsibility, jurisdiction by law or expertise.

b. DOT projects that are environmentally or functionally related to the action proposed in the EIS should be identified so that inter-relationships can be discussed in the final

statement. In such cases, the DOT agency should consider serving as a joint lead agency or cooperating agency.

- c. Other agencies will generally be requested to forward their draft environmental statements directly to the appropriate regional offices of the Department. There are several types of proposals, however, that should be referred by regional offices to Departmental headquarters for comment. These generally include the following:

- (1) Actions with national policy implications;

- (2) Legislation, regulations having national impacts, or national program proposals.

Draft EISs in these categories are to be referred to P-1 for preparation of DOT comments and, where appropriate, to the headquarters of the operating administrations. In referring these matters to headquarters, the regional office is encouraged to prepare a proposed Departmental response.

- d. Draft EISs for actions which have impact on only one region or which do not fall within subparagraph c. above should be reviewed by regional offices of DOT administrations. Comments should be forwarded directly to the office designated by the originating agency. If the receiving office believes that another DOT office is in a better position to respond, it should send the statement to that office. If more than one administration is commenting at the regional level, the comments shall be coordinated by the Regional Representative or a designee.
- e. When appropriate, the commenting office should coordinate a response with other Departmental offices having special expertise in the subject matter. For example, comments on projects affecting the transportation of hazardous materials or natural gas and liquid-products pipelines should be coordinated with the Research and Special Programs Administration, Materials Transportation Bureau, and water resources projects should be coordinated with the U.S. Coast Guard, Ports and Waterways Planning Staff (G-WS/73).
- f. Copies of comments on another agency's EIS shall be provided to the requesting agency, to P-1, and to the Regional Representative if the comment is prepared by a regional office.

**10. PREDECISION REFERRALS TO THE COUNCIL ON ENVIRONMENTAL QUALITY.**

The following specific procedures apply to referrals involving DOT elements:

a. DOT Lead Agency Proposals.

- (1) An operating administration or Secretarial Office receiving a notice of intended referral from another agency with respect to a proposed DOT action shall provide P-30 with a copy of the notice. Every effort should be made to resolve the issues raised by the referring agency prior to processing the final EIS. These efforts should be documented in the EIS. P-1 will be available to assist in any such resolution, and should be notified of the results.
- (2) In the event of an actual referral, the lead agency shall obtain P-1's concurrence in the response to CEQ.

b. DOT Referrals to CEQ on other Agencies' Proposals.

- (1) If upon reviewing a draft from another Federal agency, an operating administration or Secretarial Office believes a referral will be necessary, it should so advise P-30. If P-30 agrees, it will advise the lead agency that DOT intends to refer the proposal to CEQ unless the proposal is changed. P-30 will coordinate DOT comments on the draft EIS, including the notice of intended referral.
- (2) Environmental referrals should be avoided, where possible, through efforts to resolve the issues, after providing notice of intent to refer and prior to the lead agency's filing the final EIS.
- (3) In the event that the issues have not been resolved prior to filing of the final EIS with EPA, P-1 will deliver a referral to CEQ not later than 25 calendar days after the final EIS is made available to EPA, commenting agencies, and the public.
  - (a) Operating administrations and Secretarial Offices should submit proposed referrals to P-1 at least 5 days prior to the 25-day deadline. The proposed referral should include the information specified in section 1504.3(c) of the CEQ regulations.
  - (b) P-1 will inform the lead agency of the referral and the reasons for it, including a copy of the detailed statement developed pursuant to section 1504.3(c).

**11. FINAL ENVIRONMENTAL IMPACT STATEMENTS.**

- a. Preparation. The final EIS shall identify the preferred alternative, including measures to mitigate adverse impacts. In identifying the preferred alternative, the DOT element should consider the policies stated in paragraph 2 above. Every effort should be made to resolve significant issues raised through circulation of the draft EIS, the community involvement process and consultation with cooperating agencies before the EIS is put into final form for approval by the responsible official. The final statement shall reflect such issues, consultation and efforts to resolve the issues, including an explanation of why any remaining issues have not been resolved.
- b. Compliance with other Requirements. The final EIS should reflect that there has been compliance with the requirements of all applicable environmental laws and orders, e.g. section 4(f) of the DOT Act, section 106 of the Historic Preservation Act, section 404 of the Clean Water Act, section 7 of the Endangered Species Act, the DOT Floodplain Management Order (5650.2) and the DOT Wetlands Order (5660.1A). If such compliance is not possible by the time of final EIS preparation, the EIS should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements can be met.
- c. Legal Review. All final environmental statements shall be reviewed for legal sufficiency by the Chief Counsel of the operating administration concerned, or by a designee. Final environmental statements prepared within the Office of the Secretary (OST) shall be reviewed for legal sufficiency by the General Counsel (C-1).
- d. Approval. Final environmental impact statements may be approved by the Administrator or Secretarial Officer (or a designee) originating the action. For highly controversial final EIS's that require approval or concurrence by the headquarters of the operating administration pursuant to Administration procedures for approval, P-1 and C-1 shall be notified that the final EIS is under review and will be provided a copy of the summary section contained in the final EIS. P-1 and C-1 will also be given at least two weeks notice before approval of the final environmental impact statement. For purposes of this paragraph a proposed Federal action is considered highly controversial when the action is opposed on environmental grounds by a Federal, state, or local government agency or by a substantial number of the persons affected by such action.
- e. Availability Pending Approval. Following the initial level of approval by the administration (for example, by the FHWA Division Administrator), proposed final statements should normally be made available for inspection during usual business hours by the public and Federal, State or local agencies. Such statements should carry a notation that the statement is not approved and filed.

- f. Availability of Statements to EPA and the Public. After approval, the originating office shall transmit copies of each final statement to EPA in accordance with instructions from EPA. The originating office shall send copies of the final statement to the applicant, P-1 all Federal, State, and local agencies and private organizations which commented substantively on the draft statement or requested copies of the final statement, and to individuals who requested copies.
- g. Implementation of Representations in Environmental Statements. The administrations shall assure, through funding agreements and project review procedures, that applicants carry out any actions to minimize adverse environmental effects set forth in the approved statement. Any significant deviation from prescribed action that may reduce protection to the environment must be submitted for concurrence in accordance with Administration procedures for final EIS approval.
- h. Supplemental Statements. The responsible official shall supplement a draft EIS when either: (1) it is determined that a reasonable alternative which is significantly different from alternatives considered in the draft EIS exists and will be considered, or (2) when environmental conditions or data change significantly from those presented in the statement. A final EIS shall be supplemented when substantial changes are made in the proposed action, when conditions or data change significantly from that presented in the statement, or if the responsible official determines that a supplement is necessary for some other reason. (The development of additional data as a proposal moves through the implementation process would not require a supplement if the data does not materially conflict with the data in the EIS.) A supplemental EIS may be prepared to address detailed information which was not available at the time on EIS was prepared and approved, for example, site or project specific impacts which have been discussed only in general terms in a corridor or program EIS. (See also CEQ 1502.20 and paragraph 7.g.) A supplemental statement should be prepared, circulated and approved in accordance with the provisions of the CEQ regulations and paragraphs 7, 8, and 11 of this Order, unless the responsible official believes there are compelling reasons to do otherwise. In such cases, the operating administration or Secretarial Office should consult with CEQ.

## **12. DETERMINATIONS UNDER SECTION 4(f) OF THE DOT ACT.**

- a. Any action having more than a minimal effect on lands protected under section 4(f) of the DOT Act will normally require the preparation of an environmental statement. In these cases, the environmental statement shall include the material required by paragraph 4 of Attachment 2. If in the preparation of the final EIS, it is concluded that there is no feasible and prudent alternative to the use of section 4(f) lands, the final EIS shall support a specific determination to that effect, including evidence that there has been all possible planning to minimize harm to the protected lands.

- b. If an environmental statement is not required, the material called for in paragraph 4 of Attachment 2 shall be set forth in a separate document, accompanied by a FONSI or a determination that the section 4(f) involvement is minimal and that the action is categorically excluded. The section 4(f) determination shall be reviewed for legal sufficiency by the Chief Counsel of the operating administration involved, or by a designee. The document must reflect consultation with the Department of the Interior, and where appropriate, the Departments of Agriculture or Housing and Urban Development.

**13. RESPONSIBILITY.**

Where an operating administration or Secretarial Office serves as lead agency or joint lead agency, it shall be responsible for the scope, objectivity, accuracy and content of EISs and environmental assessments. The EIS or environmental assessment shall be prepared by the operating administration or secretarial office, by a contractor selected by DOT, or by the applicant, pursuant to the provisions of CEQ 1506.2 and 1506.5. In developing implementing instructions, administrations shall note the distinctions made in the CEQ regulations between State agencies with statewide jurisdiction, State and local agencies which must comply with State or local requirements comparable to NEPA, and other applicants. State and local governments with requirements comparable to NEPA are listed in Attachment 1.

**14. CITIZEN INVOLVEMENT PROCEDURES.**

- a. Citizen involvement in the environmental assessment of Departmental actions is encouraged at each appropriate stage of development of the proposed action and should be sought as early as possible. Citizen involvement in the environmental process should be integrated with other citizen involvement procedures to the maximum extent possible. Attempts should be made to solicit the views of the public through hearings, personal contact, press releases, advertisements or notices in newspapers, including minority or foreign language papers, if appropriate, and other methods. A summary of citizen involvement and any environmental issues raised should be documented in the EIS.
- b. The administrations' implementing instructions shall provide (1) that interested parties and Federal, State, and local agencies receive early notification of the decision to prepare an environmental impact statement, including publication of a notice of intent

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in the Federal Register, and (2) that their comments on the environmental effects of the proposed Federal action are solicited at an early stage in the preparation of the draft impact statement.

