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UNITED STATES ATOMIC ENERGY COMMISSION
AEC MANUAL

IMMEDIATE ACTION DIRECTIVE

IAD NO. 0510-22

DATE: May 28, 1970

SUBJECT: ATOMIC ENERGY COMMISSION INTERIM OPERATIONAL PROCEDURES FOR IMPLEMENTING SECTION 102(2)(C) OF THE "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969"

The National Environmental Policy Act of 1969 (NEPA), Executive Order 11514 (E.O. 11514) dated March 5, 1970, and the Interim Guidelines (Guidelines) of the Council on Environmental Quality (Council) dated April 30, 1970, provide that environmental considerations are to be given careful attention and appropriate weight in every recommendation or report on proposals for legislation and for other major Federal actions significantly affecting the quality of the human environment.

The following interim procedures have been adopted by the Atomic Energy Commission (AEC) to implement Section 102(2)(C) of the NEPA, E.O. 11514 and the Guidelines (copy of each attached).

These interim procedures are applicable to all units and organizations of the AEC reporting to or through the General Manager (GM) of the AEC.

A. PURPOSE

These procedures are intended to provide guidance for:

- (1) Identifying those AEC actions requiring environmental statements;
- (2) Obtaining information and internal AEC review required for the preparation of environment statements;
- (3) Designating the officials who are to be responsible for preparation, review and signing of the statements;
- (4) Consulting with and taking into account the comments of appropriate Federal, State and local agencies; and
- (5) Meeting requirements for providing timely public information on proposals for legislation and for other major actions having a potential significant adverse effect on the human environment.

REPOSITORY *Oak Ridge Operations*
 COLLECTION *Records of Bldg Area*
 BOX NO. *1 of 4*
75-44 Bldg. 2714-H
04-60-40-01 Environmental
 FOLDER *R.D. Stone*

B. INTERNAL REVIEW PROCEDURE

(1) Budget Process

(a) The requirements of the NEPA, E.O. 11514 and the Guidelines shall be met through the AEC budget process to the maximum extent practicable.

1 Proposed Project or Activity Resulting from Fiscal Year (FY) 1971 and Prior Annual Authorization and Appropriations Legislation

Each Program Division Director shall review such portions of the FY 1971 and prior annual AEC authorization and appropriations legislation for which he has programmatic or budgetary responsibility and identify, after consultation as appropriate with the Field Office Manager, Special Assistant for Environmental Affairs (SA/EA), the Assistant General Manager for Operations (AGMO)*, and the General Counsel (GC), any proposed project or activity not yet undertaken which appears to have the potential to have a significant adverse effect on the quality of the human environment. A draft statement should be prepared for each such project or activity for consideration by the Commission**. Preparation of such statement, to the extent practical, shall be in accordance with (1)(c) below.

2 Proposed Projects or Activities for FY 1972 and Subsequent FY Budgets

a Field Office Managers shall promptly instruct all contractors participating in the AEC budget process to prepare and submit by July 31, 1970, brief analyses of any potential adverse environmental impact of proposed line items, major General Plant Projects (GPP) or equipment items, and other proposed new activities provided for in their respective budget submission for FY 1972. Such analyses shall be included as a part of each subsequent FY budget submission.

* The AGMO is authorized to delegate to or obtain assistance from any AEC unit or organization reporting to or through the GM in carrying out his responsibilities under these procedures.

** Commission means the Commission of five members or a quorum thereof.

b Such analyses shall be prepared by Field Office Managers (Directors of Program Divisions as appropriate) for such projects or activities to be conducted by AEC directly or through contractors not participating in the budget process.

(b) With respect to any such proposed project or activity (i.e., line items, major GPP or equipment items, or other activity, identified by B.2a or b above) which a Program Division Director decides to support for inclusion in the AEC budget, the Program Division Director, in consultation with the SA/EA, AGMO and GC, shall determine whether any such proposed project or activity has the potential to have a significant adverse affect on the quality of the human environment. Where such potential is determined to exist, the Program Division Director shall direct the preparation of a draft environmental statement. The statement shall be submitted for the review of SA/EA, AGMO*, and GC.

