

**National
Environmental
Policy
Act**

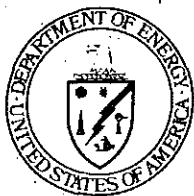
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SECRETARIAL POLICY
on the
NATIONAL
ENVIRONMENTAL
POLICY
ACT

U.S. Department of Energy

June 1994





The Secretary of Energy
Washington, DC 20585

June 13, 1994

MEMORANDUM FOR SECRETARIAL OFFICERS AND HEADS OF FIELD ELEMENTS
FROM: HAZEL R. O'LEARY *Hazel R. O'Leary*
SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT POLICY STATEMENT

Full compliance with the letter and spirit of the National Environmental Policy Act (NEPA), our national charter for protection of the environment, is an essential priority for the Department of Energy, consistent with our core values. We are fully committed to pursuing excellence in all areas of environment, safety, and health, including NEPA activities. The Department's openness initiative underscores the need for public access to information and involvement in our actions. The NEPA process is a valuable planning tool and an opportunity to improve the quality of the Department's decisions and build public trust.

An internal process improvement team and further analysis by the offices of the Assistant Secretary for Environment, Safety and Health and the General Counsel have shown that we must improve our NEPA process. We must approach NEPA as a team--ensuring quality and improving efficiency and thereby making NEPA work better and cost less. Accordingly, with the attached Policy Statement, I am directing a number of actions to streamline the NEPA process, minimize the cost and time for document preparation and review, emphasize teamwork, and make the process more useful to decision makers and the public. Importantly, the Policy Statement requires continuing evaluation of the outcomes of these reforms and allows for additional changes where necessary. I look forward to full participation within the Department, including our contractors, in implementing these important new policies.

ATTACHMENT

SECRETARIAL POLICY STATEMENT

ON THE NATIONAL ENVIRONMENTAL POLICY ACT

The NEPA process is a valuable planning tool and provides an opportunity to improve the Department of Energy decisions and build public trust. Reviews of the Department's NEPA program have shown that the Department must change the way it conducts its business to avoid unnecessary delays and reap the full benefits of the NEPA process. The Department must conduct the process as a team effort to make NEPA work better and cost less. The following new policies will streamline the NEPA process, minimize the cost and time for document preparation and review, emphasize teamwork, and make the process more useful to decision makers and the public. Except where specifically indicated otherwise, these policies are immediately effective.

I. Delegations of Authority

- A. To facilitate early integration of the NEPA process with project planning and decision making, reduce document review times, and foster ownership of NEPA documents, the Heads of Field Organizations listed in Attachment 1 will receive full authority for environmental assessments, findings of no significant impact, and associated floodplain and wetland action documentation requirements relating to their proposed actions. Under certain conditions, Heads of Field Organizations may redelegate these authorities to Heads of subsidiary Field Organizations. For actions not within the purview of a Field Organization, the Secretarial Officers listed in Attachment 1 will receive full authority for the preparation of such documents relating to their actions.
 1. The Assistant Secretary for Environment, Safety and Health will grant this delegation upon receipt of a valid request. Heads of Field Organizations should redelegate such authorities to Heads of subsidiary Field Organizations upon receipt of a request. Requests for delegation should confirm that: (i) a NEPA Compliance Officer has been designated, (ii) internal scoping procedures and public participation and quality assurance plans have been prepared, and (iii), in the case of Field Organizations, adequate Department of Energy legal resources are available.
 2. Secretarial Officers and Heads of Field Organizations should submit requests for delegation as soon as practicable; the Assistant Secretary for Environment, Safety and Health will delegate authorities within two weeks of receiving a valid request. Each Secretarial Officer and Head of a Field Organization listed in Attachment 1 is required to submit a valid request no later than December 15, 1994, so that the delegation process can be completed by December 31, 1994.