- c. Administrations are encouraged to develop lists of interested parties at the national, State and local levels. These would include individuals and community, environmental, conservation, public service, education, labor, or business organizations, who are affected by or known to have an interest in the project, or who can speak knowledgeably on the environmental impact of the proposed action.
- d. Under OMB Circular A-95, (Revised) Evaluation, Review, and Coordination of Federal Assistance Programs and Projects, and DOT 4600.4C, Evaluation, Review and Coordination of DOT Assistance Programs and Projects, of 4-12-76, a grant applicant must notify the clearinghouse of its intention to apply for Federal program assistance. The administrations' implementing instructions should provide for the solicitation of comments from the clearinghouse on the environmental consequences of the proposed action.
- e. Hearings.
  - (1) In several instances, a public hearing is required by statute as a condition to Federal approval of a proposed action. Even where not required by statute, an informational hearing or meeting may serve as a useful forum for public involvement.
  - (2) If a public hearing is to be held, the draft EIS or environmental assessment (or environmental analysis where the hearing is held by an applicant which is not a joint lead agency) should be made available to the public at least 30 days prior to the hearing.
- f. Interested persons can get information on the DOT environmental process and on the status of EISs issued by the Office of the Secretary from: Deputy Director for Environment and Policy Review (P-32), Department of Transportation, Washington, D.C. 20590, telephone 202-426-4361

Each administration shall indicate in its implementing instructions where interested persons can get information or status reports on EISs and other elements of the NEPA process.

**15. PROPOSALS FOR LEGISLATION.**

- a. Preparation. An EIS shall be prepared and circulated for any legislative proposal, or for any favorable report on proposed legislation, for which DOT is primarily responsible and which involves significant environmental impacts. The administration or Secretarial Office originating the legislation or developing the Departmental position on the report shall prepare the EIS.
- b. Processing. The draft EIS shall be cleared with P-1 and submitted by the Assistant General Counsel for Legislation (C-40) to the Office of Management and Budget for circulation in the normal legislative clearance process. The EIS shall be transmitted to Congress no later than 30 days after transmittal of the legislative proposal, and must be available in time for Congressional hearings. Any comments received on the EIS shall be transmitted to Congress. Except as provided by CEQ 1506.8(b)(2), there need not be a final EIS.

**16. INTERNATIONAL ACTIONS.**

- a. Pursuant to Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, the requirements of this Order apply to:
  - (1) Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g. the oceans and Antarctica).
  - (2) Major Federal actions significantly affecting the environment of a foreign nation not participating in the action or otherwise involved in the action.
  - (3) Major Federal actions significantly affecting the environment of a foreign nation which provide a product or a project producing a toxic emission or effluent, which is prohibited or strictly regulated in the U.S. by Federal law.
  - (4) Major Federal actions outside the U.S., its territories and possessions which significantly affect natural resources of global importance designated for protection by the President or by international agreement.
- b. If communication with a foreign government concerning environmental studies or documentation is anticipated, the responsible Federal official shall coordinate such communication with the State Department, through P-1.

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**17. TIMING OF AGENCY ACTION.**

A decision on the proposed action may not be made sooner than the times specified in CEQ 1506.10(b).

- a. Requests for reasonable extensions of the review period for the draft EISs shall be granted whenever possible, and particularly when warranted by the magnitude and complexity of the statement or the extent of citizen interest.
- b. If an administration or Secretarial Office believes it is necessary to reduce the prescribed time periods for EIS processing, it should request such a reduction from EPA. P-32 should be notified of such a request.
- c. Where emergency circumstances make it necessary to take an action with significant environmental impacts without observing the provisions of this Order and the CEQ regulations, the administration or Secretarial Office should consult with CEQ. P-32 should be notified of such consultation.

**18. EFFECTIVE DATE.**

- a. This Order and attachments apply to all draft statements filed by DOT with EPA after 7-30-79, except as provided in paragraph 1506.12 of the CEQ regulations.
- b. For final statements whose drafts are filed by 7-30-79 (for FHWA, 11-30-79), paragraph 11 of this Order applies after 7-30-81. In the interim, final EISs shall be processed in accordance with the provisions of DOT 5610.1B.

**19. TIME IN EFFECT OF STATEMENTS.**

- a. The draft EIS may be assumed valid for a period of three years. If the proposed final EIS is not submitted to the approving official within three years from the date of the draft EIS circulation, a written reevaluation of the draft shall be prepared by the responsible Federal official to determine whether the consideration of alternatives, impacts, existing environment and mitigation measures set forth in the draft EIS remain applicable, accurate and valid. If there have been changes in these factors which would be significant in the consideration of the proposed action, a supplement to the draft EIS or a new draft statement shall be prepared and circulated.
- b. If major steps toward implementation of the proposed action (such as the start of construction or substantial acquisition and relocation activities) have not commenced within three years from the date of approval of the final EIS, a written reevaluation

of the adequacy, accuracy and validity of the EIS shall be prepared by the responsible Federal official unless tiering of EISs (as discussed in subparagraph 7.g.) is being used. If there have been significant changes in the proposed action, the affected environment, anticipated impacts, or proposed mitigation measures, a new or supplemental EIS shall be prepared and circulated.

- c. If major steps toward implementation of the proposed action have not occurred within five years from the date of approval of the final EIS, or within the time frame set forth in the final EIS, the responsible Federal official shall prepare a written reevaluation of the adequacy, accuracy, and validity of the EIS. This reevaluation shall be processed in accordance with subparagraph 11.d.
- d. If the proposed action is to be implemented in phases or requires successive Federal approvals, a written reevaluation of the continued adequacy, accuracy and validity of the EIS shall be made prior to Federal approval of each major stage which occurs more than three years after approval of the final EIS, and a new or supplemental EIS prepared, if necessary.

**20. IMPLEMENTING INSTRUCTIONS.**

- a. Operating administrations shall issue instructions implementing this Order using one of the following options:
  - (1) An operating administration may issue detailed instructions or regulations which incorporate the points of this Order and the CEQ regulations and provide guidance on applying the environmental process to the administration's programs; or
  - (2) An operating administration may rely on this Order as its implementing procedures, provided it issues supplementary guidance which at a minimum applies the environmental process to the administration's programs, as described in the following subparagraph.
- b. Implementing instructions shall include the following information:
  - (1) A list of actions which normally require preparation of an EIS.
  - (2) A list of actions which are not normally major Federal actions significantly affecting the environment and as such do not normally require an environmental assessment or an environmental impact statement (i.e. categorical exclusions). These actions may include, but are not limited to, funding or authorizing: maintenance and modernization of existing facilities; minor safety improvements;

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equipment purchases; operating expenses; and planning grants which do not imply a project commitment. Instructions should provide for preparation of environmental assessments or EISs, as appropriate, for actions which would otherwise be classified as categorically excluded, but which are likely to involve: (1) significant impacts on the environment; (2) substantial controversy; (3) impacts which are more than minimal on properties protected by section 4(f) and section 106 of the Historic Preservation Act; or (4) inconsistencies with any Federal, State, or local law or administrative determination relating to the environment.

- (3) Identification of the decision making process, including timing for preparation of a draft and final environmental statement or a FONSI and designation of officials responsible for providing information on the administration's preparation, review and approval of environmental documents.
  - (4) A description of the public participation process or reference to other administration guidance on the public participation process. (See paragraph 14, public participation.)
  - (5) A description of the processes to be used to insure early involvement of DOT, other agencies and the public in the environmental review of actions proposed by nonfederal applicants (CEQ 1501.2(d)).
  - (6) A description of the procedures for assuring implementation of mitigation measures identified in the EIS and the record of decision.
- c. Proposed implementing instructions and any substantial amendments thereto shall be submitted to P-1 for review and concurrence. Consultation with CEQ will be assisted by P-1. Proposed and final implementing instructions shall be published in the Federal Register.

**21. RESPONSIBLE OFFICIAL FOR OFFICE OF THE SECRETARY ACTIONS.**

For the actions originating within the Office of the Secretary, the official responsible for approval of environmental documents is the Office Director of the office originating the action. The Director, Office of Transportation Regulatory Affairs, is responsible for general oversight and advice on environmental matters in liaison with the Assistant General Counsel for Environmental, Civil Rights, and General Law.

FOR THE SECRETARY OF TRANSPORTATION:

Robert L. Fairman  
Deputy Assistant Secretary  
for Administration

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Attachment 1  
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**STATES AND LOCALITIES WITH EIS REQUIREMENTS**

1. States with Comprehensive Statutory Requirements:

California  
Connecticut  
Hawaii  
Indiana  
Maryland  
Massachusetts  
Minnesota  
Montana  
New York  
New Jersey  
North Carolina  
South Dakota  
Virginia  
Washington  
Wisconsin  
Puerto Rico

2. States with Comprehensive Executive or Administrative Orders:

Michigan  
New Jersey  
Texas  
Utah

3. Local EIS requirements:

Bowie, Maryland  
New York, New York

Source:

Memorandum for NEPA Liaisons from the Council on Environmental Quality, on agency implementing procedures under CEQ's NEPA regulations, dated January 19, 1979.  
(Appendix D)

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Attachment 2  
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**FORMAT AND CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS**

1. Format.

- a. The format recommended in CEQ 1502.10 should be used for DOT EISs:
  - (a) Cover Sheet
  - (b) Summary
  - (c) Table of Contents
  - (d) Purpose and Need for the Action
  - (e) Alternatives Including the Proposed Action
  - (f) Affected Environment
  - (g) Environmental Consequences
  - (h) List of Preparers
  - (i) List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent
  - (j) Index
  - (k) Appendices (if any)
  
- b. The cover sheet for each environmental impact statement will include the information identified in CEQ 1502.11 and will be headed as follows:

Department of Transportation

---

(operating administration)

(Draft/Final) Environmental Impact Statement  
Pursuant to Section 102(2)(C), P.L. 91-190

As appropriate, the heading will indicate that the EIS also covers the requirements of section 4(f) of the DOT Act, section 14 of the Mass Transportation Act, and/or sections 16 and 18(a)(4) of the Airport Act.