(c) The draft environmental statement shall be prepared in accordance with Item 7 of the Guidelines, except with respect to water quality aspects. In that case the statement should indicate compliance with the applicable standards of the Federal Water Pollution Control Act, as amended (see Sec. 21(a) as amended by the Water Quality Improvement Act of 1970), or an explanation as to why those standards cannot be met.

(d) Following such review with respect to projects or activities proposed for inclusion in FY 1972 budgets and subsequent FY budgets, the initiating Division will forward a draft statement to the Controller who will incorporate it as part of the information to be considered by the Budget Review Committee (BRC). The BRC will recommend to the GM whether or not such projects or activities should be included in the AEC budget. With regard to projects or activities so recommended for inclusion and for such other projects as the GM may direct, the AGMO will prepare a paper for discussion with the Commission, which will include recommendations concerning the following:

1 Whether or not a project or activity should be deemed to constitute a major Federal action which significantly affects the quality of human environment.

* The AGMO will have the statement reviewed as appropriate by Divisions and offices having special expertise in environmental matters, e.g., Operational Safety, Biology and Medicine, and Division of Reactor Development and Technology.

2 The method for obtaining comments of other Federal agencies and the agencies from which comments should be sought.

3 The method for obtaining comments of State and local agencies and the agencies from which comments should be sought.

4 Proposed public information program regarding each project or activity.

5 The content of the draft environmental statement.

(e) Projects or activities identified in (1)(a)1 above as requiring a draft statement shall be prepared and forwarded by the Program Division Director to the AGMO who will prepare a paper for discussion with the Commission which will include recommendations concerning items 1 through 5 of (1)(d). The SA/EA will advise the GM with respect to the recommendations.

(2) Major Actions Involving Changes or Additions to Present Operations

(a) Field Office Managers shall promptly instruct all contractors to prepare brief analyses of the environmental impact of any proposed major change in continuing projects or activities or of proposed new projects or activities, not identified by the process described in (1)(a)1 or 2 above, which have a potential for a significant adverse effect on the quality of the human environment.

For AEC direct operations and those conducted through contractors not participating in the budget process the analyses shall be prepared by Field Office Managers (Directors of Program Divisions as appropriate). Analyses for which the Field Office Managers are responsible shall be submitted to the appropriate Division Director having program or budgetary responsibility.

(b) Where the potential for a significant adverse effect on the human environment is identified from the analyses prepared under (2)(a) above, the Program Division Director, after consultation as appropriate with the SA/EA, AGMO and the GC, shall prepare a draft statement and forward it to the AGMO who will follow the applicable procedures set forth in (1)(e) above.

(3) Comment on Environmental Statements

(a) Except as otherwise provided by the Bureau of the Budget (BOB) the AGMO shall be responsible for obtaining comments of Federal agencies and State and local agencies in accordance with Item 9 of the Guidelines. Ordinarily comments of State and local agencies will be obtained by publication of the draft statement in the Federal Register.

(b) Time to be Allowed for Comment

1 Federal agencies - not less than 30 days.

2 State and local agencies - not less than 60 days.

(4) Final Environmental Statement

After receipt of comments from Federal agencies and State and local agencies a final environmental statement shall be prepared taking into account such comments. This statement shall be prepared by the AGMO after appropriate consultation with the Program Director, SA/EA and the GC, for signature by the GM. Copies of the statement will be forwarded to the Council in accordance with (6) below.

(5) Responsible Official

All final environmental statements will be prepared for the signature of the GM who is hereby designated the "responsible official."

(6) Distribution of Statement to Council

In accordance with Item 10(b) of the Guidelines.

(7) Recommendations for Reports on Non-AEC Proposed Legislation

AEC reports on legislation initiated outside AEC shall be developed in accordance with Item 6 of the Guidelines and as provided by the BOB.

(8) Staff Papers

All papers on which Commission action is expected relating to proposed projects and activities shall include information on the anticipated environment impact.

