

ENVIRONMENTAL PROTECTION AGENCY

**BASIC DOCUMENTS CONCERNING
FEDERAL PROGRAMS TO CONTROL
ENVIRONMENTAL POLLUTION FROM
FEDERAL GOVERNMENT ACTIVITIES**



FEDERAL ACTIVITIES

FEBRUARY 1975

INTRODUCTION

The President and Congress have made a substantial commitment to clean up the Federal Government's installations and to ensure that its own multivariate activities do not imperil the environment.

A handbook on this subject was prepared by the Office of Federal Activities, Environmental Protection Agency, in 1972.

This 1975 revised handbook contains a compilation of documents dealing with Federal programs to control environmental pollution from Federal Government activities. This compilation of Legislation, Presidential Executive Orders, and Office of Management and Budget Circulars and Bulletins, falls into 12 categories:

- (1) Mandates Administered by the Environmental Protection Agency (EPA)
- (2) Mandates Administered by other Federal Agencies
- (3) Air
- (4) Cultural Preservation
- (5) Environmental Impact Statements (EIS's)
- (6) General Environmental Considerations
- (7) Noise
- (8) Pesticides
- (9) Radiation
- (10) Solid Wastes
- (11) Water
- (12) Wildlife and Resources Preservation

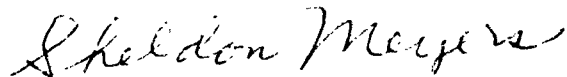
The first two categories contain a complete listing of the documents in this handbook, identified by both Title and United States Code or Code of Federal Regulations number, as appropriate. The remaining ten categories list the documents by title and relevant sections only.

U.S. Environmental Protection Agency
Region V, Library
230 South Dearborn Street
Chicago, Illinois 60604

This compilation is not intended to be an exhaustive catalog of the legal authorities for the Federal Government's internal environmental protection programs, but rather a handy reference for those who work with such programs on a daily basis.

EPA would be happy to receive suggestions for improvements to this handbook. Please send any comments to:

Office of Federal Activities
Environmental Protection Agency
Room 537, West Tower
4th and M Streets, S.W.
Washington, D.C. 20460

A handwritten signature in cursive script that reads "Sheldon Meyers".

Sheldon Meyers
Director
Office of Federal Activities

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CLEAN AIR ACT

Section 118

CONTROL OF POLLUTION FROM FEDERAL FACILITIES

"SEC. 118. Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge of air pollutants, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of air pollution to the same extent that any person is subject to such requirements. The President may exempt any emission source of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so, except that no exemption may be granted from section 111, and an exemption from section 112 may be granted only in accordance with section 112(c). No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

CLEAN AIR ACT

Section 306

FEDERAL PROCUREMENT

"SEC. 306. (a) No Federal agency may enter into any contract with any person who is convicted of any offense under section 113(c) (1) for the procurement of goods, materials, and services to perform such contract at any facility at which the violation which gave rise to such conviction occurred if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such a conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a).

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's air, the President shall, not more than 180 days after enactment of the Clean Air Act Amendments of 1970 cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken toward implementing the purpose and intent of this section, including but not limited to the progress and problems associated with implementation of this section.

CLEAN AIR ACT

Section 309

POLICY REVIEW

"SEC. 309. (a) The Administrator shall review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in any (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action other than a project for construction to which section 102(2)(C) of Public Law 91-190 applies, and (3) proposed regulations published by any department or agency of the Federal Government. Such written comment shall be made public at the conclusion of any such review.

"(b) In the event the Administrator determines that any such legislation, action, or regulation is unsatisfactory from the standpoint of public health or welfare or environmental quality, he shall publish his determination and the matter shall be referred to the Council on Environmental Quality.

Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11738

Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91-604), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), particularly section 508 of that Act as added by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as "the Air Act") and the Federal Water Pollution Control Act (hereinafter referred to as "the Water Act").

SEC. 2. *Designation of Facilities.* (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Air Act or section 309(c) of the Water Act. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

SEC. 3. *Contracts, Grants, or Loans.* (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in

whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

SEC. 4. *Procurement, Grant, and Loan Regulations.* The Federal Procurement Regulations, the Armed Services Procurement Regulations, and, to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Air Act, the Water Act, and standards issued pursuant thereto in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

SEC. 5. *Rules and Regulations.* The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

SEC. 6. *Cooperation and Assistance.* The head of each Federal agency shall take such steps as may be necessary to insure that all officers and employees of his agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Air Act or the Water Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such reports to the Administrator.

SEC. 7. *Enforcement.* The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

SEC. 8. *Exemptions—Reports to Congress.* (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator, any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall: (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted

for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes of contracts, grants, or loans, which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contractors or direct recipients of Federal assistance by way of contracts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

SEC. 9. *Related Actions.* The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provisions of the Air Act or the Water Act.

SEC. 10. *Applicability.* This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

SEC. 11. *Uniformity.* Rules, regulations, standards, and guidelines issued pursuant to this order and section 508 of the Water Act shall, to the maximum extent feasible, be uniform with regulations issued pursuant to this order, Executive Order No. 11602 of June 29, 1971, and section 306 of the Air Act.

SEC. 12. *Order Superseded.* Executive Order No. 11602 of June 29, 1971, is hereby superseded.



THE WHITE HOUSE,
September 10, 1973.

[FR Doc.73-19498 Filed 9-10-73; 4:35 pm]

Presidential Documents

Title 3—The President

EXECUTIVE ORDER 11752

Prevention, Control, and Abatement of Environmental Pollution at Federal Facilities

By virtue of the authority vested in me as President of the United States of America, including section 301 of title 3 of the United States Code, and in furtherance of the purpose and policies of the Clean Air Act, as amended (42 U.S.C. 1857), the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251), the Solid Waste Disposal Act, as amended (42 U.S.C. 3251), the Noise Control Act of 1972 (42 U.S.C. 4901), the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (7 U.S.C. 136), and the National Environmental Policy Act of 1969 (42 U.S.C. 4321), it is ordered as follows:

SECTION 1. *Policy.* It is the purpose of this order to assure that the Federal Government, in the design, construction, management, operation, and maintenance of its facilities, shall provide leadership in the nationwide effort to protect and enhance the quality of our air, water, and land resources through compliance with applicable standards for the prevention, control, and abatement of environmental pollution in full cooperation with State and local governments. Compliance by Federal facilities with Federal, State, interstate, and local substantive standards and substantive limitations, to the same extent that any person is subject to such standards and limitations, will accomplish the objective of providing Federal leadership and cooperation in the prevention of environmental pollution. In light of the principle of Federal supremacy embodied in the Constitution, this order is not intended, nor should it be interpreted, to require Federal facilities to comply with State or local administrative procedures with respect to pollution abatement and control.

SEC. 2. *Definitions.* As used in this order:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Federal agencies" means the departments, agencies, establishments, and instrumentalities of the executive branch.

(3) The term "State, interstate, and local agencies" means any of the following:

(A) a State agency designated by the Governor of that State as an official State agency responsible for enforcing State and local laws re-

THE PRESIDENT

lating to the prevention, control, and abatement of environmental pollution;

(B) any agency established by two or more States and having substantial powers or duties pertaining to the prevention, control, and abatement of environmental pollution;

(C) a city, county, or other local government authority charged with responsibility for enforcing ordinances or laws relating to the prevention, control, and abatement of environmental pollution; or

(D) an agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention, control, and abatement of environmental pollution.

(4) The term "facilities" means the buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal Government.

(5) The term "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 3. *Responsibilities.* (a) Heads of Federal agencies shall, with regard to all facilities under their jurisdiction in the United States:

(1) Ensure that applicable standards specified in section 4 of this order are met on a continuing basis.

(2) Cooperate with the Administrator and State, interstate, and local agencies in the prevention, control, and abatement of environmental pollution and, in accordance with guidelines issued by the Administrator, provide to the Administrator and to those agencies such information as is necessary to determine compliance with applicable standards. Such cooperation shall include development of an abatement plan and schedule for meeting applicable standards.

(3) Present to the Director of the Office of Management and Budget, annually, a plan to provide for such improvement in the design, construction, management, operation, and maintenance of existing facilities as may be necessary to meet applicable standards specified in section 4.

(4) Consider the environmental impact in the initial stages of planning for each new facility or modification to an existing facility in accordance with the National Environmental Policy Act.

(5) Include with all budget requests for the design and construction of new facilities or for modification of existing facilities funds for such measures as may be necessary to meet applicable standards specified in section 4. Budget requests shall reflect the most efficient alternative for meeting applicable standards.

(6) Consult, as appropriate, with the Administrator and with State and local agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

THE PRESIDENT

(7) Ensure that any funds appropriated and apportioned for the prevention, control, and abatement of environmental pollution are not used for any other purpose unless permitted by law and unless specifically approved by the Office of Management and Budget.

(b) Where activities are carried out at Federal facilities acquired by leasing or other Federal agreements, the head of the responsible agency may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to assume full responsibility for complying with standards for the prevention, control, and abatement of environmental pollution.

(c) Heads of Federal agencies responsible for the construction and operation of Federal facilities outside the United States shall assure that such facilities are operated so as to comply with the environmental pollution standards of general applicability in the host country or jurisdictions concerned.

(d) The Administrator shall:

(1) Provide technical advice and assistance to the heads of Federal agencies in connection with their duties and responsibilities under this order.

(2) Maintain such review of Federal facilities' compliance with the standards specified in section 4 as may be necessary.

(3) Provide liaison as required to assure that actions taken by Federal agencies pursuant to this order are coordinated with State, interstate, and local programs for the prevention, control, and abatement of environmental pollution.

(4) Mediate conflicts between Federal agencies and State, interstate, or local agencies in matters affecting the application of, or compliance with, applicable standards specified in section 4.

(5) Develop in consultation with the heads of other Federal agencies a coordinated strategy for Federal facility compliance with applicable standards specified in section 4 which incorporates, to the maximum extent practicable, common procedures for an integrated approach to Federal agency compliance with such standards, and issue such regulations and guidelines as are deemed necessary to facilitate implementation of that strategy and to provide a framework for coordination and cooperation among the Environmental Protection Agency, the other Federal agencies, and the State, interstate, and local agencies.

(6) Maintain a continuing review of the implementation of this order and, from time to time, report to the President on the progress of the Federal agencies in implementing this order.

SEC. 4. Standards. (a) Heads of Federal agencies shall ensure that all facilities under their jurisdiction are designed, constructed, managed, operated, and maintained so as to conform to the following requirements:

(1) Federal, State, interstate, and local air quality standards and emission limitations adopted in accordance with or effective under the provisions of the Clean Air Act, as amended.

THE PRESIDENT

(2) Federal, State, interstate, and local water quality standards and effluent limitations respecting the discharge or runoff of pollutants adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended.

(3) Federal regulations and guidelines respecting dumping of material into ocean waters adopted in accordance with the Marine Protection, Research, and Sanctuaries Act of 1972, and the Federal Water Pollution Control Act, as amended.

(4) Guidelines for solid waste recovery, collection, storage, separation, and disposal systems issued by the Administrator pursuant to the Solid Waste Disposal Act, as amended.

(5) Federal noise emission standards for products adopted in accordance with provisions of the Noise Control Act of 1972 and State, interstate, and local standards for control and abatement of environmental noise.

(6) Federal guidance on radiation and generally applicable environmental radiation standards promulgated or recommended by the Administrator and adopted in accordance with the Atomic Energy Act, as amended (42 U.S.C. 2011), and rules, regulations, requirements, and guidelines on discharges of radioactivity as prescribed by the Atomic Energy Commission.

(7) Federal regulations and guidelines respecting manufacture, transportation, purchase, use, storage, and disposal of pesticides promulgated pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972.

(b) In those cases in which there are no environmental pollution standards as specified in subsection (a) for a particular geographic area or class of Federal facilities, the Administrator, in consultation with appropriate Federal, State, interstate, and local agencies, may issue regulations, which shall be published in the *FEDERAL REGISTER*, establishing environmental pollution standards for the purpose of this order.

SEC. 5. Exemptions. (a) The heads of Federal agencies, in consultation with the Administrator, may, from time to time, identify facilities or uses thereof which are exempted from applicable standards specified in section 4 in the interest of national security or in extraordinary cases in which it is in the paramount interest of the United States. No such exemptions shall be made except as are permissible under applicable Federal law.

(b) In any case in which the Administrator does not agree with a determination to exempt a facility or use thereof from the provisions of this order, the head of the Federal agency making such a determination must have the approval of the Director of the Office of Management and Budget to exempt that facility or use thereof; except that, the Administrator is solely responsible for approval of exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972.

THE PRESIDENT

(c) The heads of Federal agencies shall present to the Director of the Office of Management and Budget at the end of each calendar year a report of all exemptions made during that year, together with the justification for each such exemption.

SEC. 6. *Saving Provisions.* Except to the extent that they are inconsistent with this order, all outstanding rules, regulations, orders, delegations, or other forms of administrative action issued, made, or otherwise taken under the order superseded by Section 7 hereof or relating to the subject of this order shall remain in full force and effect until amended, modified, or terminated by proper authority.

SEC. 7. *Order Superseded.* Executive Order No. 11507 of February 4, 1970, is hereby superseded.



THE WHITE HOUSE,
December 17, 1973.

[FR Doc.73-26869 Filed 12-17-73;12:45 pm]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE

ACT of 1972

Sections 4(a)(1), 18, and 19(b)

"SEC. 4. USE OF RESTRICTED USE PESTICIDES; CERTIFIED APPLICATORS.

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of applicators of pesticides. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES.

"The Administrator may, at his discretion, exempt any Federal or State agency from any provision of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION.

"(a) PROCEDURES.—The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831-835), the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472 H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

FEDERAL WATER POLLUTION CONTROL ACT of 1972
(FWPCA)

Section 307

"TOXIC AND PRETREATMENT EFFLUENT STANDARDS

"Sec. 307. (a) (1) The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such pollutants or combination of such pollutants) will be established under this section. The Administrator in publishing such list shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms.

"(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants which shall take into account the toxicity of the pollutant, its persistence, degradability, the usual or potential presence of the affected organisms in any waters, the importance of the affected organisms and the nature and extent of the effect of the toxic pollutant on such organisms, and he shall publish a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

"(3) If after a public hearing the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

"(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

"(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply. Any disposal of dredged material may be included in such a category of sources after consultation with the Secretary of the Army.

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promulgation.

"(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

"(b) (1) The Administrator shall, within one hundred and eighty days after the date of enactment of this title and from time to time thereafter, publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works (as defined in section 212 of this Act) which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge of any pollutant through treatment works (as defined in section 212 of this Act) which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works.

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Section 313

"(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure established by this subsection for promulgation of such standards.

"(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

"(4) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection.

"(c) In order to insure that any source introducing pollutants into a publicly owned treatment works, which source would be a new source subject to section 306 if it were to discharge pollutants, will not cause a violation of the effluent limitations established for any such treatment works, the Administrator shall promulgate pretreatment standards for the category of such sources simultaneously with the promulgation of standards of performance under section 306 for the equivalent category of new sources. Such pretreatment standards shall prevent the discharge of any pollutant into such treatment works, which pollutant may interfere with, pass through, or otherwise be incompatible with such works.

"(d) After the effective date of any effluent standard or prohibition or pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition or pretreatment standard.

"FEDERAL FACILITIES POLLUTION CONTROL

"SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemptions shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

Section 401

"TITLE IV—PERMITS AND LICENSES

"CERTIFICATION

"SEC. 401. (a) (1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with the applicable provisions of sections 301, 302, 306, and 307 of this Act. In the case of any such activity for which there is not an applicable effluent limitation or other limitation under sections 301 (b) and 302, and there is not an applicable standard under sections 306 and 307, the State shall so certify, except that any such certification shall not be deemed to satisfy section 511(c) of this Act. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

“(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with the applicable provisions of sections 301, 302, 306, and 307 of this Act because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301, 302, 306, or 307 of this Act.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate the applicable provisions of section 301, 302, 306, or 307 of this Act.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of the applicable provisions of section 301, 302, 306, or 307 of this Act.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) Except with respect to a permit issued under section 402 of this Act, in any case where actual construction of a facility has been lawfully commenced prior to April 3, 1970, no certification shall be required under this subsection for a license or permit issued after April 3, 1970, to operate such facility, except that any such license or permit issued without certification shall terminate April 3, 1973, unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

"(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations, or other limitations, standards, regulations, or requirements, or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations, standards, regulations, requirements, or criteria.

"(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

"(d) Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring require-

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ments necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, and with any other appropriate requirement of State law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"SEC. 402. (a) (1) Except as provided in sections 318 and 404 of this Act, the Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, notwithstanding section 301 (a), upon condition that such discharge will meet either all applicable requirements under sections 301, 302, 306, 307, 308, and 403 of this Act, or prior to the taking of necessary implementing actions relating to all such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

"(2) The Administrator shall prescribe conditions for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

"(3) The permit program of the Administrator under paragraph (1) of this subsection, and permits issued thereunder, shall be subject to the same terms, conditions, and requirements as apply to a State permit program and permits issued thereunder under subsection (b) of this section.

"(4) All permits for discharges into the navigable waters issued pursuant to section 13 of the Act of March 3, 1899, shall be deemed to be permits issued under this title, and permits issued under this title shall be deemed to be permits issued under section 13 of the Act of March 3, 1899, and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

"(5) No permit for a discharge into the navigable waters shall be issued under section 13 of the Act of March 3, 1899, after the date of enactment of this title. Each application for a permit under section 13 of the Act of March 3, 1899, pending on the date of enactment of this Act shall be deemed to be an application for a permit under this section. The Administrator shall authorize a State, which he determines has the capability of administering a permit program which will carry out the objective of this Act, to issue permits for discharges into the navigable waters within the jurisdiction of such State. The Administrator may exercise the authority granted him by the preceding sentence only during the period which begins on the date of enactment of this Act and ends either on the ninetieth day after the date of the first promulgation of guidelines required by section 304 (h) (2) of this Act, or the date of approval by the Administrator of a permit program for such State under subsection (b) of this section, whichever date first occurs, and no such authorization to a State shall extend beyond the last day of such period. Each such permit shall be subject to such conditions as the Administrator determines are necessary to carry out the provisions of this Act. No such permit shall issue if the Administrator objects to such issuance.

"(b) At any time after the promulgation of the guidelines required by subsection (h) (2) of section 304 of this Act, the Governor of each State desiring to administer its own permit program for discharges

into navigable waters within its jurisdiction may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which—

"(A) apply, and insure compliance with, any applicable requirements of sections 301, 302, 306, 307, and 403;

"(B) are for fixed terms not exceeding five years; and

"(C) can be terminated or modified for cause including, but not limited to, the following:

"(i) violation of any condition of the permit;

"(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(iii) change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

"(D) control the disposal of pollutants into wells;

"(2) (A) To issue permits which apply, and insure compliance with, all applicable requirements of section 308 of this Act, or

"(B) To inspect, monitor, enter, and require reports to at least the same extent as required in section 308 of this Act;

"(3) To insure that the public, and any other State the waters of which may be affected, receive notice of each application for a permit and to provide an opportunity for public hearing before a ruling on each such application;

"(4) To insure that the Administrator receives notice of each application (including a copy thereof) for a permit;

"(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

"(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Secretary of the department in which the Coast Guard is operating, anchorage and navigation of any of the navigable waters would be substantially impaired thereby;

"(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement;

"(8) To insure that any permit for a discharge from a publicly owned treatment works includes conditions to require adequate notice to the permitting agency of (A) new introductions into such works of pollutants from any source which would be a new source as defined in section 306 if such source were discharging pollutants, (B) new introductions of pollutants into such works from a source which would be subject to section 301 if it were discharging such pollutants, or (C) a substantial change in volume or character of pollutants being introduced into such works by a source introducing pollutants into

such works at the time of issuance of the permit. Such notice shall include information on the quality and quantity of effluent to be introduced into such treatment works and any anticipated impact of such change in the quantity or quality of effluent to be discharged from such publicly owned treatment works; and

"(9) To insure that any industrial user of any publicly owned treatment works will comply with sections 204(b), 307, and 308.

"(c) (1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those navigable waters subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h) (2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

"(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h) (2) of this Act.

"(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(d) (1) Each State shall transmit to the Administrator a copy of each permit application received by such State and provide notice to the Administrator of every action related to the consideration of such permit application, including each permit proposed to be issued by such State.

"(2) No permit shall issue (A) if the Administrator within ninety days of the date of his notification under subsection (b) (5) of this section objects in writing to the issuance of such permit, or (B) if the Administrator within ninety days of the date of transmittal of the proposed permit by the State objects in writing to the issuance of such permit as being outside the guidelines and requirements of this Act.

"(3) The Administrator may, as to any permit application, waive paragraph (2) of this subsection.

"(e) In accordance with guidelines promulgated pursuant to subsection (h) (2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this section at the time he approves a program pursuant to subsection (b) of this section for any category (including any class, type, or size within such category) of point sources within the State submitting such program.

"(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(g) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the department in which the Coast Guard is operating,

establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

"(h) In the event any condition of a permit for discharges from a treatment works (as defined in section 212 of this Act) which is publicly owned is violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed in a court of competent jurisdiction to restrict or prohibit the introduction of any pollutant into such treatment works by a source not utilizing such treatment works prior to the finding that such condition was violated.

"(i) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act.

"(j) A copy of each permit application and each permit issued under this section shall be available to the public. Such permit application or permit, or portion thereof, shall further be available on request for the purpose of reproduction.

"(k) Compliance with a permit issued pursuant to this section shall be deemed compliance, for purposes of sections 309 and 505, with sections 301, 302, 306, 307, and 403, except any standard imposed under section 307 for a toxic pollutant injurious to human health. Until December 31, 1974, in any case where a permit for discharge has been applied for pursuant to this section, but final administrative disposition of such application has not been made, such discharge shall not be a violation of (1) section 301, 306, or 402 of this Act, or (2) section 13 of the Act of March 3, 1899, unless the Administrator or other plaintiff proves that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application. For the 180-day period beginning on the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, in the case of any point source discharging any pollutant or combination of pollutants immediately prior to such date of enactment which source is not subject to section 13 of the Act of March 3, 1899, the discharge by such source shall not be a violation of this Act if such a source applies for a permit for discharge pursuant to this section within such 180-day period.

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Sections 404 and 508

"PERMITS FOR DREDGED OR FILL MATERIAL

"Sec. 404. (a) The Secretary of the Army, acting through the Chief of Engineers, may issue permits, after notice and opportunity for public hearings for the discharge of dredged or fill material into the navigable waters at specified disposal sites.

"(b) Subject to subsection (c) of this section, each such disposal site shall be specified for each such permit by the Secretary of the Army (1) through the application of guidelines developed by the Administrator, in conjunction with the Secretary of the Army, which guidelines shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under section 403(c), and (2) in any case where such guidelines under clause (1) alone would prohibit the specification of a site, through the application additionally of the economic impact of the site on navigation and anchorage.

"(c) The Administrator is authorized to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and he is authorized to deny or restrict the use of any defined area for specification (including the withdrawal of specification) as a disposal site, whenever he determines, after notice and opportunity for public hearings, that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas. Before making such determination, the Administrator shall consult with the Secretary of the Army. The Administrator shall set forth in writing and make public his findings and his reasons for making any determination under this subsection.

"FEDERAL PROCUREMENT

"Sec. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309 (c) of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

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Section 511

"OTHER AFFECTED AUTHORITY

"Sec. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of the Army (A) to maintain navigation or (B) under the Act of March 3, 1899 (30 Stat. 1112); except that any permit issued under section 404 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Act of March 3, 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

"(b) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441-451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

"(c) (1) Except for the provision of Federal financial assistance for the purpose of assisting the construction of publicly owned treatment works as authorized by section 201 of this Act, and the issuance of a permit under section 402 of this Act for the discharge of any pollutant by a new source as defined in section 306 of this Act, no action of the Administrator taken pursuant to this Act shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852); and

"(2) Nothing in the National Environmental Policy Act of 1969 (83 Stat. 852) shall be deemed to—

"(A) authorize any Federal agency authorized to license or permit the conduct of any activity which may result in the discharge of a pollutant into the navigable waters to review any effluent limitation or other requirement established pursuant to this Act or the adequacy of any certification under section 401 of this Act; or

"(B) authorize any such agency to impose, as a condition precedent to the issuance of any license or permit, any effluent limitation other than any such limitation established pursuant to this Act.

MARINE PROTECTION, RESEARCH, AND SANCTUARIES

ACT of 1972
(MPR and SA)

Section 101

TITLE I—OCEAN DUMPING

PROHIBITED ACTS

SEC. 101. (a) No person shall transport from the United States any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or except as may be authorized in a permit issued under this title, and subject to regulations issued under section 108 hereof by the Secretary of the Department in which the Coast Guard is operating, any other material for the purpose of dumping it into ocean waters.

(b) No person shall dump any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or, except as may be authorized in a permit issued under this title, any other material, transported from any location outside the United States, (1) into the territorial sea of the United States, or (2) into a zone contiguous to the territorial sea of the United States, extending to a line twelve nautical miles seaward from the base line from which the breadth of the territorial sea is measured, to the extent that it may affect the territorial sea or the territory of the United States.

(c) No officer, employee, agent, department, agency, or instrumentality of the United States shall transport from any location outside the United States any radiological, chemical, or biological warfare agent or any high-level radioactive waste, or, except as may be authorized in a permit issued under this title, any other material for the purpose of dumping it into ocean waters.

Section 102

ENVIRONMENTAL PROTECTION AGENCY PERMITS

SEC. 102. (a) Except in relation to dredged material, as provided for in section 103 of this title, and in relation to radiological, chemical, and biological warfare agents and high-level radioactive waste, as provided for in section 101 of this title, the Administrator may issue permits, after notice and opportunity for public hearings, for the transportation from the United States or, in the case of an agency or instrumentality of the United States, for the transportation from a location outside the United States, of material for the purpose of dumping it into ocean waters, or for the dumping of material into the waters described in section 101(b), where the Administrator determines that such dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities. The Administrator shall establish and apply criteria for reviewing and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

- (A) The need for the proposed dumping.
- (B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.
- (C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines and beaches.
- (D) The effect of such dumping on marine ecosystems, particularly with respect to—
 - (i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes.
 - (ii) potential changes in marine ecosystem diversity, productivity, and stability, and
 - (iii) species and community population dynamics.
- (E) The persistence and permanence of the effects of the dumping.
- (F) The effect of dumping particular volumes and concentrations of such materials.
- (G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.
- (H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and non-living resource exploitation.
- (I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf.

In establishing or revising such criteria, the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. With respect to such criteria as may affect the civil works program of the Department of the Army, the Administrator shall also consult with the Secretary. In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary. No permit shall be issued for a dumping of material which will violate applicable water quality standards.

(b) The Administrator may establish and issue various categories of permits, including the general permits described in section 104(c).

(c) The Administrator may, considering the criteria established pursuant to subsection (a) of this section, designate recommended sites or times for dumping and, when he finds it necessary to protect critical areas, shall, after consultation with the Secretary, also designate sites or times within which certain materials may not be dumped.

(d) No permit is required under this title for the transportation for dumping or the dumping of fish wastes, except when deposited in harbors or other protected or enclosed coastal waters, or where the Administrator finds that such deposits could endanger health, the environment, or ecological systems in a specific location. Where the Administrator makes such a finding, such material may be deposited only as authorized by a permit issued by the Administrator under this section.

(MPR and SA)

Section 103

CORPS OF ENGINEERS PERMITS

SEC. 103. (a) Subject to the provisions of subsections (b), (c), and (d) of this section, the Secretary may issue permits, after notice and opportunity for public hearings, for the transportation of dredged material for the purpose of dumping it into ocean waters, where the Secretary determines that the dumping will not unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities.

(b) In making the determination required by subsection (a), the Secretary shall apply those criteria, established pursuant to section 102(a), relating to the effects of the dumping. Based upon an evaluation of the potential effect of a permit denial on navigation, economic and industrial development, and foreign and domestic commerce of the United States, the Secretary shall make an independent determination as to the need for the dumping. The Secretary shall also make an independent determination as to other possible methods of disposal, and as to appropriate locations for the dumping. In considering appropriate locations, he shall, to the extent feasible, utilize the recommended sites designated by the Administrator pursuant to section 102(c).

(c) Prior to issuing any permit under this section, the Secretary shall first notify the Administrator of his intention to do so. In any case in which the Administrator disagrees with the determination of the Secretary as to compliance with the criteria established pursuant to section 102(a) relating to the effects of the dumping or with the restrictions established pursuant to section 102(c) relating to critical areas, the determination of the Administrator shall prevail. Unless the Administrator grants a waiver pursuant to subsection (d), the Secretary shall not issue a permit which does not comply with such criteria and with such restrictions.