2. Guidance as to Content of Statements.

- a. Environmental impact statements shall include the information specified in CEQ 1502.11 through 1502.18. The following paragraphs of Attachment 2 are intended to be considered, where relevant, as guidance regarding the content of environmental statements.
- b. Additional information contained in research reports, guidance on methodology, and other materials relating to consideration of environmental factors should be employed as appropriate in the preparation of EISs and environmental assessments. Examples of such materials include:

Department of Transportation, Environmental Assessment Notebook Series: Highways, 1975, Report No. DOT P 5600.4, available from the U.S. Government Printing Office, Washington, D.C. 20402, Stock Number 050-000-00109-1;

U.S. DOT, Environmental Assessment Notebook Series: Airports, 1978, Report Number DOT P 5600.5, available from the U.S. Government Printing Office, Washington, D.C. 20402, Stock Number 050-000-00138-5;

U.S. DOT, FAA, Environmental Assessment of Airport Development Actions, 1977, available from the National Technical Information Service, 5284 Port Royal Road, Springfield, Virginia 22161, NTIS Catalog Number ADA-039274; and

U.S. DOT, Guidelines for Assessing the Environmental Impact of Public Mass Transportation Projects, 1979, Report Number DOT P 79 001, available from the National Technical Information Service, Springfield, Virginia 22161.

3. General Content. The following points are to be covered.

- a. A description of the proposed Federal action (e.g. "The proposed Federal action is approval of location of highway..." or "The proposed Federal action is approval of a grant application to construct..."), and a statement of its purpose.
- b. Alternatives, including the proposed action, and including, where relevant, those alternatives not within the existing authority of the responsible preparing office. Section 102(2)(E) of NEPA requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

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Attachment 2  
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A rigorous exploration and an objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, are essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks should accompany the proposed action through the review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. Examples of such alternatives include: the alternative of not taking any action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts, e.g. low capital intensive improvements, mass transit alternatives to highway construction; alternatives related to different locations or designs or details of the proposed action which would present different environmental impacts. In each case, the analysis should be sufficiently detailed to reveal comparative evaluation of the environmental benefits, costs, and risks of each reasonable alternative, including the proposed action. Where an existing impact statement already contains such an analysis, its treatment of alternatives may be incorporated, provided such treatment is current and relevant to the precise purpose of the proposed action.

c. Affected environment.

- (1) The statement should succinctly describe the environment of the area affected as it exists prior to a proposed action, including other related Federal activities in the area, their interrelationships, and cumulative environmental impact. The amount of detail provided in such descriptions should be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decision making (planning, feasibility, design, etc.).
- (2) The statement should identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see paragraph 3e(2)). In discussing these population aspects, the statement should give consideration to using the rates of growth in the region of the project contained in the projections compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the OBERS projection).

- d. The relationship of the proposed action and how it may conform to or conflict with adopted or proposed land use plans, policies, controls, and goals and objectives as have been promulgated by affected communities. Where a conflict or inconsistency exists, the statement should describe the extent of reconciliation and the reasons for proceeding notwithstanding the absence of full reconciliation.
- e. The probable impact of the proposed action on the environment.
  - (1) This requires assessment of the positive and negative effects of the proposed action as it affects both national and international human environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.
  - (2) Secondary and other foreseeable effects, as well as primary consequences for the environment, should be included in the analysis. Secondary effects, such as impacts on existing community facilities and activities inducing new facilities and activities, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated and an assessment made on their effects upon the resource base, including land use, water, and public services, of the area in question.
- f. Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, noise, undesirable land use patterns, or impacts on public parks and recreation areas, wildlife and waterfowl refuges, or on historic sites, damage to life systems, traffic congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of NEPA). This should be a brief summary of those effects discussed in paragraph 3c that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how all adverse effects will be mitigated.
- g. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This discussion should cover the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options.

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- h. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts and the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.
- i. An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to subparagraphs (e) and (f) of this paragraph. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action (as identified in subparagraph (b) of this paragraph) that would avoid some or all of the adverse environmental effects. In this connection, cost-benefit analyses of proposed actions, if prepared, should be attached, or summaries thereof, to the environmental impact statement, and should clearly indicate the extent to which environmental costs have not been reflected in such analyses.
- j. A discussion of problems and objections raised by other Federal agencies, State and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefor. (This section may be added to the final environmental statement at the end of the review process.)
  - (1) The draft and final statements should document issues raised through consultations with Federal, State, and local agencies with jurisdiction or special expertise and with citizens, of actions taken in response to comments, public hearings, and other citizen involvement proceedings.
  - (2) Any unresolved environmental issues and efforts to resolve them, through further consultations or otherwise, should be identified in the final statement. For instance, where an agency comments that the statement has inadequate analysis or that the agency has reservations concerning the impacts, or believe that the impacts are too adverse for approval, either the issue should be resolved or the final statement should reflect efforts to resolve the issue and set forth any action that will result.
  - (3) The statement should reflect that every effort was made to discover and discuss all major points of view on the environmental effects of the proposed action and alternatives in the draft statement. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are raised through the commenting process, the environmental effects of the action should be reviewed in light of those views. A meaningful reference should be made in the final

- statement to the existence of any responsible opposing view not adequately discussed in the draft statement indicating responses to the issues raised.
- (4) All substantive comments received on the draft (or summaries of responses from the public which have been exceptionally voluminous) should be attached to the final statement, whether or not each such comment is thought to merit individual discussion in the text of the statement.
- k. Draft statements should indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in preparing the statement, including any cost-benefit analyses prepared. In the case of documents not likely to be easily accessible (such as internal studies or reports), the statement should indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference.
4. Publicly Owned Parklands, Recreational Areas, Wildlife and Waterfowl Refuges and Historic Sites. The following points are to be covered:
- a. Description of "any publicly owned land from a public park, recreational area or wildlife and waterfowl refuge "or any land from an historic site" affected or taken by the project. This includes its size, available activities, use, patronage, unique or irreplaceable qualities, relationship to other similarly used lands in the vicinity of the project, maps, plans, slides, photographs, and drawings showing in sufficient scale and detail the project. This also includes its impact on park, recreation, wildlife, or historic areas, and changes in vehicular or pedestrian access.
- b. Statement of the "national, State or local significance" of the entire park, recreation area, refuge, or historic site "as determined by the Federal, State or local officials having jurisdiction thereof."
- (1) In the absence of such a statement, lands will be presumed to be significant. Any statement of "insignificance" by the official having jurisdiction is subject to review by the Department as whether such statement is capricious.
- (2) Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes.

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- c. Similar data, as appropriate, for alternative designs and locations, including detailed cost estimates (with figures showing percentage differences in total project costs) and technical feasibility, and appropriate analysis of the alternatives, including any unique problems present and evidence that the cost or community disruptions resulting from alternatives routes reach extraordinary magnitudes. This portion of the statement should demonstrate compliance with the Supreme Court's statement in the Overton Park case, as follows:

"The very existence of the statute indicates that the protection of parklands was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that the alternative routes present unique problems."

- d. If there is no feasible and prudent alternative, description of all planning undertaken to minimize harm to the protected area and statement of actions taken or to be taken to implement this planning, including measures to maintain or enhance the natural beauty of the lands traversed.
- (1) Measures to minimize harm may include replacement of land and facilities, providing land or facilities, or provision for functional replacement of the facility (see 49 C.F.R. 25.267).
- (2) Design measures to minimize harm; e.g. tunneling, cut and cover, cut and fill, treatment of embankments, planting, screening, maintenance of pedestrian or bicycle paths and noise mitigation measures, all reflecting utilization of appropriate interdisciplinary design personnel.
- e. Evidence of concurrence or description of efforts to obtain concurrence of Federal, State or local officials having jurisdiction over the section 4(f) property regarding the action proposed and the measures planned to minimize harm.
- f. If Federally-owned properties are involved in highway projects, the final statement shall include the action taken or an indication of the expected action after filing a map of the proposed use of the land or other appropriate documentation with the Secretary of the Department supervising the land (23 U.S.C. 317).
- g. If land acquired with Federal grant money (Department of Housing and Urban Development open space or Heritage Conservation and Recreation Service land and water conservation funds) is involved, the final statement shall include appropriate

communications with the grantor agency.

- h. The General Counsel will determine application of section 4(f) to public interests in lands, such as easements, reversions, etc.
  - i. A specific statement that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "section 4(f) area" involved.
5. Properties and Sites of Historic and Cultural Significance. The statement should document actions taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archaeological, or cultural significance affected by the action.
- a. Draft environmental statements should include identification, through consulting the State Historic Preservation Officer and the National Register and applying the National Register Criteria (36 C.F.R. Part 800), of properties that are included in or eligible for inclusion in the National Register of Historic Places that may be affected by the project. The Secretary of the Interior will advise whether properties not listed are eligible for the National Register (36 C.F.R. Part 63).
  - b. If application of the Advisory Council on Historic Preservation's (ACHP) Criteria of Effect (36 C.F.R. Part 800) indicates that the project will have an effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the draft environmental statement should document the effect. Evaluation of the effect should be made in consultation with the State Historic Preservation Officer (SHPO) and in accordance with the ACHP's Criteria of Adverse Effect (36 C.F.R. Part 800).
  - c. Determinations of no adverse effect should be documented in the draft statement with evidence of the application of the ACHP's Criteria of Adverse Effect, the views of the appropriate State Historic Preservation Officer, and submission of the determination to the ACHP for review.
  - d. If the project will have an adverse effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the final environmental statement should include either an executed Memorandum of Agreement or comments from the Council after consideration of the project at a meeting of the ACHP and an account of actions to be taken in response to the comments of the ACHP. Procedures for obtaining a Memorandum of Agreement and the comments of the Council are found in 36.C.F.R. Part 800.

