

National Environmental Policy Act

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Lisa M. Gibson

ph: 916-557-5288

Email: Lisa.M.Gibson2@usace.army.mil



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US Army Corps of Engineers
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Background

- **National Environmental Policy Act (NEPA):** Law passed by Congress in 1969.
 - ▶ Purpose: “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.”



Requirements

■ Federal Agencies 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 decision making 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 decision making 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.



Implementing Regulations

- **Council on Environmental Quality (CEQ)**
 - ▶ 40 CFR 1500
- **U.S. Army Corps of Engineers (USACE)**
 - ▶ 33 CFR 230
- **U.S. Army Corps of Engineers - Regulatory**
 - ▶ 33 CFR 325, Appendix B



Implementing Regulations

▪ CEQ Regulations (40 CFR 1500)

- ▶ Provides regulations for the preparation of Environmental Impact Statements (EIS)
 - Process
 - Coordination
 - Decision
- ▶ Provides regulation on when to prepare an Environmental Assessment (EA)
 - Finding of No Significant Impact (FONSI)
- ▶ Provides regulation on when to prepare and Environmental Impact Statement (EIS) and procedures for the preparation of an EIS
 - Activities resulting in a significant impact to the human environment
- ▶ Provides regulation on when an activity does not require the preparation of an EA or an EIS (Categorical Exclusions)
 - Category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations



Implementing Regulations

- **USACE Regulatory Regulations (33 CFR 325, Appendix B)**
 - ▶ Supplement to CEQ regulations and USACE Regulations (33 CFR 230)
 - ▶ Provides categorical exclusions
 - Fixed or floating small private piers, small docks, boat hoists, and boathouses
 - Minor utility distribution and collection lines including irrigation
 - Minor maintenance dredging using existing disposal sites
 - Boat launching ramps
 - All applications which qualify as letters of permission (as described at 33 CFR325.5(b)(2))
 - ▶ Procedures for the preparation of an EA and supplemental procedures for the preparation of an EIS
 - ▶ Regulations for determination of scope of analysis for a permit action
 - i. Whether or not the regulated activity compromises "merely a link" in a corridor type project (e.g. a transportation or utility transmission project).
 - ii. Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity.
 - iii. The extent to which the entire project will be within Corps jurisdiction.
 - iv. The extent of cumulative control and responsibility.



Regulatory Implementation of NEPA

- **For all activities that require a permit under USACE Regulatory jurisdiction, USACE ensures that the project is in compliance with NEPA**
 - ▶ Nationwide Permits – EA's are completed by USACE Headquarters, and supplemented by USACE Districts
 - ▶ Regional General Permits – EA's are completed by USACE District
 - ▶ Letters of Permission – categorically excluded from NEPA
 - ▶ Standard Permits
 - Activities that would not result in a significant impact to the human environment – USACE prepares an EA
 - Activities that would result in significant impacts to the human environment – USACE prepares an EIS
 - In some cases, an EA must be prepared first in order for a determination to be made that the activity would result in a significant impacts to the human environment



EA Process

- **Send public notice to adjacent property owners, agencies, and interested members of the public**
- **Ensure compliance with other Federal Laws (e.g. ESA, NHPA, 401 WQC)**
- **Prepare EA**
 - ▶ Document that is combined with other required documents, such as those required for compliance with the USEPA's Section 404(b)(1) Guidelines and USACE Public Interest Review
 - ▶ Evaluates the impacts of the No Action, Proposed Project, and other practicable alternatives
 - ▶ If it is determined that the proposed action would result in significant impacts to the human environment, USACE will determine that the preparation of an EIS is necessary, and no permit decision can be made
 - ▶ If it is determined that the proposed action would not result in significant impacts to the human environment, USACE will make a Finding of No Significant Impact, and make a permit decision in the EA (issue, issue with special conditions, deny)



EIS Process

- **Initiate Scoping and invite other Federal, state, local agencies and tribes to be a cooperating agency**

- **Prepare Draft Environmental Impact Statement and EPA publishes in the Federal Register**
 - ▶ Evaluates the impacts of the No Action, proposed project, and a reasonable range of alternatives at the same level of detail
 - ▶ Identify mitigation measures required to reduce impacts and availability of USACE to implement these measures
 - ▶ Sacramento District incorporates requirements of Section 404(b)(1) Guidelines to the extent available

- **Prepare Final Environmental Impact Statement and EPA publishes in the Federal Register**
 - ▶ Respond to comments on the DEIS, and make necessary modifications

- **Prepare Record of Decision**
 - ▶ State what the decision was
 - ▶ Identify all alternatives considered and specifying alternative or alternatives considered environmentally preferable
 - ▶ State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why



QUESTIONS?



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