(d) If, in any case, the Secretary finds that, in the disposition of dredged material, there is no economically feasible method or site available other than a dumping site the utilization of which would result in non-compliance with the criteria established pursuant to section 102(a) relating to the effects of dumping or with the restrictions established pursuant to section 102(c) relating to critical areas, he shall so certify and request a waiver from the Administrator of the specific requirements involved. Within thirty days of the receipt of the waiver request, unless the Administrator finds that the dumping of the material will result in an unacceptably adverse impact on municipal water supplies, shell-fish beds, wildlife, fisheries (including spawning and breeding areas), or recreational areas, he shall grant the waiver.

(e) In connection with Federal projects involving dredged material, the Secretary may, in lieu of the permit procedure, issue regulations which will require the application to such projects of the same criteria, other factors to be evaluated, the same procedures, and the same requirements which apply to the issuance of permits under subsections (a), (b), (c), and (d) of this section.

(MPR and SA)

Section 104

PERMIT CONDITIONS

SEC. 104. (a) Permits issued under this title shall designate and include (1) the type of material authorized to be transported for dumping or to be dumped; (2) the amount of material authorized to be transported for dumping or to be dumped; (3) the location where such transport for dumping will be terminated or where such dumping will occur; (4) the length of time for which the permits are valid and their expiration date; (5) any special provisions deemed necessary by the Administrator or the Secretary, as the case may be, after consultation with the Secretary of the Department in which the Coast Guard is operating, for the monitoring and surveillance of the transportation or dumping; and (6) such other matters as the Administrator or the Secretary, as the case may be, deems appropriate.

(b) The Administrator or the Secretary, as the case may be, may prescribe such processing fees for permits and such reporting requirements for actions taken pursuant to permits issued by him under this title as he deems appropriate.

(c) Consistent with the requirements of sections 102 and 103, but in lieu of a requirement for specific permits in such case, the Administrator or the Secretary, as the case may be, may issue general permits for the transportation for dumping, or dumping, or both, of specified materials or classes of materials for which he may issue permits, which he determines will have a minimal adverse environmental impact.

(d) Any permit issued under this title shall be reviewed periodically and, if appropriate, revised. The Administrator or the Secretary, as the case may be, may limit or deny the issuance of permits, or he may alter or revoke partially or entirely the terms of permits issued by him under this title, for the transportation for dumping, or for the dumping, or both, of specified materials or classes of materials, where he finds that such materials cannot be dumped consistently with the criteria and other factors required to be applied in evaluating the permit application. No action shall be taken under this subsection unless the affected person or permittee shall have been given notice and opportunity for a hearing on such action as proposed.

(e) The Administrator or the Secretary, as the case may be, shall require an applicant for a permit under this title to provide such information as he may consider necessary to review and evaluate such application.

(f) Information received by the Administrator or the Secretary, as the case may be, as a part of any application or in connection with any permit granted under this title shall be available to the public as a matter of public record, at every stage of the proceeding. The final determination of the Administrator or the Secretary, as the case may be, shall be likewise available.

(g) A copy of any permit issued under this title shall be placed in a conspicuous place in the vessel which will be used for the transportation or dumping authorized by such permit, and an additional copy shall be furnished by the issuing official to the Secretary of the department in which the Coast Guard is operating, or its designee.

(MPR and SA)

Section 106 and 108

RELATIONSHIP TO OTHER LAWS

SEC. 106. (a) After the effective date of this title, all licenses, permits, and authorizations other than those issued pursuant to this title shall be void and of no legal effect, to the extent that they purport to authorize any activity regulated by this title, and whether issued before or after the effective date of this title.

(b) The provisions of subsection (a) shall not apply to actions taken before the effective date of this title under the authority of the Rivers and Harbors Act of 1899 (30 Stat. 1151), as amended (33 U.S.C. 401 et. seq.).

(c) Prior to issuing any permit under this title, if it appears to the Administrator that the disposition of material, other than dredged material, may adversely affect navigation in the territorial sea of the United States, or in the approaches to any harbor of the United States, or may create an artificial island on the Outer Continental Shelf, the Administrator shall consult with the Secretary and no permit shall be issued if the Secretary determines that navigation will be unreasonably impaired.

(d) After the effective date of this title, no State shall adopt or enforce any rule or regulation relating to any activity regulated by this title. Any State may, however, propose to the Administrator criteria relating to the dumping of materials into ocean waters within its jurisdiction, or into other ocean waters to the extent that such dumping may affect waters within the jurisdiction of such State, and if the Administrator determines, after notice and opportunity for hearing, that the proposed criteria are not inconsistent with the purposes of this title, may adopt those criteria and may issue regulations to implement such criteria. Such determination shall be made by the Administrator within one hundred and twenty days of receipt of the proposed criteria. For the purposes of this subsection, the term "State" means any State, interstate or regional authority, Federal territory or Commonwealth or the District of Columbia.

(e) Nothing in this title shall be deemed to affect in any manner or to any extent any provision of the Fish and Wildlife Coordination Act as amended (16 U.S.C. 661-666c).

REGULATIONS

SEC. 108. In carrying out the responsibilities and authority conferred by this title, the Administrator, the Secretary, and the Secretary of the department in which the Coast Guard is operating are authorized to issue such regulations as they may deem appropriate.

(MPR and SA)
Sections 301 and 302

TITLE III—MARINE SANCTUARIES

SEC. 301. Notwithstanding the provisions of subsection (h) of section 3 of this Act, the term "Secretary", when used in this title, means Secretary of Commerce.

SEC. 302. (a) The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administrator, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

(b) Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 2 of title I of the Act of May 22, 1953 (67 Stat. 29), the Secretary shall consult with, and give due consideration to the views of, the responsible officials of the State involved. As to such waters, a designation under this section shall become effective

sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.

(c) When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

(d) The Secretary shall submit an annual report to the Congress, on or before November 1 of each year, setting forth a comprehensive review of his actions during the previous fiscal year undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

(f) After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this title and can be carried out within the regulations promulgated under this section.

(g) The regulations issued pursuant to subsection (f) shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States.

NOISE CONTROL ACT OF 1972

Section 4

FEDERAL PROGRAMS

SEC. 4. (a) The Congress authorizes and directs that Federal agencies shall, to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programs within their control in such a manner as to further the policy declared in section 2(b).

(b) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government—

(1) having jurisdiction over any property or facility, or

(2) engaged in any activity resulting, or which may result, in the emission of noise, shall comply with Federal, State, interstate, and local requirements respecting control and abatement of environmental noise to the same extent that any person is subject to such requirements. The President may exempt any single activity or facility, including noise emission sources or classes thereof, of any department, agency, or instrumentality in the executive branch from compliance with any such requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption, other than for those products referred to in section 3(3)(B) of this Act,

may be granted from the requirements of sections 6, 17, and 18 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

(c) (1) The Administrator shall coordinate the programs of all Federal agencies relating to noise research and noise control. Each Federal agency shall, upon request, furnish to the Administrator such information as he may reasonably require to determine the nature, scope, and results of the noise-research and noise-control programs of the agency.

(2) Each Federal agency shall consult with the Administrator in prescribing standards or regulations respecting noise. If at any time the Administrator has reason to believe that a standard or regulation, or any proposed standard or regulation, of any Federal agency respecting noise does not protect the public health and welfare to the extent he believes to be required and feasible, he may request such agency to review and report to him on the advisability of revising such standard or regulation to provide such protection. Any such request may be published in the Federal Register and shall be accompanied by a detailed statement of the information on which it is based. Such agency shall complete the requested review and report to the Administrator within such time as the Administrator specifies in the request, but such time specified may not be less than ninety days from the date the request was made. The report shall be published in the Federal Register and shall be accompanied by a detailed statement of the findings and conclusions of the agency respecting the revision of its standard or regulation. With respect to the Federal Aviation Administration, section 611 of the Federal Aviation Act of 1958 (as amended by section 7 of this Act) shall apply in lieu of this paragraph.

(3) On the basis of regular consultation with appropriate Federal agencies, the Administrator shall compile and publish, from time to time, a report on the status and progress of Federal activities relating to noise research and noise control. This report shall describe the noise-control programs of each Federal agency and assess the contributions of those programs to the Federal Government's overall efforts to control noise.

SOLID WASTE DISPOSAL ACT OF 1965 (SWDA)

Section 209

RECOMMENDED GUIDELINES

SEC. 209.⁹ (a) The Secretary shall, in cooperation with appropriate State, Federal, interstate, regional, and local agencies, allowing for public comment by other interested parties, as soon as practicable after the enactment of the Resource Recovery Act of 1970, recommend to appropriate agencies and publish in the Federal Register guidelines for solid waste recovery, collection, separation, and disposal systems (including systems for private use), which shall be consistent with public health and welfare, and air and water quality standards and adaptable to appropriate land-use plans. Such guidelines shall apply to such systems whether on land or water and shall be revised from time to time.

(b)(1) The Secretary shall, as soon as practicable, recommend model codes, ordinances, and statutes which are designed to implement this section and the purposes of this Act.

(2) The Secretary shall issue to appropriate Federal, interstate, regional, and local agencies information on technically feasible solid waste collection, separation, disposal, recycling, and recovery methods, including data on the cost of construction, operation, and maintenance of such methods.

SWDA

Section 211

APPLICABILITY OF SOLID WASTE DISPOSAL GUIDELINES TO
EXECUTIVE AGENCIES

SEC. 211.¹¹ (a) (1) If—

(A) an Executive agency (as defined in section 105 of title 5, United States Code) has jurisdiction over any real property or facility the operation or administration of which involves such agency in solid waste disposal activities, or

(B) such an agency enters into a contract with any person for the operation by such person of any Federal property or facility, and the performance of such contract involves such person in solid waste disposal activities,

then such agency shall insure compliance with the guidelines recommended under section 209 and the purposes of this Act in the operation or administration of such property or facility, or the performance of such contract, as the case may be.

(2) Each Executive agency which conducts any activity—

(A) which generates solid waste, and

(B) which, if conducted by a person other than such agency, would require a permit or license from such agency in order to dispose of such solid waste, shall insure compliance with such guidelines and the purposes of this Act in conducting such activity.

(3) Each Executive agency which permits the use of Federal property for purposes of disposal of solid waste shall insure compliance with such guidelines and the purposes of this Act in the disposal of such waste.

(4) The President shall prescribe regulations to carry out this subsection.

(b) Each Executive agency which issues any license or permit for disposal of solid waste shall, prior to the issuance of such license or permit, consult with the Secretary to insure compliance with guidelines recommended under section 209 and the purposes of this Act.

SAFE DRINKING WATER ACT OF 1974

Section 1447

"FEDERAL AGENCIES

"SEC. 1447. (a) Each Federal agency having jurisdiction over any federally owned or maintained public water system shall comply with all national primary drinking water regulations in effect under section 1412, and each Federal agency shall comply with any applicable underground injection control program, and shall keep such records and submit such reports as may be required under such program.

"(b) The Administrator shall waive compliance with subsection (a) upon request of the Secretary of Defense and upon a determination by the President that the requested waiver is necessary in the interest of national security. The Administrator shall maintain a written record of the basis upon which such waiver was granted and make such record available for in camera examination when relevant in a judicial proceeding under this title. Upon the issuance of such a waiver, the Administrator shall publish in the Federal Register a notice that the waiver was granted for national security purposes, unless, upon the request of the Secretary of Defense, the Administrator determines to omit such publication because the publication itself would be contrary to the interests of national security, in which event the Administrator shall submit notice to the Armed Services Committee of the Senate and House of Representatives.

AIRPORT AND AIRWAY DEVELOPMENT ACT (AADA)

Section 12

SEC. 12. NATIONAL AIRPORT SYSTEM PLAN.

(f) CONSULTATION CONCERNING ENVIRONMENTAL CHANGES.—In carrying out this section, the Secretary shall consult with and consider the views and recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality. The recommendations of the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the Secretary of Agriculture, and the National Council on Environmental Quality, with regard to the preservation of environmental quality, shall, to the extent that the Secretary of Transportation determines to be feasible, be incorporated in the national airport system plan.

AADA

Section 16

SEC. 16. SUBMISSION AND APPROVAL OF PROJECTS FOR AIRPORT DEVELOPMENT.

(c) APPROVAL.—

(1) All airport development projects shall be subject to the approval of the Secretary, which approval may be given only if he is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for the development of the area in which the airport is located and will contribute to the accomplishment of the purposes of this part;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this part;

(C) the project will be completed without undue delay;

(D) the public agency or public agencies which submitted the project application have legal authority to engage in the airport development as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this part have been or will be met.

No airport development project may be approved by the Secretary with respect to any airport unless a public agency holds good title, satisfactory to the Secretary, to the landing area of the airport or the site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(2) No airport development project may be approved by the Secretary which does not include provision for installation of the landing aids specified in subsection (d) of section 17 of this part and determined by him to be required for the safe and efficient use of the airport by aircraft taking into account the category of the airport and the type and volume of traffic utilizing the airport.

(3) No airport development project may be approved by the Secretary unless he is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(4) It is declared to be national policy that airport development projects authorized pursuant to this part shall provide for the protection and enhancement of the natural resources and the quality of environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretaries of the Interior and Health, Education, and Welfare with regard to the effect that any project involving airport location, a major runway extension, or runway location may have on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect.

(d) HEARINGS.—

(1) No airport development project involving the location of an airport, an airport runway, or a runway extension may be approved by the Secretary unless the public agency sponsoring the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport location and its consistency with the goals and objectives of such urban planning as has been carried out by the community.

(2) When hearings are held under paragraph (1) of this subsection, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(e) AIR AND WATER QUALITY.—

(1) The Secretary shall not approve any project application for a project involving airport location, a major runway extension, or runway location unless the Governor of the State in which such project may be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved or where such standards have been promulgated by the Secretary of the Interior or the Secretary of Health, Education, and Welfare, certification shall be obtained from the appropriate Secretary. Notice of certification or of refusal to certify shall be provided within sixty days after the project application is received by the Secretary.

(2) The Secretary shall condition approval of any such project application on compliance during construction and operation with applicable air and water quality standards.

Title 40—Protection of the Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

PART 1500—PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS: GUIDELINES

On May 2, 1973, the Council on Environmental Quality published in the *FEDERAL REGISTER*, for public comment, a proposed revision of its guidelines for the preparation of environmental impact statements. Pursuant to the National Environmental Policy Act (P.L. 91-190, 42 U.S.C. 4321 et seq.) and Executive Order 11514 (35 FR 4247) all Federal departments, agencies, and establishments are required to prepare such statements in connection with their proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The authority for the Council's guidelines is set forth below in § 1500.1. The specific policies to be implemented by the guidelines is set forth below in § 1500.2.

The Council received numerous comments on its proposed guidelines from environmental groups, Federal, State, and local agencies, industry, and private individuals. Two general themes were presented in the majority of the comments. First, the Council should increase the opportunity for public involvement in the impact statement process. Second, the Council should provide more detailed guidance on the responsibilities of Federal agencies in light of recent court decisions interpreting the Act. The proposed guidelines have been revised in light of the specific comments relating to these general themes, as well as other comments received, and are now being issued in final form.

The guidelines will appear in the Code of Federal Regulations in Title 40, Chapter V, at Part 1500. They are being codified, in part, because they affect State and local governmental agencies, environmental groups, industry, and private individuals, in addition to Federal agencies, to which they are specifically directed, and the resultant need to make them widely and readily available.

Sec.

- 1500.1 Purpose and authority.
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Sec.

Appendix I Summary to accompany draft and final statements.

Appendix II Areas of environmental impact and Federal agencies and Federal State agencies with jurisdiction by law or special expertise to comment thereon.

Appendix III Offices within Federal agencies and Federal-State agencies for information regarding the agencies' NEPA activities and for receiving other agencies' impact statements for which comments are requested.

Appendix IV State and local agency review of impact statements.

AUTHORITY: National Environmental Act (P.L. 91-190, 42 U.S.C. 4321 et seq.) and Executive Order 11514.

§ 1500.1 Purpose and authority.

(a) This directive provides guidelines to Federal departments, agencies, and establishments for preparing detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment as required by section 102(2)(C) of the National Environmental Policy Act (P.L. 91-190, 42 U.S.C. 4321 et seq.) (hereafter "the Act"). Underlying the preparation of such environmental statements is the mandate of both the Act and Executive Order 11514 (35 FR 4247) of March 5, 1970, that all Federal agencies, to the fullest extent possible, direct their policies, plans and programs to protect and enhance environmental quality. Agencies are required to view their actions in a manner calculated to encourage productive and enjoyable harmony between man and his environment, to promote efforts preventing or eliminating damage to the environment and biosphere and stimulating the health and welfare of man, and to enrich the understanding of the ecological systems and natural resources important to the Nation. The objective of section 102(2)(C) of the Act and of these guidelines is to assist agencies in implementing these policies. This requires agencies to build into their decisionmaking process, beginning at the earliest possible point, an appropriate and careful consideration of the environmental aspects of proposed action in order that adverse environmental effects may be avoided or minimized and environmental quality previously lost may be restored. This directive also provides guidance to Federal, State, and local agencies and the public in commenting on statements prepared under these guidelines.

(b) Pursuant to section 204(3) of the Act the Council on Environmental Quality (hereafter "the Council") is assigned the duty and function of reviewing and appraising the programs and activities of the Federal Government, in the light of the Act's policy, for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto. Section 102(2)(B) of the Act directs all Federal agencies to identify and develop methods and procedures, in consultation with the Council, to insure that unquantified environmental values be given appropriate con-

sideration in decisionmaking along with economic and technical considerations; section 102(2)(C) of the Act directs that copies of all environmental impact statements be filed with the Council; and section 102(2)(H) directs all Federal agencies to assist the Council in the performance of its functions. These provisions have been supplemented in sections 3(b) and (i) of Executive Order 11514 by directions that the Council issue guidelines to Federal agencies for preparation of environmental impact statements and such other instructions to agencies and requests for reports and information as may be required to carry out the Council's responsibilities under the Act.

§ 1500.2 Policy.

(a) As early as possible and in all cases prior to agency decision concerning recommendations or favorable reports on proposals for (1) legislation significantly affecting the quality of the human environment (see §§ 1500.5(i) and 1500.12) (hereafter "legislative actions") and (2) all other major Federal actions significantly affecting the quality of the human environment (hereafter "administrative actions"), Federal agencies will, in consultation with other appropriate Federal, State and local agencies and the public assess in detail the potential environmental impact.

(b) Initial assessments of the environmental impacts of proposed action should be undertaken concurrently with initial technical and economic studies and, where required, a draft environmental impact statement prepared and circulated for comment in time to accompany the proposal through the existing agency review processes for such action. In this process, Federal agencies shall: (1) Provide for circulation of draft environmental statements to other Federal, State, and local agencies and for their availability to the public in accordance with the provisions of these guidelines; (2) consider the comments of the agencies and the public; and (3) issue final environmental impact statements responsive to the comments received. The purpose of this assessment and consultation process is to provide agencies and other decisionmakers as well as members of the public with an understanding of the potential environmental effects of proposed actions, to avoid or minimize adverse effects wherever possible, and to restore or enhance environmental quality to the fullest extent practicable. In particular, agencies should use the environmental impact statement process to explore alternative actions that will avoid or minimize adverse impacts and to evaluate both the long- and short-range implications of proposed actions to man, his physical and social surroundings, and to nature. Agencies should consider the results of their environmental assessments along with their assessments of the net economic, technical and other benefits of proposed actions and use all practicable means, consistent with other essential considerations of national policy, to restore environmental quality as well as to avoid or minimize undesirable consequences for the environment.

§ 1500.3 Agency and OMB procedures.

(a) Pursuant to section 2(f) of Executive Order 11514, the heads of Federal agencies have been directed to proceed with measures required by section 102 (2) (C) of the Act. Previous guidelines of the Council directed each agency to establish its own formal procedures for (1) identifying those agency actions requiring environmental statements, the appropriate time prior to decision for the consultations required by section 102 (2) (C) and the agency review process for which environmental statements are to be available, (2) obtaining information required in their preparation, (3) designating the officials who are to be responsible for the statements, (4) consulting with and taking account of the comments of appropriate Federal, State and local agencies and the public, including obtaining the comment of the Administrator of the Environmental Protection Agency when required under section 309 of the Clean Air Act, as amended, and (5) meeting the requirements of section 2(b) of Executive Order 11514 for providing timely public information on Federal plans and programs with environmental impact. Each agency, including both departmental and sub-departmental components having such procedures, shall review its procedures and shall revise them, in consultation with the Council, as may be necessary in order to respond to requirements imposed by these revised guidelines as well as by such previous directives. After such consultation, proposed revisions of such agency procedures shall be published in the **FEDERAL REGISTER** no later than October 30, 1973. A minimum 45-day period for public comment shall be provided, followed by publication of final procedures no later than forty-five (45) days after the conclusion of the comment period. Each agency shall submit seven (7) copies of all such procedures to the Council. Any future revision of such agency procedures shall similarly be proposed and adopted only after prior consultation with the Council and, in the case of substantial revision, opportunity for public comment. All revisions shall be published in the **FEDERAL REGISTER**.

(b) Each Federal agency should consult, with the assistance of the Council and the Office of Management and Budget if desired, with other appropriate Federal agencies in the development and revision of the above procedures so as to achieve consistency in dealing with similar activities and to assure effective coordination among agencies in their review of proposed activities. Where applicable, State and local review of such agency procedures should be conducted pursuant to procedures established by Office of Management and Budget Circular No. A-85.

(c) Existing mechanisms for obtaining the views of Federal, State, and local agencies on proposed Federal actions should be utilized to the maximum extent practicable in dealing with environmental matters. The Office of Management and Budget will issue instructions,

as necessary, to take full advantage of such existing mechanisms.

§ 1500.4 Federal agencies included; effect of the Act on existing agency mandates.

(a) Section 102(2) (C) of the Act applies to all agencies of the Federal Government. Section 102 of the Act provides that "to the fullest extent possible: (1) The policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act," and section 105 of the Act provides that "the policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies." This means that each agency shall interpret the provisions of the Act as a supplement to its existing authority and as a mandate to view traditional policies and missions in the light of the Act's national environmental objectives. In accordance with this purpose, agencies should continue to review their policies, procedures, and regulations and to revise them as necessary to ensure full compliance with the purposes and provisions of the Act. The phrase "to the fullest extent possible" in section 102 is meant to make clear that each agency of the Federal Government shall comply with that section unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible.

§ 1500.5 Types of actions covered by the Act.

(a) "Actions" include but are not limited to:

(1) Recommendations or favorable reports relating to legislation including requests for appropriations. The requirement for following the section 102 (2) (C) procedure as elaborated in these guidelines applies to both (i) agency recommendations on their own proposals for legislation (see § 1500.12); and (ii) agency reports on legislation initiated elsewhere. In the latter case only the agency which has primary responsibility for the subject matter involved will prepare an environmental statement.

(2) New and continuing projects and program activities: directly undertaken by Federal agencies; or supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance (except where such assistance is solely in the form of general revenue sharing funds, distributed under the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 et. seq. with no Federal agency control over the subsequent use of such funds); or involving a Federal lease, permit, license certificate or other entitlement for use.

(3) The making, modification, or establishment of regulations, rules, procedures, and policy.

§ 1500.6 Identifying major actions significantly affecting the environment.

(a) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to

be construed by agencies with a view to the overall, cumulative impact of the action proposed, related Federal actions and projects in the area, and further actions contemplated. Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed major actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases. In considering what constitutes major action significantly affecting the environment, agencies should bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several Government agencies individually make decisions about partial aspects of a major action. In all such cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from Federal action. The Council, on the basis of a written assessment of the impacts involved, is available to assist agencies in determining whether specific actions require impact statements.

(b) Section 101(b) of the Act indicates the broad range of aspects of the environment to be surveyed in any assessment of significant effect. The Act also indicates that adverse significant effects include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment, and serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. Significant effects also include secondary effects, as described more fully, for example, in § 1500.8(a) (iii) (B). The significance of a proposed action may also vary with the setting, with the result that an action that would have little impact in an urban area may be significant in a rural setting or vice versa. While a precise definition of environmental "significance," valid in all contexts, is not possible, effects to be considered in assessing significance include, but are not limited to, those outlined in Appendix II of these guidelines.

(c) Each of the provisions of the Act, except section 102(2) (C), applies to all Federal agency actions. Section 102(2) (C) requires the preparation of a detailed environmental impact statement in the case of "major Federal actions significantly affecting the quality of the human environment." The identification of major actions significantly affecting the environment is the responsibility of each Federal agency, to be carried out against the background of its own particular operations. The action must be a (1)

"major" action, (2) which is a "Federal action," (3) which has a "significant" effect, and (4) which involves the "quality of the human environment." The words "major" and "significantly" are intended to imply thresholds of importance and impact that must be met before a statement is required. The action causing the impact must also be one where there is sufficient Federal control and responsibility to constitute "Federal action" in contrast to cases where such Federal control and responsibility are not present as, for example, when Federal funds are distributed in the form of general revenue sharing to be used by State and local governments (see § 1500.5(ii)). Finally, the action must be one that significantly affects the quality of the human environment either by directly affecting human beings or by indirectly affecting human beings through adverse effects on the environment. Each agency should review the typical classes of actions that it undertakes and, in consultation with the Council, should develop specific criteria and methods for identifying those actions likely to require environmental statements and those actions likely not to require environmental statements. Normally this will involve:

(i) Making an initial assessment of the environmental impacts typically associated with principal types of agency action.

(ii) Identifying on the basis of this assessment, types of actions which normally do, and types of actions which normally do not, require statements.

(iii) With respect to remaining actions that may require statements depending on the circumstances, and those actions determined under the preceding paragraph (C) (4) (ii) of this section as likely to require statements, identifying: (a) what basic information needs to be gathered; (b) how and when such information is to be assembled and analyzed; and (c) on what bases environmental assessments and decisions to prepare impact statements will be made. Agencies may either include this substantive guidance in the procedures issued pursuant to § 1500.3(a) of these guidelines, or issue such guidance as supplemental instructions to aid relevant agency personnel in implementing the impact statement process. Pursuant to § 1500.14 of these guidelines, agencies shall report to the Council by June 30, 1974, on the progress made in developing such substantive guidance.

(d) (1) Agencies should give careful attention to identifying and defining the purpose and scope of the action which would most appropriately serve as the subject of the statement. In many cases, broad program statements will be required in order to assess the environmental effects of a number of individual actions on a given geographical area (e.g., coal leases), or environmental impacts that are generic or common to a series of agency actions (e.g., maintenance or waste handling practices), or the overall impact of a large-scale program or chain of contemplated projects (e.g., major lengths of highway as opposed to

small segments). Subsequent statements on major individual actions will be necessary where such actions have significant environmental impacts not adequately evaluated in the program statement.

(2) Agencies engaging in major technology research and development programs should develop procedures for periodic evaluation to determine when a program statement is required for such programs. Factors to be considered in making this determination include the magnitude of Federal investment in the program, the likelihood of widespread application of the technology, the degree of environmental impact which would occur if the technology were widely applied, and the extent to which continued investment in the new technology is likely to restrict future alternatives. Statements must be written late enough in the development process to contain meaningful information, but early enough so that this information can practically serve as an input in the decision-making process. Where it is anticipated that a statement may ultimately be required but that its preparation is still premature, the agency should prepare an evaluation briefly setting forth the reasons for its determination that a statement is not yet necessary. This evaluation should be periodically updated, particularly when significant new information becomes available concerning the potential environmental impact of the program. In any case, a statement must be prepared before research activities have reached a stage of investment or commitment to implementation likely to determine subsequent development, or restrict later alternatives. Statements or technology research and development programs should include an analysis not only of alternative forms of the same technology that might reduce any adverse environmental impacts but also of alternative technologies that would serve the same function as the technology under consideration. Efforts should be made to involve other Federal agencies and interested groups with relevant expertise in the preparation of such statements because the impacts and alternatives to be considered are likely to be less well defined than in other types of statements.