- B. To reduce document review times and foster ownership of NEPA documents, Secretarial Officers will approve implementation plans for environmental impact statements for their respective proposed actions, after soliciting comments from the Office of Environment, Safety and Health, in consultation with the Office of the General Counsel. Preparers are reminded that implementation plans are intended to be brief (normally about 20 pages) and to simply establish a road map for the environmental review to follow.
- C. Each Secretarial Officer and Head of a Field Organization will submit an annual NEPA planning summary to the Assistant Secretary for Environment, Safety and Health by January 31 of each year and will make the summaries available to the public.
 - 1. The annual NEPA planning summaries will describe briefly the status of ongoing NEPA compliance activities and any environmental assessments expected to be required in the next 12 months or environmental impact statements expected to be required in the next 24 months and, if available, the schedule for completion of each NEPA review identified (see Attachment 2).
 - 2. Every three years starting with the first year, Field Organizations will include in the annual NEPA planning summary an evaluation of whether a site-wide environmental impact statement would facilitate future NEPA compliance efforts.
 - 3. The Office of Environment, Safety and Health will review the summaries in consultation with the Office of General Counsel and comment as appropriate.
- D. To maintain the quality of NEPA reviews, the Office of Environment, Safety and Health will provide additional guidance and training to Secretarial Offices and Field Organizations on matters such as the following:
 - 1. Preparation of adequate statements of work to effectively direct the efforts of NEPA contractors;
 - 2. Improving public participation in the NEPA process (to be provided with the assistance of the Public Affairs Office); and
 - 3. Application of the Office of Environment, Safety and Health's "Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements."
- E. The Assistant Secretary for Environment, Safety and Health is authorized to direct a Secretarial Officer or Head of a Field Organization to prepare an environmental assessment or environmental impact statement.
- F. Where multiple Field Organizations or Program Offices would be involved in a proposed action for which an environmental assessment is to be prepared, all involved Offices should consult regarding the assignment of

responsibility for preparing and approving the environmental assessment. The Assistant Secretary for Environment, Safety and Health will resolve NEPA issues where several Offices are unable to reach agreement.

II. Process Changes

A. The NEPA process should be a team effort. To establish team leadership and ownership of the NEPA process and thereby improve its management, the cognizant Secretarial Officer or Head of a Field Organization will designate a Department of Energy member of the team working on any project requiring NEPA review as the NEPA Document Manager, to manage the document preparation process and keep it on schedule. Among the responsibilities of the NEPA Document Manager are to:

1. Consider innovative measures to reduce NEPA process time;
2. Consider requesting variances from Department of Energy NEPA regulations (10 CFR Part 1021) as necessary to meet timing requirements or for other reasons that are permitted under section 1021.343 of the regulations; and
3. Elevate internal disputes for prompt decision.

The Project Manager or NEPA Compliance Officer may serve this function as appropriate; in any case, the NEPA Document Manager should work closely with these other individuals.

B. To expedite approval of innovative procedures, where appropriate, the Assistant Secretary for Environment, Safety and Health is delegated authority to grant variances from provisions of Department of Energy NEPA regulations; as provided in 10 CFR 1021.343.

C. The NEPA Document Manager will conduct an early internal scoping process for the environmental assessment or environmental impact statement being prepared. The scoping process should involve a team representing all necessary departmental elements. For an environmental impact statement, this internal scoping process should precede the public scoping process that begins with publication of a notice of intent.

1. The internal scoping process will include the adoption of a proposed schedule for the preparation of the NEPA document and a public participation plan tailored to the project in question.
2. For each environmental impact statement, the schedule established during the internal scoping process will, absent extraordinary circumstances, provide for completion of a final environmental impact statement within 15 months of the issuance of the Notice of Intent.
3. The NEPA Document Manager will maintain a tracking system to monitor compliance with the schedule. The annual NEPA planning summaries

will identify NEPA reviews that are behind schedule and the reasons for any delays.

- D. To eliminate multiple cycles of revisions, internal reviews of draft environmental assessments and environmental impact statements will be concurrent, rather than sequential.
1. As a general matter, documents will be revised only after all reviewing offices have submitted their comments and agreement has been reached as to what changes are necessary.
 2. Absent extraordinary circumstances, any subsequent reviews that may occur will be limited to addressing any new material, confirming that previous comments have been adequately addressed, and obtaining management-level concurrence.
- E. To facilitate meeting the environmental objectives of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and respond to concerns of regulators, consistent with the procedures of most other Federal agencies, the Department of Energy hereafter will rely on the CERCLA process for review of actions to be taken under CERCLA and will address NEPA values and public involvement procedures as provided below.
1. NEPA reviews will be undertaken for siting, construction, and operation of treatment, storage, and disposal facilities that, in addition to supporting CERCLA actions, also serve waste management or other purposes.
 2. Department of Energy CERCLA documents will incorporate NEPA values, such as analysis of cumulative, off-site, ecological, and socioeconomic impacts, to the extent practicable.
 3. The Department of Energy will take steps to ensure opportunities for early public involvement in the CERCLA process and will make CERCLA documents available to the public as early as possible.
 4. Notwithstanding the above, the Department of Energy may choose, after consultation with stakeholders and as a matter of policy, to integrate the NEPA and CERCLA processes for specific proposed actions.
 5. For proposed corrective actions under the Resource Conservation and Recovery Act at sites that are listed on the National Priorities List under CERCLA, project managers should consult with the Environmental Management NEPA Compliance Officer, who will involve the Offices of Environment, Safety and Health and General Counsel as necessary to make determinations about how to proceed under NEPA.