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- e. To determine whether the project will have an effect on properties of State or local historical, architectural, archaeological, or cultural significance not included in or eligible for inclusion in the National Register, the responsible official should consult with the State Historic Preservation Officer, with the local official having jurisdiction of the property, and, where appropriate, with historical societies, museums, or academic institutions having expertise with regard to the property. Use of land from historic properties of Federal, State and local significance as determined by the official having jurisdiction thereof involves section 4(f) of the DOT Act and documentation should include information necessary to consider a section 4(f) determination (see paragraph 4).

6. Impacts of the Proposed Action on the Human Environment Involving Community Disruption and Relocation.

- a. The statement should include a description of probable impact sufficient to enable an understanding of the extent of the environmental and social impact of the project alternatives and to consider whether relocation problems can be properly handled. This would include the following information obtainable by visual inspection of the proposed affected area and from secondary sources and community sources when available.
  - (1) An estimate of the households to be displaced including the family characteristics (e.g. minorities, and income levels, tenure, the elderly, large families).
  - (2) Impact on the human environment of an action which divides or disrupts an established community, including, where pertinent, the effect of displacement on types of families and individuals affected, effect of streets cut off, separation of residences from community facilities, separation of residential areas.
  - (3) Impact on the neighborhood and housing to which relocation is likely to take place (e.g. lack of sufficient housing for large families, doublings up).
  - (4) An estimate of the businesses to be displaced, and the general effect of business dislocation on the economy of the community.
  - (5) A discussion of relocation housing in the area and the ability to provide adequate relocation housing for the types of families to be displaced. If the resources are insufficient to meet the estimated displacement needs, a description of the actions proposed to remedy this situation including, if necessary, use of housing of last resort.

- (6) Results of consultation with local officials and community groups regarding the impacts to the community affected. Relocation agencies and staff and other social agencies can help to describe probable social impacts of this proposed action.
    - (7) Where necessary, special relocation advisory services to be provided the elderly, handicapped and illiterate regarding interpretations of benefits, assistance in selecting replacement housing, and consultation with respect to acquiring, leasing, and occupying replacement housing.
  - b. This data should provide the preliminary basis for assurance of the availability of relocation housing as required by DOT 5620.1, Replacement Housing Policy, dated 6-24-70, and 49 C.F.R. 25.57.
7. Considerations Relating to Pedestrians and Bicyclists. Where appropriate, the statement should discuss impacts on and consideration to be given in the development of the project to pedestrian and bicycle access, movement and safety within the affected area, particularly in medium and high density commercial and residential areas.
8. Other Social Impacts. The general social groups specially benefited or harmed by the proposed action should be identified in the statement, including the following:
  - a. Particular effects of a proposal on the elderly, handicapped, non-drivers, transit dependent, or minorities should be described to the extent reasonably predictable.
  - b. How the proposal will facilitate or inhibit their access to jobs, educational facilities, religious institutions, health and welfare services, recreational facilities, social and cultural facilities, pedestrian movement facilities, and public transit services.
9. Standards as to Noise, Air, and Water Pollution. The statement shall reflect sufficient analysis of the effects of the proposed action on attainment and maintenance of any environmental standards established by law or administrative determination (e.g. noise, ambient air quality, water quality), including the following documentation:
  - a. With respect to water quality, there should be consultation with the agency responsible for the State water pollution control program as to conformity with standards and regulations regarding storm sewer discharge, sedimentation control, and other non-point source discharges.

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- b. The comments or determinations of the offices charged with administration of the State's implementation plan for air quality as to the consistency of the project with State plans for the implementation of ambient air quality standards.
  - c. Conformity to adopted noise standards, compatible, if appropriate, with different land uses.
10. Energy Supply and Natural Resources Development. Where applicable, the statement should reflect consideration of whether the project or program will have any effect on either the production or consumption of energy and other natural resources, and discuss such effects if they are significant.
  11. Floodplain Management Evaluation. When an alternative under consideration encroaches on a base (100-year) floodplain, the statement should describe the anticipated impacts on natural and beneficial floodplain values, any risk to or resulting from the transportation action, and the degree to which the action facilitates additional development in the base floodplain. The necessary measures to address floodplain impacts, including an evaluation of alternatives to avoid the encroachment in appropriate cases, should be described in compliance with Executive Order 11988, "Floodplain Management," and DOT Order 5650.2, "Floodplain Management and Protection."
  12. Considerations Relating to Wetlands or Coastal Zones. Where wetlands or coastal zones are involved, the statement should reflect compliance with Executive Order 11990, Protection of Wetlands, and DOT 5660.1A and should include:
    - a. Information on location, types, and extent of wetlands areas which might be affected by the proposed action.
    - b. An assessment of the impacts resulting from both construction and operation of the project on the wetlands and associated wildlife, and measures to minimize adverse impacts.
    - c. A statement by the local representative of the Department of the Interior, and any other responsible officials with special expertise, setting forth his views on the impacts of the project on the wetlands, the worth of the particular wetlands areas involved to the community and to the Nation, and recommendations as to whether the proposed action should proceed, and, if applicable, along what alternative route.
    - d. Where applicable, a discussion of how the proposed project relates to the State coastal zone management program for the particular State in which the project is to take place.

13. Construction Impacts. In general, adverse impacts during construction will be of less importance than long-term impacts of a proposal. Nonetheless, statements should appropriately address such matters as the following, identifying any special problem areas:
  - a. Noise impacts from construction and any specifications setting maximum noise levels.
  - b. Disposal of spoil and effect on borrow areas and disposal sites (include specifications where special problems are involved).
  - c. Measures to minimize effects on traffic and pedestrians.
14. Land Use and Urban Growth. The statement should include, to the extent relevant and predictable:
  - a. The effect of the project on land use, development patterns, and urban growth.
  - b. Where significant land use and development impacts are anticipated, identify public facilities needed to serve the new development and any problems or issues which would arise in connection with these facilities, and the comments of agencies that would provide these facilities.
15. (Deleted)
16. Projects under Section 14 of the Mass Transportation Act: Mass Transit Projects with a Significant Impact on the Quality of the Human Environment: The statement should include:
  - a. Evidence of the opportunity that was afforded for the presentation of views by all parties with a significant economic, social or environmental interest.
  - b. Evidence that fair consideration has been given to the preservation and enhancement of the environment and to the interests of the community in which the project is located.
  - c. If there is an adverse environmental effect and there is no feasible and prudent alternative, description of all planning undertaken to minimize such adverse environmental effect and statement of actions taken or to be taken to implement the planning; or a specific statement that there is no adverse environmental effect.

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## ENVIRONMENTAL CHECKLIST

**NOTE:** This checklist should be completed by the decision-maker in consultation with an **ENVIRONMENTAL PROTECTION SPECIALIST**. Please read the information on how to properly complete this checklist on pages 4-10 and make sure each question is answered using the accompanying explanations found on the pages cited after each question. Attempting to answer these questions without reading the accompanying explanations may result in an incorrect or incomplete environmental analysis.

**\*Project Description:**

**Activity Year:**

(\*Note: Checklist preparer may want to attach additional descriptive information on the proposed action such as: diagrams, site maps, and photographs.)

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**Part I. Checklist Analysis.**

**YES   NO   NEED  
DATA**

1. Is there likely to be a significant effect on public health or safety? (p. 5)			
2. Does the proposed action occur on or near a unique characteristic of the geographic area, such as a historic or cultural resource, park land, prime farmland, wetland, wild and scenic river, ecologically critical area, or property requiring special consideration under 49 U.S.C. 303(c)? (p. 5-6)			
3. Is there a potential for effects on the quality of the environment that are likely to be highly controversial in terms of scientific validity or public opinion? (p. 7)			
4. Is there a potential for effects on the human environment that are highly uncertain or involve unique or unknown risks? (p. 7)			
5. Will the action set a precedent for future actions with significant effects or a decision in principle about a future consideration? (p. 7)			
6. Are the action's impacts individually insignificant, but cumulatively significant when considered along with other past, present, and reasonably foreseeable future actions? (p. 7-8)			
7. Is the proposed action likely to have a significant impact on a district, site, highway, structure, or object that is listed in or eligible for listing in the National Register of Historic Places, or to cause the loss or destruction of a significant scientific, cultural, or historic resource? (p.8)			
8. Will the proposed action have a significant effect on species or habitats protected by Federal law or Executive Order ? (p. 9)			
9. Is there a potential or threatened violation of a Federal, State, or local law or requirement imposed for the protection of the environment? (p. 9-10)			
10. Is the action likely to have other significant effects on public health and safety or on any other environmental media or resources that are not specifically identified in this checklist? (p. 10)			

**Part II. Comments or Additional Information Related to Part I:**

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### CONSIDERING ENVIRONMENTAL CONSEQUENCES

The ten questions listed on page 1 comprise the analysis portion of the Environmental Checklist. Each question calls for a judgment by you, the decision-maker and/or the Environmental Protection Specialist, about the likelihood that a particular kind of environmental consequence will result from the proposed action. The purpose of this checklist is to serve as a tool for the decision-maker and/or the Environmental Protection Specialist to determine the proper level of NEPA analysis with which to begin and to identify areas of potential problems and concern.

Clarification and lists of things to consider for each question follow on this page and pages 5-10; however, these lists should not be considered exhaustive by any means. Every situation and proposed action will have a unique set of circumstances that you will need to take into account as you contemplate the potential consequences of the proposed action.

Based on an internal review, external review (where appropriate), and research, check “YES,” “NO,” or “Need Data” for each question. Attach documentation as needed to support your answer.