(e) In accordance with the policy of the Act and Executive Order 11514 agencies have a responsibility to develop procedures to insure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. In furtherance of this policy, agency procedures should include an appropriate early notice system for informing the public of the decision to prepare a draft environmental statement on proposed administrative actions (and for soliciting comments that may be helpful in preparing the statement) as soon as is practicable after the decision to prepare the statement is made. In this connection, agencies should: (1) maintain a list of administrative actions for which en-

vironmental statements are being prepared; (2) revise the list at regular intervals specified in the agency's procedures developed pursuant to § 1500.3(a) of these guidelines (but not less than quarterly) and transmit each such revision to the Council; and (3) make the list available for public inspection on request. The Council will periodically publish such lists in the *FEDERAL REGISTER*. If an agency decides that an environmental statement is not necessary for a proposed action: (i) which the agency has identified pursuant to § 1500.6(c) (4) (ii) as normally requiring preparation of a statement, (ii) which is similar to actions for which the agency has prepared a significant number of statements, (iii) which the agency has previously announced would be the subject of a statement, or (iv) for which the agency has made a negative determination in response to a request from the Council pursuant to § 1500.11(f), the agency shall prepare a publicly available record briefly setting forth the agency's decision and the reasons for that determination. Lists of such negative determinations, and any evaluations made pursuant to § 1500.6 which conclude that preparation of a statement is not yet timely, shall be prepared and made available in the same manner as provided in this subsection for lists of statements under preparation.

§ 1500.7 Preparing draft environmental statements; public hearings.

(a) Each environmental impact statement shall be prepared and circulated in draft form for comment in accordance with the provisions of these guidelines. The draft statement must fulfill and satisfy to the fullest extent possible at the time the draft is prepared the requirements established for final statements by section 102(2)(C). (Where an agency has an established practice of declining to favor an alternative until public comments on a proposed action have been received, the draft environmental statement may indicate that two or more alternatives are under consideration.) Comments received shall be carefully evaluated and considered in the decision process. A final statement with substantive comments attached shall then be issued and circulated in accordance with applicable provisions of §§ 1500.10, 1500.11, or 1500.12. It is important that draft environmental statements be prepared and circulated for comment and furnished to the Council as early as possible in the agency review process in order to permit agency decisionmakers and outside reviewers to give meaningful consideration to the environmental issues involved. In particular, agencies should keep in mind that such statements are to serve as the means of assessing the environmental impact of proposed agency actions, rather than as a justification for decisions already made. This means that draft statements on administrative actions should be prepared and circulated for comment prior to the first significant point of decision in the agency review process. For major categories of agency action, this point should be identified in the procedures is-

sued pursuant to § 1500.3(a). For major categories of projects involving an applicant and identified pursuant to § 1500.6(c)(c)(ii) as normally requiring the preparation of a statement, agencies should include in their procedures provisions limiting actions which an applicant is permitted to take prior to completion and review of the final statement with respect to his application.

(b) Where more than one agency (1) directly sponsors an action, or is directly involved in an action through funding, licenses, or permits, or (2) is involved in a group of actions directly related to each other because of their functional interdependence and geographical proximity, consideration should be given to preparing one statement for all the Federal actions involved (see § 1500.6(d)(1)). Agencies in such cases should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single "lead agency" to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. As necessary, the Council will assist in resolving questions of responsibility for statement preparation in the case of multi-agency actions. Federal Regional Councils, agencies and the public are encouraged to bring to the attention of the Council and other relevant agencies appropriate situations where a geographic or regionally focused statement would be desirable because of the cumulative environmental effects likely to result from multi-agency actions in the area.

(c) Where an agency relies on an applicant to submit initial environmental information, the agency should assist the applicant by outlining the types of information required. In all cases, the agency should make its own evaluation of the environmental issues and take responsibility for the scope and content of draft and final environmental statements.

(d) Agency procedures developed pursuant to § 1500.3(a) of these guidelines should indicate as explicitly as possible those types of agency decisions or actions which utilize hearings as part of the normal agency review process, either as a result of statutory requirement or agency practice. To the fullest extent possible, all such hearings shall include consideration of the environmental aspects of the proposed action. Agency procedures shall also specifically include provision for public hearings on major actions with

environmental impact, whenever appropriate, and for providing the public with relevant information, including information on alternative courses of action. In deciding whether a public hearing is appropriate, an agency should consider: (1) The magnitude of the proposal in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved; (2) the degree of interest in the proposal, as evidenced by requests from the public and from Federal, State and local authorities that a hearing be held; (3) the complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under the Act; and (4) the extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action. Agencies should make any draft environmental statements to be issued available to the public at least fifteen (15) days prior to the time of such hearings.

§ 1500.8 Content of environmental statements.

(a) The following points are to be covered:

(1) A description of the proposed action, a statement of its purposes, and a description of the environment affected, including information, summary technical data, and maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting agencies and the public. Highly technical and specialized analyses and data should be avoided in the body of the draft impact statement. Such materials should be attached as appendices or footnoted with adequate bibliographic references. The statement should also succinctly describe the environment of the area affected as it exists prior to a proposed action, including other Federal activities in the area affected by the proposed action which are related to the proposed action. The interrelationships and cumulative environmental impacts of the proposed action and other related Federal projects shall be presented in the statement. 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 decisionmaking (planning, feasibility, design, etc.). In order to ensure accurate descriptions and environmental assessments, site visits should be made where feasible. Agencies should also take care to 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 (a)(1)(3)(ii), of this section). In discussing these population aspects, agencies should give consideration to using the rates of growth in the

region of the project contained in the projection 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). In any event it is essential that the sources of data used to identify, quantify or evaluate any and all environmental consequences be expressly noted.

(2) The relationship of the proposed action to land use plans, policies, and controls for the affected area. This requires a discussion of how the proposed action may conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies, and controls, if any, for the area affected including those developed in response to the Clean Air Act or the Federal Water Pollution Control Act Amendments of 1972. Where a conflict or inconsistency exists, the statement should describe the extent to which the agency has reconciled its proposed action with the plan, policy or control, and the reasons why the agency has decided to proceed notwithstanding the absence of full reconciliation.

(3) The probable impact of the proposed action on the environment.

(i) This requires agencies to assess the positive and negative effects of the proposed action as it affects both the national and international environment. The attention given to different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to consider should be the potential effect of the action on such aspects of the environment as those listed in Appendix II of these guidelines. Primary attention should be given in the statement to discussing those factors most evidently impacted by the proposed action.

(ii) Secondary or indirect, as well as primary or direct, consequences for the environment should be included in the analysis. Many major Federal actions, in particular those that involve the construction or licensing of infrastructure investments (e.g., highways, airports, sewer systems, water resource projects, etc.), stimulate or induce secondary effects in the form of associated investments and changed patterns of social and economic activities. Such secondary effects, through their impacts on existing community facilities and activities, through inducing new facilities and activities, or through changes in natural conditions, 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 if expected to be significant (using data identified as indicated in § 1500.8(a)(1)) and an assessment made of the effect of any possible change in population patterns or growth upon the resource base, including land use, water, and public services, of the area in question.

(4) Alternatives to the proposed action, including, where relevant, those not within the existing authority of the responsible agency. (Section 102(2)(D) of the Act 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"). A rigorous exploration and 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, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs and risks should accompany the proposed action through the agency 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 taking no 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., nonstructural alternatives to flood control programs, or mass transit alternatives to highway construction); alternatives related to different designs or details of the proposed action which would present different environmental impacts (e.g., cooling ponds vs. cooling towers for a power plant or alternatives that will significantly conserve energy); alternative measures to provide for compensation of fish and wildlife losses, including the acquisition of land, waters, and interests therein. In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative. Where an existing impact statement already contains such an analysis, its treatment of alternatives may be incorporated provided that such treatment is current and relevant to the precise purpose of the proposed action.

(5.) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101 (b) of the Act). This should be a brief section summarizing in one place those effects discussed in paragraph (a) (3) of this section that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how other avoidable adverse effects discussed in paragraph (a) (2) of this section will be mitigated.

(6) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves tradeoffs between short-term en-

vironmental 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. In this context short-term and long-term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(7) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires the agency to identify from its survey of unavoidable impacts in paragraph (a) (5) of this section the extent to which the action irreversibly curtails the range of potential uses of the environment. Agencies should avoid construing the term "resources" to mean only the labor and materials devoted to an action. "Resources" also means the natural and cultural resources committed to loss or destruction by the action.

(8) 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 paragraphs (a) (3) and (5) of this section. 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 paragraph (a) (4) of this section) that would avoid some or all of the adverse environmental effects. In this connection, agencies that prepare cost-benefit analyses of proposed actions should attach such analyses, 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.

(b) In developing the above points agencies should make every effort to convey the required information succinctly in a form easily understood, both by members of the public and by public decisionmakers, giving attention to the substance of the information conveyed rather than to the particular form, or length, or detail of the statement. Each of the above points, for example, need not always occupy a distinct section of the statement if it is otherwise adequately covered in discussing the impact of the proposed action and its alternatives—which items should normally be the focus of the statement. Draft statements should indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered by the agency in preparing the statement including any cost-benefit analyses prepared by the agency, and reports of consulting agencies under the Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq., and the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., where such consultation has taken place. In the case of documents not likely to be easily accessible (such as internal studies or reports), the agency should indicate how such information may be obtained. If such information is attached to the

statement, care should be taken to ensure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference.

(c) Each environmental statement should be prepared in accordance with the precept in section 102(2)(A) of the Act that all agencies of the Federal Government "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 decisionmaking which may have an impact on man's environment." Agencies should attempt to have relevant disciplines represented on their own staffs; where this is not feasible they should make appropriate use of relevant Federal, State, and local agencies or the professional services of universities and outside consultants. The interdisciplinary approach should not be limited to the preparation of the environmental impact statement, but should also be used in the early planning stages of the proposed action. Early application of such an approach should help assure a systematic evaluation of reasonable alternative courses of action and their potential social, economic, and environmental consequences.

(d) Appendix I prescribes the form of the summary sheet which should accompany each draft and final environmental statement.

§ 1500.9 Review of draft environmental statements by Federal, Federal-State, and local agencies and by the public.

(a) *Federal agency review.* (1) *In general.* A Federal agency considering an action requiring an environmental statement should consult with, and (on the basis of a draft environmental statement for which the agency takes responsibility) obtain the comment on the environmental impact of the action of Federal and Federal-State agencies with jurisdiction by law or special expertise with respect to any environmental impact involved. These Federal and Federal-State agencies and their relevant areas of expertise include those identified in Appendices II and III to these guidelines. It is recommended that the listed departments and agencies establish contact points, which may be regional offices, for providing comments on the environmental statements. The requirement in section 102(2)(C) to obtain comment from Federal agencies having jurisdiction or special expertise is in addition to any specific statutory obligation of any Federal agency to coordinate or consult with any other Federal or State agency. Agencies should, for example, be alert to consultation requirements of the Fish and Wildlife Coordination Act 16 U.S.C. 661 et seq., and the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq. To the extent possible, statements or findings concerning environmental impact required by other statutes, such as section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 1653(f), or

section 106 of the National Historic Preservation Act of 1966, should be combined with compliance with the environmental impact statement requirements of section 102(2)(C) of the Act to yield a single document which meets all applicable requirements. The Advisory Council on Historic Preservation, the Department of Transportation, and the Department of the Interior, in consultation with the Council, will issue any necessary supplementing instructions for furnishing information or findings not forthcoming under the environmental impact statement process.

(b) *EPA review.* Section 309 of the Clean Air Act, as amended (42 U.S.C. § 1857h-7), provides that the Administrator of the Environmental Protection Agency shall comment in writing on the environmental impact of any matter relating to his duties and responsibilities, and shall refer to the Council any matter that the Administrator determines is unsatisfactory from the standpoint of public health or welfare or environmental quality. Accordingly, wherever an agency action related to air or water quality, noise abatement and control, pesticide regulation, solid waste disposal, generally applicable environmental radiation criteria and standards, or other provision of the authority of the Administrator is involved, Federal agencies are required to submit such proposed actions and their environmental impact statements, if such have been prepared, to the Administrator for review and comment in writing. In all cases where EPA determines that proposed agency action is environmentally unsatisfactory, or where EPA determines that an environmental statement is so inadequate that such a determination cannot be made, EPA shall publish its determination and notify the Council as soon as practicable. The Administrator's comments shall constitute his comments for the purposes of both section 309 of the Clean Air Act and section 102(2)(C) of the National Environmental Policy Act.

(c) *State and local review.* Office of Management and Budget Circular No. A-95 (Revised) through its system of State and areawide clearinghouses provides a means for securing the views of State and local environmental agencies, which can assist in the preparation and review of environmental impact statements. Current instructions for obtaining the views of such agencies are contained in the joint OMB-CEQ memorandum attached to these guidelines as Appendix IV. A current listing of clearinghouses is issued periodically by the Office of Management and Budget.

(d) *Public review.* The procedures established by these guidelines are designed to encourage public participation in the impact statement process at the earliest possible time. Agency procedures should make provision for facilitating the comment of public and private organizations and individuals by announcing the availability of draft environmental statements and by making copies available to organizations and individuals that request an opportunity to comment.

Agencies should devise methods for publicizing the existence of draft statements, for example, by publication of notices in local newspapers or by maintaining a list of groups, including relevant conservation commissions, known to be interested in the agency's activities and directly notifying such groups of the existence of a draft statement, or sending them a copy, as soon as it has been prepared. A copy of the draft statement should in all cases be sent to any applicant whose project is the subject of the statement. Materials to be made available to the public shall be provided without charge to the extent practicable, or at a fee which is not more than the actual cost of reproducing copies required to be sent to other Federal agencies, including the Council.

(e) *Responsibilities of commenting entities.* (1) Agencies and members of the public submitting comments on proposed actions on the basis of draft environmental statements should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. Although the comments need not conform to any particular format, it would assist agencies reviewing comments if the comments were organized in a manner consistent with the structure of the draft statement. Emphasis should be placed on the assessment of the environmental impacts of the proposed action, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Commenting entities may recommend modifications to the proposed action and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

(2) Commenting agencies should indicate whether any of their projects not identified in the draft statement are sufficiently advanced in planning and related environmentally to the proposed action so that a discussion of the environmental interrelationships should be included in the final statement (see § 1500.8(a)(1)). The Council is available to assist agencies in making such determinations.

(3) Agencies and members of the public should indicate in their comments the nature of any monitoring of the environmental effects of the proposed project that appears particularly appropriate. Such monitoring may be necessary during the construction, startup, or operation phases of the project. Agencies with special expertise with respect to the environmental impacts involved are encouraged to assist the sponsoring agency in the establishment and operation of appropriate environmental monitoring.

(f) Agencies seeking comment shall establish time limits of not less than forty-five (45) days for reply, after which it may be presumed, unless the agency or party consulted requests a specified extension of time, that the agency or party consulted has no comment to make. Agencies seeking comment should en-

deavor to comply with requests for extensions of time of up to fifteen (15) days. In determining an appropriate period for comment, agencies should consider the magnitude and complexity of the statement and the extent of citizen interest in the proposed action.

§ 1500.10 Preparation and circulation of final environmental statements.

(a) Agencies should make every effort to discover and discuss all major points of view on the environmental effects of the proposed action and its alternatives in the draft statement itself. However, where opposing professional views and responsible opinion have been overlooked in the draft statement and are brought to the agency's attention through the commenting process, the agency should review the environmental effects of the action in light of those views and should make a meaningful reference in the final statement to the existence of any responsible opposing view not adequately discussed in the draft statement, indicating the agency's response to the issues raised. All substantive comments received on the draft (or summaries thereof where response has been exceptionally voluminous) should be attached to the final statement, whether or not each such comment is thought to merit individual discussion by the agency in the text of the statement.

(b) Copies of final statements, with comments attached, shall be sent to all Federal, State, and local agencies and private organizations that made substantive comments on the draft statement and to individuals who requested a copy of the final statement, as well as any applicant whose project is the subject of the statement. Copies of final statements shall in all cases be sent to the Environmental Protection Agency to assist it in carrying out its responsibilities under section 309 of the Clean Air Act. Where the number of comments on a draft statement is such that distribution of the final statement to all commenting entities appears impracticable, the agency shall consult with the Council concerning alternative arrangements for distribution of the statement.

§ 1500.11 Transmittal of statements to the Council; minimum periods for review; requests by the Council.

(a) As soon as they have been prepared, ten (10) copies of draft environmental statements, five (5) copies of all comments made thereon (to be forwarded to the Council by the entity making comment at the time comment is forwarded to the responsible agency), and ten (10) copies of the final text of environmental statements (together with the substance of all comments received by the responsible agency from Federal, State, and local agencies and from private organizations and individuals) shall be supplied to the Council. This will serve to meet the statutory requirement to make environmental statements available to the President. At the same time that copies of draft and final statements are sent to the Council, copies should also be sent to relevant commenting en-

titles as set forth in §§ 1500.9 and 1500.10(b) of these guidelines.

(b) To the maximum extent practicable no administrative action subject to section 102(2)(C) is to be taken sooner than ninety (90) days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, made available to the public pursuant to these guidelines; neither should such administrative action be taken sooner than thirty (30) days after the final text of an environmental statement (together with comments) has been made available to the Council, commenting agencies, and the public. In all cases, agencies should allot a sufficient review period for the final statement so as to comply with the statutory requirement that the "statement and the comments and views of appropriate Federal, State, and local agencies * * * accompany the proposal through the existing agency review processes." If the final text of an environmental statement is filed within ninety (90) days after a draft statement has been circulated for comment, furnished to the Council and made public pursuant to this section of these guidelines, the minimum thirty (30) day period and the ninety (90) day period may run concurrently to the extent that they overlap. An agency may at any time supplement or amend a draft or final environmental statement, particularly when substantial changes are made in the proposed action, or significant new information becomes available concerning its environmental aspects. In such cases the agency should consult with the Council with respect to the possible need for or desirability of recirculation of the statement for the appropriate period.

(c) The Council will publish weekly in the *FEDERAL REGISTER* lists of environmental statements received during the preceding week that are available for public comment. The date of publication of such lists shall be the date from which the minimum periods for review and advance availability of statements shall be calculated.

(d) The Council's publication of notice of the availability of statements is in addition to the agency's responsibility, as described in § 1500.9(d) of these guidelines, to insure the fullest practicable provision of timely public information concerning the existence and availability of environmental statements. The agency responsible for the environmental statement is also responsible for making the statement, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C., 552), without regard to the exclusion of intra- or interagency memoranda when such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action pursuant to § 1500.9 of these guidelines. Agency procedures prepared

pursuant to § 1500.3(a) of these guidelines shall implement these public information requirements and shall include arrangements for availability of environmental statements and comments at the head and appropriate regional offices of the responsible agency and at appropriate State and areawide clearinghouses unless the Governor of the State involved designates to the Council some other point for receipt of this information. Notice of such designation of an alternate point for receipt of this information will be included in the Office of Management and Budget listing of clearinghouses referred to in § 1500.9(c).

(e) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these guidelines concerning minimum periods for agency review and advance availability of environmental statements, the Federal agency proposing to take the action should consult with the Council about alternative arrangements. Similarly where there are overriding considerations of expense to the Government or impaired program effectiveness, the responsible agency should consult with the Council concerning appropriate modifications of the minimum periods.

(f) In order to assist the Council in fulfilling its responsibilities under the Act and under Executive Order 11514, all agencies shall (as required by section 102(2)(H) of the Act and section 3(i) of Executive Order 11514) be responsive to requests by the Council for reports and other information dealing with issues arising in connection with the implementation of the Act. In particular, agencies shall be responsive to a request by the Council for the preparation and circulation of an environmental statement, unless the agency determines that such a statement is not required, in which case the agency shall prepare an environmental assessment and a publicly available record briefly setting forth the reasons for its determination. In no case, however, shall the Council's silence or failure to comment or request preparation, modification, or recirculation of an environmental statement or to take other action with respect to an environmental statement be construed as bearing in any way on the question of the legal requirement for or the adequacy of such statement under the Act.

§ 1500.12 Legislative actions.

(a) The Council and the Office of Management and Budget will cooperate in giving guidance as needed to assist agencies in identifying legislative items believed to have environmental significance. Agencies should prepare impact statements prior to submission of their legislative proposals to the Office of Management and Budget. In this regard, agencies should identify types of repetitive legislation requiring environmental impact statements (such as certain types of bills affecting transportation policy or annual construction authorizations).

(b) With respect to recommendations or reports on proposals for legislation to which section 102(2)(C) applies, the final text of the environmental statement and comments thereon should be available to the Congress and to the public for consideration in connection with the proposed legislation or report. In cases where the scheduling of congressional hearings on recommendations or reports on proposals for legislation which the Federal agency has forwarded to the Congress does not allow adequate time for the completion of a final text of an environmental statement (together with comments), a draft environmental statement may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text.

§ 1500.13 Application of section 102(2)(C) procedure to existing projects and programs.

Agencies have an obligation to reassess ongoing projects and programs in order to avoid or minimize adverse environmental effects. The section 102(2)(C) procedure shall be applied to further major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the Act on January 1, 1970. While the status of the work and degree of completion may be considered in determining whether to proceed with the project, it is essential that the environmental impacts of proceeding are reassessed pursuant to the Act's policies and procedures and, if the project or program is continued, that further incremental major actions be shaped so as to enhance and restore environmental quality as well as to avoid or minimize adverse environmental consequences. It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program.

§ 1500.14 Supplementary guidelines; evaluation of procedures.

(a) The Council after examining environmental statements and agency procedures with respect to such statements will issue such supplements to these guidelines as are necessary.

(b) Agencies will continue to assess their experience in the implementation of the section 102(2)(C) provisions of the Act and in conforming with these guidelines and report thereon to the Council by June 30, 1974. Such reports should include an identification of the problem areas and suggestions for revision or clarification of these guidelines to achieve effective coordination of views on environmental aspects (and alternatives, where appropriate) of proposed actions without imposing unproductive administrative procedures. Such reports shall also indicate what progress the agency has made in developing substantive criteria and guidance for making environmental assessments as required by § 1500.6(c) of this directive and by section 102(2)(B) of the Act.

Effective date. The revisions of these guidelines shall apply to all draft and final impact statements filed with the Council after January 28, 1973.

RUSSELL E. TRAIN,
Chairman.

APPENDIX I—SUMMARY TO ACCOMPANY DRAFT AND FINAL STATEMENTS

(Check one) () Draft. () Final Environmental Statement.

Name of responsible Federal agency (with name of operating division where appropriate). Name, address, and telephone number of individual at the agency who can be contacted for additional information about the proposed action or the statement.

1. Name of action (Check one) () Administrative Action. () Legislative Action.

2. Brief description of action and its purpose. Indicate what States (and counties) particularly affected, and what other proposed Federal actions in the area, if any, are discussed in the statement.

3. Summary of environmental impacts and adverse environmental effects.

4. Summary of major alternatives considered.

5. (For draft statements) List all Federal, State, and local agencies and other parties from which comments have been requested. (For final statements) List all Federal, State, and local agencies and other parties from which written comments have been received.

6. Date draft statement (and final environmental statement, if one has been issued) made available to the Council and the public.

APPENDIX II—AREAS OF ENVIRONMENTAL IMPACT AND FEDERAL AGENCIES AND FEDERAL STATE AGENCIES¹ WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT THEREON²

AIR

Air Quality

Department of Agriculture—
Forest Service (effects on vegetation)
Atomic Energy Commission (radioactive substances)
Department of Health, Education, and Welfare
Environmental Protection Agency
Department of the Interior—
Bureau of Mines (fossil and gaseous fuel combustion)
Bureau of Sport Fisheries and Wildlife (effect on wildlife)
Bureau of Outdoor Recreation (effects on recreation)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
National Aeronautics and Space Administration (remote sensing, aircraft emissions)
Department of Transportation—
Assistant Secretary for Systems Development and Technology (auto emissions)
Coast Guard (vessel emissions)
Federal Aviation Administration (aircraft emissions)

¹ River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red-Rainy, Susquehanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

² In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted, and should be sent a copy of any draft and final impact statement which covers such action.

Weather Modification

Department of Agriculture—
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Department of the Air Force
Department of the Interior
Bureau of Reclamation

WATER RESOURCES COUNCIL

WATER

Water Quality

Department of Agriculture—
Soil Conservation Service
Forest Service
Atomic Energy Commission (radioactive substances)
Department of the Interior—
Bureau of Reclamation
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Office of Saline Water
Environmental Protection Agency
Department of Health, Education, and Welfare
Department of Defense—
Army Corps of Engineers
Department of the Navy (ship pollution control)
National Aeronautics and Space Administration (remote sensing)
Department of Transportation—
Coast Guard (oil spills, ship sanitation)
Department of Commerce—
National Oceanic and Atmospheric Administration
Water Resources Council
River Basin Commissions (as geographically appropriate)

Marine Pollution, Commercial Fishery Conservation, and Shellfish Sanitation

Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers
Office of the Oceanographer of the Navy
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Bureau of Land Management (outer continental shelf)
Geological Survey (outer continental shelf)
Department of Transportation—
Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

Waterway Regulation and Stream Modification

Department of Agriculture—
Soil Conservation Service
Department of Defense—
Army Corps of Engineers
Department of the Interior—
Bureau of Reclamation
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Department of Transportation—
Coast Guard
Environmental Protection Agency

National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

FISH AND WILDLIFE

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Oceanic and Atmospheric Administration (marine species)
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Bureau of Outdoor Recreation
Environmental Protection Agency

SOLID WASTE

Atomic Energy Commission (radioactive waste)
Department of Defense—
Army Corps of Engineers
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Geological Survey (geologic and hydrologic effects)
Office of Saline Water (demineralization)
Department of Transportation—
Coast Guard (ship sanitation)
Environmental Protection Agency
River Basin Commissions (as geographically appropriate)
Water Resources Council

NOISE

Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of Housing and Urban Development (land use and building materials aspects)
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation—
Assistant Secretary for Systems Development and Technology
Federal Aviation Administration, Office of Noise Abatement
Environmental Protection Agency
National Aeronautics and Space Administration

RADIATION

Atomic Energy Commission
Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (uranium mines)
Mining Enforcement and Safety Administration (uranium mines)
Environmental Protection Agency

HAZARDOUS SUBSTANCES

Toxic Materials

Atomic Energy Commission (radioactive substances)
Department of Agriculture—
Agricultural Research Service
Consumer and Marketing Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense
Department of Health, Education, and Welfare
Environmental Protection Agency

Food Additives and Contamination of Foodstuffs

Department of Agriculture—
Consumer and Marketing Service (meat and poultry products)
Department of Health, Education, and Welfare
Environmental Protection Agency

Pesticides

Department of Agriculture—
Agricultural Research Service (biological controls, food and fiber production)
Consumer and Marketing Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife (fish and wildlife effects)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Reclamation (irrigated lands)
Environmental Protection Agency

Transportation and Handling of Hazardous Materials

Atomic Energy Commission (radioactive substances)
Department of Commerce—
Maritime Administration
National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone)
Department of Defense—
Armed Services Explosive Safety Board
Army Corps of Engineers (navigable waterways)
Department of Transportation—
Federal Highway Administration, Bureau of Motor Carrier Safety
Coast Guard
Federal Railroad Administration
Federal Aviation Administration
Assistant Secretary for Systems Development and Technology
Office of Hazardous Materials
Office of Pipeline Safety
Environmental Protection Agency

ENERGY SUPPLY AND NATURAL RESOURCES DEVELOPMENT*Electric Energy Development, Generation, and Transmission, and Use*

Atomic Energy Commission (nuclear)
Department of Agriculture—
Rural Electrification Administration (rural areas)
Department of Defense—
Army Corps of Engineers (hydro)
Department of Health, Education, and Welfare (radiation effects)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Reclamation
Power Marketing Administrations
Geological Survey
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Environmental Protection Agency
Federal Power Commission (hydro, transmission, and supply)
River Basin Commissions (as geographically appropriate)
Tennessee Valley Authority
Water Resources Council

Petroleum Development, Extraction, Refining, Transport, and Use.

Department of the Interior—
Office of Oil and Gas
Bureau of Mines
Geological Survey
Bureau of Land Management (public lands and outer continental shelf)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife)
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (Transport and Pipeline Safety)
Environmental Protection Agency
Interstate Commerce Commission

Natural Gas Development, Production, Transmission, and Use

Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Oil and Gas
Geological Survey
Bureau of Mines
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (transport and safety)
Environmental Protection Agency
Federal Power Commission (production, transmission, and supply)
Interstate Commerce Commission

Coal and Minerals Development, Mining, Conversion, Processing, Transport, and Use

Appalachian Regional Commission
Department of Agriculture—
Forest Service
Department of Commerce
Department of the Interior—
Office of Coal Research
Mining Enforcement and Safety Administration
Bureau of Mines
Geological Survey
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission
Tennessee Valley Authority

Renewable Resource Development, Production, Management, Harvest, Transport, and Use

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce
Department of Housing and Urban Development (building materials)
Department of the Interior—
Geological Survey
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission (freight rates)

Energy and Natural Resources Conservation

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Bureau of Standards (energy efficiency)
Department of Housing and Urban Development—
Federal Housing Administration (housing standards)
Department of the Interior—
Office of Energy Conservation
Bureau of Mines
Bureau of Reclamation
Geological Survey
Power Marketing Administration
Department of Transportation
Environmental Protection Agency
Federal Power Commission
General Services Administration (design and operation of buildings)
Tennessee Valley Authority

LAND USE AND MANAGEMENT*Land Use Changes, Planning and Regulation of Land Development*

Department of Agriculture—
Forest Service (forest lands)
Agricultural Research Service (agricultural lands)
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Land Management (public lands)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Department of Transportation
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate).