C. AEC POLICY DETERMINATIONS

In addition to the criteria set forth in D. below for determining whether a proposed project or activity has the potential to significantly affect the quality of the human environment, the AEC has determined as a matter of policy that an environmental statement will be prepared in accordance with Sec. 102(2)(C) of the NEPA in connection with proposed projects or activities which involve the following:

(1) New AEC Power and Production reactors.

(2) Reactivation of existing AEC Power and Production reactors.

- (3) Cooperative arrangements with industry for the construction of demonstration nuclear power plants.
- (4) Establishment of long-term AEC waste storage facilities.
- (5) Fuel Element Reprocessing facilities.
- (6) Nuclear cratering tests conducted on the Nevada Test Site (NTS) or the Supplemental Test Site in Nevada (STS).
- (7) Plowshare experimental projects not conducted at NTS or STS.
- (8) Nuclear test conducted on the Island of Amchitka, Alaska.
- (9) Nuclear test of more than one megaton conducted at NTS or STS. Statements will be prepared on an individual test basis.
- (10) Nuclear test programs of one megaton or less conducted at NTS or STS. Statements will be prepared annually covering the total program.

D. CRITERIA FOR DETERMINING WHETHER A PROPOSED PROJECT OR ACTIVITY HAS THE POTENTIAL TO HAVE A SIGNIFICANT ADVERSE AFFECT ON THE QUALITY OF THE HUMAN ENVIRONMENT

- (1) The interim Guidelines. (Federal Register dated May 12, 1970).
- (2) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed with a view to the overall, cumulative impact of the action proposed (and of 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 actions, the environmental impact of which is likely to be highly controversial, should be covered in all cases.
- (3) Section 102(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 or 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 effect will be beneficial. Significant adverse effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human beings through adverse effects on the environment.


General Manager

Enclosures:

1. The National Environmental Policy Act
2. E.O. 11514
3. Guidelines



Public Law 91-190
91st Congress, S. 1075
January 1, 1970

An Act

83 STAT. 852

To establish a national policy for the environment, to provide for the establishment of a Council on Environmental Quality, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Environmental Policy Act of 1969".

National Environmental Policy Act of 1969.

PURPOSE

SEC. 2. The purposes of this Act 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.

TITLE I

DECLARATION OF NATIONAL ENVIRONMENTAL POLICY

SEC. 101. (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 Federal 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 Act, 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

Enclosure 1

Pub. Law 91-190

January 1, 1970

83 STAT. 853

(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.

Administration.

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—

(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 title II of this Act, 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, United States Code, and shall accompany the proposal through the existing agency review processes;

Copies of statements, etc., availability.

81 Stat. 54.

(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;

January 1, 1970

Pub. Law 91-190

83 STAT. 854

(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 title II of this Act.

Sec. 103. All agencies of the Federal Government shall review ^{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 Act 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 Act.

Sec. 104. Nothing in Section 102 or 103 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.

Sec. 105. The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

TITLE II

COUNCIL ON ENVIRONMENTAL QUALITY

Sec. 201. The President shall transmit to the Congress annually ^{Report to Congress.} 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.

Sec. 202. There is created in the Executive Office of the President ^{Council on Environmental Quality.} 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 title I of this Act; 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. Law 91-190

January 1, 1970

83 STAT. 855

Sec. 203. The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. 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 Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

80 Stat. 416.
Duties and
functions.

Sec. 204. 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 201;

(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 title I of this Act, 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 title I of this Act 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.

Sec. 205. In exercising its powers, functions, and duties under this Act, the Council shall—

34 F. R. 8693.

(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.

January 1, 1970

Pub. Law 91-190

81 STAT. 636

Sec. 206. 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 (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for Level IV or the Executive Schedule Pay Rates (5 U.S.C. 5315).

Tenure and
compensation.
80 Stat. 460,
461.

81 Stat. 636.

Sec. 207. There are authorized to be appropriated to carry out the provisions of this Act not to exceed \$300,000 for fiscal year 1970, \$700,000 for fiscal year 1971, and \$1,000,000 for each fiscal year thereafter.

Appropriations.