The checklist is not complete until all “Need Data” issues have been resolved and all blocks are checked either “YES” or “NO.” Once you have done this, you need to go back, look at all the “YES” answers, and ask yourself, “Do any of these ‘YES’s’ indicate potential for *significant effects to the human environment.*” Remember that the *human environment* includes both the natural and historic/cultural environment.

⇒ If it is known that significant effects will occur which cannot be avoided or

mitigated to a level of insignificance, then an EIS should be prepared.

⇒ If it is unknown whether significant effects will occur or there is no appropriate categorical exclusion applicable to your action, an EA should be prepared with the potential for an EIS, as necessary.

**NOTE:** If an EA or EIS is necessary, then you must also consider the significance of impacts on the socioeconomic environment and environmental justice. Significant impacts in either of these two realms alone are NOT enough to trigger an EA or EIS. However, if an EA or EIS is prepared due to the potential for significant environmental impacts, then these documents should include discussion of any potentially significant socioeconomic or environmental justice impacts as well. Please see page 10 for further guidance.

⇒ If you answered “NO” to all the questions, or all “YES” responses were adequately researched and found to have no potential for significant impacts, and there is a Categorical Exclusion (CE) to cover the proposed action, then you do not need to prepare either an EA or EIS.

⇒ If the appropriate CE requires documentation such as a Categorical Exclusion Determination (CED) and/or this Environmental Checklist, make sure the documentation is complete, submit it with the appropriate planning documents, and place it in the project file.

**Question 1-**

**Is there likely to be a significant effect on public health or safety?**

Think about whether your action is likely to

- result in the use, storage, release, and/or disposal of toxic materials such as fertilizers, cleaning solvents, or laboratory wastes, or other hazardous materials such as explosives;
- involve a facility or vessel that may contain polychlorinated biphenyls (PCBs), urea formaldehyde, or friable asbestos;
- be on or near an EPA or State Superfund, or priority cleanup site;
- involve construction on or near an active or abandoned toxic, hazardous, or radioactive materials generation, storage, transportation, or disposal site;
- involve use of a site that contains underground storage tanks (USTs) as evidenced by historical data or physical evidence such as vent pipes or fill caps;
- have a significant possibility of accidental spills of oils, hazardous or toxic materials;
- involve water pipes or water supply appurtenances that contain lead in excess of EPA standards;
- involve a facility or water supply that may contain radon in excess of the EPA action level;
- require the use or storage of explosives;
- require the storage or transportation of a large amount of fuel; or
- include the setting up of high voltage power lines, radio or television transmission antennae, or microwave transmission connections.

Agencies that may require consultation include the following:

- EPA

- OSHA
- Appropriate state and local authorities

Think about whether your action is likely to be inconsistent with such authorities as:

- EPA's solid waste management guidelines
- A State Implementation Plan (SIP) under the Clean Air Act
- OSHA noise standards
- Executive Order 12898 (Environmental Justice)
- Executive Order 12372 (Review of Federal Programs)

Are you in compliance with the following laws:

- Clean Air Act
- Clean Water Act
- Resource Conservation and Recovery Act
- Comprehensive Environmental Response Compensation, and Liability Act (Superfund)
- Toxic Substance Control Act
- Occupational Safety and Health Act
- The Noise Control Act

**Question 2-**

**Does the proposed action occur on or near a unique characteristic of the geographic area, such as a historic or cultural resource, park land, prime farmland, wetland, wild and scenic river, ecologically critical area, or property requiring special consideration under 49 U.S.C. 303(c)?**

Think about whether your action is likely to

- alter a natural ecosystem;

- cause damage to or require the removal of any terrestrial, marine, or aquatic vegetation;
- affect a coral reef ecosystem;
- affect the water supplies of humans, animals, or plants;
- affect the water table;
- be located in or near a 100 year floodplain;
- result directly or indirectly in construction on slopes greater than 15%;
- result in construction on or near hydric soils, wetland vegetation, or other evidence of a wetland;
- result in construction on or near any other natural feature that could affect the safety or health of the public;
- be located on or near a wildlife refuge, a designated wilderness, a wild and scenic river, a National Natural Landmark, a National Historic Landmark, a National Monument designated under the Antiquities Act;
- designated open space, or a designated conservation area;
- be located on or near an area under study for any such designation;
- be located on or near any other environmentally critical area;
- have adverse visual, social, atmospheric, traffic, or other effects on such a critical area even though it is NOT located on or near the area;
- change the use of park lands;
- change the use of prime farm lands;
- change the use of a floodplain; or
- alter a wetland.

Find out whether there is some possible effect of your action that, while improbable, would be so serious IF it occurred that further review is appropriate.

For example, you want to acquire land in a non-sensitive area that is generally unlikely

to have adverse effects on the environment. However, if there is an environmentally sensitive area downstream from the land you want to acquire, and use of the land might have the potential to cause pollution as groundwater flows through the sensitive area, then you must conduct further review.

Agencies that may require consultation include:

- Army Corps of Engineers
- US Fish and Wildlife Service
- National Marine Fisheries Service
- Appropriate state and local authorities

Think about whether your action is likely to be inconsistent with such authorities as:

- Executive Order 11990, Protection of Wetlands
- Executive Order 11988 (Floodplain Protection)
- Executive Order 13089 (Coral Reef Protection);
- Executive Order 13158 (Marine Protected Areas)
- Executive Order 13089 (Coral Reef Protection)
- DOT Order 5660.1A (Wetlands); or,
- DOT Order 5650.2 (Floodplains).

Are you in compliance with the following laws:

- Clean Water Act
- Farmland Protection Act
- Wild and Scenic Rivers Act
- Coastal Zone Management Act.
- National Historic Preservation Act
- American Indian Religious Freedom Act
- Native American Graves Protection and Repatriation Act
- Archaeological Resources Protection Act

**Question 3-**

**Is there a potential for effects on the quality of the environment that are likely to be highly controversial in terms of scientific validity or public opinion?**

Consider first whether your action is likely to be controversial in any way. If so, consider whether this controversy is likely to have an environmental element.

For example, if the CG decides to close a unit, controversy could be generated on economic grounds; however, unless this controversy encompasses a potential significant *environmental* impact, it does not trigger further NEPA analysis on its own.

Environmental controversies can be about a host of things: impacts on historic buildings, archaeological sites, and other cultural resources; impacts on traffic or parking on a community or neighborhood; and, of course, impacts on natural resources such as water, air, soil, and wildlife. To avoid missing a controversial issue that should be addressed under NEPA, be sure not to interpret the word “environmental” too narrowly.

Consideration should be given to Executive Order 12372 (Review of Federal Programs).

**Question 4-**

**Is there a potential for effects on the human environment that are highly uncertain or involve unique or unknown risks?**

Consider first whether there is anything you don’t know about the action’s potential impacts, and then think about whether what you don’t know has any significance.

For example, the implementation of a conservation plan when the full effects of

the program will not be known until after implementation and monitoring.

**Question 5-**

**Will the action set a precedent for future actions with significant effects or a decision in principle about a future consideration?**

To answer this question, you must look forward and outward, and consider the possibility that what is done with your particular action will pave the way for future actions that could have serious environmental consequences.

For example, you decide to issue a regatta permit for a boat race in an area that at times harbors endangered species. It may be possible to issue the permit for this particular case because of the type and volume of boats used, or perhaps the endangered species does not frequent the area during the time of year. Although the nature of the particular situation may allow a CATEX to occur, if your action were taken as a precedent for allowing ALL regattas to occur in this area at ALL times of the year, then a higher level of review of the action may be in order.

**Question 6-**

**Are the action’s impacts individually insignificant, but cumulatively significant when considered along with other past, present, and reasonably foreseeable future actions?**

Consider whether the action is related to other actions (by USCG or others) with impacts that are individually insignificant but that may, taken together, have significant effects.

For example, is the action part of an ongoing pattern of pollutant discharge, traffic

generation (vehicle or vessel), economic change, or land-use change in its locality that could collectively affect human health or the condition of the environment? (For further information on cumulative effects see: The Council on Environmental Quality's, "Considering Cumulative Effects" published January 1997.)

**Question 7-**

**Is the proposed action likely to have a significant impact on a district, site, highway, structure, or object that is listed on or eligible for listing on the National Register of Historic Places, or to cause the loss or destruction of a significant scientific, cultural, or historic resource?**

Some preliminary investigation will be necessary to determine whether significant scientific, cultural or historic resources exist in the area of potential effect of the proposed action.

Think about whether your action is likely to affect

- districts, sites, buildings, vessels, aircraft, structures, or objects included in or eligible for the National Register of Historic Places;
- a building, structure, vessel, or aircraft that is over 45 years old;
- a neighborhood or commercial area; that may be important in the history or culture of the community;
- a neighborhood, commercial, industrial, or rural area that might be eligible for the National Register as a district;
- a known or probable cemetery, through physical alteration or by altering its visual, social, or other characteristics;
- a rural landscape that may have cultural or aesthetic value;

- a place of traditional cultural value in the eyes of a Native American group or community;
- a known archaeological site, or land identified by archaeologists as having high potential to contain archaeological resources;
- an area identified by archaeologists or a Native American Group as a sacred site or as having high potential to contain Native American cultural items; or
- the historic/cultural character of communities or neighborhoods.

Agencies that may require consultation include:

- Appropriate state (e.g. State Historic Preservation Officer), and local authorities (e.g., local historic preservation groups)
- Applicable Native American populations

Think about whether your action is likely to be inconsistent with such authorities as:

- E.O. 13006, Locating Federal Facilities on Historic Properties in Our Nations Central Cities
- E.O. 13007, Indian Sacred Sites
- E.O. 13175, Consultation and Coordination with Indian Tribal Governments
- E.O. 11593, Protection and Enhancement of the Cultural Environment

Are you in compliance with the following laws:

- National Historic Preservation Act
- Archaeological Resources Protection Act
- American Indian Religious Freedom Act
- Native American Graves Protection and Repatriation Act

**Question 8-**

**Will the proposed action have a significant effect on species or habitats protected by Federal law or Executive Order ?**

In order to answer this question, you must have information on protected species or habitats in the area of potential effect of the proposed action.