Public Land Management

Department of Agriculture—
Forest Service (forests)
Department of Defense
Department of the Interior—
Bureau of Land Management
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Federal Power Commission (project lands)
General Services Administration
National Aeronautics and Space Administration (remote sensing)
Tennessee Valley Authority (project lands)

PROTECTION OF ENVIRONMENTALLY CRITICAL AREAS—FLOODPLAINS, WETLANDS, BEACHES AND DUNES, UNSTABLE SOILS, STEEP SLOPES, AQUIFER RECHARGE AREAS, ETC.

Department of Agriculture—
Agricultural Stabilization and Conservation Service
Soil Conservation Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration (coastal areas)
Department of Defense—
Army Corps of Engineers
Department of Housing and Urban Development (urban and floodplain areas)

Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Bureau of Reclamation
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Geological Survey
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basins Commissions (as geographically appropriate)
Water Resources Council

LAND USE IN COASTAL AREAS

Department of Agriculture—
Forest Service
Soil Conservation Service (soil stability, hydrology)
Department of Commerce—
National Oceanic and Atmospheric Administration (impact on marine life and coastal zone management)
Department of Defense—
Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Sport Fisheries and Wildlife
National Park Service
Geological Survey
Bureau of Outdoor Recreation
Bureau of Land Management (public lands)
Department of Transportation—
Coast Guard (bridges, navigation)
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)

REDEVELOPMENT AND CONSTRUCTION IN BUILT-UP AREAS

Department of Commerce—
Economic Development Administration (designated areas)
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Department of Transportation
Environmental Protection Agency
General Services Administration
Office of Economic Opportunity

DENSITY AND CONGESTION MITIGATION

Department of Health, Education, and Welfare
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Department of Transportation
Environmental Protection Agency

NEIGHBORHOOD CHARACTER AND CONTINUITY
Department of Health, Education, and Welfare
Department of Housing and Urban Development
National Endowment for the Arts
Office of Economic Opportunity

IMPACTS ON LOW-INCOME POPULATIONS

Department of Commerce—
Economic Development Administration (designated areas)
Department of Health, Education, and Welfare
Department of Housing and Urban Development
Office of Economic Opportunity

HISTORIC, ARCHITECTURAL, AND ARCHEOLOGICAL PRESERVATION

Advisory Council on Historic Preservation
Department of Housing and Urban Development
Department of the Interior—
National Park Service
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
General Services Administration
National Endowment for the Arts

SOIL AND PLANT CONSERVATION AND HYDROLOGY

Department of Agriculture—
Soil Conservation Service
Agricultural Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers (dredging, aquatic plants)
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Land Management
Bureau of Sport Fisheries and Wildlife
Geological Survey
Bureau of Reclamation
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)
Water Resources Council

OUTDOOR RECREATION

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Defense—
Army Corps of Engineers
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Land Management
National Park Service
Bureau of Outdoor Recreation
Bureau of Sport Fisheries and Wildlife
Bureau of Indian Affairs
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)
Water Resources Council

APPENDIX III—OFFICES WITHIN FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES FOR INFORMATION REGARDING THE AGENCIES' NEPA ACTIVITIES AND FOR RECEIVING OTHER AGENCIES' IMPACT STATEMENTS FOR WHICH COMMENTS ARE REQUESTED

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Office of Architectural and Environmental Preservation, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, N.W., Washington, D.C. 20005 254-3974

Regional Administrator, I,
U.S. Environmental Protection Agency
Room 2303, John F. Kennedy
Federal Bldg., Boston, Mass. 02203,
(617) 223-7210

Regional Administrator, II,
U.S. Environmental Protection Agency
Room 908, 26 Federal Plaza
New York, New York 10007
(212) 264-2525

DEPARTMENT OF AGRICULTURE¹

Office of the Secretary, Attn: Coordinator
Environmental Quality Activities, U.S. Department of Agriculture, Washington, D.C. 20250 447-3965

APPALACHIAN REGIONAL COMMISSION

Office of the Alternate Federal Co-Chairman,
Appalachian Regional Commission, 1666
Connecticut Avenue, N.W., Washington,
D.C. 20235 967-4103

DEPARTMENT OF THE ARMY (CORPS OF ENGINEERS)

Executive Director of Civil Works, Office of
the Chief of Engineers, U.S. Army Corps of
Engineers, Washington, D.C. 20314 693-
7168

ATOMIC ENERGY COMMISSION

For nonregulatory matters: Office of Assistant
General Manager for Biomedical and En-
vironmental Research and Safety Pro-
grams, Atomic Energy Commission, Wash-
ington, D.C. 20545 973-3208
For regulatory matters: Office of the As-
sistant Director for Environmental Projects,
Atomic Energy Commission, Washington,
D.C. 20545 973-7531

DEPARTMENT OF COMMERCE

Office of the Deputy Assistant Secretary for
Environmental Affairs, U.S. Department of
Commerce, Washington, D.C. 20230 967-
4335

DEPARTMENT OF DEFENSE

Office of the Assistant Secretary for Defense
(Health and Environment), U.S. Depart-
ment of Defense, Room 3E172, The Penta-
gon, Washington, D.C. 20301 697-2111

DELAWARE RIVER BASIN COMMISSION

Office of the Secretary, Delaware River
Basin Commission, Post Office Box 360,
Trenton, N.J. 08603 (609) 883-9509

ENVIRONMENTAL PROTECTION AGENCY²

Director, Office of Federal Activities, Environ-
mental Protection Agency, 401 M Street,
S.W., Washington, D.C. 20460 755-0777

¹ Requests for comments or information from individual units of the Department of Agriculture, e.g., Soil Conservation Service, Forest Service, etc. should be sent to the Office of the Secretary, Department of Agriculture, at the address given above.

² Contact the Office of Federal Activities for environmental statements concerning legislation, regulations, national program proposals or other major policy issues.

For all other EPA consultation, contact the Regional Administrator in whose area the proposed action (e.g., highway or water resource construction projects) will take place. The Regional Administrators will coordinate the EPA review. Addresses of the Regional Administrators, and the areas covered by their regions are as follows:

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

New Jersey, New York, Puerto Rico, Virgin Islands

RULES AND REGULATIONS

Regional Administrator, III,
U.S. Environmental Protection Agency
Curtis Bldg., 6th & Walnut Sts.
Philadelphia, Pa. 19106
(215) 597-9801

Regional Administrator, IV,
U.S. Environmental Protection Agency
1421 Peachtree Street
N.E., Atlanta, Ga. 30309
(404) 526-5727

Regional Administrator V,
U.S. Environmental Protection Agency
1 N. Wacker Drive
Chicago, Illinois 60606
(312) 353-5250

Regional Administrator VI,
U.S. Environmental Protection Agency
1600 Patterson Street
Suite 1100
Dallas, Texas 75201
(214) 749-1962

Regional Administrator VII,
U.S. Environmental Protection Agency
1735 Baltimore Avenue
Kansas City, Missouri 64108
(816) 374-5493

Regional Administrator VIII,⁴
U.S. Environmental Protection Agency
Suite 900, Lincoln Tower
1860 Lincoln Street
Denver, Colorado 80203
(303) 837-3895

Regional Administrator IX,
U.S. Environmental Protection Agency
100 California Street
San Francisco, California 94111
(415) 556-2320

Regional Administrator X,
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101
(206) 442-1220

Delaware, Maryland, Pennsylvania, Virginia,
West Virginia, District of Columbia

Alabama, Florida, Georgia, Kentucky, Missis-
sippi, North Carolina, South Carolina, Ten-
nessee

Illinois, Indiana, Michigan, Minnesota, Ohio,
Wisconsin

Arkansas, Louisiana, New Mexico, Texas,
Oklahoma

Iowa, Kansas, Missouri, Nebraska

Colorado, Montana, North Dakota, South
Dakota, Utah, Wyoming

Arizona, California, Hawaii, Nevada, Ameri-
can Samoa, Guam, Trust Territories of
Pacific Islands, Wake Island

Alaska, Idaho, Oregon, Washington

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT⁴

Director, Office of Community and Environ-
mental Standards, Department of Hous-
ing and Urban Development, Room 7206,
Washington, D.C. 20410
755-5980

Region VI:
Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
1114 Commerce Street
Dallas, Texas 75202 (214) 749-2236

Region VII:
Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
601 East 12th Street
Kansas City, Missouri 64106 (816) 374-
3584

Region VIII:
Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
9017 Federal Building
19th and Stout Streets
Denver, Colorado 80202 (303) 837-4178

Region IX:
Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
50 Fulton Street
San Francisco, California 94102 (415)
556-1970

Region X:
Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
Arcade Plaza Building
1321 Second Street
Seattle, Washington 98101 (206) 442-
0490

⁴ Contact the Director with regard to en-
vironmental impacts of legislation, policy
statements, program regulations and pro-
cedures, and precedent-making project de-
cisions. For all other HUD consultation, con-
tact the HUD Regional Administrator in
whose jurisdiction the project lies, as fol-
lows:

Regional Administrator I,
Environmental Clearance Officer
U.S. Department of Housing and Urban
Development
Room 405, John F. Kennedy Federal
Building
Boston, Mass. 02203 (617) 223-4066

Regional Administrator II,
Environmental Clearance Officer
U.S. Department of Housing and Urban
Development
26 Federal Plaza
New York, New York 10007 (212) 264-
8068

Regional Administrator III,
Environmental Clearance Officer
U.S. Department of Housing and Urban
Development
Curtis Building, Sixth and Walnut
Street
Philadelphia, Pennsylvania 19106 (215)
597-2560

Regional Administrator IV,
Environmental Clearance Officer
U.S. Department of Housing and Urban
Development
Peachtree-Seventh Building
Atlanta, Georgia 30323 (404) 526-5585

Regional Administrator V,
Environmental Clearance Officer
U.S. Department of Housing and Urban
Development
360 North Michigan Avenue
Chicago, Illinois 60601 (312) 353-5680

FEDERAL POWER COMMISSION

Commission's Advisor on Environmental
Quality, Federal Power Commission, 825 N.
Capitol Street, N.E., Washington, D.C. 20426
386-6084

GENERAL SERVICES ADMINISTRATION

Office of Environmental Affairs, Office of the
Deputy Administrator for Special Projects,
General Services Administration, Washing-
ton, D.C. 20405 343-4161

GREAT LAKES BASIN COMMISSION

Office of the Chairman, Great Lakes Basin
Commission, 3475 Plymouth Road, P.O. Box
999, Ann Arbor, Michigan 48105 (313) 769-
7431

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE³

Office of Environmental Affairs, Office of the
Assistant Secretary for Administration and
Management, Department of Health, Edu-
cation and Welfare, Washington, D.C. 20202
963-4456

³ Contact the Office of Environmental Af-
fairs for information on HEW's environmen-
tal statements concerning legislation, regu-
lations, national program proposals or other
major policy issues, and for all requests for
HEW comment on impact statements of
other agencies.

For information with respect to HEW ac-
tions occurring within the jurisdiction of the
Departments' Regional Directors, contact the
appropriate Regional Environmental Officer:

Region I:

Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
Room 2007B
John F. Kennedy Center
Boston, Massachusetts 02203 (617) 223-
6837

Region II:

Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
Federal Building
26 Federal Plaza
New York, New York 10007 (212) 264-
1308

Region III:

Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
P.O. Box 13718
Philadelphia, Pennsylvania 19101 (215)
597-6498

Region IV:

Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
Room 404
50 Seventh Street, N.E.
Atlanta, Georgia 30323 (404) 526-5817

Region V:

Regional Environmental Officer
U.S. Department of Health, Education
and Welfare
Room 712, New Post Office Building
433 West Van Buren Street
Chicago, Illinois 60607 (312) 353-1644

DEPARTMENT OF THE INTERIOR⁵

Director, Office of Environmental Project Review, Department of the Interior, Interior Building, Washington, D.C. 20240 343-3891

INTERSTATE COMMERCE COMMISSION

Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 343-6167

DEPARTMENT OF LABOR

Assistant Secretary for Occupational Safety and Health, Department of Labor, Washington, D.C. 20210 961-3405

MISSOURI RIVER BASINS COMMISSION

Office of the Chairman, Missouri River Basins Commission, 10050 Regency Circle, Omaha, Nebraska 68114 (402) 397-5714

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Office of the Comptroller, National Aeronautics and Space Administration, Washington, D.C. 20546 755-8440

NATIONAL CAPITAL PLANNING COMMISSION

Office of Environmental Affairs, Office of the Executive Director, National Capital Planning Commission, Washington, D.C. 20576 382-7200

NATIONAL ENDOWMENT FOR THE ARTS

Office of Architecture and Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506 382-5765

NEW ENGLAND RIVER BASINS COMMISSION

Office of the Chairman, New England River Basins Commission, 55 Court Street, Boston, Mass. 02108 (617) 223-6244

Regional Administrator VI, Environmental Clearance Officer U.S. Department of Housing and Urban Development Federal Office Building, 819 Taylor Street Fort Worth, Texas 76102 (817) 334-2867

Regional Administrator VII, Environmental Clearance Officer U.S. Department of Housing and Urban Development 911 Walnut Street Kansas City, Missouri 64106 (816) 374-2661

Regional Administrator VIII, Environmental Clearance Officer U.S. Department of Housing and Urban Development Samsonite Building, 1051 South Broadway Denver, Colorado 80209 (303) 837-4061

Regional Administrator IX, Environmental Clearance Officer U.S. Department of Housing and Urban Development 450 Golden Gate Avenue, Post Office Box 36003 San Francisco, California 94102 (415) 556-4752

Regional Administrator X, Environmental Clearance Officer U.S. Department of Housing and Urban Development Room 226, Arcade Plaza Building Seattle, Washington 98101 (206) 583-5415

⁵Requests for comments or information from individual units of the Department of the Interior should be sent to the Office of Environmental Project Review at the address given above.

OFFICE OF ECONOMIC OPPORTUNITY

Office of the Director, Office of Economic Opportunity, 1200 19th Street, N.W., Washington, D.C. 20506 254-6000

OHIO RIVER BASIN COMMISSION

Office of the Chairman, Ohio River Basin Commission, 36 East 4th Street, Suite 208-20, Cincinnati, Ohio 45202 (513) 684-3831

PACIFIC NORTHWEST RIVER BASINS COMMISSION

Office of the Chairman, Pacific Northwest River Basins Commission, 1 Columbia River, Vancouver, Washington 98660 (206) 695-3606

SOURIS-RED-RAINY RIVER BASINS COMMISSION

Office of the Chairman, Souris-Red-Rainy River Basins Commission, Suite 6, Professional Building, Holiday Mall, Moorhead, Minnesota 56560 (701) 237-5227

DEPARTMENT OF STATE

Office of the Special Assistant to the Secretary for Environmental Affairs, Department of State, Washington, D.C. 20520 632-7964

SUSQUEHANNA RIVER BASIN COMMISSION

Office of the Executive Director, Susquehanna River Basin Commission, 5012 Lenker Street, Mechanicsburg, Pa. 17055 (717) 737-0501

TENNESSEE VALLEY AUTHORITY

Office of the Director of Environmental Research and Development, Tennessee Valley Authority, 720 Edney Building, Chattanooga, Tennessee 37401 (615) 755-2002

DEPARTMENT OF TRANSPORTATION⁶

Director, Office of Environmental Quality, Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Department of Transportation, Washington, D.C. 20590 426-4357

⁶Contact the Office of Environmental Quality, Department of Transportation, for information on DOT's environmental statements concerning legislation, regulations, national program proposals, or other major policy issues.

For information regarding the Department of Transportation's other environmental statements, contact the national office for the appropriate administration:

U.S. Coast Guard

Office of Marine Environment and Systems, U.S. Coast Guard, 400 7th Street, S.W., Washington, D.C. 20590, 426-2007

Federal Aviation Administration

Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, 426-8406

Federal Highway Administration

Office of Environmental Policy, Federal Highway Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426-0351

Federal Railroad Administration

Office of Policy and Plans, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426-1567

Urban Mass Transportation Administration

Office of Program Operations, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426-4020

For other administration's not listed above, contact the Office of Environmental Quality, Department of Transportation, at the address given above.

For comments on other agencies' environmental statements, contact the appropriate administration's regional office. If more than one administration within the Department of Transportation is to be requested to comment, contact the Secretariat Representative in the appropriate Regional Office for coordination of the Department's comments:

SECRETARIAL REPRESENTATIVE

Region I Secretarial Representative, U.S. Department of Transportation, Transportation Systems Center, 55 Broadway, Cambridge, Massachusetts 02142 (617) 494-2709

Region II Secretarial Representative, U.S. Department of Transportation, 26 Federal Plaza, Room 1811, New York, New York 10007 (212) 264-2672

Region III Secretarial Representative, U.S. Department of Transportation, Mall Building, Suite 1214, 325 Chestnut Street, Philadelphia, Pennsylvania 19106 (215) 597-0407

Region IV Secretarial Representative, U.S. Department of Transportation, Suite 515, 1720 Peachtree Rd., N.W. Atlanta, Georgia 30309 (404) 526-3738

Region V Secretarial Representative, U.S. Department of Transportation, 17th Floor, 300 S. Wacker Drive, Chicago, Illinois 60606 (312) 353-4000

Region V Secretarial Representative, U.S. Department of Transportation, 9-C-18 Federal Center, 1100 Commerce Street, Dallas, Texas 75202 (214) 749-1851

Region VII Secretarial Representative, U.S. Department of Transportation, 601 E. 12th Street, Room 634, Kansas City, Missouri 64106 (816) 474-2761

Region VIII Secretarial Representative, U.S. Department of Transportation, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, Colorado 80225 (303) 837-3242

Region IX Secretarial Representative, U.S. Department of Transportation, 450 Golden Gate Avenue, Box 36133, San Francisco, California 94102 (415) 556-5961

Region X Secretarial Representative, U.S. Department of Transportation, 1321 Second Avenue, Room 507, Seattle, Washington 98101 (206) 442-0590

FEDERAL AVIATION ADMINISTRATION

New England Region, Office of the Regional Director, Federal Aviation Administration, 154 Middlesex Street, Burlington, Massachusetts 01803 (617) 272-2350

Eastern Region, Office of the Regional Director, Federal Aviation Administration, Federal Building, JFK International Airport, Jamaica, New York 11430 (212) 995-3333

Southern Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320 (404) 526-7222

Great Lakes Region, Office of the Regional Director, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018 (312) 694-4500

Southwest Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101 (817) 624-4911

Central Region, Office of the Regional Director, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Missouri 64106 (816) 374-5626

Rocky Mountain Region, Office of the Regional Director, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207 (303) 837-3646

Western Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 92007, WorldWay Postal Center, Los Angeles, California 90009 (213) 536-6427

Northwest Region, Office of the Regional Director, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108 (206) 767-2780

FEDERAL HIGHWAY ADMINISTRATION

Region 1, Regional Administrator, Federal Highway Administration, 4 Normanskill Boulevard, Delmar, New York 12054 (518) 472-6476

Region 3, Regional Administrator, Federal Highway Administration, Room 1621, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201 (301) 962-2361

Region 4, Regional Administrator, Federal Highway Administration, Suite 200, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309 (404) 526-5078

Region 5, Regional Administrator, Federal Highway Administration, Dixie Highway, Homewood, Illinois 60430 (312) 799-6300

Region 6, Regional Administrator, Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102 (817) 334-3232

Region 7, Regional Administrator, Federal Highway Administration, P.O. Box 7186, Country Club Station, Kansas City, Missouri 64113 (816) 361-7563

Region 8, Regional Administrator, Federal Highway Administration, Room 242, Building 40, Denver Federal Center, Denver, Colorado 80225

Region 9, Regional Administrator, Federal Highway Administration, 450 Golden Gate Avenue, Box 36096, San Francisco, California 94102 (415) 556-3895

Region 10, Regional Administrator, Federal Highway Administration, Room 412, Mohawk Building, 222 S.W. Morrison Street, Portland, Oregon 97204 (503) 221-2065

URBAN MASS TRANSPORTATION ADMINISTRATION

Region I, Office of the UMTA Representative, Urban Mass Transportation Administration, Transportation Systems Center, Technology Building, Room 277, 55 Broadway, Boston, Massachusetts 02142 (617) 494-2055

Region II, Office of the UMTA Representative, Urban Mass Transportation Administration, 26 Federal Plaza, Suite 1809, New York, New York 10007 (212) 264-8162

Region III, Office of the UMTA Representative, Urban Mass Transportation Administration, Mall Building, Suite 1214, 325 Chestnut Street, Philadelphia, Pennsylvania 19106 (215) 597-0407

Region IV, Office of the UMTA Representative, Urban Mass Transportation Administration, 1720 Peachtree Road, Northwest, Suite 501, Atlanta, Georgia 30309 (404) 526-3948

Region V, Office of the UMTA Representative, Urban Mass Transportation Administration, 300 South Wacker Drive, Suite 700, Chicago, Illinois 60606 (312) 353-6005

Region VI, Office of the UMTA Representative, Urban Mass Transportation Administration, Federal Center, Suite 9E24, 1100 Commerce Street, Dallas, Texas 75202 (214) 749-7322

Region VII, Office of the UMTA Representative, Urban Mass Transportation Administration, c/o FAA Management Systems Division, Room 1564D, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374-5567

Region VIII, Office of the UMTA Representative, Urban Mass Transportation Administration, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, Colorado 80202 (303) 837-3242

Region IX, Office of the UMTA Representative, Urban Mass Transportation Administration, 450 Golden Gate Avenue, Box 36125, San Francisco, California 94102 (415) 556-2884

Region X, Office of the UMTA Representative, Urban Mass Transportation Administration, 1321 Second Avenue, Suite 5079, Seattle, Washington (206) 442-0590

DEPARTMENT OF THE TREASURY

Office of Assistant Secretary for Administration, Department of the Treasury, Washington, D.C. 20220 964-5391

UPPER MISSISSIPPI RIVER BASIN COMMISSION

Office of the Chairman, Upper Mississippi River Basin Commission, Federal Office Building, Fort Snelling, Twin Cities, Minnesota 55111 (612) 725-4690

WATER RESOURCES COUNCIL

Office of the Associate Director, Water Resources Council, 2120 L Street, N.W., Suite 800, Washington, D.C. 20037 254-6442

APPENDIX IV—STATE AND LOCAL AGENCY REVIEW OF IMPACT STATEMENTS

1. OMB Circular No. A-95 through its system of clearinghouses provides a means for securing the views of State and local environmental agencies, which can assist in the preparation of impact statements. Under A-95,

review of the proposed project in the case of federally assisted projects (Part I of A-95) generally takes place prior to the preparation of the impact statement. Therefore, comments on the environmental effects of the proposed project that are secured during this stage of the A-95 process represent inputs to the environmental impact statement.

2. In the case of direct Federal development (Part II of A-95), Federal agencies are required to consult with clearinghouses at the earliest practicable time in the planning of the project or activity. Where such consultation occurs prior to completion of the draft impact statement, comments relating to the environmental effects of the proposed action would also represent inputs to the environmental impact statement.

3. In either case, whatever comments are made on environmental effects of proposed Federal or federally assisted projects by clearinghouses, or by State and local environmental agencies through clearinghouses, in the course of the A-95 review should be attached to the draft impact statement when it is circulated for review. Copies of the statement should be sent to the agencies making such comments. Whether those agencies then elect to comment again on the basis of the draft impact statement is a matter to be left to the discretion of the commenting agency depending on its resources, the significance of the project, and the extent to which its earlier comments were considered in preparing the draft statement.

4. The clearinghouses may also be used, by mutual agreement, for securing reviews of the draft environmental impact statement. However, the Federal agency may wish to deal directly with appropriate State or local agencies in the review of impact statements because the clearinghouses may be unwilling or unable to handle this phase of the process. In some cases, the Governor may have designated a specific agency, other than the clearinghouse, for securing reviews of impact statements. In any case, the clearinghouses should be sent copies of the impact statement.

5. To aid clearinghouses in coordinating State and local comments, draft statements should include copies of State and local agency comments made earlier under the A-95 process and should indicate on the summary sheet those other agencies from which comments have been requested, as specified in Appendix I of the CEQ Guidelines.

[FR Doc.73-15783 Filed 7-31-73; 8:45 am]

ERRATA SHEET

The Federal Register publication of the Council on Environmental Quality Guidelines contains the following typesetting errors.

| | |
|-------------------------|--|
| Table of Contents: | (1) Section 1500.9 should read "Review of draft environmental statements by Federal, Federal- State, State, and local agencies, and by the public." (2) The word "Sec." after Section 1500.14 should be deleted. |
| Section 1500.6(a): | "enviornmental" should read "environmental". |
| Section 1500.6(c): | "(see § 1500.5 ii)" should read "(see § 1500.5(a)(2))". |
| Section 1500.6(c)(iii): | "paragraph (C)(4)(ii)" should read "paragraph (ii)". |
| Section 1500.6(e): | "§ 1500.6(c)(4)(ii)" should read "§ 1500.6(c)(ii)". |
| Section 1500.7(a): | "§ 1500.6(c)(c)(ii)" should read "§ 1500.6(c)(ii)". |
| Section 1500.8(a)(1): | "see paragraph (a)(1)(3)(ii)" should read "see paragraph (3)(ii)". |
| Section 1500.9(a): | "(a) <i>Federal agency review. (1) in</i> " should read "(a) <i>Federal agency review: in.</i> ". |
| Section 1500.9(c): | "securng" should read "securing". |
| Effective Date: | The effective date should read January 28, 1974, not January 28, 1973. |

Appendix I:

"WATER RESOURCES COUNCIL" appearing after the heading *Weather Modification* should be aligned with the left hand margin and read "Water Resources Council".

"PROTECTION OF ENVIRONMENTALLY CRITICAL AREAS--FLOODPLAINS, WETLANDS, BEACHES AND DUNES, UNSTABLE SOILS, STEEP SLOPES, AQUIFER RECHARGE AREAS, ETC." should read
"Protection of Environmentally Critical Areas--Floodplains, Wetlands, Beaches and Dunes, Unstable Soils, Steep Slopes, Aquifer Recharge Areas, Etc."

"LAND USE IN COASTAL AREAS" should read
"Land Use in Coastal Areas"

"REDEVELOPMENT AND CONSTRUCTION IN BUILT-UP AREAS" should read *"Redevelopment and Construction In Built-Up Areas"*

"DENSITY AND CONGESTION MITIGATION" should read *"Density and Congestion Mitigation"*

"NEIGHBORHOOD CHARACTER AND CONTINUITY" should read *"Neighborhood Character and Continuity"*

"IMPACTS ON LOW INCOME POPULATIONS" should read *"Impacts on Low-Income Populations"*

"HISTORIC, ARCHITECTURAL, AND ARCHEOLOGICAL PRESERVATION" should read *"Historic, Architectural, and Archeological Preservation"*

"SOIL AND PLANT CONSERVATION AND HYDROLOGY" should read *"Soil And Plant Conservation and Hydrology"*

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DEPARTMENT OF TRANSPORTATION
ACT
Section 4(f)

**Maintenance and enhancement of natural beauty of land traversed by
transportation lines**

- (f) It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plan and program that include measures to maintain or enhance the natural beauty of the lands traversed. After August 23, 1968, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials 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, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use.

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11296

EVALUATION OF FLOOD HAZARD IN LOCATING FEDERALLY OWNED OR FINANCED BUILDINGS, ROADS, AND OTHER FACILITIES, AND IN DISPOSING OF FEDERAL LANDS AND PROPERTIES

WHEREAS uneconomic uses of the Nation's flood plains are occurring and potential flood losses are increasing despite substantial efforts to control floods; and

WHEREAS national and regional studies of areas and property subject to flooding indicate a further increase in flood damage potential and flood losses, even with continuing investment in flood protection structures; and

WHEREAS the Federal Government has extensive and continuing programs for the construction of buildings, roads, and other facilities and annually disposes of thousands of acres of Federal lands in flood hazard areas, all of which activities significantly influence patterns of commercial, residential, and industrial development; and

WHEREAS the availability of Federal loans and mortgage insurance and land use planning programs are determining factors in the utilization of lands:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. The heads of the executive agencies shall provide leadership in encouraging a broad and unified effort to prevent uneconomic uses and development of the Nation's flood plains and, in particular, to lessen the risk of flood losses in connection with Federal lands and installations and federally financed or supported improvements. Specifically:

(1) All executive agencies directly responsible for the construction of Federal buildings, structures, roads, or other facilities shall evaluate flood hazards when planning the location of new facilities and, as far as practicable, shall preclude the uneconomic, hazardous, or unnecessary use of flood plains in connection with such facilities. With respect to existing Federally owned properties which have suffered flood damage or which may be subject thereto, the responsible agency head shall require conspicuous delineation of past and probable flood heights so as to assist in creating public awareness of and knowledge about flood hazards. Whenever practical and economically feasible, flood proofing measures shall be applied to existing facilities in order to reduce flood damage potential.