Approved January 1, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-378, 91-378, pt. 2, accompanying H. R. 12549 (Comm. on Merchant Marine & Fisheries) and 91-765 (Comm. of Conference).

SENATE REPORT No. 91-296 (Comm. on Interior & Insular Affairs).

CONGRESSIONAL RECORD, Vol. 115 (1969):

July 10: Considered and passed Senate.

Sept. 23: Considered and passed House, amended, in lieu of H. R. 12549.

Oct. 9: Senate disagreed to House amendments; agreed to conference.

Dec. 20: Senate agreed to conference report.

Dec. 22: House agreed to conference report.

THE PRESIDENT

Executive Order 11514

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

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THE PRESIDENT

effective protection and enhancement of environmental quality and

(c) Determine the feasibility of policies and programs for dealing

(d) Coordinate Federal programs to be approved, public hearings

(e) Promote the development and use of indices and monitoring

systems (1) to assess environmental conditions and trends, (2) to

(f) Coordinate Federal programs related to environmental quality.

(g) Advise and assist the President and the agencies in achieving

(h) Issue guidelines to Federal agencies for the preparation of

(i) Issue such other instructions to agencies, and request such re-

(j) Advise the President regarding the environmental

(k) Issue such other instructions to agencies, and request such re-

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Richard Nixon

The White House
March 5, 1970.

[E.E. D. 70-2001; ENCL. Mar. 5, 1970; 2:20 p.m.]

FEDERAL REGISTER VOL. 35 NO. 45—SATURDAY, MARCH 7, 1970

1115858

May 28, 1970

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
1016 16TH STREET, NW
WASHINGTON, D. C. 20036

April 30, 1970

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Subject: Interim Guidelines for Statements on Major Federal Actions Affecting
the Environment Required by Section 102(2)(C) of the National
Environmental Policy Act of 1969 (P.L. 91-190)

1. Following receipt of comments from agencies on draft guidelines circulated by my memorandum of March 20, 1970, the attached interim guidelines are circulated for the guidance of agencies in the preparation of their own procedures to implement Section 102(2)(C) of the National Environmental Policy Act (See Par. 3 of the Interim Guidelines). Note that, as was indicated in the draft guidelines of March 20, the target date for these agency procedures is June 1, 1970.
2. The Council on Environmental Quality is concerned that, in a number of cases, there appears to have been failure to comply with the Section 102(2)(C) environmental statement requirement. This is also contrary to the President's directive of March 5, 1970 in Executive Order 11514 ("Protection and Enhancement of Environmental Quality").
3. In essence the Section 102(2)(C) process is designed to insure that environmental considerations are given careful attention and appropriate weight in all Federal Government decision making. It does not mean that environmental values are the only values to be weighed or that the requirement is met by paper-work formalities. It will take imagination and attention to the spirit of the requirement from all agencies of the Federal Government to make the Section 102(2)(C) process as meaningful as was intended.
4. It is expected that Heads of Agencies will make development of necessary internal procedures consonant with the attached guidelines and the preparation of the necessary environmental statements in appropriate cases a matter of priority attention. The Council on Environmental Quality is available to advise on

Enclosure 3

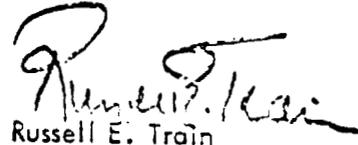
1115859

May 28, 1970

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IAD 0510-22

questions that may arise. Copies of agency procedures and environmental statements should be sent to Timothy W. Mason, General Counsel, at the above address (Tel. Code 428 ext. 7963).


Russell E. Train
Chairman

Attachment

1115860

May 28, 1970

**EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
1016 16TH STREET, NW
WASHINGTON, D. C. 20036**

Interim Guidelines

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

Subject: Statements on proposed Federal actions affecting the environment

1. Purpose. This memorandum provides interim 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) (hereafter "the Act") (Attachment A). Underlying the preparation of such environmental statements is the mandate of both the Act and Executive Order 11514 (35 Fed. Reg. 4247) of March 5, 1970 (Attachment B) that all Federal agencies, to the fullest extent possible, direct their policies, plans and programs so as to meet national environmental goals.