Think about whether your action is likely to

- affect an endangered or threatened species, or its critical habitat;
- affect a species under consideration for listing as endangered or threatened, or its critical habitat;
- affect migratory birds;
- affect a protected marine mammal; or
- affect essential fish habitat protected by the Magnuson-Stevens Fishery Conservation and Management Act.

Agencies that may require consultation include:

- US Fish and Wildlife Service
- National Marine Fisheries Service

Are you in compliance with the following laws:

- Marine Mammal Protection Act
- Endangered Species Act
- Fish and Wildlife Coordination Act
- Magnuson-Stevens Fishery Conservation and Management Act as amended in 1996
- Migratory Bird Treaty Act
- Executive Order 13186, Responsibilities of Federal Agencies To Protect Migratory Birds

**Question 9-**

**Is there a potential for, or threatened violation of, a Federal, State, or local law or requirement imposed for the protection of the environment?**

Think about whether your action is likely to

- adversely effect the ambient air quality due to dust, vehicle or equipment emissions, open burning, etc.;
- result in toxic or unusual air emissions;
- adversely affect the ambient air quality due to the operation and/or maintenance of vehicles, vessels, or aircraft;
- significantly increase the ambient noise levels of the area (includes operation and/or maintenance of machinery, vehicles, vessels, aircraft, loudspeaker systems, alarms, etc.);
- include the use of equipment with unusual noise characteristics; or
- have noisy activities continue past normal working hours.

Have you obtained the necessary permits for the actions that may

- require dredging below the mean high water line or near the ordinary high water line;
- require waterway construction (see question 2);
- result in bank erosion due to vessel wake;
- divert the flow of a waterway or alter the stream bed or banks;
- discharge sewage waste water or other pollutants into an adjacent waterway;
- require the construction of a well that could potentially deplete water resources;
- require the construction of waterway structures (docks, piers, jetties, ramps);
- contaminate underground aquifers;

- raise surrounding water temperature due to discharge; or
- result in increased water turbidity due to activities related to operations or construction.

**Question 10-**

**Is the action likely to have some other significant effect on public health and safety or on any other environmental media or resources that are not specifically identified in the checklist?**

This question is designed to allow you to address any potential environmental effects that may be of concern but don't fall into any of the other categories. It acknowledges that you, as the decision-maker, could recognize something problematic in your unique situation that could not be foreseen in the development of a generalized guideline such as this.

**An Additional Concern Under Question 10 is Socioeconomic Impacts and Environmental Justice.**

If you are preparing an EA or an EIS due to the potential for significant environmental impacts, you must also consider and analyze any potential for significant impacts on the socioeconomic environment and issues of environmental justice.

Think about whether your action is likely to

- change traffic patterns or increase traffic volumes (road and/or waterway);
- require the rerouting of roads/waterways or traffic;
- be located near any existing bottleneck in vehicle or vessel traffic (e.g., a bridge intersection, bend in the waterway, restricted channel);
- have access constraints;
- affect a congested intersection;

- be inconsistent with existing zoning, surrounding land use, or the official land use plan for the specific site and/or the delineated area;
- be inconsistent with surrounding architecture or landscape;
- increase or decrease the population of the community;
- increase the population density of the area;
- require the construction of government housing now or in the future;
- intrude on residential or business uses in the affected area;
- relocate private residences or businesses;
- affect the economy of the community in ways that result in impacts to its character, or to the physical environment;
- result in a higher proportion of effects impacting low income or minority groups;
- require substantial new utilities;
- be regarded as burdensome by local or regional officials or the public because of infrastructure demands (e.g., sewer, water, utilities, street system, public transit);
- be regarded as burdensome by local or regional officials or the public because of support facilities demands (e.g., schools, hospitals, shopping facilities, and recreation facilities);
- alter a group's use of land or other resources (e.g., sustenance fishing); or
- disproportionately have a high and adverse effect on a minority or low income population.

USCG CATEGORICAL EXCLUSION DETERMINATION

FOR

(Title of Proposed Project)

(Brief, yet concise description of location and the proposed action - 1 or 2 paragraphs).

This action is not expected to result in any significant adverse environmental impacts as described in the National Environmental Policy Act of 1969 (NEPA). The proposed action has been thoroughly reviewed by the USCG, and the undersigned have determined this action to be categorically excluded under current USCG CE(s) # \_\_\_\_\_(indicate specific CE or CEs, e.g., CE #34.(g) or CEs #5, #6, and #7) from further environmental documentation, in accordance with Section 2.B.2. and Figure 2-1 of the National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1D, since implementation of this action will not result in any:

1. Significant cumulative impacts on the human environment;
2. Substantial controversy or substantial change to existing environmental conditions;
3. Impacts which are more than minimal on properties protected under 4(f) of the DOT Act as superseded by Public Law 97-449, and Section 106 of the National Historic Preservation Act; or,
4. Inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment.

	*Preparer/Environmental Project Manager (as applicable)	
Date		Title/Position

	**Environmental Reviewer	
Date		Title/Position

In reaching my decision/recommendation on the USCG's proposed action, I have considered the information contained in this CED (and in any attached environmental checklists or other supplemental environmental analyses) on the potential for environmental impacts.

	Responsible Official	
Date		Title/Position

\*The USCG preparer signs for NEPA documents prepared in-house. The USCG environmental project manager signs NEPA documents prepared by an applicant, a contractor, or another outside party. \*\*Signature of the Environmental Reviewer for the Bridge Administration Program may be that of the preparer's.

USCG  
ENVIRONMENTAL ASSESSMENT  
FOR  
(Title of proposed action)

This USCG environmental assessment was prepared in accordance with Commandant's Manual Instruction M16475.1D and is in compliance with the National Environmental Policy Act of 1969 (P.L. 91-190) and the Council of Environmental Quality Regulations dated 28 November 1978 (40 CFR Parts 1500-1508).

This environmental assessment serves as a concise public document to briefly provide sufficient evidence and analysis for determining the need to prepare an environmental impact statement or a finding of no significant impact.

This environmental assessment concisely describes the proposed action, the need for the proposal, the alternatives, and the environmental impacts of the proposal and alternatives. This environmental assessment also contains a comparative analysis of the action and alternatives, a statement of the environmental significance of the preferred alternative, and a list of the agencies and persons consulted during EA preparation.

Date	*Preparer/Environmental Project Manager (as applicable)	Title/Position

Date	**Environmental Reviewer	Title/Position

In reaching my decision/recommendation on the USCG's proposed action, I have considered the information contained in this EA on the potential for environmental impacts.

Date	Responsible Official	Title/Position

\*The USCG preparer signs for NEPA documents prepared in-house. The USCG environmental project manager signs for NEPA documents prepared by an applicant, a contractor, or another outside party. \*\*Signature of the Environmental Reviewer for the Bridge Administration Program may be that of the preparer's.

USCG  
FINDING OF NO SIGNIFICANT IMPACT

FOR

(Title of proposed action)

This action has been thoroughly reviewed by the USCG and it has been determined, by the undersigned, that this project will have no significant effect on the human environment.

This finding of no significant impact is based on the attached USCG prepared environmental assessment (reference other environmental documents as appropriate) which has been determined to adequately and accurately discuss the environmental issues and impacts of the proposed action and provides sufficient evidence and analysis for determining that an environmental impact statement is not required.

\_\_\_\_\_  
Date                      \*Environmental Reviewer                      \_\_\_\_\_  
Title/Position

I have considered the information contained in the EA, which is the basis for this FONSI. Based on the information in the EA and this FONSI document, I agree that the proposed action as described above, and in the EA, will have no significant impact on the environment.

\_\_\_\_\_  
Date                      Responsible Official                      \_\_\_\_\_  
Title/Position

\*Signature of the Environmental Reviewer for the Bridge Administration Program may be that of the preparer's.



USCG (State whether Draft, Final, or Supplemental) ENVIRONMENTAL IMPACT STATEMENT  
(Volume # / Total # of Volumes)

FOR

(Title of action)

DOCUMENT NUMBER: \_\_\_\_\_

PREPARED BY: (Responsible agency name(s) *and* contractor name, if appropriate, or prepared by: contractor name *for* responsible agency name(s))

(Location)

CONTACT INFORMATION: (Name, address, telephone/fax/e-mail, as appropriate)

ABSTRACT: (One-paragraph abstract of the document)

DATE OF PUBLICATION: \_\_\_\_\_

DATE COMMENTS MUST BE RECEIVED: \_\_\_\_\_

(For DEIS: allow at least 45 Days from date of publication)

(For FEIS: allow at least 30 Days from date of publication)

Date	*Preparer/Environmental Project Manager (as applicable)	Title/Position

Date	**Environmental Reviewer	Title/Position

In reaching my decision/recommendation on the USCG's proposed action, I have considered the information contained in this EIS on environmental impacts.

Date	Responsible Official	Title/Position

\*The USCG preparer signs for EIS's prepared in-house. The USCG environmental project manager signs for EIS's prepared by an applicant, a contractor, or another outside party.

\*\*Signature of the Environmental Reviewer for the Bridge Administration Program may be that of the preparer's.

USCG  
RECORD OF DECISION

The United States USCG has published a Final Environmental Impact Statement (FEIS) on the following project:

(Name of project)

(Location of project)

(Describe each of the following topics:)

The purpose and need for the project was:

Alternatives examined included:

Environmental consequences of the project include:

The decision is:

The environmentally preferable alternative(s) is (are):

I selected/did not select the environmentally preferable alternative because:

The following are the economic, technical, USCG statutory mission, national policy considerations (as applicable) that were weighed in reaching my decision: (Explain how these considerations, as applicable, entered into the decision making.)