(2) All executive agencies responsible for the administration of Federal grant, loan, or mortgage insurance programs involving the construction of buildings, structures, roads, or other facilities shall evaluate flood hazards in connection with such facilities and, in order to minimize the exposure of facilities to potential flood damage and the need for future Federal expenditures for flood protection and flood disaster relief, shall, as far as practicable, preclude the uneconomic, hazardous, or unnecessary use of flood plains in such connection.

(3) All executive agencies responsible for the disposal of Federal lands or properties shall evaluate flood hazards in connection with lands or properties proposed for disposal to non-Federal public instrumentalities or private interests and, as may be desirable in order to minimize future Federal expenditures for flood protection and flood disaster relief and as far as practicable, shall attach appropriate restrictions with respect to uses of the lands or properties by the purchaser and his successors and may withhold such lands or properties from disposal. In carrying out this paragraph, each executive agency may make appropriate allowance for any estimated loss in sales price resulting from the incorporation of use restrictions in the disposal documents.

(4) All executive agencies responsible for programs which entail land use planning shall take flood hazards into account when evaluating plans and shall encourage land use appropriate to the degree of hazard involved.

SEC. 2. As may be permitted by law, the head of each executive agency shall issue appropriate rules and regulations to govern the carrying out of the provisions of Section 1 of this order by his agency.

SEC. 3. Requests for flood hazard information may be addressed to the Secretary of the Army or, in the case of lands lying in the basin of the Tennessee River, to the Tennessee Valley Authority. The Secretary or the Tennessee Valley Authority shall provide such information as may be available, including requested guidance on flood proofing. The Department of Agriculture, Department of the Interior, Department of Commerce, Department of Housing and Urban Development, and Office of Emergency Planning, and any other executive agency which may have information and data relating to floods shall cooperate with the Secretary of the Army in providing such information and in developing procedures to process information requests.

SEC. 4. Any requests for appropriations for Federal construction of new buildings, structures, roads, or other facilities transmitted to the Bureau of the Budget by an executive agency shall be accompanied by a statement by the head of the agency on the findings of his agency's evaluation and consideration of flood hazards in the development of such requests.

SEC. 5. As used in this order, the term "executive agency" includes any department, establishment, corporation, or other organizational entity of the executive branch of the Government.

SEC. 6. The executive agencies shall proceed immediately to develop such procedures, regulations, and information as are provided for in, or may be necessary to carry out, the provisions of Sections 1, 2, and 3 of this order. In other respects this order shall take effect on January 1, 1967.

LYNDON B. JOHNSON

THE WHITE HOUSE,
August 10, 1966.

[F.R. Doc. 66-8838; Filed, Aug. 10, 1966; 12:14 p.m.]

EXECUTIVE ORDER 11514

Mar. 5, 1970, 35 Fed. Reg. 4247.

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the National Environmental Policy Act of 1969 (Public Law No. 91-190, approved January 1, 1970), it is ordered as follows:

Section 1. Policy. The Federal Government shall provide leadership in protecting and enhancing the quality of the Nation's environment to sustain and enrich human life. Federal agencies shall initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals. The Council on Environmental Quality, through the Chairman, shall advise and assist the President in leading this national effort.

Sec. 2. Responsibilities of Federal agencies. Consonant with Title I of the National Environmental Policy Act of 1969, hereafter referred to as the "Act", the heads of Federal agencies shall:

(a) Monitor, evaluate, and control on a continuing basis their agencies' activities so as to protect and enhance the quality of the environment. Such activities shall include those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. Agencies shall develop programs and measures to protect and enhance environmental quality and shall assess progress in meeting the specific objectives of such activities. Heads of agencies shall consult with appropriate Federal, State and local agencies in carrying out their activities as they affect the quality of the environment.

(b) Develop procedures to ensure the fullest practicable provision of timely public information and understanding of Federal plans and programs with environmental impact in order to obtain the views of interested parties. These procedures shall include, whenever appropriate, provision for public hearings, and shall provide the public with relevant information, including information on alternative courses of action. Federal agencies shall also encourage State and local agencies to adopt similar procedures for informing the public concerning their activities affecting the quality of the environment.

(c) Insure that information regarding existing or potential environmental problems and control methods developed as part of research, development, demonstration, test, or evaluation activities

is made available to Federal agencies, States, counties, municipalities, institutions, and other entities, as appropriate.

(d) Review their agencies' statutory authority, administrative regulations, policies, and procedures, including those relating to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the purposes and provisions of the Act. A report on this review and the corrective actions taken or planned, including such measures to be proposed to the President as may be necessary to bring their authority and policies into conformance with the intent, purposes, and procedures of the Act, shall be provided to the Council on Environmental Quality not later than September 1, 1970.

(e) Engage in exchange of data and research results, and cooperate with agencies of other governments to foster the purposes of the Act.

(f) Proceed, in coordination with other agencies, with actions required by section 102 of the Act.

Sec. 3. Responsibilities of Council on Environmental Quality.
The Council on Environmental Quality shall:

(a) Evaluate existing and proposed policies and activities of the Federal Government directed to the control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment. This shall include continuing review of procedures employed in the development and enforcement of Federal standards affecting environmental quality. Based upon such evaluations the Council shall, where appropriate, recommend to the President policies and programs to achieve more effective protection and enhancement of environmental quality and shall, where appropriate, seek resolution of significant environmental issues.

(b) Recommend to the President and to the agencies priorities among programs designed for the control of pollution and for enhancement of the environment.

(c) Determine the need for new policies and programs for dealing with environmental problems not being adequately addressed.

(d) Conduct, as it determines to be appropriate, public hearings or conferences on issues of environmental significance.

(e) Promote the development and use of indices and monitoring systems (1) to assess environmental conditions and trends, (2) to predict the environmental impact of proposed public and private actions, and (3) to determine the effectiveness of programs for protecting and enhancing environmental quality.

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving international cooperation for dealing with environmental problems, under the foreign policy guidance of the Secretary of State.

(h) Issue guidelines to Federal agencies for the preparation of detailed statements on proposals for legislation and other Federal actions affecting the environment, as required by section 102(2) (C) of the Act.

(i) Issue such other instructions to agencies, and request such reports and other information from them, as may be required to carry out the Council's responsibilities under the Act.

(j) Assist the President in preparing the annual Environmental Quality Report provided for in section 201 of the Act.

(k) Foster investigations, studies, surveys, research, and analyses relating to (i) ecological systems and environmental quality, (ii) the impact of new and changing technologies thereon, and (iii) means of preventing or reducing adverse effects from such technologies.

Sec. 4. Amendments of E.O. 11472. Executive Order No. 11472 of May 29, 1969, including the heading thereof, is hereby amended:

(1) By substituting for the term "the Environmental Quality Council", wherever it occurs, the following: "the Cabinet Committee on the Environment".

(2) By substituting for the term "the Council", wherever it occurs, the following: "the Cabinet Committee".

(3) By inserting in subsection (f) of section 101, after "Budget," the following: "the Director of the Office of Science and Technology,".

(4) By substituting for subsection (g) of section 101 the following:

"(g) The Chairman of the Council on Environmental Quality (established by Public Law 91-190) shall assist the President in directing the affairs of the Cabinet Committee."

(5) By deleting subsection (c) of section 102.

(6) By substituting for "the Office of Science and Technology", in section 104, the following: "the Council on Environmental Quality (established by Public Law 91-190)".

(7) By substituting for "(hereinafter referred to as the 'Committee')", in section 201, the following: "(hereinafter referred to as the 'Citizens' Committee')".

(8) By substituting for the term "the Committee", wherever it occurs, the following: "the Citizens' Committee".

RICHARD NIXON

Protection and Enhancement of the Cultural Environment

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq.), the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470 et seq.), the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), and the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431 et seq.), it is ordered as follows:

SECTION 1. Policy. The Federal Government shall provide leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. Agencies of the executive branch of the Government (hereinafter referred to as "Federal agencies") shall (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations, (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored and maintained for the inspiration and benefit of the people, and (3), in consultation with the Advisory Council on Historic Preservation (16 U.S.C. 470i), institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures and objects of historical, architectural or archaeological significance.

SEC. 2. Responsibilities of Federal agencies. Consonant with the provisions of the acts cited in the first paragraph of this order, the heads of Federal agencies shall:

(a) no later than July 1, 1973, with the advice of the Secretary of the Interior, and in cooperation with the liaison officer for historic preservation for the State or territory involved, locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

(b) exercise caution during the interim period until inventories and evaluations required by subsection (a) are completed to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished or substantially altered. The agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion on the National Register of Historic Places. The Secretary shall consult with the liaison officer for historic preservation for the State or territory

(over)

involved in arriving at his opinion. Where, after a reasonable period in which to review and evaluate the property, the Secretary determines that the property is likely to meet the criteria prescribed for listing on the National Register of Historic Places, the Federal agency head shall reconsider the proposal in light of national environmental and preservation policy. Where, after such reconsideration, the Federal agency head proposes to transfer, sell, demolish or substantially alter the property he shall not act with respect to the property until the Advisory Council on Historic Preservation shall have been provided an opportunity to comment on the proposal.

(c) initiate measures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress as part of the Historic American Buildings Survey or Historic American Engineering Record for future use and reference. Agencies may call on the Department of the Interior for advice and technical assistance in the completion of the above records.

(d) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned and registered sites at professional standards prescribed by the Secretary of the Interior.

(e) submit procedures required pursuant to subsection (d) to the Secretary of the Interior and to the Advisory Council on Historic Preservation no later than January 1, 1972, and annually thereafter, for review and comment.

(f) cooperate with purchasers and transferees of a property listed on the National Register of Historic Places in the development of viable plans to use such property in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public or private interests.

SEC. 3. *Responsibilities of the Secretary of the Interior.* The Secretary of the Interior shall:

(a) encourage State and local historic preservation officials to evaluate and survey federally owned historic properties and, where appropriate, to nominate such properties for listing on the National Register of Historic Places.

(b) develop criteria and procedures to be applied by Federal agencies in the reviews and nominations required by section 2(a). Such criteria and procedures shall be developed in consultation with the affected agencies.

(c) expedite action upon nominations to the National Register of Historic Places concerning federally owned properties proposed for sale, transfer, demolition or substantial alteration.

(d) encourage State and Territorial liaison officers for historic preservation to furnish information upon request to Federal agencies regarding their properties which have been evaluated with respect to historic, architectural or archaeological significance and which as a result of such evaluations have not been found suitable for listing on the National Register of Historic Places.

(e) develop and make available to Federal agencies and State and local governments information concerning professional methods and techniques for preserving, improving, restoring and maintaining historic properties.

(f) advise Federal agencies in the evaluation, identification, preservation, improvement, restoration and maintenance of historic properties.

(g) review and evaluate the plans of transferees of surplus Federal properties transferred for historic monument purposes to assure that the historic character of such properties is preserved in rehabilitation, restoration, improvement, maintenance and repair of such properties.

(h) review and comment upon Federal agency procedures submitted pursuant to section 2(c) of this order.



THE WHITE HOUSE,
May 13, 1971.

FEDERAL AID HIGHWAY ACT OF 1970

Section 136

ECONOMIC, SOCIAL, ENVIRONMENTAL, AND OTHER IMPACT

SEC. 136. (a) Section 109(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines."

(b) Such section 109 is further amended by adding at the end thereof the following:

"(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

"(1) air, noise, and water pollution;

"(2) destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

"(3) adverse employment effects, and tax and property value losses;

"(4) injurious displacement of people, businesses and farms; and

"(5) disruption of desirable community and regional growth. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

"(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

"(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended."

(c) Subsection (b) of section 307 of title 23, United States Code, is amended by adding the following sentence: "The highway research program herein authorized shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects."

MILITARY CONSTRUCTION AUTHORIZATION ACT

Section 807

SEC. 807. None of the funds authorized by this Act or by any military construction authorization Act hereafter enacted shall be expended for the construction of any waste treatment or waste disposal system at or in connection with any military installation until after the Secretary of Defense or his designee has consulted with the Federal Water Pollution Control Administration of the Department of the Interior and determined that the degree and type of waste disposal and treatment required in the area in which such military installation is located are consistent with applicable Federal or State water quality standards or other requirements and that the planned system will be coordinated in timing with a State, county, or municipal program which requires communities to take such related abatement measures as are necessary to achieve areawide water pollution cleanup.

NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Sec.

4321. Congressional declaration of purpose.

SUBCHAPTER I.—POLICIES AND GOALS

- 4331. Congressional declaration of national environmental policy.
- 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts.
- 4333. Conformity of administrative procedures to national environmental policy.
- 4334. Other statutory obligations of agencies.
- 4335. Efforts supplemental to existing authorizations.

SUBCHAPTER II.—COUNCIL ON ENVIRONMENTAL QUALITY

- 4341. Reports to Congress; recommendations for legislation.
- 4342. Establishment; membership; Chairman; appointments.
- 4343. Employment of personnel, experts and consultants.
- 4344. Duties and functions.
- 4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives.
- 4346. Tenure and compensation of members.
- 4347. Authorization of appropriations.

§ 4321. Congressional declaration of purpose

The purposes of this chapter are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

Pub.L. 91-190, § 2, Jan. 1, 1970, 83 Stat. 852.

SUBCHAPTER I.—POLICIES AND GOALS

§ 4331. Congressional declaration of national environmental policy

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Fed-

eral Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

Pub.L. 91-190, Title I, § 101, Jan. 1, 1970, 83 Stat. 852.

§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of

the Federal Government shall—

(A) 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 in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) 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.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes;

(D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to

initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(F) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(G) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(H) assist the Council on Environmental Quality established by subchapter II of this chapter.

Pub.L. 91-190, Title I, § 102, Jan. 1, 1970, 83 Stat. 853.

§ 4333. Conformity of administrative procedures to national environmental policy

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

Pub.L. 91-190, Title I, § 103, Jan. 1, 1970, 83 Stat. 854.

§ 4334. Other statutory obligations of agencies

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

Pub.L. 91-190, Title I, § 104, Jan. 1, 1970, 83 Stat. 854.

§ 4335. Efforts supplemental to existing authorizations

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

Pub.L. 91-190, Title I, § 105, Jan. 1, 1970, 83 Stat. 854.

SUBCHAPTER II.—COUNCIL ON ENVIRONMENTAL QUALITY

§ 4341. Reports to Congress; recommendations for legislation

The President shall transmit to the Congress annually beginning July 1, 1970, an Environmental Quality Report (hereinafter

referred to as the "report") which shall set forth (1) the status and condition of the major natural, manmade, or altered environmental classes of the Nation, including, but not limited to, the air, the aquatic, including marine, estuarine, and fresh water, and the terrestrial environment, including, but not limited to, the forest, dryland, wetland, range, urban, suburban, and rural environment; (2) current and foreseeable trends in the quality, management and utilization of such environments and the effects of those trends on the social, economic, and other requirements of the Nation; (3) the adequacy of available natural resources for fulfilling human and economic requirements of the Nation in the light of expected population pressures; (4) a review of the programs and activities (including regulatory activities) of the Federal Government, the State and local governments, and nongovernmental entities or individuals, with particular reference to their effect on the environment and on the conservation, development and utilization of natural resources; and (5) a program for remedying the deficiencies of existing programs and activities, together with recommendations for legislation.

Pub.L. 91-190, Title II, § 201, Jan. 1, 1970, 83 Stat. 854.

§ 4342. Establishment; membership; Chairman; appointments

There is created in the Executive Office of the President a Council on Environmental Quality (hereinafter referred to as the "Council"). The Council shall be composed of three members who shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman. Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the Nation; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

Pub.L. 91-190, Title II, § 202, Jan. 1, 1970, 83 Stat. 854.

§ 4343. Employment of personnel, experts and consultants

The Council may employ such officers and employees as may be necessary to carry out its functions under this chapter. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this chapter, in accordance with section

3109 of Title 5 (but without regard to the last sentence thereof).
Pub.L. 91-190, Title II, § 203, Jan. 1, 1970, 83 Stat. 855.

§ 4344. Duties and functions

It shall be the duty and function of the Council—

(1) to assist and advise the President in the preparation of the Environmental Quality Report required by section 4341 of this title;

(2) to gather timely and authoritative information concerning the conditions and trends in the quality of the environment both current and prospective, to analyze and interpret such information for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in subchapter I of this chapter, and to compile and submit to the President studies relating to such conditions and trends;

(3) to review and appraise the various programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter for the purpose of determining the extent to which such programs and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(4) to develop and recommend to the President national policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(5) to conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(6) to document and define changes in the natural environment, including the plant and animal systems, and to accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(7) to report at least once each year to the President on the state and condition of the environment; and

(8) to make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

Pub.L. 91-190, Title II, § 204, Jan. 1, 1970, 83 Stat. 855.

§ 4345. Consultation with the Citizen's Advisory Committee on Environmental Quality and other representatives

In exercising its powers, functions, and duties under this chapter, the Council shall—

(1) consult with the Citizens' Advisory Committee on Environmental Quality established by Executive Order numbered 11472, dated May 29, 1969, and with such representatives of science, industry, agriculture, labor, conservation organizations, State and local governments and other groups, as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided, thus assuring that the Council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

Pub.L. 91-190, Title II, § 205, Jan. 1, 1970, 83 Stat. 855.

§ 4346. Tenure and compensation of members

Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for Level II of the Executive Schedule Pay Rates. The other members of the Council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates.

Pub.L. 91-190, Title II, § 206, Jan. 1, 1970, 83 Stat. 856.

§ 4347. Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this chapter not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

Pub.L. 91-190, Title II, § 207, Jan. 1, 1970, 83 Stat. 856.

NATIONAL HISTORIC PRESERVATION ACT
OF 1966
Section 106

**Effect of Federal undertakings upon property
listed in the National Register; comment by Ad-
visory Council on Historic Preservation.**

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under sections 470i to 470n of this title a reasonable opportunity to comment with regard to such undertaking. (Pub. L. 89-665, title I, § 106, Oct. 15, 1966, 80 Stat. 917.)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 9, 1971

CIRCULAR NO. A-95
Revised

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Evaluation, review, and coordination of Federal
and federally assisted programs and projects

1. Purpose. This Circular furnishes guidance to Federal agencies for added cooperation with State and local governments in the evaluation, review, and coordination of Federal assistance programs and projects. The Circular promulgates regulations (Attachment A) which provide, in part, for:

a. Encouraging the establishment of a project notification and review system to facilitate coordinated planning on an intergovernmental basis for certain Federal assistance programs in furtherance of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 (Attachment B).

b. Coordination of direct Federal development programs and projects with State, regional, and local planning and programs pursuant to Title IV of the Intergovernmental Cooperation Act of 1968.

c. Securing the comments and views of State and local agencies which are authorized to develop and enforce environmental standards on certain Federal or federally assisted projects affecting the environment pursuant to section 102(2) (C) of the National Environmental Policy Act of 1969 (Attachment C) and regulations of the Council on Environmental Quality.

This Circular supersedes Circular No. A-95, dated July 24, 1969, as amended by Transmittal Memorandum No. 1, dated December 27, 1969. It will become effective April 1, 1971.

2. Basis. This Circular has been prepared pursuant to:

a. Section 401(a) of the Intergovernmental Cooperation Act of 1968 which provides, in part, that

"The President shall . . . establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development . . . "

and the President's Memorandum of November 8, 1968, to the Director of the Bureau of the Budget ("Federal Register," Vol. 33, No. 221, November 13, 1968) which provides:

"By virtue of the authority vested in me by section 301 of title 3 of the United States Code and section 401(a) of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), I hereby delegate to you the authority vested in the President to establish the rules and regulations provided for in that section governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives.

"In addition, I expect the Bureau of the Budget to generally coordinate the actions of the departments and agencies in exercising the new authorizations provided by the Intergovernmental Cooperation Act, with the objective of consistent and uniform action by the Federal Government."

b. Title IV, section 403, of the Intergovernmental Cooperation Act of 1968 which provides that:

"The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this Title."

REGULATIONS UNDER SECTION 204 OF THE DEMONSTRATION
CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966,
TITLE IV OF THE INTERGOVERNMENTAL COOPERATION ACT
OF 1968, AND SECTION 102 (2) (C) OF THE NATIONAL
ENVIRONMENTAL POLICY ACT OF 1969

PART I: PROJECT NOTIFICATION AND REVIEW SYSTEM

1. Purpose. The purpose of this Part is to:

a. Further the policies and directives of Title IV of the Intergovernmental Cooperation Act of 1968 by encouraging the establishment of a network of State, regional, and metropolitan planning and development clearinghouses which will aid in the coordination of Federal or federally assisted projects and programs with State, regional, and local planning for orderly growth and development;

b. Implement the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 for metropolitan areas within that network;

c. Implement, in part, requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, which require State and local views of the environmental impact of Federal or federally assisted projects;

d. Encourage, by means of early contact between applicants for Federal assistance and State and local governments and agencies, an expeditious process of intergovernmental coordination and review of proposed projects.

2. Notification.

a. Any agency of State or local government or any organization or individual undertaking to apply for assistance to a project under a Federal program listed in Attachment D will be required to notify the planning and development clearinghouse of the State (or States) and the region, if there is one, or of the metropolitan area in which the project is to be located, of its intent to apply for assistance. Notification

c. Section 204 (c) of the Demonstration Cities and Metropolitan Development Act of 1966 which provides that:

"The Bureau of the Budget, or such other agency as may be designated by the President, shall prescribe such rules and regulations as are deemed appropriate for the effective administration of this section," and

d. Reorganization Plan No. 2 of 1970 and Executive Order No. 11541 of July 1, 1970, which vest all functions of the Bureau of the Budget or the Director of the Bureau of the Budget in the Director of the Office of Management and Budget.

3. Coverage. The regulations promulgated by this Circular (Attachment A) will have applicability to:

a. Under Part I, all projects (or significant changes thereto) for which Federal assistance is being sought under the programs listed in Attachment D. Limitations and provision for exceptions are noted therein.

b. Under Part II, all direct Federal development activities, including the acquisition, use, and disposal of Federal real property.

c. Under Part III, all Federal programs requiring, by statute or administrative regulation, a State plan as a condition of assistance.

d. Under Part IV, all Federal programs providing assistance to State, local, and regional projects and activities that are planned on a multijurisdictional basis.

4. Inquiries. Inquiries concerning this Circular may be addressed to the Office of Management and Budget, Washington, D. C. 20503, telephone (202) 395-3031 (Government dial code 103-3031).

GEORGE P. SHULTZ
Director

Attachments

will be accompanied by a summary description of the project for which assistance will be sought. The summary description will contain the following information:

(1) Identity of the applicant agency, organization, or individual.

(2) The geographic location of the project to be assisted.

(3) A brief description of the proposed project by type, purpose, general size or scale, estimated cost, beneficiaries, or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed projects.

(4) A brief statement of whether or not an environmental impact statement is required and, if so, an indication of the nature and extent of environmental impact anticipated.

(5) The Federal program and agency under which assistance will be sought as indicated in the Catalog of Federal Domestic Assistance (April 1970 and subsequent editions).

(6) The estimated date by which time the applicant expects to formally file an application.

Many clearinghouses have developed notification forms and instructions. Applicants are urged to contact their clearinghouses for such information in order to expedite clearinghouse review.

b. In order to assure maximum time for effective coordination and so as not to delay the timely submission of the completed application to the Federal agency, such notifications should be sent at the earliest feasible time.

3. Clearinghouse functions. Clearinghouse functions include:

a. Evaluating the significance of proposed Federal or federally assisted projects to State, areawide or local plans and programs, as appropriate.

b. Receiving and disseminating project notifications to appropriate State agencies in the case of the State clearinghouse and to appropriate local governments and agencies in the case of regional or metropolitan clearinghouses; and providing liaison, as may be necessary, between such agencies or bodies and the applicant.

c. Assuring, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, that appropriate State, metropolitan, regional, or local agencies which are authorized to develop and enforce environmental standards are informed of and are given opportunity to review and comment on the environmental significance of proposed projects for which Federal assistance is sought.

d. Providing, pursuant to Part II of these regulations, liaison between Federal agencies contemplating direct Federal development projects and the State or areawide agencies or local governments having plans or programs that might be affected by the proposed project.

4. Consultation and review

a. State, metropolitan, and regional clearinghouses may have a period of 30 days after receipt of a project notification in which to inform State agencies, other local or regional bodies, etc., that may be affected by the project (including agencies authorized to develop and enforce environmental standards) and to arrange, as may be necessary, to consult with the applicant on the proposed project.

b. During this period and during the period in which the application is being completed, the clearinghouse may work with the applicant in the resolution of any problems raised by the proposed project.

c. Clearinghouses may have, if necessary, an additional 30 days to review the completed application and to transmit to the applicant any comments or recommendations the clearinghouse (or others) may have.

d. In the case of a project for which Federal assistance is sought by a special purpose unit of government, clearinghouses will assure that any unit of general local government,

having jurisdiction over the area in which the project is to be located, has opportunity to confer, consult, and comment upon the project and the application.

e. Applicants will include with the completed application as submitted to the Federal agency:

(1) Any comments and recommendations made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or

(2) A statement that the procedures outlined in this section have been followed and that no comments or recommendations have been received.

f. Where regional or metropolitan areas are contiguous, coordinative arrangements should be established between the clearinghouses in such areas to assure that projects in one area which may have an impact on the development of a contiguous area are jointly studied. Any comments and recommendations made by or through a clearinghouse in one area on a project in a contiguous area will accompany the application for assistance to that project.

5. Subject matter of comments and recommendations. Comments and recommendations made by or through clearinghouses with respect to any project are for the purpose of assuring maximum consistency of such project with State, regional and local comprehensive plans. They are also intended to assist the Federal agency (or State agency, in the case of projects for which the State under certain Federal grants has final project approval) administering such a program in determining whether the project is in accord with applicable Federal law. Comments or recommendations, as may be appropriate, may include information about:

a. The extent to which the project is consistent with or contributes to the fulfillment of comprehensive planning for the State, region, metropolitan area, or locality.

b. The extent to which the project contributes to the achievement of State, regional, metropolitan, and local objectives as specified in section 401(a) of the Intergovernmental Cooperation Act of 1968, as follows:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

(4) Adequate outdoor recreation and open space;

(5) Protection of areas of unique natural beauty, historical and scientific interest;

(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

(7) Concern for high standards of design.

c. As provided under section 102(2)(C) of the National Environmental Policy Act of 1969, the extent to which the project significantly affects the environment including consideration of:

(1) The environmental impact of the proposed project;

(2) Any adverse environmental effects which cannot be avoided should the proposed project be implemented;

(3) Alternatives to the proposed project;

(4) The relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed project or action, should it be implemented.

d. In the case of a project for which assistance is being sought by a special purpose unit of government, whether the unit of general local government having jurisdiction over the area in which the project is to be located has applied, or plans to apply for assistance for the same or similar type project. This information is necessary to enable the Federal (or State) agency to make the judgments required under section 402 of the Intergovernmental Cooperation Act of 1968.

6. Federal agency procedures. Federal agencies having programs covered under this Part (see Attachment D) will develop appropriate procedures for:

a. Informing potential applicants for assistance under such programs of the requirements of this Part (1) in program information materials, (2) in response to inquiries respecting application procedures, (3) in pre-application conferences, or (4) by other means which will assure earliest contact between applicant and clearinghouses.

b. Assuring that all applications for assistance under programs covered by this part have been submitted to appropriate clearinghouses for review.

c. Notifying clearinghouses within seven days of any action (approvals, disapprovals, return for amendment, etc.) taken on applications that have been reviewed by such clearinghouses. Where a State clearinghouse has assigned an identification number to an application, the Federal agency will refer to such identification number in notifying clearinghouses of actions taken on the application.

d. Assuring, in the case of an application submitted by a special purpose unit of government, where accompanying comments indicate that the unit of general local government having jurisdiction over the area in which the project is to be located has submitted or plans to submit an application for assistance for the same or a similar type project, that appropriate considerations and preferences as specified in section 402 of the Intergovernmental Cooperation Act of 1968,

are accorded the unit of general local government. Where such preference cannot be so accorded, the agency shall supply, in writing, to the unit of general local government and the Office of Management and Budget its reasons therefor.