2. Policy. Before undertaking major action or recommending or making a favorable report on legislation that significantly affects the environment, Federal agencies will, in consultation with other appropriate Federal, State and local agencies, assess in detail the potential environmental impact in order that adverse effects are avoided, and environmental quality is restored or enhanced, to the fullest extent practicable. In particular, alternative actions that will minimize adverse impact should be explored and both the long- and short-range implications

to man, his physical and social surroundings, and to nature, should be evaluated in order to avoid to the fullest extent practicable undesirable consequences for the environment.

3. Agency and BOB 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. Consequently, each agency will establish no later than June 1, 1970 its own formal procedures for (1) identifying those agency actions requiring environmental statements, (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 (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. These procedures should be consonant with the guidelines contained herein. Each agency should file seven (7) copies of all such procedures with the Council on Environmental Quality, which will provide advice to agencies in the preparation of their procedures and guidance on the application and interpretation of the Council's guidelines.

(b) Each Federal agency should consult, with the assistance of the Council on Environmental Quality if desired, with other appropriate Federal agencies in the development 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.

(c) It is imperative that existing mechanisms for obtaining the views of Federal, State and local agencies on proposed Federal actions be utilized to the extent practicable in dealing with environmental matters. The Bureau of the Budget will issue instructions, as necessary, to take full advantage of existing mechanisms (relating to procedures for handling legislation, preparation of budgetary material, new policies and procedures, water resource and other projects, etc.).

4. Federal Agencies Included. Section 102(2)(C) applies to all agencies of the Federal Government with respect to recommendations or reports on proposals for (i) legislation and (ii) other major Federal actions significantly affecting the quality of the human environment. The phrase "to the fullest extent possible" in Section 102(2)(C) is meant to make clear that each agency of the Federal Government shall comply with the requirement unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible. (Sec. 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.")

5. Actions Included. The following criteria will be employed by agencies in deciding whether a proposed action requires the preparation of an environmental statement:

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

- (i) recommendations or reports relating to legislation and appropriations;
- (ii) projects and continuing activities

--directly undertaken by Federal agencies

--supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance

--involving a Federal lease, permit, license, certificate or other entitlement for use;

(iii) policy--and procedure-making.

(b) 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 (and of 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 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. The lead agency should prepare an environmental statement if it is reasonable to anticipate a cumulatively significant impact on the environment from the Federal action.

(c) 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 or 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 adverse effects on the quality of the human environment include both those that directly affect human beings and those that indirectly affect human beings through adverse effects on the environment.

(d) Because of the Act's legislative history, the regulatory activities of Federal environmental protection agencies (e.g., the Federal Water Quality Administration of the Department of the Interior and the National Air Pollution Control Administration of the Department of Health, Education, and Welfare) are not deemed actions which require the preparation of an environmental statement under Section 102(2)(C) of the Act.

6. Recommendations or Reports on Proposals for Legislation. 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 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.) The Bureau of the Budget will supplement these general guidelines with specific instructions relating to the way in which the Section 102(2)(C) procedure fits into its legislative clearance process.

7. Content of Environmental Statement

(a) The following points are to be covered:

(i) the probable impact of the proposed action on the environment, including impact on ecological systems such as wild life, fish and marine life. Both primary and secondary significant consequences for the environment should be included in the analysis. For example, the implications, if any, of the action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the resource base, including land use, water, and public services, of the area in question.

(ii) any probable adverse environmental effects which cannot be avoided (such as water or air pollution, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in Section 101(b) of P.L. 91-190).

(iii) alternatives to the proposed action (Sec. 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 alternative actions that might avoid some or all of the adverse environmental effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects.