All practicable means of avoiding or minimizing environmental harm from the selected alternative were/were not adopted because:

The following mitigation, monitoring, and enforcement has been adopted (if applicable):

In reaching my decision/recommendation on the USCG's proposed action, I have considered the information contained in the above mentioned FEIS on the potential for environmental impacts.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Responsible Official

\_\_\_\_\_  
Title/Position

**LIST OF STATES AND TERRITORIES THAT HAVE APPROVED COASTAL ZONE  
MANAGEMENT PLANS**

**\*STATES**

1. ALABAMA
2. ALASKA
3. CALIFORNIA
4. CONNECTICUT
5. DELAWARE
6. FLORIDA
7. GEORGIA
8. HAWAII
9. LOUISIANA
10. MAINE
11. MARYLAND
12. MASSACHUSETTS
13. MICHIGAN
14. MINNESOTA
15. MISSISSIPPI
16. NEW HAMPSHIRE
17. NEW JERSEY
18. NEW YORK
19. NORTH CAROLINA
20. OHIO
21. OREGON
22. PENNSYLVANNIA
23. RHODE ISLAND
24. SOUTH CAROLINA
25. TEXAS
26. VIRGINIA
27. WASHINGTON
28. WISCONSIN

**TERRITORIES**

1. AMERICAN SAMOA
2. GUAM
3. NORTHERN MARIANA ISLANDS
4. PUERTO RICO
5. VIRGIN ISLANDS

\*Note: Indiana is in the process of developing their plan.

## FORM AND CONTENT OF 4(f) STATEMENTS

1. These instructions are to supplement the 4(f) requirements of Attachment 2 to DOT Order 5610.1C.
2. Section 4(f) of the Department of Transportation Act states that special effort should be made to preserve the natural beauty of the countryside, public parks and recreation lands, wildlife and waterfowl refuges, and historic sites. Section 4(f) further states that the Secretary of Transportation (Commandant) shall not approve any program or project which requires the use of 4(f) lands (see paragraph 4.) unless:
  - a. There is no feasible and prudent alternative to the use of such lands, and;
  - b. Such program includes all possible planning to minimize harm to 4(f) lands resulting from such use.
3. Subsequent legal decisions have indicated that the protection of parklands and other 4(f) areas is of paramount importance; that such lands are not to be lost unless there are truly unusual factors present, or unless the cost or community disruption resulting from alternatives reaches extraordinary magnitudes; and that the Secretary (Commandant) cannot approve the destruction of parkland unless alternatives present unique problems.
4. Section 4(f) lands include any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge, or any land from an historic (including archaeological) site.
  - a. Publicly Owned land - Any land owned in fee simple or land subject to public easement or other interest in the land by a Federal, state, or local agency or entity.
  - b. Historic Site - For the purposes of Section 4(f), an historic site is significant only if it is on or eligible for inclusion on the National Register of Historic Places, or unless the USCG or the DOT lead Federal agency determines that the application of Section 4(f) is appropriate. Consultation with the State Historic Preservation Officer (SHPO) and the Keeper of the Register (DOI) is required to identify such properties, unless the USCG official and the SHPO have agreed that the property does not meet the eligibility criteria, then the Keeper of the Register need not be consulted for a determination.
  - c. Archaeological Site - Section 4(f) generally applies to archaeological sites on or eligible for the National Register. If the SHPO concurs in a USCG determination that a data recovery program will negate "an adverse" effect to an archaeological property on or eligible for the National Register, Section 4(f) does not normally apply. (See the Advisory Council Historic Preservation Handbook: Treatment of Archaeological Properties, November 26, 1980, Part II, Section X.)

- d. Multiple-Use Lands - Where Federal lands or other large public land holdings are managed for multiple uses under a statute authorizing such management, Section 4(f) applies only to portions of multiple-use lands that are used for or are designated as being for public park, recreation, wildlife or waterfowl refuge, or historic purposes. Significance is determined by the official having jurisdiction over the land (see paragraph 7).
  - e. Temporary 4(f)-Type Use of Acquired (Non-4(f)) Lands - This use shall not be subject to 4(f) actions if; (1) the land was not previously used for parks, recreation, wildlife or waterfowl refuge purposes or was not listed on or eligible for the National Register prior to acquisition by the transportation agency, and (2) the lease, permit or license clearly states that the use is temporary (time period specified or subject to the transportation agency owning the land) and that after that period the transportation use will commence.
  - f. The amount of land taken or affected is immaterial; the law clearly refers to any 4(f) lands having Federal, state, or local significance as determined by the officials having jurisdiction over the land. The 4(f) lands' significance must be determined as one entity and not be divided into significant and non-significant parcels.
  - g. Enhancement of the 4(f) lands by the proposed project is also immaterial; the Secretary (Commandant) must still approve the use of the land.
  - h. Also included are former 4(f) lands, if the transfer of ownership or the change in use was for the purpose of avoiding a Section 4(f) issue.
  - i. "Use of land" under Section 4(f) generally means the acquisition of title to or an easement in land for a transportation program or project. In unusual circumstances, serious adverse impacts such as severe increases in noise or air pollution, or access disruption may constitute a "constructive use," even where no acquisition is involved, and Section 4(f) would apply.
  - j. Facilities (e.g., roadside rest areas) located on 4(f) lands and provided by the transportation agency solely for the use by the users of the transportation facility will not normally be subject to Section 4(f).
  - k. Projects (e.g., pedestrian, bicycle or equestrian bridges) that require the use of 4(f) lands for recreation purposes will not normally be subject to Section 4(f).
5. The language of Section 4(f) and subsequent legal interpretations clearly indicate the need for a rigorous 4(f) statement to accompany any USCG project using lands under the protection of this statute. The 4(f) statement should include the information discussed in the following paragraphs.
  6. A comprehensive description of the 4(f) lands affected or taken by the project should be presented.

- a. The type and amount of lands required by the project should be indicated. This should include the acreage needed for permanent surface easements, aerial easements, underground easements, drainage and utility easements, etc., as well as that needed for temporary construction easements.
  - b. The existing 4(f) lands should be described including ownership, administrative jurisdiction, location, size, available recreational facilities, use, patronage, unique or irreplaceable qualities present, type of vegetation or landscaping, type of wildlife (including resident and migratory species), historical or cultural (including architectural or artistic) significance, etc.
  - c. The relationship of the 4(f) lands to other similarly used lands in the vicinity of the project should be clearly indicated.
  - d. Adverse impacts of the project on 4(f) lands should be discussed. This discussion should pay particular attention to the special nature of 4(f) lands and should include detailed information concerning the effect of the project on natural views, local historical values, pedestrian and other access, recreational use, vegetation, wildlife, etc. Care should be taken to include a rigorous analysis of aesthetic, air and water pollution, and noise impacts on 4(f) lands near and adjacent to the project. If these impacts are insignificant, the reasons for this determination should be given in detail.
  - e. Secondary impacts of the project on involved 4(f) lands should also be discussed, as these can often be of a greater magnitude than direct primary impacts. Such a discussion should include possible change in nearby land values that could lead to private development in the area which would reduce the natural beauty or scenic qualities of the 4(f) lands, increased access which may lead to excessive patronage and overuse of the lands, etc.
  - f. General statements made in the above discussions and descriptions should be supported by numerical data. In addition, maps, plans, elevations, pictorial drawings, photographs (including aerial photographs), or other graphics should be presented which show the affected 4(f) lands and their relationship to the proposed project. These graphics should be of sufficient scale and detail to allow an analysis of the use to be made.
7. A statement of the local, state, or national significance of the 4(f) lands should be presented. This statement should come from the officials having jurisdiction over the lands when at all possible, and should address the significance of the entire area involved, and the actual land affected or taken by the project. When such a statement cannot be obtained from the officials having jurisdiction, the lands will be presumed to be significant. Any statement of insignificance from whatever source is subject to review by the USCG for caprice.
  8. A complete description of all alternatives and their impacts that were considered in order to avoid effects on, or the taking of, 4(f) lands should be presented. The Secretary

(Commandant) cannot approve a project unless there is no feasible and prudent alternative to the use of involved 4(f) lands.

- a. Alternatives considered should be sincere attempts to avoid or reduce impacts on 4(f) lands and not those contrived to satisfy the letter of the law.
  - b. The USCG must critically examine the project as a whole and its relation to nearby 4(f) lands to determine if the applicant has considered all reasonable alternatives to avoid or minimize the use of these lands, including the "do nothing" or "status quo" alternative.
  - c. In order to evaluate the feasibility and prudence of the alternatives, rigorous and detailed information must be presented for each one. If the alternatives are determined not to be feasible and prudent this information should include evidence that they present truly unique and unusual technical problems or that they will result in costs or community disruptions that reach extraordinary magnitudes. (See *Citizens to Preserve Overton Park v. Volpe*, 401 U. S. 402 (2 ERC 1250) (1971).)
  - d. Evidence supporting determination on feasibility and prudence should include, but not be limited to:
    - (1) A description of each alternative, including a discussion of the type and amount of land required (especially through 4(f) lands), maps, plans, elevations, or other graphics, sufficient to assess potential impacts of the alternative.
    - (2) A cost estimate for each alternative, including figures showing percentage differences in total costs for the various alternatives (including the proposed project).
    - (3) A discussion of the environmental and community impacts of each alternative, including figures showing the number of people displaced, the number of homes or businesses removed, the degree of air and noise pollution caused by the alternative, and other numerical data that will allow a proper evaluation of the magnitude of the impacts to be made, if appropriate.
    - (4) An assessment of the technical or engineering feasibility of each alternative, which includes full consideration of new or innovative construction techniques.
9. If there is no feasible and prudent alternative to the use of 4(f) lands by the proposed project, then a description of measures to minimize harm to the protected area should be presented. The Secretary (Commandant) cannot approve a project unless it includes all possible planning to minimize harm to the involved 4(f) lands.
- a. The USCG must examine the relationship of the proposed project to the affected 4(f) lands and determine whether all possible measures to minimize harm were considered; it should ensure that the statement treated alternative designs, sites and/or routes.