7. HUD housing programs. Because of the unique nature of the application and development process for the housing programs of the Department of Housing and Urban Development, a variation of the review procedure is necessary. For HUD programs in the 14.100 series listed in Attachment D, the following procedure for review will be followed:

a. The HUD Area or Insuring Office will transmit to the appropriate State clearinghouse and metropolitan or regional clearinghouse a copy of the initial application for HUD program approval.

b. The clearinghouses will have 15 days to review the applications and to forward to the Area or Insuring Office any comments which they may have, including observations concerning the consistency of the proposed project with State and areawide development plans and identification of major environmental concerns. Processing of applications in the Area or Insuring Office will proceed concurrently with the clearinghouse review.

c. This procedure will include only applications involving new construction and will apply to:

(1) Subdivisions having 50 or more lots involving any HUD home mortgage insurance program.

(2) Multifamily projects having 100 or more dwelling units under any HUD mortgage insurance program, or under conventional or turnkey public housing programs.

(3) Mobile home courts with 100 or more spaces.

(4) College housing provided under the debt service or direct loan programs for 200 or more students.

All other applications for assistance under the HUD programs in the 14.100 series listed in Attachment D are exempt from the requirements of this Circular.

8. Reports and directories.

a. The Director of the Office of Management and Budget may require reports, from time to time, on the implementation of this Part.

b. The Office of Management and Budget will maintain and distribute to appropriate Federal agencies a directory of State, regional, and metropolitan clearinghouses.

c. The Office of Management and Budget will notify clearinghouses and Federal agencies of any excepted categories of projects under programs listed in Attachment D.

PART II: DIRECT FEDERAL DEVELOPMENT

1. Purpose. The purpose of this Part is to:

a. Provide State and local government with information on projected Federal development so as to facilitate coordination with State, regional and local plans and programs.

b. Provide Federal agencies with information on the relationship of proposed direct Federal development projects and activities to State, regional, and local plans and programs; and to assure maximum feasible consistency of Federal developments with State, regional, and local plans and programs.

c. Provide Federal agencies with information on the possible impact on the environment of proposed Federal development.

2. Coordination of direct Federal development projects with State, regional, and local development.

a. Federal agencies having responsibility for the planning and construction of Federal buildings and installations or other Federal public works or development or for the acquisition, use, and disposal of Federal land and real property will establish procedures for:

(1) Consulting with Governors, regional and metropolitan clearinghouses, and local elected officials at the earliest practicable stage in project or development planning on the relationship of any plan or project to the development plans and programs of the State, region, or localities in which the project is to be located.

(2) Assuring that any such Federal plan or project is consistent or compatible with State, regional, and local development plans and programs identified in the course of such consultations. Exceptions will be made only where there is clear justification.

(3) Providing State, metropolitan, regional, and local agencies which are authorized to develop and enforce environmental standards with adequate opportunity to review such Federal plans and projects pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Any comments of such agencies will accompany the environmental impact statement submitted by the Federal agency.

3. Use of clearinghouses. The State, regional, and metropolitan planning and development clearinghouses established pursuant to Part I will be utilized to the greatest extent practicable to effectuate the requirements of this Part. Agencies are urged to establish early contact with clearinghouses to work out arrangements for carrying out the consultation and review required under this Part, including identification of types of projects considered appropriate for consultation and review.

PART III: STATE PLANS

1. Purpose. The purpose of this Part is to provide Federal agencies with information about the relationship of State plans required under various Federal programs to State comprehensive planning and to other State plans.

2. Review of State plans. To the extent not presently required by statute or administrative regulation, Federal agencies administering programs requiring by statute or regulation a State plan as a condition of assistance under such programs will require that the Governor be given the opportunity to comment on the relationship of such State plan to comprehensive and other State plans and programs. Governors will be afforded a period of forty-five days in which to make such comments, and any such comments will be transmitted with the plan.

3. State plan. A State plan under this Part is defined to include any required supporting reports or documentation that indicate the programs, projects, and activities for which Federal funds will be utilized.

PART IV: COORDINATION OF PLANNING
IN MULTIJURISDICTIONAL AREAS

1. Policies and objectives. The purposes of this Part are:

a. To encourage and facilitate State and local initiative and responsibility in developing organizational and procedural arrangements for coordinating comprehensive and functional planning activities.

b. To eliminate overlap, duplication, and competition in State and local planning activities assisted or required under Federal programs and to encourage the most effective use of State and local resources available for development planning.

c. To minimize inconsistency among Federal administrative and approval requirements placed on State, regional, and metropolitan development planning activities.

d. To encourage the States to exercise leadership in delineating and establishing a system of planning and development districts or regions in each State, which can provide a consistent geographic base for the coordination of Federal, State and local development programs.

2. Common or consistent planning and development districts or regions. Prior to the designation or redesignation (or approval thereof) of any planning and development district or region under any Federal program, Federal agency procedures will provide a period of thirty days for the Governor(s) of the State(s) in which the district or region will be located to review the boundaries thereof and comment upon its relationship to planning and development districts or regions established by the State. Where the State has established such planning and development districts, the boundaries of designated areas will conform to them unless there is clear justification for not doing so. Where the State has not established planning and development districts or regions which provide a basis for evaluation of the boundaries of the area proposed for designation,

major units of general local government and Federal agencies administering related programs in such area will also be consulted prior to designation of the area to assure consistency with districts established under interlocal agreement and under related Federal programs.

3. Common and consistent planning bases and coordination of related activities in multijurisdictional areas. Each agency will develop checkpoint procedures and requirements for applications for planning and development assistance under appropriate programs to assure the fullest consistency and coordination with related planning and development being carried on under other Federal programs or under State and local programs in any multijurisdictional areas.

The checkpoint procedures will incorporate provisions covering the following points:

a. Identification by the applicant of planning activities being carried on for related programs within the multijurisdictional area, including those covering a larger area within which such multijurisdictional area is located, subareas of the area, and areas overlapping the multijurisdictional area. Metropolitan or regional clearinghouses established under Part I of this Circular, may assist in providing such identification.

b. Evidence of explicit organizational or procedural arrangements that have been or are being established by the applicant to assure maximum coordination of planning for such related functions, programs, projects and activities within the multijurisdictional area. Such arrangements might include joint or common boards of directors or planning staffs, umbrella organizations, common referral or review procedures, information exchanges, etc.

c. Evidence of cooperative arrangements that have been or are being made by the applicant respecting joint or common use of planning resources (funds, personnel, facilities, and services, etc.) among related programs within the area; and

d. Evidence that planning being assisted will proceed from base data, statistics, and projections (social, economic,

demographic, etc.) and assumptions that are common to or consistent with those being employed for planning related activities within the area.

4. Joint funding. Where it will enhance the quality, comprehensive scope, and coordination of planning in multijurisdictional areas, Federal agencies will, to the extent practicable provide for joint funding of planning activities being carried on therein.

5. Coordination of agency procedures and requirements. With respect to the steps called for in paragraphs 2 and 3 of this Part, departments and agencies will develop for relevant programs appropriate draft procedures and requirements. Copies of such drafts will be furnished to the Director of the Office of Management and Budget and to the heads of departments and agencies administering related programs. The Office, in consultation with the agencies, will review the draft procedures to assure the maximum obtainable consistency among them.

PART V: DEFINITIONS

Terms used in this Circular will have the following meanings:

1. Federal agency -- any department, agency, or instrumentality in the executive branch of the Government and any wholly owned Government corporation.
2. State -- any of the several States of the United States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State.
3. Unit of general local government -- any city, county, town, parish, village, or other general purpose political subdivision of a State.
4. Special purpose unit of local government -- any special district, public purpose corporation, or other strictly limited purpose political subdivision of a State, but shall not include a school district.
5. Federal assistance, Federal financial assistance, Federal assistance programs, or federally assisted program -- programs that provide assistance through grant or contractual arrangements. They include technical assistance programs, or programs providing assistance in the form of loans, loan guarantees, or insurance. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code sec. 47-2501a and 47-2501b).
6. Comprehensive planning, to the extent directly related to area needs or needs of a unit of general local government, includes the following:
 - a. Preparation, as a guide for governmental policies and action, of general plans with respect to:
 - (1) Pattern and intensity of land use,

(2) Provision of public facilities (including transportation facilities) and other government services.

(3) Effective development and utilization of human and natural resources.

b. Preparation of long range physical and fiscal plans for such action.

c. Programming of capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financing plans for such expenditures in the earlier years of the program.

d. Coordination of all related plans and activities of the State and local governments and agencies concerned.

e. Preparation of regulatory and administrative measures in support of the foregoing.

7. Metropolitan area -- a standard metropolitan statistical area as established by the Office of Management and Budget, subject, however, to such modifications and extensions as the Office of Management and Budget may determine to be appropriate for the purposes of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and these Regulations.

8. Areawide agency -- an official State or metropolitan or regional agency empowered under State or local laws or under an interstate compact or agreement to perform comprehensive planning in an area; an organization of the type referred to in section 701(g) of the Housing Act of 1954; or such other agency or instrumentality as may be designated by the Governor (or, in the case of metropolitan areas crossing State lines, any one or more of such agencies or instrumentalities as may be designated by the Governors of the States involved) to perform such planning.

9. Planning and development clearinghouse or clearinghouse includes:

a. An agency of the State Government designated by the Governor or by State law.

b. A nonmetropolitan regional comprehensive planning agency (herein referred to as "regional clearinghouse") designated by the Governor (or Governors in the case of regions extending into more than one State) or by State law.

c. A metropolitan areawide agency that has been recognized by the Office of Management and Budget as an appropriate agency to perform review functions under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

10. Multijurisdictional area -- any geographical area comprising, encompassing, or extending into more than one unit of general local government.

11. Planning and development district or region -- a multi-jurisdictional area that has been formally designated or recognized as an appropriate area for planning under State law or Federal program requirements.

12. Direct Federal development -- 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) undertaken by or for the use of the Federal Government or any of its agencies.

ATTACHMENT B
Circular No. A-95
Revised

SECTION 204 OF THE DEMONSTRATION CITIES AND
METROPOLITAN DEVELOPMENT ACT OF 1966,
as amended (80 Stat. 1263, 82 Stat. 208)

"Sec. 204. (a) All applications made after June 30, 1967 for Federal loans or grants to assist in carrying out open-space land projects or for planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review--

"(1) to any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government within whose jurisdiction such agency is authorized to engage in such planning, and

"(2) if made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

"(b)(1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with comprehensive planning developed or in the process of development for the metropolitan area

or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

"(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statements referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c), or such application, has lain before an appropriate areawide agency or instrumentality or unit of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

"(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the application which, in light of the purposes of this title, involves a major change in the project covered by the application prior to such amendment.

"(c) The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section."

TITLE IV OF THE INTERGOVERNMENTAL COOPERATION
ACT OF 1968 (82 Stat. 1103)

"TITLE IV -- COORDINATED INTERGOVERNMENTAL
POLICY AND ADMINISTRATION OF DEVELOP-
MENT ASSISTANCE PROGRAMS"

"DECLARATION OF DEVELOPMENT ASSISTANCE POLICY"

"Sec. 401. (a) The economic and social development of the Nation and the achievement of satisfactory levels of living depend upon the sound and orderly development of all areas, both urban and rural. Moreover, in a time of rapid urbanization, the sound and orderly development of urban communities depends to a large degree upon the social and economic health and the sound development of smaller communities and rural areas. The President shall, therefore, establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development, including programs providing Federal assistance to the States and localities, to the end that they shall most effectively serve these basic objectives. Such rules and regulations shall provide for full consideration of the concurrent achievement of the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict:

"(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;

"(2) Wise development and conservation of natural resources, including land, water, minerals, wildlife, and others;

"(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;

"(4) Adequate outdoor recreation and open space;

"(5) Protection of areas of unique natural beauty, historical and scientific interest;

"(6) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and

"(7) Concern for high standards of design.

"(b) All viewpoints -- national, regional, State and local -- shall, to the extent possible, be fully considered and taken

into account in planning Federal or federally assisted development programs and projects. State and local government objectives, together with the objectives of regional organizations shall be considered and evaluated within a framework of national public objectives, as expressed in Federal law, and available projections of future national conditions and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

"(c) To the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including but not limited to housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

"(d) Each Federal department and agency administering a development assistance program shall, to the maximum extent practicable, consult with and seek advice from all other significantly affected Federal departments and agencies in an effort to assure fully coordinated programs.

"(e) Insofar as possible, systematic planning required by individual Federal programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning."

"FAVORING UNITS OF GENERAL LOCAL GOVERNMENT"

"Sec. 402. Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to units of general local government rather than to special-purpose units of local government."

"RULES AND REGULATIONS"

"Sec. 403. The Bureau of the Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this title."

SECTION 102 (2) (C) OF THE NATIONAL ENVIRON-
MENTAL POLICY ACT OF 1969 (83 Stat. 853)

"Sec. 102. The Congress authorizes and directs that, to the fullest extent possible; (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) all agencies of the Federal Government shall--....

"(C) 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 use of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible or irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes;...."

COVERAGE OF PROGRAMS UNDER ATTACHMENT A, Part I

1. Programs are listed below pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and the Intergovernmental Cooperation Act of 1968. They are referenced by Catalog of Federal Domestic Assistance identification numbers (1971 Edition).

2. Heads of Federal departments and agencies may, with the concurrence of the Office of Management and Budget, exclude certain categories of projects or activities under listed programs from the requirements of Attachment A, Part I. OMB concurrence will be based on the following criteria:

a. Lack of geographic identifiability with respect to location or impact (e.g., certain types of technical studies);

b. Small scale or size;

c. Essentially local impact (within the applicant jurisdiction); and

d. Other characteristics that make review impractical. OMB will notify clearinghouses of such exclusions.

3. Covered programs

Department of Agriculture

Farmers Home Administration

10.400 Comprehensive Areawide Water and Sewer
Planning Grants

10.409 Irrigation, Drainage and Other Soil and
Conservation Loans

- 10.414 Resource Conservation and Development
 Loans
- 10.418 Water and Waste Disposal Systems for
 Rural Communities
- 10.419 Watershed Protection and Flood Prevention
 Loans

Soil Conservation Service

- 10.901 Resource Conservation and Development
- 10.904 Watershed Protection and Flood Prevention

Department of Commerce

Economic Development Administration

- 11.300 Economic Development -- Grants and Loans
 for Public Works and Development
 Facilities
- 11.302 Economic Development -- Planning Assistance
- 11.303 Economic Development -- Technical Assistance

Department of Defense

Department of the Army, Office of the Chief of
Engineers

- 12.101 Beach Erosion Control
- 12.106 Small Flood Control Projects
- 12.107 Small Navigation Projects
- 12.108 Snagging and Clearing for Flood Control

Department of Health, Education, and Welfare

Health Services and Mental Health Administration

- 13.206 Comprehensive Health Planning --
 Areawide Grants
- 13.220 Health Facilities Construction --
 Hospitals and Public Health Centers
- 13.235 Mental Health -- Community Assistance
 Grants for Narcotic Addiction
 (Construction Only)
- 13.249 Regional Medical Programs -- Operational
 and Planning Grants (Planning and
 Construction Only)
- 13.253 Health Facilities Construction - Loans
 and Loan Guarantees

National Institutes of Health

- 13.340 Health Professions Facilities Construction
- 13.350 Medical Library Assistance -- Regional
 Medical Libraries
- 13.369 Schools of Nursing -- Facilities Con-
 struction

Office of Education

- 13.408 Construction of Public Libraries
- 13.456 Higher Education Academic Facilities --
 State Comprehensive Planning
- 13.457 Higher Education Academic Facilities
 Construction -- Interest Subsidization

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- 13.459 Higher Education Academic Facilities
Construction -- Public Community
Colleges and Technical Institutes
- 13.477 School Assistance in Federally Affected
Areas -- Construction
- 13.493 Vocational Education -- Basic Grants to
States (Construction Only)

Social and Rehabilitation Service

- 13.711 Juvenile Delinquency Planning, Prevention,
and Rehabilitation (Planning and
Construction Only)
- 13.746 Vocational Rehabilitation Services --
Basic Support (Construction Only)
- 13.753 Developmentally Disabled - Basic support
(Construction Only)
- 13.755 Vocational Rehabilitation - Construction
Grants

Department of Housing and Urban Development

Housing Production and Mortgage Credit/FHA

Note: The following programs are subject to the
limitations and procedures set forth in
paragraph 7, Part I, of the Circular.

- 14.100 Housing for Educational Institutions
- 14.103 Interest Reduction Payments - Rental and
Cooperative Housing for Lower Income
Families (236)

(No. A-95)

- 14.105 Interest Subsidy - Homes for Lower Income Families (235(i))
- 14.112 Mortgage Insurance - Construction or Rehabilitation of Condominium Projects (234(d))
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects (213)
- 14.117 Mortgage Insurance - Homes (203(b))
- 14.118 Mortgage Insurance - Homes for Certified Veterans (203(b))
- 14.119 Mortgage Insurance - Homes for Disaster Victims (203(h))
- 14.120 Mortgage Insurance - Homes for Low and Moderate Income Families (221(d) (2))
- 14.121 Mortgage Insurance - Homes in Outlying Areas (203(i))
- 14.122 Mortgage Insurance - Homes in Urban Renewal Areas (220 homes)
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing (213)
- 14.125 Mortgage Insurance - Land Development and New Communities (Title X)
- 14.126 Mortgage Insurance - Management Type Cooperative Projects (213)
- 14.127 Mortgage Insurance - Mobile Home Courts (207)
- 14.134 Mortgage Insurance - Rental (207)
- 14.13 Mortgage Insurance - Rental Housing for Moderate Income Families (221(d) (4))

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- 14.137 Mortgage Insurance - Rental Housing for Low and Moderate Income Families, Market Interest Rate (221(d)(3))
- 14.138 Mortgage Insurance - Rental Housing for the Elderly (231).
- 14.139 Mortgage Insurance - Rental Housing in Urban Renewal Areas (220)
- 14.146 Public Housing - Acquisition, Construction, Rehabilitation (New Construction Only)
- 14.149 Rent Supplements - Rental Housing for Low Income Families

Community Planning and Management

- 14.203 Comprehensive Planning Assistance
- 14.207 New Communities -- Loan Guarantees
- 14.208 New Communities -- Supplementary Grants
- 14.214 Urban Systems Engineering Demonstration Grants

Community Development

- 14.300 Model Cities Supplementary Grants
- 14.301 Basic Water and Sewer Facilities - Grants
- 14.303 Open Space Land Programs
- 14.304 Public Facility Loans

14.306 Neighborhood Development

14.307 Urban Renewal Projects

Department of the Interior

Bureau of Outdoor Recreation

15.400 Outdoor Recreation -- Acquisition & Development

15.401 Outdoor Recreation State Planning -- Financial Assistance

Bureau of Reclamation

15.501 Irrigation Distribution System Loans

15.503 Small Reclamation Projects

National Park Service

15.904 Historic Preservation

Department of Justice

Law Enforcement Assistance Administration

16.500 Law Enforcement Assistance -- Comprehensive Planning Grants

16.501 Law Enforcement Assistance -- Discretionary Grants

16.502 Law Enforcement Assistance -- Improving and Strengthening Law Enforcement

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Department of Labor

Manpower Administration

17.205 Cooperative Area Manpower Planning System

Department of Transportation

Federal Aviation Administration

20.102 Airport Development Aid Program

20.103 Airport Planning Grant Program

Federal Highway Administration

20.201 Forest Highways

20.204 Highway Beautification -- Landscaping
and Scenic Enhancement

20.205 Highway Planning and Construction

20.206 Highway Planning and Research Studies

20.209 Public Lands Highways

20.211 Traffic Operations Program to Increase
Capacity and Safety (Construction Only)

Urban Mass Transportation Administration

20.500 Urban Mass Transportation Capital Improvement
Grants (Planning & Construction Only)

20.501 Urban Mass Transportation Capital Improvement
Loans (Planning & Construction Only)

20.505 Urban Mass Transportation Technical Studies
Grants (Planning and Construction Only)

Appalachian Regional Commission

- 23.003 Appalachian Development Highway System
- 23.004 Appalachian Health Demonstrations (Planning
 and Construction only)
- 23.008 Appalachian Local Access Roads
- 23.010 Appalachian Mine Area Restoration
- 23.012 Appalachian Vocational Education Facilities

National Science Foundation

- 47.036 Intergovernmental Science Programs

Office of Economic Opportunity

- 49.002 Community Action (excluding administration,
 research, training and technical assistance,
 and evaluation).

Water Resources Council

- 65.001 Water Resources Planning

Environmental Protection Agency

Air Pollution Control Office

- 66.001 Air Pollution Control Program Grants
 (Planning Only)

Solid Waste Management Office

- 66.300 Solid Waste Demonstration and Resource
 Recovery System Grants
- 66.301 Solid Waste Planning Grants

Water Quality Office

- 66.400 Construction Grants for Wastewater Treatment Works
- 66.401 Water Pollution Control Comprehensive Basin Planning Grants
- 66.407 Water Pollution Control - State and Inter-state Program Grants

(No. A-95)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OMB CIRCULAR NO. A-95 (REVISED)
WHAT IT IS -- HOW IT WORKS

Revised Circular No. A-95, in addition to implementing (in part) Title IV of the Intergovernmental Cooperation Act of 1968 and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, assists in the implementation of Section 102(2)(C) of the National Environmental Policy of 1969.

-- Title IV, among other things, directs the President to "establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development." The basic objectives of this mandate center about the importance of sound and orderly development of urban and rural areas on the economic and social development of the Nation. Section 401(b) of the Act requires that "all viewpoints -- national, State, regional, and local -- shall, to the extent possible, be taken into account in planning Federal or federally assisted development programs and projects." Section 401(c) states, moreover, that "to the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional and local planning."

-- Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, requires that applications for Federal assistance to a wide variety of public facilities type projects (highways, hospitals, etc.) in metropolitan areas must be accompanied by the comments of an areawide comprehensive planning agency as to the relationship of the proposed project to the planned development of the area.

-- Section 102(2)(C) requires that Federal agencies prepare statements evaluating the impact of any actions they may take that significantly affect the environment. Such statements are submitted to the Council on Environmental Quality. Provision is made for inputs to these "environmental impact statements" by State and local governmental environmental quality agencies.

The following paragraphs are aimed at clarifying the Regulations promulgated by Circular No. A-95.

PART I: PROJECT NOTIFICATION AND REVIEW SYSTEM

The Project Notification and Review System (PNRS) may be thought of as an "early warning system" to facilitate coordination of State, regional, and local planning and development assisted under various Federal programs. Coordination is sought through review of applications for Federal assistance by State and metropolitan or regional clearinghouses. There are State clearinghouses in all fifty States (as well as in the District of Columbia and Puerto Rico). A network of over 350 metropolitan and regional (nonmetropolitan) clearinghouses covers nearly one-half of the Nation's counties which comprise approximately 85 per cent of the population.

The "early warning system" - project notifications. Under earlier regulations implementing section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 the normal course of action for a State or local agency applying for Federal assistance was to prepare the application and submit it to the reviewing agency which had 60 days in which to file comments. However, this approach not only added 60 days to the time necessary for applying for aid, it often did not permit sufficient opportunity for effective coordination or constructive change in the application pursuant to the review. In some metropolitan areas, the areawide reviewing agency was able to persuade the applicant to consult with it prior to completion of the application. Early consultation permitted the review agency to assist the applicant in developing the project so as to avoid conflict with plans and programs of other jurisdictions.

It is this early consultation approach that the project notification approach seeks to encourage.

A potential applicant (State or local agency, or other) for assistance under a program covered by Part I is required, when he has decided to apply for a grant, to notify both the State and, as appropriate, the regional (nonmetropolitan) or metropolitan clearinghouse of his intent to do so. The notification is to include a brief summary description of the proposed project. The clearinghouses have 30 days in which to indicate their interest and to arrange for consultation on the project. If the clearinghouses notify the applicant that they have no interest in or problems with the proposed project, the applicant has fulfilled his obligation and need consult no further with them before completing and submitting the application to the Federal agency, unless the clearinghouse indicates an interest in reviewing the completed application.

If a clearinghouse indicates during the initial 30 day period a wish to confer with the applicant, conferences are arranged. During

this period and subsequently, the applicant will be preparing his application. If conferences with the clearinghouse surface issues or conflicts over the proposed project, the clearinghouse may assist in the resolution of such problems. At any time problems are resolved, the clearinghouse may "sign off", concluding the review.

Thus, with the advice and assistance of the clearinghouses, by the time the application is completed either (1) all issues (if any) will have been resolved or (2) any remaining issues will be clearly identified. If necessary, a clearinghouse may have an additional 30 days in which to file comments to accompany the application.

(Note: The PNRS under the revised Circular no longer distinguishes between programs covered pursuant to Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and those added pursuant to Title IV of the Intergovernmental Cooperation Act of 1968. All clearinghouses have 30 days to consider a project description - i.e., the "project notification" - and, if necessary, 30 days to consider the completed application (or a more complete description), prior to its submission to the Federal agency. This is true of all applications whether or not in a metropolitan area).

Notification: form and content. The amount and detail of information provided at the project notification stage will - because of the great diversity of programs covered - tend to be highly variable. For some projects, the application may be developed quickly and easily. In such cases, the application itself may serve as the notification.

In such cases, of course, the clearinghouse will want to expedite review as much as possible so as not to unnecessarily slow up the application process. For other types of projects, many months may be required to develop the application, and it may be that the information that can be provided at the notification stage may be quite sparse and sketchy. The important thing, however, is that the clearinghouse is put on notice. If information is inadequate, it can be fed in as it becomes available, but the clearinghouse may serve the applicant best if it is informed at the earliest stage. This permits the clearinghouse to steer the applicant away from conflicts or towards opportunity as he develops the specifics of the project for which he is seeking Federal aid.

For some programs, Federal agencies have developed what are, in effect, pre-application forms that can also serve quite effectively as project notifications. Standard Form 101 for water, sewer, and waste disposal assistance from HUD, USDA/FHA, FWQA and EDA is an example, as is OEO Form 46 for community action projects and activities. Inasmuch as a number of clearinghouses have developed their

own forms, OMB has told Federal agencies that Federal forms are to be considered optional as project notification forms. However, where these have to be filled out anyway by the applicant, a double burden is put on him. Where this is the case, clearinghouses should consider the effects of this added effort on the applicant. What is important about the notification is the information that it carries, not the form on which it is written.

While the primary purpose of the PNRS is to coordinate Federally supported programs with State, areawide, and local plans and programs, it should be remembered that the purpose of the Federal programs is to help the applicant in the solution of a problem. Therefore, the PNRS emphasis should be on helping the applicant to develop the best possible project to achieve his objectives in a manner that will not do violence to the plans and programs of other jurisdictions and agencies.

Clearinghouse functions. There are three types of clearinghouses:

(1) State clearinghouse, a State agency with comprehensive planning capacity, designated by the Governor.

(2) Regional clearinghouse, a nonmetropolitan areawide agency with general planning capability, designated by the Governor.

(3) Metropolitan clearinghouse, a metropolitan areawide agency recognized as such as by the Office of Management and Budget for the purposes of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

The term, "clearinghouse" is meant to fully reflect the functions of these agencies:

-- to identify the relationship of any project to Statewide or areawide comprehensive plans,

-- to identify the relationship of any project to the plans or programs of particular State agencies or local governments.

While clearinghouses are expected to have comprehensive planning capabilities or direct access to such capabilities in order to identify the compatibility of proposed projects to Statewide or areawide plans, the "clearinghouse" aspect is equally important. It can well happen that a project which is not inconsistent with State or areawide comprehensive planning may be in conflict with the plans or programs of a particular State or local agency.

Thus, when an applicant sends a notification to the State clearinghouse, the clearinghouse will not only examine the project from the

standpoint of State comprehensive planning but will forward a copy of the notification to any State agencies having plans or programs that might be affected to ascertain their interest in participating in any follow-up conferences with the applicant. The regional or metropolitan clearinghouse to which the applicant also sends the notification will, similarly, contact specific local governments and agencies which might be affected.

For example, community action or model cities agencies should receive notifications of projects which could have an impact on the poor; or agencies responsible for environmental quality should receive notifications of projects having an anticipated environmental impact.

It should be noted that when comments of these other parties are submitted through clearinghouses, the clearinghouses must transmit those comments to the applicant, and they too must accompany the application.