III. NEPA Contract Reform

- A. All future contracts for the preparation of environmental assessments and environmental impact statements will contain incentives to encourage superior performance in document quality and timeliness.
- B. To improve the quality and timeliness of documents, all contractors preparing NEPA documents will be subject to performance appraisals.
 - 1. Procurement solicitations will include an evaluation criterion for the bidder's past performance of comparable assignments. Measures will include any existing evaluations of NEPA support performance.
 - 2. At the conclusion of the preparation of each environmental assessment and environmental impact statement, the NEPA Document Manager will evaluate the contractor's performance for timeliness, quality, cost-effectiveness, responsiveness, and application of the Office of Environment, Safety and Health's "Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements." The evaluations will be provided to the contractor with an opportunity for rebuttal and made available to Secretarial Offices and Field Organizations for consideration in assigning future work to a contractor.
 - 3. Management and Operating Contractors and National Laboratories will be subject to the same NEPA evaluation process as other contractors.
- C. Consistent with the contract reform effort that is underway Department-wide, a quality improvement team comprised of Headquarters and Field project, procurement, NEPA, and legal personnel will be formed to develop innovative contracting mechanisms and incentives suited particularly to NEPA document preparation contracts. The quality improvement team will develop recommendations on the most effective use of different contracting mechanisms, such as fixed price contracts, award fees, indefinite quantity/indefinite delivery contracts, and task order contracts. The team also will recommend specific methods of evaluating a potential contractor's past performance. Finally, the team should consider proposing Department of Energy organizations to participate in pilot projects to test contracting mechanisms and methods of evaluation and to monitor performance of the resulting contracts through appropriate metrics. The team will report its findings and recommendations no later than October 1, 1994.

IV. Additional Reforms for High Priority Projects

- A. Department of Energy personnel rather than contractors will be used, to the maximum extent practicable, to prepare environmental assessments and environmental impact statements that have short preparation time requirements or present unusually controversial or sensitive issues.

Where resource limitations do not permit Department of Energy personnel to carry out the entire task, contractors might be used for limited analytical or drafting assignments.

- B. When necessary or helpful in meeting important departmental objectives, the NEPA Document Manager may form a special team, comprised of relevant Field Organization and Secretarial Office personnel and representatives from the Offices of Environment, Safety and Health and General Counsel, to carry out the NEPA process from start to finish. This will ensure that all relevant programmatic, policy, and legal considerations are taken into account from the beginning and that the only necessary review function is obtaining senior management approval.
- C. The NEPA Document Manager is encouraged to consider whether a specific project offers opportunities for innovation in the NEPA process. For example:
 - 1. Using a toll-free number for submission of comments in order to reduce the number of public scoping meetings.
 - 2. Providing the NEPA document on-line as an option for interested parties to provide comments.
- D. The cognizant Secretarial Officer and the Assistant Secretary for Environment, Safety and Health will consult to determine whether delegation of approval authority for a specific environmental impact statement to the Secretarial Officer or the Head of a Field Organization would be appropriate to expedite the review and approval process.

V. Enhanced Public Involvement

- A. NEPA Document Managers will take appropriate action to encourage and facilitate public participation throughout the NEPA process, taking into account Office of Environment, Safety and Health guidance on improving public participation.
- B. Whenever possible, the Department of Energy will provide enhanced opportunities for public involvement in the environmental assessment process, which ordinarily will include at a minimum:
 - 1. Early public notice of the Department of Energy's intent to prepare an environmental assessment (concurrent with state/tribal notification); and
 - 2. Opportunity for interested parties, on request, to review environmental assessments (concurrent with state/tribal review) prior to Department of Energy approval.