- b. All planning undertaken to minimize harm to 4(f) lands should be described in detail. A statement of actions taken, or to be taken, to implement this planning should also be included, along with an estimated schedule showing when this implementation will take place.
- c. Measures to minimize harm should include, but not be limited to, the following:
  - (1) The replacement of land and facilities, or the provision of compensation adequate for the functional replacement of land and facilities.
  - (2) Measures to reduce visual intrusion and related aesthetic impacts, such as landscape screenings, appropriate architectural design, etc.
  - (3) Measures to reduce noise impacts, such as sound barriers, etc.
  - (4) Measures to reduce construction impacts, such as control of drainage and erosion, proper disposal of spoil material, protection of trees and other vegetation, control of temporary air and noise pollution, maintenance of vehicular and pedestrian access during construction, etc.
  - (5) Measures to enhance the natural beauty of the lands traversed, such as the provision of more usable landscaped open space in congested urban areas, etc.
- 10. Evidence of concurrence, or a description of efforts to obtain concurrence of officials having jurisdiction over Section 4(f) lands regarding the proposed action and measures planned to minimize harm should be presented. Evidence of consultation with grantor agencies, where land acquired with Federal grant money is involved, should also be presented. Concurrence of these officials to the proposed project, however, does not remove the necessity for the preparation of a detailed and rigorous 4(f) statement.
- 11. Approval of the 4(f) statement in accordance with Paragraph 2.D.8. of COMDTINST 16475.1D shall be accomplished by having the proper approving official sign a 4(f) statement determination approval page. This approval page shall contain the following paragraph:

"Based on this 4(f) statement, I have determined that there is no feasible and prudent alternative to the use of this 4(f) land(s) and that all possible planning to minimize harm to this land(s) has been accomplished."
- The dated approval page shall be inserted as the first page inside the cover of the final document.
- 12. Section 4(f) statements should be made a part of, and be supported by, data within Environmental Impact Statements, or USCG Supplementary Statements, whenever such are

prepared as part of a project, e.g., whenever the use of or effect on the 4(f) lands will "significantly affect the quality of the human environment."

- a. When incorporating a 4(f) statement into an EIS, as required by Paragraph 2.D.8. of National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1D, one of two methods for presentation of the 4(f) information may be used. The 4(f) statement may be presented as a complete separate section of the EIS; or the 4(f) information may be incorporated throughout the text of the EIS.
  - b. When the 4(f) statement is presented as a complete separate section of an EIS, that section must contain the detailed analysis of issues, alternatives, and mitigation measures to be implemented. A 4(f) statement presented in this manner shall be written in sufficient detail to allow the 4(f) section to stand independent of the EIS.
  - c. When the 4(f) information is incorporated throughout the text of an EIS, a summary of findings of the 4(f) investigation shall be presented in an appropriate section of the EIS. This summary should concisely describe the 4(f) issue and direct the reader to quickly locate detailed information needed to rigorously evaluate the 4(f) issue.
  - d. When a 4(f) statement is incorporated throughout the text of an EIS, the front cover of the EIS shall clearly indicate that the document is an Environmental Impact/Section 4(f) Statement.
  - e. When the 4(f) statement is incorporated throughout the text of an EIS, the requirement of paragraph 11 of this enclosure shall be combined with the EIS approval page.
13. Some uses of 4(f) lands will only minimally affect the 4(f) land. In such instances, the 4(f) statement shall be an independent document accompanied by a Finding of No Significant Impact (FONSI) or Categorical Exclusion Determination Statement.

**LIST OF RELEVANT ENVIRONMENTAL STATUTES  
AND EXECUTIVE ORDERS**

1. Abandoned Shipwreck Act (ASA) (43 U.S.C. 2101, *et seq.*)
2. American Indian Religious Freedom Act (AIRFA) (42 U.S.C. 1996, *et seq.*)
3. Antiquities Act (16 U.S.C. 433, *et seq.*)
4. Archeological and Historic Preservation Act (AHPA) (16 U.S.C. 469)
5. Archeological Resources Protection Act (ARPA) (16 U.S.C. 470 aa-11, *et seq.*)
6. Architectural Barriers Act (42 U.S.C. 4151, *et seq.*)
7. Clean Air Act (CAA) (P.L. 95-95 / 42 U.S.C. 7401, *et seq.*)
8. Clean Water Act of 1977 (CWA) (P.L. 95-217 / 33 U.S.C. 1251, *et seq.*)
9. Coastal Barrier Resources Act (CBRA) (P.L. 97-348 / 16 U.S.C. 3501, *et seq.*)
10. Coastal Zone Management Act of 1972 (CZMA) (P.L. 92-583 / 16 U.S.C. 1451, *et seq.*)
11. Community Environmental Response Facilitation Act (CERFA) (42 U.S.C. 9620 *et seq.*)
12. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), also commonly referred to as SUPERFUND (P.L. 96-510 / 26 U.S.C. 4611, *et seq.*)
13. Consultation and Coordination With Indian Tribal Governments (E.O. 13175, 65 FR 67249)
14. Coral Reef Protection (E.O. 13089, 63, FR 32701)
15. Department of Transportation Act, Section 4(f) (P.L. 89-670 / 49 U.S.C. 303, Section 4(f), *et seq.*)
16. Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001-11050, *et seq.*)
17. Endangered Species Act of 1973 (ESA) (P.L. 93-205 / 16 U.S.C. 1531, *et seq.*)
18. Energy Efficiency and Water Conservation at Federal Facilities (E.O. 12902, 59 FR 11463)
19. Environmental Effects Abroad of Major Federal Actions (E.O. 12114, 44 FR 1957)
20. Environmental Quality Improvement Act (P.L. 98-581 / 42 U.S.C. 4371, *et seq.*)
21. Farmlands Protection Policy Act (P.L. 97-98 / 7 U.S.C. 4201, *et seq.*)
22. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (E.O. 12898, 59 FR 7629)
23. Federal Compliance with Pollution Control Standards (E.O. 12088, 43 FR 47707)
24. Federal Insecticide, Fungicide, and Rodenticide Act (P.L. 86-139 / 7 U.S.C. 135, *et seq.*)
25. Federal Records Act (FRA) (44 U.S.C. 2101-3324, *et seq.*)
26. Federalism (E.O. 13083)
27. Fish and Wildlife Act of 1956 (P.L. 85-888 / 16 U.S.C. 742, *et seq.*)
28. Fish and Wildlife Coordination Act (P.L. 85-624 / 16 U.S.C. 661, *et seq.*)

29. Fisheries Conservation and Recovery Act of 1976 (P.L. 94-265 / 16 U.S.C. 1801, *et seq.*)
30. Flood Disaster Protection Act (42 U.S.C. 4001, *et seq.*)
31. Floodplain Management and Protection (E.O. 11988, 42 FR 26951)
32. Greening the Government Through Leadership in Environmental Management (E.O. 13148, 65 FR 24595)
33. Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition (E.O. 13101, 63 FR 49643)
34. Historic Sites Act (16 U.S.C. 46, *et seq.*)
35. Indian Sacred Sites (E.O. 13007, 61 FR 26771)
36. Intergovernmental Review of Federal Programs (E.O. 12372, 47 FR 30959)
37. Invasive Species (E.O. 13112, 64 FR 6183)
38. Locating Federal Facilities on Historic Properties in our Nation's Central Cities (E.O. 13006, 61 FR 26071)
39. Magnuson-Stevens Fishery Conservation and Management Act as amended through October 11, 1996. (16 U.S.C. 1801, *et seq.*)
40. Marine Mammal Protection Act of 1972 (MMPA) (P.L. 92-522 / 16 U.S.C. 1361, *et seq.*)
41. Marine Protected Areas (E.O. 13158, 65 FR 24909)
42. Marine Protection, Research, and Sanctuaries Act of 1972 (P.L. 92-532 / 16 U.S.C. 1431, *et seq.* and 33 U.S.C. 1401, *et seq.*)
43. Migratory Bird Treaty Act (16 USC 703-712, *et seq.*)
44. National Environmental Policy Act of 1969 (NEPA), (P.L. 91-190 /42 U.S.C. 4321, *et seq.*)
45. National Historic Preservation Act of 1966 (NHPA) (P.L. 89-665 / 16 U.S.C. 470, *et seq.*)
46. Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001, *et seq.*).
47. Noise Control Act of 1972 (P.L. 92-574 / 42 U.S.C. 4901, *et seq.*)
48. Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109, *et seq.*)
49. Protection and Enhancement of Cultural Environment (E.O. 11593, 36 FR 8921)
50. Protection and Enhancement of Environmental Quality (E.O. 11514, 35 FR 4247)
51. Protection of Children From Environmental Health Risks and Safety Risks (Executive Order 13045, 62 FR 19885.)
52. Protection of Wetlands (E.O. 11990, 42 FR 26961)
53. Recreational Fisheries (E.O. 12962, 60 FR. 307695)
54. Requiring Agencies to Purchase Energy Efficient Computer Equipment (E.O. 12845, 58 FR 21887)

55. Resource Conservation and Recovery Act of 1976 (RCRA), (P.L. 94-580 / 42 U.S.C. 6901, *et seq.*)
56. Responsibilities of Federal Agencies To Protect Migratory Birds (E.O. 13186, 66 FR 3853)
57. Safe Drinking Water Act (SDWA) (P.L. 93-523 / 42 U.S.C. 201, *et seq.*)
58. Toxic Substances Control Act (TOSCA) (7 U.S.C. 136, *et seq.*)
59. Wild and Scenic Rivers Act (P.L. 90-542 / 16 U.S.C. 1271, *et seq.*)