Relationships established with State and local agencies - including quasi-governmental and private agencies - through conscientious application of the "clearinghouse" aspect of the PNRs can enhance the status of the individual clearinghouse as a focal point for planning coordination. In addition the expert inputs of these agencies to the review process represent a useful supplement to the clearinghouse's own review resources and capabilities.

Applications from special purpose units of government. One important aspect of local government liaison function of the regional and metropolitan clearinghouses is the implementation of section 402 of the Intergovernmental Cooperation Act, which provides that:

"Where Federal law provides that both special-purpose units of local government and units of general local government are eligible to receive loans or grants-in-aid, heads of Federal departments and agencies shall, in the absence of substantial reasons to the contrary, make such loans or grants-in-aid to unit of general local government rather than to special-purpose units of local government."

Thus, when an application is to come from a special-purpose unit of government, it is a clearinghouse responsibility to assure that the Federal agency is informed as to the intentions of the general-purpose units within which the project is located so that it can act in compliance with section 402.

Inter-Clearinghouse relationships.

1. State/Metropolitan: While State and Metropolitan clearinghouses may conduct reviews quite independently of each other, it is

desirable that they establish cooperative arrangements for coordinating their reviews. A well coordinated State-metropolitan (or regional) review system will provide much better service to the applicant. It can reduce duplication of effort by clearinghouses as well as time spent by the applicant in conference and consultation. While it is possible that State and metropolitan clearinghouses may disagree over the merits of a project, a coordinated review is likely to produce a more consistent and thoroughgoing project evaluation.

2. Metropolitan/regional: In some States a rather more complex situation has arisen which requires even closer coordination. Some Governors have designated regional clearinghouses that overlap or encompass metropolitan clearinghouse jurisdictions. Thus, an applicant may find himself in two clearinghouse jurisdictions, not knowing where his responsibilities lie.

OMB has urged clearinghouses to develop coordinative arrangements, particularly to alleviate applicant confusion. While such arrangements are being worked out, the OMB Clearinghouse Directory may list overlapped counties (which include municipalities, and other applicants therein) under both clearinghouse jurisdictions. This, however, still leaves the applicant with the burden of sending notifications to both metropolitan and regional clearinghouses as well as to the State clearinghouse. OMB has notified overlapping clearinghouses that it will accept any arrangements agreed to by major parties at interest, but it regards the problem as one for State and local determination.

This problem is further exacerbated in the case of interstate metropolitan areas where parts of the metropolitan clearinghouse jurisdiction may be included in regional clearinghouse areas in two or more States. A possible solution is to have notifications from within the metropolitan jurisdiction sent only to the metropolitan clearinghouse. It, in turn, would be required to pass on copies of the notification to the appropriate regional clearinghouse. This approach, of course, is equally possible in the case of intra-State clearinghouse overlaps.

3. Adjacent clearinghouses. Because projects in one region or metropolitan area may adversely affect an adjacent region -- airports, pollution facilities, for example -- clearinghouses in adjacent areas are required to establish coordinative arrangements to identify and mitigate possible interarea conflicts.

Federal agency responsibilities under the PNRS. Federal agency responsibilities under the PNRS are quite simple, and involve the following:

1. The Federal agency is responsible for informing potential applicants that they are required to submit to appropriate State and metropolitan clearinghouses notifications of intent to apply for

assistance under the particular program. Applicants should be told that no applications will be considered unless they have gone through the process. Directories of clearinghouses are supplied to Federal agencies by OMB. Contents of notifications are described in paragraph 5, Part I of the Circular.

2. Any comments accompanying applications are to be utilized by agency people in evaluating applications. A special case exists where an application is from a special purpose unit of government. If comments indicate a similar application is coming from the general purpose unit of government within which the applicant is located, preference will be given to the general purpose unit.

3. When any substantive action is taken on an application -- approval, return for amendment, rejection, etc. -- the Federal agency must so inform the clearinghouses through which the application has passed within 7 days after such action has been taken.

This latter responsibility is the most frequently overlooked among Federal agency responsibilities, yet it is extremely important to the clearinghouses. Most are comprehensive planning agencies and feedback information permits them to keep a running inventory of what development is taking place - or is not likely to happen.

Federal agencies may use any means of transmitting such information. Perhaps the simplest means is by copy of the letter that informs the applicant of the action. For approvals, a copy of Form 240 informing States of grant approvals under Circular No. A-98 may be used.

Environmental impact. Section 102(2)(C) of the National Environmental Policy Act requires Federal agencies to submit to the Council on Environmental Quality - on any action significantly affecting the environment - an "environmental impact statement." While it is the Federal agency that must submit the statement, many or most agencies administering grant-in-aid programs will require the applicant to submit information on such projects, on which environmental impact statements can be based.

Section 102(2)(C) provides for an input to environmental impact statements by State and local agencies which are authorized to develop and enforce environmental quality standards. Thus, it is the responsibility of clearinghouses to identify State or local environmental agencies, provide them with project notifications, and assure them opportunity to make such comments as they may deem appropriate. Of course, in some cases the clearinghouse itself may have direct environmental responsibilities.

Beyond this, the clearinghouse, if it so desires, may assist applicants in the preparation of necessary environmental impact data

or provide its own comments on the environmental impact of both Federal and Federally-assisted projects, or undertake other related action in assisting or facilitating State and local inputs into environmental impact statements.

Program coverage under Part I. Attachment D of Circular No. A-95 lists - by reference to the Catalog of Federal Domestic Assistance numbers and titles - the programs under which applications for assistance are subject to the requirements of Part I. These are mostly programs assisting physical development, although a number of social or human resource programs are covered as well.

In order to focus the review resources of clearinghouses on projects of areawide or interjurisdictional significance, provision is made for exclusion of certain categories of projects under various programs. Such exclusions would need to meet certain criteria such as lack of geographical identification (e.g., certain broadly based research projects) or purely local input (e.g., a 1/2 acre tot-lot). Exclusions would be proposed by the Federal agency administering the program and would need the concurrence of OMB in consultation with appropriate public interest groups. Clearinghouses will be notified of any exclusions. Beyond this, of course, any clearinghouse may choose to further limit the scope of its reviews. Local circumstance and clearinghouse resources will indicate the feasibility of further limitations.

Housing reviews. The revised Circular covers HUD housing assistance and mortgage insurance programs for projects of certain minimum sizes:

- in subdivisions, 50 or more lots;
- in multi-family projects, 100 or more dwelling units;
- in mobile home courts, 100 or more units; and
- in college housing, accommodations for 200 or more students.

The review process under the PNRS is different for these projects. Under HUD housing assistance procedures, a developer submits what is, in effect, a preliminary application to a HUD area or insuring office. The application contains a description of the project, detailed enough for HUD to evaluate it, but lacking detailed construction plans. Generally, the evaluation is made quite rapidly, taking no more than a matter of several weeks, and the developer is notified as to whether the project appears approvable for mortgage insurance commitment or other support. Even if FHA mortgage insurance is not going to be sought, some mortgage lenders will require a favorable FHA report before they will make a construction loan.

The A-95 review process for HUD housing programs will operate with respect to this pre-application phase and consequently may cover not only projects which will be insured or supported by HUD but also some whose financing will be conventional.

The process will operate as follows: when the HUD area or insuring office receives a request for what is called a "feasibility analysis", it will send copies to the appropriate State and metro or regional clearinghouses. The clearinghouses will have 15 days to submit comments on the relationship of the proposed project to State or areawide plans and programs or on any questions of environmental impact. Since HUD approvals require conformance to local zoning and subdivision regulations, the locality normally would already have been contacted by the prospective developer.

While the time span is very short for housing reviews, this stage of the application process is the most critical for clearinghouse inputs. It is also extremely critical for the developer, and to extend the review time for clearinghouse reviews in view of the relatively short HUD processing time at this stage would be a disservice. Clearinghouses are urged to establish early liaison with the appropriate HUD offices to acquaint themselves with the HUD housing programs and procedures and to acquaint HUD officials with clearinghouse missions and operations in order to maximize the effectiveness of housing reviews.

Because of local zoning and subdivision controls or local comprehensive plan requirements, clearinghouse inputs may be minimal with respect to many or most individual projects except those of major size or strategic location. The primary value of notifications to clearinghouses is the intelligence they provide of emerging growth patterns that will have to be considered in the areawide comprehensive planning process.

A-95 and A-98 relationships. The substance of Circular No. A-98 was originally Part III of Circular No. A-95. Circular No. A-98 promulgates a standard form (No. 240) for Federal agencies to use in reporting the amount and purpose of grants-in-aid made within each State as required by Section 201 of the Intergovernmental Cooperation Act of 1968. This information is useful to State for budgetary planning and programming. Many states, particularly where the State clearinghouse also handles grant award information, have developed a computerized system for handling this information and have tied it to the PNRS under A-95. The objective of the tie-in is to trace Federal grants from the initial application to Federal funding. This permits the State to not only know what grants have actually been made (A-98) but to anticipate grants that may be made (A-95), giving additional perspectives for State planning, programming and budgeting.

Of course, the notice of grant awards under A-98 covers a substantially greater range of grant programs than does A-95. At the present time, also, not all States have tried to integrate A-95 and A-98 information, nor have metropolitan and regional clearinghouses who do not receive A-98 information directly, although the States are required to make it available to them.

PART II: DIRECT FEDERAL DEVELOPMENT

Part II requires that Federal agencies engaged in direct development of Federal projects such as Federal civil works, military or scientific installations, public buildings, etc., must consult with State and local governments that might be affected by those projects. Where projects are not in conformity with State, regional or local plans the Federal agency will be required to justify any departures. The requirement applies not only to construction but to the acquisition, use, and disposal of Federal real property.

In addition, in the preparation of environmental impact statements pursuant to Section 102(2)(C) of the National Environmental Policy Act, these Federal development agencies are required to seek the views and comments of State and local environmental agencies. Regulations of the Council on Environmental Quality indicate the clearinghouses as the appropriate channel through which to secure the required State and local views and comments.

The clearinghouses designated pursuant to Part I of the Circular provide the most effective vehicle available to Federal development agencies to assure that all appropriate State and local agencies are consulted on proposed projects. The clearinghouses are generally the State, metropolitan, or regional comprehensive planning agencies; and in conducting the PNRS reviews they have occasion to identify the interests of all development agencies at State and local levels. Thus, Federal agencies will generally need to touch base with clearinghouses in any event. And while the nature of Federal development may not always lend itself to the project notification and review system per se, the clearinghouses can greatly facilitate the consultation required under Part II of revised Circular No. A-95.

PART III: STATE PLANS

Numerous Federal assistance programs require, as a condition of assistance, submission of State plans. These are highly variable in nature and content. While some are plans in the normal sense - "What do I want to do and how am I going to do it?" -- others only indicate the basic administrative apparatus through which the program will be carried out. However, associated documentation required to be prepared or submitted on a periodic basis will generally provide information as to the specific activities for which program funds will be spent, even though this information does not appear in the "plan" itself.

Part III requires that Governors be given an opportunity to review such plans or associated documents indicating proposed program activities. This will permit the Governor to relate development strategies among the various Federally supported State programs to each other and to any overall strategies developed through the State comprehensive planning process.

PART IV: COORDINATION OF PLANNING AND DEVELOPMENT IN MULTIJURISDICTIONAL AREAS

Part IV of the Regulations was developed to offset a growing tendency among Federal programs to promote the establishment of regional planning activities that were uncoordinated, geographically or functionally. In nonmetropolitan areas this has meant a serious drain on already limited planning resources. In metropolitan areas it has intensified confusion and general duplication of effort.

Part IV of the Regulations is closely related to Part I. By encouraging the States to develop systems of sub-State planning areas, it sets the stage for a more complete geographic coverage of the Project Notification and Review System. Similarly, the PNRS by requiring clearinghouse review of projected planning and development activities under various Federal programs, sets the stage for the more systematic and continuing planning coordination envisioned under Part IV

While the most obvious aspect of Part IV is its emphasis on conforming the boundaries of Federally sponsored planning and development districts with each other and State-established districts, an equally significant requirement (paragraph 3) of Part IV is often overlooked. This is the requirement that applicants for Federal assistance to activities planned on a multijurisdictional basis coordinate their planning with planning for related programs in the area. This would involve identifying related planning activities and organizations and demonstrating what coordinative arrangements have been or are being established.

Paragraph 3 of Part IV provides in effect, an operational definition of planning coordination and identifies -- but does not prescribe -- various coordinative techniques such as the establishment of umbrella organizations under which various organizations could be coordinated operationally and policy-wise while maintaining their own identities, if that is necessary. Metropolitan and regional clearinghouses could lend themselves well to this role in many cases.

Coordinative devices that can prevent overlap and duplication of planning include arrangements for joint staffing and facilities, cooperative research and data gathering, and utilization of common and

consistent statistics, projections, and assumptions about the area and its future. The latter is extremely important, both in terms of resource savings and in eliminating one of the most basic sources of plan conflicts.

The achievement of these coordinative arrangements, then, is a necessary concomitant effort with conforming boundaries; for a common territorial base by itself does not assure coordination. There must be contact, communication, and cooperation between organizations planning for various aspects of area development for that to occur.

SUMMARY

OMB Circular No. A-95 is fundamentally an effort to create a climate where intergovernmental cooperation can take root and flourish. It does this by creating opportunities for contact and communication within and between the several levels of government. This contact and communication is a necessary precondition for coordination.

In order to take full advantage of those opportunities, it is important that the various actors have an appreciation of the requirements as opportunities, rather than as administrative obstacles.

-- The applicant should recognize the opportunity to develop a better project through avoidance of conflict and the discovery of means for getting "more bang for the buck" out of its investment.

-- The Federal agency should recognize the opportunity for increasing program effectiveness through the same means and through applicant awareness of the need for sound planning and coordination.

-- The clearinghouses should recognize the opportunities for providing real service to applicants which will enhance their credibility and status as a constructive force in the area or in the management of the State government.

In sum, the Regulations promulgated under Bureau of the Budget Circular No. A-95 are aimed at promoting more effective coordination of planning and development activities carried on or assisted by the Federal Government. The major device of the Regulation is encouragement of systematic communications between the Federal Government and State and local governments carrying out related planning and development activities. Used judiciously by State and local governments and regional bodies, the processes set forth in the Regulations can result in more expeditious, more effective, and more economical development.

PROJECT NOTIFICATION AND REVIEW SYSTEM

The following outlines the process of the "Project Notification System" developed to implement, in part, Title IV of the Intergovernmental Cooperation Act.

- STEP 1. Potential applicant desiring Federal assistance makes inquiries of Federal agency.
- STEP 2. Federal agency informs applicant that, among other things, it must notify both State and regional (or metropolitan) clearinghouses about the project for which it intends to apply for assistance.
- STEP 3. Applicant notifies clearinghouses.
- STEP 4a. State clearinghouse notifies State agencies which might have programs affected by proposed project, including where appropriate, environmental agencies.
- b. Regional or metropolitan clearinghouse notifies local government agencies whose interests might be affected by the proposed project, including where appropriate, local and regional environmental agencies.
- STEP 5. State agencies or local governments inform clearinghouse of interest, if any.
- STEP 6. Clearinghouse arranges conference with applicant within 30 days of notification pursuant to its own or other State or local interest.
- STEP 7. Conferences are held to:
- a. Explore project in greater detail.
- b. Identify possible conflicts or mutuality of interest.
- STEP 8. If continuing interest, applicant and clearinghouses (with any State or local interest), cooperate in developing application to:
- a. Resolve conflicts
- b. Strengthen project

- STEP 9. If conflicts are not resolved, clearinghouse notifies applicant that it will have comments to accompany the application. (Note: Conflicts may arise as between clearinghouses or particular State agencies or local governments as to the merit of a project, so such comments may be variably supportive or critical.)
- STEP 10. Applicant submits application (or adequate project description) to clearinghouse(s) for comment, providing 30 days therefor.
- STEP 11. Clearinghouse(s) submits any formal comments of its own or of particular State agencies or local governments to applicant.
- STEP 12. Applicant submits application to Federal agency, including comments, if any; or, if none, a statement that requirement has been followed.
- STEP 13. Federal agency considers application and comments and informs clearinghouses of action taken thereon.

It is possible for the process to come to a satisfactory conclusion at the completion of Steps 5, 7, or 8 as well as, of course, Step 13. At either of the earlier Steps, clearinghouses can inform applicant of general satisfaction with the project and that they will have no (or supportive) comment. In such case, the applicant completes the application and submits it to the Federal agency with a statement that the requirement has been followed (or with any supportive comment).

Step 13 - Information to clearinghouses on action taken on the application by the Federal agency is, of course, always required.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

BULLETIN NO. 72-6

September 14, 1971

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Proposed Federal actions affecting the environment

1. Purpose. This Bulletin establishes procedures to be followed in certain instances by Federal agencies in taking or proposing actions coming within the scope of Section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91-190).

2. Background. Section 102(2)(C) of the National Environmental Policy Act requires that, in connection with recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, Federal agencies shall prepare detailed statements concerning the environmental impact of such actions. Such statements are to be prepared after consultation with, and in consideration of comments made by appropriate Federal, State, and local agencies. The Council on Environmental Quality has published guidelines for implementing the statutory requirement (36 F. R., 7724-7729).

3. Requirements

a. Proposed legislation and reports on bills. Agencies are responsible, as set forth in the guidelines of the Council on Environmental Quality, for determining which of their legislative proposals or reports require preparation of a Section 102(2)(C) environmental impact statement, and for obtaining the comments of the appropriate Federal, State, or local agencies. Where a 102(2)(C) statement is determined to be required, in connection with the submission of a legislative proposal or report to the Office of Management and Budget for clearance pursuant to Circular No. A-19,

the responsible agency shall make every effort to have a statement prepared in time for information copies of such statement to accompany the proposal or report; where this is not possible, the responsible agency should indicate when such a statement will be available. OMB will consult with CEQ in all cases where the responsible agency has submitted, or indicated need for, a 102(2)(C) statement. In those cases where the clearance process discloses the need for a 102(2)(C) statement and none is under preparation, the responsible agency will be requested to develop such a statement.

In connection with any modifications of the proposal or report resulting from the clearance process, the responsible agency will make any revisions in its proposed 102(2)(C) statement that may be required. Compliance with the 102(2)(C) statement does not, of course, relieve any agency or Office of Management and Budget from responsibility for giving the fullest consideration to environmental factors in developing its views on legislative proposals or reports in accordance with Circular A-19. The responsible agency should transmit its 102(2)(C) statements on legislative proposals and reports to the appropriate Congressional committees in accordance with Section 10(c) of the revised guidelines of the Council on Environmental Quality.

b. Annual budget estimates. Annual budget estimates shall be accompanied by a summary list of those specific actions covered by the estimates which, in accordance with agency procedures, require the preparation of a 102(2)(C) statement. The list shall include, in the form illustrated in Exhibit 1, the following information by appropriation or fund account:

Column A - Action, project or activity. Identify the agency actions and individual projects and activities requiring the preparation of a 102(2)(C) statement.

Column B - Funds involved. Identify the amount of funds involved in the budget year, expressed in terms of budget authority and outlays, for those items listed in Column A.

Column C - Status of statement. Indicate, in each instance, if a draft statement has been completed, whether comments from interested parties have been received, and whether final statements have been completed.

Column D - Unusual aspects. Briefly identify unresolved issues, potential controversy, and unusual nature or degree of impact upon the environment.

In the case of programs for which it is not possible to make an assessment of the potential impact on the environment, or to identify 102(2)(C) statements that will be required, agencies may include a narrative statement containing information about general environmental impact and as to when decisions are expected on the need for 102(2)(C) statements.

In addition to submitting the summary list prescribed above, to facilitate consideration by the Office of Management and Budget of environmental aspects of budget items, each agency shall, at the earliest time possible, notify the appropriate budget examiner of the Office of Management and Budget of any action expected to be included in the agency's budget estimate which will have impact upon the environment of particularly significant and/or potentially controversial nature.

Individual draft or final statements and information to update the listings required above shall be provided by the agencies to members of the staff of the Office of Management and Budget upon their request.

c. Water resource project reports. Project reports reviewed by the Office of Management and Budget pursuant to Executive Orders 9384 and 10654 often involve proposed actions that may require application of Section 102(2)(C) procedures. In such cases, either a draft or final statement, as available, shall accompany the project report when it is referred for comments to interested Federal, State, and local agencies. The final statement and associated comments shall accompany the project report when submitted to the Office of Management and Budget for review.

4. Review of Federal actions by State and local governments. Section 102(2) (C) requires agencies to include the comments and views of the appropriate Federal, State, and local agencies which are authorized to develop and enforce environmental standards. The Council on Environmental Quality Guidelines and the Office of Management and Budget Circular No. A-95 establish the procedures to be followed in obtaining Federal, State, and local review of proposed actions subject to Section 102(2) (C).

5. Exceptions to these procedures. Should instances arise in which an agency believes compelling reasons exist for departure from these procedures, the matter should be raised with appropriate staff members of the Office of Management and Budget.

6. Rescission of previous Bulletin. Office of Management and Budget Bulletin No. 71-3, dated August 31, 1970, is rescinded, effective this date.

GEORGE P. SHULTZ
Director

EXHIBIT 1

SUMMARY LIST OF SECTION 102(2)(C) STATEMENTS

DEPARTMENT OF GOVERNMENT

Appropriation or Fund Account

(Account identification code)

| Column A | Column B | Column C | Column D |
|------------------------------|--|---------------------|-----------------|
| Action, Project, or Activity | Funds Involved Budget Authority Outlays | Status of Statement | Unusual Aspects |
| | | | |

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 31, 1974

CIRCULAR NO. A-106

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Reporting Requirements in Connection With the
Prevention, Control, and Abatement of
Environmental Pollution at Existing Federal
Facilities

1. Purpose. This Circular provides procedures to be followed by Federal agencies in carrying out the provision of Section 3(a)(3) of Executive Order No. 11752 of December 17, 1973, pertaining to the control of environmental pollution from existing Federal facilities.

2. Rescission. This Circular, supercedes and rescinds Office of Management and Budget (OMB) Circulars No. A-78 and A-81 dated May 18, 1970.

3. Definitions.

a. The term "Federal agencies" means the departments, agencies, establishments, and instrumentalities of the executive branch.

b. The term "facilities" means the buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal Government.

c. The term "project" means an action to achieve needed corrective measures relative to identified environmental pollution sources within a Federal facility.

d. The term "cost" means the amount of funds required for putting in place the necessary environmental protection measures. These costs include the capital costs of structure and equipment, irrespective of the appropriation chargeable, but not the annual maintenance and operating costs.

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e. The term "lease-construction" means construction of a facility by a private entrepreneur to meet requirements of a Federal agency in consideration of a commitment by the agency to lease the facility at a specified price for a specified time period.

f. The term "Director" means the Director of the Office of Management and Budget.

g. The term "Administrator" means the Administrator of the Environmental Protection Agency.

4. Standards. All facilities are to conform to the requirements specified in Section 4 of the Order. Those requirements are as follows:

a. Federal, State, interstate, and local air quality standards and emission limitations adopted in accordance with or effective under the provisions of the Clean Air Act, as amended.

b. Federal, State, interstate, and local water quality standards and effluent limitations respecting the discharge or runoff of pollutants adopted in accordance with or effective under the provisions of the Federal Water Pollution Control Act, as amended.

c. Federal regulations and guidelines respecting dumping of material into ocean waters adopted in accordance with the Marine Protection, Research, and Sanctuaries Act of 1972, and the Federal Water Pollution Control Act, as amended.

d. Guidelines for solid waste recovery, collection, storage, separation, and disposal systems issued by the Administrator pursuant to the Solid Waste Disposal Act, as amended.

e. Federal noise emission standards for products adopted in accordance with provisions of the Noise Control Act of 1972 and State, interstate, and local standards for control and abatement of environmental noise.

f. Federal guidance on radiation and generally applicable environmental radiation standards promulgated or recommended by the Administrator and adopted in accordance with the Atomic Energy Act, as amended (42 U.S.C. 2011), and

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rules, regulations, requirements, and guidelines on discharges of radioactivity as prescribed by the Atomic Energy Commission.

g. Federal regulations and guidelines respecting manufacture, transportation, purchase, use, storage, and disposal of pesticides promulgated pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972.

5. Agency Responsibilities. Pursuant to their responsibilities under the Order, Federal agencies:

a. Should cooperate with State, interstate, and local pollution control agencies and with other Federal agencies in the evaluation of their pollution control needs.

b. May seek the assistance of the Administrator to determine the standards and the appropriate implementation schedules applicable to particular facilities.

6. Pollution Control Plans.

a. Federal agencies must develop plans to assure that their facilities meet the standards listed in paragraph 4 of this Circular.

b. Such plans are to cover existing facilities as defined in paragraph 3b of this Circular. "Lease-construction" is an example of a type of facility covered under this provision, but facilities used under ordinary leases are not covered. Remedial measures required for buildings and equipment owned by non-Federal lessees on Federal land are not to be reported under this Circular unless the responsible Federal agency attests that they are constructed and operated for a Federal purpose. In cases where lease agreements with non-Federal lessees obligate the Federal Government to provide pollution control measures, remedial measures are to be reported under this Circular.

c. The agency plan should include all projects involving "costs," as defined in paragraph 3d of this Circular, which are necessary to bring existing facilities into compliance with applicable standards. Funds required for studies, management and monitoring associated with the definition and development of corrective measures and

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necessary equipment to assure compliance with standards should also be included in the plan.

d. In determining the most cost-effective remedial measures necessary for a particular facility to meet the standards, agencies should take into account such factors as: the future use of the facility; the best practicable technology available; the need for control system reserve capacity; the various alternative methods of control including process change; and the use of joint or regional pollution control facilities.

e. Agency plans should include the milestones for the design, construction, and completion of projects which, when submitted to the Director, will represent an agency commitment to comply with applicable standards considering the Federal budgetary process and assuming that the requested funds will be appropriated by the Congress and allocated to the agency as planned.

f. Facilities may be exempted from applicable standards in the interest of national security or in extraordinary cases in which it is in the paramount interest of the United States. Such exemptions must be made in accordance with the provisions of Section 5 of the Order.

7. Reports.

a. Agency plans are to be reported in accordance with procedures prescribed by the Administrator. Such procedures will provide for submission of pertinent details of each individual project and a summary status report of the overall plan.

b. The reports will be submitted semiannually on December 31 and June 30 to the Director thru the Administrator. After review of the reports, the Administrator will forward the agency's reports to the Director.

c. By September 30 of each year the Administrator will also forward to the Director an evaluation of each agency's report.

8. Communications with the Administrator. Communications with the Administrator should be directed to the Environmental Protection Agency, attention: Office of

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Federal Activities, 401 M Street, S.W., Washington, D.C. 20460, phone 755-0790 (code 138).

9. Communications with the Director. Questions regarding the implementation of this Circular should be addressed to the Office of Management and Budget, Washington, D.C. 20503, phone 395-6827 (code 103).

ROY L. ASH
DIRECTOR

(No. A-106)

Environmental Protection Agency

Procedures for Reporting Proposed Pollution
Abatement Projects for Federal Facilities


Section 3(a)(3) of Executive Order 11752, dated December 17, 1973, requires that the heads of Federal agencies present to the Director of the Office of Management and Budget, annually, plans for pollution abatement and waste management at facilities under their jurisdiction. The plans are to identify those projects necessary to bring Federal facilities into compliance with applicable environmental standards on air and water quality, noise control, solid waste management, and uses of radioactive materials and pesticides. When submitted to the Director, the plans will represent an agency commitment to comply with applicable standards considering the Federal budgetary process and assuming that the requested funds will be appropriated by the Congress and allocated to the agency as planned.

OMB Circular No. A-106, issued December 31, 1974, sets forth the general procedures to be followed in the preparation and submission of the plans. The Circular stipulates that the agency plans are to be submitted to the Administrator of the Environmental Protection Agency in accordance with such detailed procedures as he may prescribe. Such procedures are to provide for submission of pertinent details of each individual pollution abatement and waste management project and a summary status report of the overall plan. The procedures are set forth herein.

Effective Date: The procedures set forth hereunder

are effective immediately upon the date of publication.

DATE: _____


Russell E. Train
Administrator

**Procedures for Reporting Proposed Pollution
Abatement Projects for Federal Facilities**

1. Exhibit 1 - Proposed Project Report

- a. On August 1, 1974, the Federal agencies were to report all active pollution control projects including those reported under the rescinded Circulars No. A-78 and A-81. Exhibit 1's were submitted for projects proposed for inclusion in the fiscal year 1976 budget and all active projects for which funds have been appropriated. Projects proposed for funding in fiscal year 1976 were reported in the format required herein (Exhibit 1). Funded projects were reported in the format prescribed by the rescinded Circulars No. A-78 and A-81. Completed projects were not to be reported.
- b. After the initial report, submission of Exhibit 1 is required only for new projects or to report significant changes in the information provided in a previous Exhibit 1. These new or revised Exhibit 1's will be submitted semiannually on December 31 and June 30 of each year using the new format. Each revision of Exhibit 1 will show the latest information as of 60 days prior to the semiannual reporting date.