VI. Continuing Improvement

- A. One year from now a quality improvement team will be formed to measure the outcome of the NEPA initiatives put forth in this policy statement and to consider what additional reforms are necessary; this team will report its findings and recommendations within 90 days of its formation.
- B. The Office of Environment, Safety and Health will solicit comments from the NEPA Document Manager, the NEPA Compliance Officer, and team members after completing each environmental impact statement and environmental assessment on lessons learned in the process and will circulate a quarterly summary to all NEPA Compliance Officers and NEPA Document Managers. The Office of Environment, Safety and Health also will revise its "Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements", as appropriate, to reflect the lessons learned and will improve Department-wide NEPA policy, directives, guidance, and training accordingly.
- C. The Office of Environment, Safety and Health will provide NEPA training in order to develop a more knowledgeable and experienced group of Headquarters and Field personnel capable of carrying out NEPA compliance activities.
- D. The Office of Environment, Safety and Health will consider establishing a NEPA certification program to formally recognize the expertise of personnel who have achieved a specified combination of training and practical experience.
- E. The Office of Environment, Safety and Health and the Office of General Counsel will monitor the progress of and advise the Secretary on the Department's NEPA compliance program. Metrics will include the cost and time required for NEPA document preparation, the influence of NEPA review on decision making, the evaluations of contractor performance, Environmental Protection Agency ratings of Department of Energy environmental impact statements, public reactions, and litigation experience. Within two years, Secretarial Offices and Field Organizations, with assistance from the Offices of Environment, Safety and Health and General Counsel, will reduce the median process time for environmental impact statements (from notice of intent to final environmental impact statement) to 15 months with no decline in quality. Meeting this objective will, of course, require adjustments to the schedules for environmental impact statements now in preparation.
- F. In carrying out and improving their NEPA compliance process, Heads of Departmental Elements should make effective use of NEPA Compliance Officers for advice, assistance, training, and coordination.

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This policy statement establishes internal management procedures and, as such, must be followed by Department of Energy personnel. It is not intended to create rights or obligations or any cause of action on the part of any other person.

ATTACHMENT 1

SECRETARIAL OFFICERS *

Assistant Secretaries:

- Defense Programs
- Energy Efficiency and Renewable Energy
- Environmental Management
- Fossil Energy
- Field Management (Associate Deputy Secretary)

Directors:

- Civilian Radioactive Waste Management
- Energy Research
- Laboratory Management
- Nonproliferation and National Security
- Nuclear Energy

Administrators:

- Bonneville Power Administration
- Western Power Administration
- Alaska Power Administration
- Southeastern Power Administration
- Southwestern Power Administration

HEADS OF FIELD ORGANIZATIONS *

Operations Office Managers:

- Albuquerque, Chicago, Idaho, Nevada, Oakland, Oak Ridge, Richland, and Savannah River Operations Offices

Managers:

- Golden Field, Ohio Field, and Rocky Flats Offices

Directors:

- Morgantown Energy Technology Center
- Pittsburgh Energy Technology Center
- Bartlesville Project Office
- Metairie Site Office
- Naval Petroleum and Oil Shale Reserves (in Colorado, Utah, and Wyoming)
- Naval Petroleum Reserves in California
- Yucca Mountain Project Office

Project Manager of Strategic Petroleum Reserve Project Office

* For purposes of applying this policy: Secretarial Officers are heads of departmental elements that report to the Office of the Secretary. Heads of Field Organizations are heads of field departmental elements that report to a Secretarial Officer (or, in the case of Bartlesville Project Office, Metairie Site Office, Naval Petroleum and Oil Shale Reserves, Naval Petroleum Reserves, and the Strategic Petroleum Reserve Project Office, to a Deputy Assistant Secretary). The above list excludes Secretarial Officers and Heads of Field Organizations that generally do not sponsor proposed actions that are subject to NEPA review.

ATTACHMENT 2

ILLUSTRATION OF CONTENT OF ANNUAL NEPA PLANNING SUMMARY FOR AN ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT

ENVIRONMENTAL IMPACT STATEMENTS:

Appleton Windplant and Wind Farms, Appleton County, Washington

Description: The proposed action would include placement and operation of an estimated 420 wind turbines, collection lines, transmission lines, access roads, turbines and transformer pads, and various other associated facilities. These wind energy projects are proposed for development in Stayman County (Central Washington).

Schedule: NOI: April 1994
Public Scoping Meetings: May 1994
Implementation Plan: July 1994
Draft EIS: December 1994
Final EIS: June 1995
ROD: July 1995

ENVIRONMENTAL ASSESSMENTS:

Wastewater Flow Collection and Treatment System, Mississippi River Plant, Jackson, Mississippi

Description: To construct and operate a collection and treatment system for contaminated wastewaters and groundwaters at the Department of Energy-operated Mississippi River Plant. The system would consist of collection conduits, a flow splitter box, an equalization basin, sedimentation basins, sludge handling and storage facilities, and associated chemical storage and feed equipment.

Schedule: No schedule yet set. In preliminary stages of consideration.

Note: Schedule information should be provided to the extent available.