B. Federal Agencies to be Consulted in Connection with Preparation of Environmental Statement. The Federal agencies to be consulted in connection with preparation of environmental statements are those which have "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards". These Federal agencies include components of (depending on the aspect or aspects of the environment involved):

Department of Agriculture

Department of Commerce

Department of Defense

Department of Health, Education and Welfare

Department of Housing and Urban Development

Department of the Interior

Department of Transportation

Atomic Energy Commission

For actions specially affecting the environment of their regional jurisdictions, the following Federal agencies are also to be consulted:

Tennessee Valley Authority

Appalachian Regional Commission

Agencies obtaining comment should determine which one or more of the above listed agencies are appropriate to consult. It is recommended that the above listed Departments establish contact points for providing comments and that

Departments from which comment is solicited coordinate and consolidate the comments of their component entities. 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 seeking comment may establish time limits of not less than thirty days for reply, after which it may be presumed the agency consulted has no comment to make.

9. State and Local Review. Where no public hearing has been held on the proposed action at which the appropriate State and local review has been invited, and where review of the proposed action by State and local agencies authorized to develop and enforce environmental standards is relevant, such State and local review shall be provided for as follows:

(a) For direct Federal development projects and projects assisted under programs listed in Attachment D of the Bureau of the Budget Circular No. A-95, review by State and local governments will be through procedures set forth under Part I of Circular No. A-95.

(b) State and local review of agency procedures, regulations, and policies for the administration of Federal programs of assistance to State and local governments will be conducted pursuant to procedures established by Bureau of the Budget Circular No. A-85.

(c) Where these procedures are not appropriate and where the proposed action affects matters within their jurisdiction, review of the proposed action

by State and local agencies authorized to develop and enforce environmental standards and their comments on the draft environmental statement may be obtained directly or by publication of a summary notice in the Federal Register (with a copy of the environmental statement and comments of Federal agencies thereon to be supplied on request.) The notice in the Federal Register may specify that comments of the relevant State and local agencies must be submitted within 60 days of publication of the notice.

10. Use of Statements in Agency Review Processes; Distribution to Council on Environmental Quality.

(a) Agencies will need to identify at what stage or stages of a series of actions relating to a particular matter the environmental statement procedures of this directive will be applied. It will often be necessary to use the procedures both in the development of a national program and in the review of proposed projects within the national program. However, where a grant-in-aid program does not entail prior approval by Federal agencies of specific projects, the view of Federal, State and local agencies in the legislative and possibly appropriation, process may have to suffice. The principle to be applied is to obtain views of other agencies at the earliest feasible time in the development of program and project proposals. Care should be exercised so as not to duplicate the clearance process, but when actions being considered differ significantly from those that have already been reviewed an environmental statement should be provided.

(b) Seven (7) copies of draft environmental statements (when prepared), seven (7) copies of all comments received thereon (when received), and seven (7)

copies of the final text of environmental statements should be supplied to the Council on Environmental Quality in the Executive Office of the President (this will serve as making environmental statements available to the President). It is important that draft environmental statements be prepared and circulated for comment and furnished to the Council early enough in the agency review process before an action is taken in order to permit meaningful consideration of the environmental issues involved.

11. Application of Section 102(2)(C) Procedure to Existing Projects and Programs.

To the fullest extent possible the Section 102(2)(C) procedure should 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 P.L. 91-190 on January 1, 1970. Where it is not practicable to reassess the basic course of action, it is still important that further incremental major actions be shaped so as to 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.

12. Availability of Environmental Statements and Comments to Public. The agency which prepared the environmental statement is responsible for making such statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. Sec. 552).

13. Review of Existing Authority, Policies and Procedures in Light of National Environmental Policy Act. Pursuant to Section 103 of the Act and Section 2(d)

of Executive Order 11514, all agencies, as soon as possible, shall review their present statutory authority, administrative regulations, and current policies and procedures, including those relating to loans, grants, contracts, leases, licenses, certificates and permits, for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of the Act. After such review each agency shall report to the Council on Environmental Quality not later than September 1, 1970 the results of such review and their proposals to bring their authority and policies into conformity with the intent, purposes and procedures set forth in the Act.

14. Supplementary Guidelines; Evaluation of Procedures.

(a) The Council on Environmental Quality 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 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 on Environmental Quality by December 1, 1970. Such reports should include an identification of 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.