- c. For each submission, four copies are to be sent to the Administrator, Environmental Protection Agency, attention: Office of Federal Activities, 401 M. St., S.W., Washington, D.C. 20460.
- d. Each project will be identified as to the category of pollution control project involved (i.e., air, water, solid waste, noise, radiation, pesticides). All reported projects within each category will be assigned consecutive numbers, beginning with "1." Project numbers are for permanent identification and may not be reassigned to new projects. Projects numbered under the rescinded OMB Circulars No. A-78 and A-81 are to be continued under their original assigned numbers.
- e. Projects at the same facility required for distinct and separate purposes, are to be considered as separate projects. Such separate projects will be reported individually using appropriate project numbers.
- f. Item 10 of Exhibit 1 will include information not shown elsewhere on the Exhibit which is necessary for the evaluation of the project. For example, where the agency knows of changing circumstances which will affect the practicability of undertaking a project at a particular facility (e.g.,

facility renovation or a change in mission of the facility which would alter control needs), these are to be indicated. If a project is discontinued, state in this item the reasons and circumstances, if any, which might lead to a reactivation of the project.

For leased facilities subject to the provisions of this circular, describe under this item the lease arrangements that would affect the possibility and practicability of utilizing control measures for such facilities. Projects involving such circumstances will be included on Exhibit 2 with a reference to the explanation given on Exhibit 1.

If a project proposed in one environmental category is likely to generate pollution of other kinds, item 10 is to include a description of such additional impacts.

Any environmentally-related litigation which may involve the project is to be described under item 10.

- g. Every item is to be completed for each project. In addition, specific information is required for the following areas:

AIR: Item 2. Identify the pollutant(s) by name for which the project will be required (for example: particulate matter, sulfur oxides, hydrocarbons, carbon monoxide, nitrogen oxides, etc.).

Item 3. State the actual amount of pollutants emitted by each point of emission being controlled within the facility. These amounts of pollution should be expressed in the terms of the applicable emission standard (e.g., lb/hr, ppm, etc.) in item 8 at maximum process operating rate.

Item 4. Identify the specific emission point(s) which the project will control. This identification should be specific (e.g., "incinerator in building xyz" rather than just "incinerator").

Item 5. Specify the existing pollution control measures at the individual emission points. If no control measures are being utilized, state this.

Item 6. Indicate the percentage of the pollutant which the control device removes.

Item 7. Indicate the type control device or process modification to be utilized to control emissions.

Item 8. Indicate the applicable Federal, State, or local air pollution emission control standard which the facility is required to meet, referencing the specific code, chapter, and part.

Also include the effective date of the standard.

Item 9. Indicate the project schedules proposed by the agency and as required by the standards listed in item 8. If the agency schedule for achieving compliance differs from statutory, regulatory, or other milestones and deadlines, indicate the dates the facility will meet them and explain why the required dates will not be met.

WATER: Item 2. Describe specific pollution and nature of problem, e.g., unintercepted washrack wastes containing oil and grease; overloaded sewage treatment plant bypasses raw or partly treated sewage to river; combined sewage overflow carries untreated sewage to lake, etc. Use this item and items 3, 6, and 7 as appropriate to describe infiltration inflow problems and measures required by "Spill Control and Counter-measure Plans" formulated pursuant to 40 CFR 112, "Oil Pollution Prevention."

Item 3. Show amount of waste generated and treated.

Indicate gallons per day (gpd), thousand gallons per day (tgd), and million gallons per day (mgd).

Item 4. Identify the specific discharge point(s).

Show whether discharge is to water (name of receiving water and location thereon), sewer system (name), land application, subsurface (e.g., septic system, drainfield, etc., or underground strata through well injection).

Item 5. If problem as described in items 2 and 4 does not relate to an existing or proposed treatment plant, identify in this item the plant, if any, which ultimately receives, or will receive, and treats the wastewater.

Item 6 and 7. In appropriate item, show existing and proposed parts per million and/or pounds in influent and effluent and percent removal for all principal polluting constituents.

As a minimum biological oxygen demand (BOD) (chemical oxygen demand (COD) and total organic carbon (TOC) where applicable) and suspended solids data should be shown wherever possible.

Item 8. This item should show exact portions (citations where possible) of statutes and regulations which impose the specific requirement to which the project responds. In addition, enter the exact requirement (criteria, etc.). Enter compliance schedules in

item 9. Summarize unquantified or general requirements if necessary. For discharge(s) subject to NPDES requirements (PL 92-500, §402; 40 CFR 125), state:

(1) whether a permit application has been submitted;

(2) the application and/or permit number, and the effective and expiration dates of any permit(s) issued; and

(3) in summary, the conditions of each permit, other than schedules to be entered in item 9.

Item 9. Indicate the project schedules proposed by the agency and as required by the standards listed in item 8. Where issued, NPDES permit schedules should be entered in the Regulation Schedule column. If the agency schedule for achieving compliance differs from statutory, regulatory, or permit milestones and deadlines, indicate the dates the facility will meet them and explain why the required dates will not be met.

Item 10. Under lease construction arrangements, state who is responsible for obtaining NPDES permits or for meeting schedules and requirements.

SOLID WASTE: Item 2. Indicate type of operation which is not in compliance, i.e., incinerator, landfill, etc.

Item 3. If specific amounts of pollution are known, give details; otherwise indicate "not applicable."

Item 4. Give details of the problem, i.e., whatever it is that is not in compliance.

Item 5. Indicate quantities, types, and sources of solid waste handled; frequency of operation; year of original construction/operation and design life.

Item 6. Discuss effectiveness of existing solid waste management system or practices, if applicable.

Item 7. Give technical description of proposed project which will bring operation into compliance.

Item 8. Specify the EPA solid waste management guideline applicable and the specific requirement that makes the project necessary.

NOISE: Item 2. Specify the character of the noise.

Types are as follows (1) broad band-continuous noise (example: air conditioner), (2) narrow band-continuous noise (example: circular saw), (3) pure tones (example: turbin noise), (4) impulsive (impact) noise (example: gun shot), (5) repeated impulsive (impact) noise (example: typewriter), and (6) intermittent (example: vehicle passby).

Item 3. Specify (1) measured sound level, (2) measurement methodology utilized, (3) elevation of the source and distance from the source to the impacts area (if applicable), and (4) the facilities or areas affected under the present violations.

Item 8. Specify exact portions of statutes and regulations to which the project responds and the acceptable sound level permitted thereunder.

Item 9. Indicate the project schedules proposed by the agency and as required by the standards listed in item 8. If the agency schedule for achieving compliance differs from statutory, regulatory, or other milestones and deadlines, indicate the dates the facility will meet them and explain why the required dates will not be met.

PESTICIDES: All projects being reported should involve the control and abatement of pesticide pollution and not be a description of proposed and/or

current programs involving the use of pesticides. Those programs are now reviewed by the Federal Working Group on Pest Management, Council on Environmental Quality.

Item 2. Identify the pesticide that is the source of pollution and indicate the reason for disposition.

Item 7. Describe the method of disposal.

2. Exhibit 2 Status Report

- a. Exhibit 2 will indicate the estimated or actual "costs" for all active projects in the agency plan and the current status of the projects. Design costs need not be included for individual projects if they are not normally reflected in appropriations for individual projects. A separate Exhibit 2 is to be completed for each category of projects (i.e., air, water, solid waste, noise, radiation, pesticides, etc.).
- b. An updated Exhibit 2 is to be submitted with the Exhibit 1's on August 1, 1974, and on each December 31 and June 30 thereafter.
- c. The Exhibit 2 will contain all active projects plus those completed or discontinued after submission of the previous report. Once a project is reported completed or discontinued it should be dropped from the report. The June 30 report should contain all

projects which the agency will submit in their next fiscal year budget request to the Director. In addition, it should reflect all congressional appropriation actions taken by the time of submission.

d. To facilitate the semiannual submission of Exhibit 2, the Environmental Protection Agency's data system will be utilized as follows:

(1) Each reporting agency will receive ten, updated, computer printed copies of their Exhibit 2's for each pollutant media 30 days after receipt of the agency's semi-annual report at EPA.

(2) When submitting their next semi-annual report, each agency will make corrections to one copy of the printout described in subparagraph (1).

An asterisk is to be placed in the left hand margin to indicate those projects which have been completed, discontinued, or changed. New projects are to be added to the bottom of the appropriate pollution media printout. If no corrections are made to the printout for the reporting date, enter "no changes" at the top of the appropriate printout. One corrected copy of each printout is to be submitted with the agencies' semiannual report.

- (3) For initial submission of projects concerning pollution media not already contained in a printout, an Exhibit 2 as described in Section 2 of Attachment A should be submitted.
- (4) Corrected printouts will then be returned to each reporting agency in accordance with subparagraph (1) above for use in the next report submittal.
- e. Each revision of Exhibit 2 will show the latest information as of 60 days prior to the semiannual reporting date.
- f. Exhibit 2 will indicate the amount included or proposed to be included in the President's budget for each project or the amount actually appropriated or funded when relevant. With regard to any fiscal year for which the President's budget has already been submitted, only projects which have actually been included in that budget or funded may be listed under that fiscal year. Agency totals should be shown at the bottom of the Exhibit.
- g. Under lease construction arrangements, identify the agency and account responsible for funding, and the agency and account responsible for operation.
- h. Special care should be taken in filling out the "Status" column on Exhibit 2 so as to give all

relevant information indicated below. It is requested that the agency use the following format:

Indicate "PP____" if the project is in the preliminary planning stage. The blank provided should contain the estimated completion date for construction.

Indicate "DES____" if the project is under design or has been designed, but is not under construction. The blank provided should contain the estimated completion date for construction.

Indicate "CONSTR____" if the project is under construction. The blank provided should contain the estimated completion date.

Indicate "COMPL____" if the project has been completed. The blank provided should contain the actual completion date.

Indicate "DISC" if the project has been discontinued or dropped. Reasons should be given.

Indicate "DEFER____" if the project has been deferred or significantly delayed. The blank provided should contain the estimated date of completion of construction. Reasons and what corrective actions, if any, the agency plans to take should be given.

Indicate "OTHER" if other than the above circumstances apply. An explanation should be given.

- i. Exhibit 2 should be a consolidated summary of all active projects for all of the regions and divisions of the reporting agency.

EXAMPLE

EXHIBIT 1
Circular No.

ENVIRONMENTAL POLLUTION CONTROL
Proposed Project Report

AGENCY:
Media:

Project No.:
Date Prepared:
Date Revised:

GSA Inventory Control No.:

1. Facility

Name:
Address: (city, county, state)
Agency Contact: (name, title, telephone)

2. Specific Type of Pollution:

3. Amount of Pollution:

4. Pollution Source, and Discharge, Emission, or Deposit Point:

5. Existing Treatment and Other Control Measures:

6. Effectiveness of Existing Treatment and Control:

7. Remedial Measures Proposed and Estimated Effect in
Correcting Problem:

8. Applicable Standards: (Cite the specific State, interstate,
local, or Federal regulation and specific requirement
for which the project is needed.)

9. Project Schedule:

| | <u>Agency Schedule</u> | <u>Regulation Schedule</u> |
|---------------------------|------------------------|----------------------------|
| | <u>Mo./Year</u> | <u>Mo./Year</u> |
| Design (Completion) | _____ | _____ |
| Construction (Start) | _____ | _____ |
| Construction (Completion) | _____ | _____ |
| Operation (Start) | _____ | _____ |
| Final Compliance | _____ | _____ |

10. Other Relevant Information:

EXHIBIT 2

(MEDIA) POLLUTION STATUS REPORT

Appropriation Account if Applicable

AGENCY:

AGENCY CONTACT:

TELEPHONE:

Page of

Reporting Date

| Project No. | Project Name & Location (GSA Inventory Control No.) | PROJECT COSTS (\$1,000's) Amt. in President's Budget or Agency Plan or amount appropriated or funded FY-2 FY-1 Current FY FY+1 FY+2 FY+3 | Present Cost Estimate | STATUS |
|-------------|---|--|-----------------------|--------|
| | | | | |

EXAMPLE

EXHIBIT 1
Circular No.

ENVIRONMENTAL POLLUTION CONTROL
Proposed Project Report

AGENCY: Department of the Army Project No.: A-078C
Media: Air Date Prepared: 5/26/73
 Date Revised: 2/11/74
 GSA Inventory Control No.:

1. Facility

Name: ABC Army Ammunition Plant
Address: Kingstown, George County, S.C.
Agency Contact: MJR B.A. Smith Facility Engineer
 (615) 765-4321

2. Specific Type of Pollution: NO₂

3. Amount of Pollution: 4,500 #/hr when process is operated
at maximum rate.

4. Pollution Source, and Discharge, Emission, or Deposit Point:

Nitric Acid Plant No. 13, Bldg. A.

5. Existing Treatment and Other Control Measures:

NO control measures.

6. Effectiveness of Existing Treatment and Control:

0% Removal efficiency.

7. Remedial Measures Proposed and Estimated Effect in
Correcting Problem:

Construct packed column control device 94% efficient to
achieve full compliance.

8. Applicable Standards:

- (1) State: State Air Code, Chapter V, S113.a(ii)
- (2) Region:
- (3) Actual standard or exact citation: Maximum of 450 #/hr
allowed as per the XYZ test method; effective date of
emission standard is 1/31/72.

9. Project Schedule:

| | <u>Agency Schedule</u> | <u>Regulation Schedule</u> |
|---------------------------|------------------------|----------------------------|
| | <u>Mo./Year</u> | <u>Mo./Year</u> |
| Design (Completion) | 4/74 | 4/74 |
| Construction (Start) | 8/74 | 9/74 |
| Construction (Completion) | 10/74 | 11/74 |
| Operation (Start) | 4/75 | 5/75 |
| Final Compliance | 5/75 | 6/75 |

10. Other Relevant Information:

Citizens complaints received on 12/15/73.

Suits initiated on 12/30/73 by Onaconda Environmental Study Group.

EXHIBIT 1
Circular No.

AGENCY: Department of the Army
Media: Water

Project No.: A-999b.
Date Prepared: 2-29-72
Date Revised: 12-26-73
Inventory Control No.: 45678

Name: Camp Faraway
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer
(615) 755-0022

Domestic sewage, partly treated. Existing treatment plant overloaded. Excess flow bypassed to river. Influent includes small amounts (.01 mgd) of filter backwash from water treatment plant containing precipitates of alum, iron, and manganese.

Total flow: 6.2 mgd. Treated: 4.0 mgd.

Secondary treatment plant discharges to Obstacle River,
3 miles below Mulch City water supply intake.

Secondary - high rate trickling filter plant, final sedimentation, and chlorination. Design Capacity = 4.0 mgd.

| <u>Principal Constituent</u> | <u>Influent</u> | <u>Treated Effluent</u> | <u>% Removal</u> |
|------------------------------|-----------------|-------------------------|------------------|
| BOD 5 | 235 ppm | 36 ppm | 83 |
| Suspended solids | 392 ppm | 60 ppm | 85 |
| Total phosphorous as P | 8.98 ppm | 4.67 ppm | 48 |
| Total Nitrogen as N | 24.96 ppm | 21.14 ppm | 15 |

7. Remedial Measures Proposed and Estimated Effect in Correcting Problem:

Replace existing treatment plant with AWT plant: chemical/activated sludge/multi-media filtration to achieve 95% removals or better. Design capacity = 7.5 mgd.

8. Applicable Standards:

State Standards:

SD Code: Water Poll - Chapter 61, 1960 Supp.

SD Code: Public Health - Chapter 27, 1960 Supp.

Water Quality Standards for Surface Waters: Reg E-1.10A (Rev.)

Federal Regulations: 40 CFR 125,133
PL 92-500, SS 301, 313
PL 92-500, S 402-NPDES
NPDES Permit Number - SD0012345
Permit Period - 1974 - 1979

9. Project Schedule:

| | <u>Agency Schedule</u> | <u>Regulation Schedule</u> |
|---------------------------|------------------------|----------------------------|
| | <u>Mo./Year</u> | <u>Mo./Year</u> |
| Design (Completion) | 4/75 | N/A |
| Construction (Start) | 6/75 | 5/75 |
| Construction (Completion) | 2/77 | 1/77 |
| Operation (Start) | 4/77 | N/A |
| Final Compliance | 6/77 | 7/77 |

Regulation schedule as required by NPDES permit.

State water quality standard requires adequate secondary treatment by 1/74.

Unable to meet State requirement because of design problems and funding cycle. State has permitted delay on condition NPDES permit deadline is met.

10. Other Relevant Information:

Installation may become surplus in FY 1975 or FY 1976 leading to project discontinuance.

EXAMPLE

EXHIBIT 1
Circular No.

ENVIRONMENTAL POLLUTION CONTROL
Proposed Project Report

AGENCY: Department of the Army
Media: Solid Waste

Project No.: A-001
Date Prepared: 2/11/74
Date Revised:

GSA Inventory Control No.:

1. Facility

Name: Camp Faraway
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer
(615) 755-0022

2. Specific Type of Pollution:

Camp landfill.

3. Amount of Pollution:

Leachate of high BOD concentration.

4. Pollution Source, and Discharge, Emission, or Deposit Point:

Current landfill contains high piles of uncovered wastes dumped daily. Due to frequent rains, wastes build up high moisture content and leachate, which emanates from side of fill. Also, area is noted to be a common breeding ground for flies and mosquitos, and is generally unsightly.

5. Existing Treatment and Other Control Measures:

- a. Landfill receives 10 tons/day of solid waste altogether, 5 from the Camp and 5 from the nearby Lindberg Air Base. It consists mainly of normal municipal-type wastes delivered on Monday, Wednesday and Friday of each week. Once a week a large load of oily rags is dumped in one corner of the landfill site.
- b. Landfill was first opened in Summer of 1970 and is designed to operate until 1990.
- c. Some control of run-off waters is exercised by a trench on the downhill side of landfill draining into a settling pond.

6. Effectiveness of Existing Treatment and Control:

Trench prevents run-off waters from entering local bay waters, but does not solve vector, or aesthetic problems, nor does it minimize the amount of leachate forming.

7. Remedial Measures Proposed and Estimated Effect in Correcting Problem:

Purchase of bulldozer to compact and cover wastes, minimize formation of leachate, control vectors, and improve general appearance.

8. Applicable Standards:

EPA Guidelines for Land Disposal of Solid Wastes, published in Federal Register July 1, 1974, requirements under sections 241.204, 241.207, 241.208, 241.209, and 241.210.

9. Project Schedule:

| | <u>Agency Schedule</u> | <u>Regulation Schedule</u> |
|---------------------------|------------------------|----------------------------|
| | <u>Mo./Year</u> | <u>Mo./Year</u> |
| Design (Completion) | N/A | N/A |
| Construction (Start) | N/A | N/A |
| Construction (Completion) | N/A | N/A |
| Begin Procurement Action | 7/74 | N/A |
| Operation (Start) | 1/75 | N/A |
| Final Compliance | 1/75 | N/A |

10. Other Relevant Information:

Station planning to build an incinerator in 1980 to extend life of landfill.

EXAMPLE

EXHIBIT 1
Circular No. _____

ENVIRONMENTAL POLLUTION CONTROL
Proposed Project Report

AGENCY: Department of the Army
Media: Noise

Project No.: A-001
Date Prepared: 6/1/74
Date Revised:

GSA Inventory Control No.: 45678

1. Facility

Name: Camp Faraway
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer
(615) 755-0022

2. Specific Type of Pollution:

Noise is broadband with discernible tones.

3. Amount of Pollution:

The source measures 75 dBA at the property line per American National Standard S1.4-1971. Source is 20 feet from boundary line at a height of 15 feet.
Facilities of areas affected: civilian school and housing (off the installation).

4. Pollution Source, and Discharge, Emission, or Deposit Point:

One air conditioning unit for Office Building No. 10.

5. Existing Treatment and Other Control Measures:

None.

6. Effectiveness of Existing Treatment and Control:

None.

7. Remedial Measures Proposed and Estimated Effect in Correcting Problem:

Installation of commercially available mufflers. It is expected that this action will lower the sound level below the background noise.

8. Applicable Standards:

Mulch Noise Ordinance, Section 4-12, Chapter 17 of the Municipal Code of Mulch, requires that the noise level at the boundary line in business and commercial districts not exceed 62 dBA.

9. Project Schedule:

| | <u>Agency Schedule</u> | <u>Regulation Schedule</u> |
|---------------------------|------------------------|----------------------------|
| | <u>Mo./Year</u> | <u>Mo./Year</u> |
| Design (Completion) | 9/74 | N/A |
| Construction (Start) | 11/74 | N/A |
| Construction (Completion) | 2/75 | N/A |
| Operation (Start) | 3/75 | N/A |
| Final Compliance | 4/75 | N/A |

The standards require immediate compliance. Agency schedule provides for earliest possible installation of control measures.

10. Other Relevant Information:

- 1) Legal action has not been initiated.
- 2) Community complaints have included 26 telephone calls, 15 letters, and 3 personal visits. Nature of complaints centered upon annoyance.

EXAMPLE

EXHIBIT 1
Circular No.

ENVIRONMENTAL POLLUTION CONTROL
Proposed Project Report

AGENCY: Department of the Army
Media: Pesticides

Project No.: A-002
Date Prepared: Feb. 15, 1974
Date Revised: _____

GSA Inventory Control No.: _____

1. Facility

Name: Camp Faraway
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer
(615) 755-0022

2. Specific Type of Pollution:

The following pesticides registered for the control of predators: sodium fluoroacetate (1080), strychnine, sodium cyanide, and thallium sulfate.

3. Amount of Pollution:

Sodium fluoracetate, 500 lbs; strychnine, 176 lbs; sodium cyanide, 475 lbs; and thallium sulfate, 125 lbs.

4. Pollution Source, and Discharge, Emission, or Deposit Point:

N/A.

5. Existing Treatment and Other Control Measures:

Storage under minimum security.

6. Effectiveness of Existing Treatment and Control:

Limited protection from loss by stealth and from physical deterioration.

7. Remedial Measures Proposed and Estimated Effect in Correcting Problem:

Shipment of all pesticides for storage in newly-remodeled, high-security building. This building will allow concentrations of entire inventory of these pesticides in one place. Physical condition of containers can be checked easily and routinely.

8. Applicable Standards:

Executive Order #11643--Environmental Safeguards on Activities for Animal Damage Control on Federal Lands. February 8, 1972. Additionally, the EPA, under statutory authority of Section 4, Federal Insecticide, Fungicide, and Rodenticide Act, halted all interstate shipments of these pesticides.

9. Project Schedule:

| | <u>Agency Schedule</u> <u>Mo./Year</u> | <u>Regulation Schedule</u> <u>Mo./Year</u> |
|---------------------------|---|---|
| Design(Completion) | Oct. 1973 | N/A |
| Construction (Start) | Jan. 1974 | N/A |
| Construction (Completion) | March 1974 | N/A |
| Operation (Start) | April 1974 | N/A |

10. Other Relevant Information:

Pesticides to be stored until proper disposal methods are developed.

EXAMPLE

EXHIBIT 1

Circular No. _____

**ENVIRONMENTAL POLLUTION CONTROL
Proposed Project Report**

AGENCY: Department of the Army
Media: Radiation

Project No.: A-001
Date Prepared: 6/14/74
Date Revised: 6/15/74

GSA Inventory Control No.:

1. Facility:

Name: Camp Faraway, Fuel Reprocessing Plant
Address: Mulch City, Enny County, S.D.
Agency Contact: Col. John Smith, Facilities Engineer, (615) 755-0022

2. Specific Type of Pollution:

Radioactive noble gases, primarily krypton-85 and small amounts of xenon-133, released to the atmosphere.

3. Amount of Pollution:

Approximately 4×10^8 curies per year of krypton-85 are released to the environment, with the plant operating at a load factor of 80%. The maximum annual average concentration of krypton-85 in the prevailing downwind direction was calculated to be 1.5×10^{-6} $\mu\text{c/cc}$, or 5 times the allowable concentration for uncontrolled areas specified in AECM 0524.

4. Pollution Source, and Discharge, Emission, or Deposit Point:

The gaseous effluents, containing krypton-85, are produced during the reprocessing of irradiated fuel elements and released, after treatment, from a one hundred meter stack located one mile inside the site boundary.

5. Existing Treatment and Other Control Measures:

The process off-gas, containing krypton-85 and other gaseous and particulate radioactivity, passes through a waste treatment system consisting of a scrubber to remove or reduce the radioiodine and radioactive particulates, a de-mister to remove water vapor, silver zeolite for final radioiodine removal, and HEPA filters for final cleanup of particulates prior to release through the one hundred meter stack.

6. Effectiveness of Existing Treatment and Control:

The gaseous effluent waste treatment systems presently in use are not effective in reducing the concentration of radioactive noble gases in the effluent.

7. Remedial Measures Proposed and Estimated Effect in Correcting Problem:

It is proposed that a catalytic reductor and a cryogenic distillation system be designed and installed for use in removing krypton-85 from the gaseous effluents so as to bring the plant into compliance with AECM 0524 Radiation Protection Standards. The proposed waste treatment system essentially dissolves the krypton-85 in liquid nitrogen which is then distilled to remove the nitrogen. The remaining krypton-85 is then bottled for subsequent storage and/or disposal. This waste treatment system is designed to remove in excess of 95% of the annual krypton-85 releases in the gaseous effluent. Implementation of these remedial measures will reduce offsite concentrations to less than 25% of the maximum permissible concentration specified in AECM 0524 for krypton-85 in uncontrolled areas.

8. Applicable Standards:

AEC Manual Chapter 0524 specifies a maximum permissible concentration for krypton-85 in uncontrolled areas. It permits these concentrations to be averaged over a period not exceeding one year.

9. Project Schedule:

This modified off-gas waste treatment system can be designed and constructed in accordance with the following schedule:

| | <u>Agency Schedule</u> | <u>Regulation Schedule</u> |
|---------------------------|------------------------|----------------------------|
| | <u>Mo./Year</u> | <u>Mo./Year</u> |
| Design (Completion) | 11/74 | N/A |
| Construction (Start) | 2/75 | N/A |
| Construction (Completion) | 7/75 | N/A |
| Operation (Start) | 8/75 | N/A |
| Final Compliance | 9/75 | N/A |

Standards are currently applicable.

10. Other Relevant Information:

None.

RESERVOIR SALVAGE ACT OF 1960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to further the policy set forth in the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461-467), by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency.

SEC. 2. (a) Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any floodwater retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area.

(b) Upon receipt of any notice, as provided in subsection (a), the Secretary of the Interior (hereinafter referred to as the "Secretary"), shall cause a survey to be made of the area proposed to be flooded to ascertain whether such area contains historical and archeological data (including relics and specimens) which should be preserved in the public interest. Any such survey shall be conducted as expeditiously as possible. If, as a result of any such survey, the Secretary shall determine (1) that such data exists in such area, (2) that such data has exceptional historical or archeological significance, and should be collected and preserved in the public interest, and (3) that it is feasible to collect and preserve such data, he shall cause the necessary work to be performed in such area to collect and preserve such data. All such work shall be performed as expeditiously as possible.

(c) The Secretary shall keep the instigating agency notified at all times of the progress of any survey made under this Act, or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency.

(d) A survey similar to that provided for by section (b) of this section and the work required to be performed as a result thereof shall so far as practicable also be undertaken in connection with any dam the construction of which has been heretofore authorized by any agency of the United States, or by any private person or corporation holding a license issued by any such agency.

(e) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

SEC. 3. In the administration of this Act, the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) procure the temporary or intermittent services of experts or consultants or organizations thereof as provided in section 15 of the Act of August 2, 1946 (5 U.S.C. 55a); and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporations holding a license issued by an agency of the United States for the construction of a dam or other type of water or power control project.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

RIVER AND HARBOR ACT OF 1899

Section 10

Sec. 10. That the creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is hereby prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States outside established harbor lines, or where no harbor lines have been established, except on lands recommended by the Chief of Engineers and authorized by the Secretary of War; and it shall not be lawful to extend, or to alter in any manner to alter or modify the course, extent, or capacity of, or to obstruct, or to build or commence the building of, any of the waters of the United States, not so authorized by the

Chief of Engineers and authorized by the Secretary of War prior to beginning the same.

U.S. Environmental Protection Agency
Region V, Library
230 South Dearborn Street
Chicago, Illinois 60604