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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 20 1976

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Patterson:

I am writing to acknowledge your recent designation as the President's Special Assistant for American Indian Affairs and to offer the assistance and support of the Environmental Protection Agency in this undertaking.

For some time now, EPA has recognized the need to promote the efficient administration of national environmental protection programs on Indian lands. In this regard, special Indian liaison functions have been established at both the headquarter and regional EPA levels. We have found this to be a satisfactory approach to insuring communication between our various program offices and the Indian people affected by those programs.

EPA will continue to work toward a more coordinated and effective Federal environmental program as it affects Indian people and lands. If you wish additional information regarding EPA program and policy implementation on Indian lands, please contact me or Ms. Rebecca Hanmer, Director of EPA's Office of Federal Activities. Ms. Hanmer serves as the principal headquarters contact for policy matters relating to EPA program administration on Indian lands.

I look forward to a close and cooperative relationship between EPA and the Executive Office of the President as we pursue our mutual goal of improving the administration of programs which serve Indian people.

Sincerely yours,

/s/ Russell E. Train

Russell E. Train
Administrator

Honorable Bradley H. Patterson, Jr.
Special Assistant to the President
The White House
Washington, D.C. 20500



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Vol 38 # 147

8/1/73

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INDIAN LEGAL INFORMATION DEVELOPMENT SERVICE



LEGISLATIVE REVIEW

A Publication of
THE INSTITUTE FOR THE DEVELOPMENT OF INDIAN LAW

Vol. 3, No. 7

Community Development

The full \$100 million authorized by the Housing and Community Development Act of 1974 will be available for Title IV community development planning grants. As reported in Vol. 3, No. 4 of the *Review*, President Ford last year sent a budget deferral request to Congress, asking that only \$50 million be spent for Title IV grants. On March 13, 1975, the Senate rejected the President's request by passing Senate Resolution 23. As a result, community development planning grants may be awarded from the entire \$100 million FY 1975 authorization.

For further information on the Housing and Community Development Act of 1974 and on the Presidential deferral procedure see Vol. 3, No. 4 of the *Review*.

Contracting

Regulations governing the contracting of Bureau of Indian Affairs programs and services to Indian tribes have been revised to facilitate the contracting process. The new regulations, which further define contracting terms, appeared in the *Federal Register* on March 19, 1975.

Business

On March 19, 1975, final regulations were published in the *Federal Register* implementing BIA's Loan Guaranty, Insurance, and Interest Subsidy program. The new regulations detail the conditions and terms under which the U.S. will insure or guarantee Indian loans acquired from private lenders. Indian borrowers may also have their interest payments reduced through the program's interest subsidies. Loans acquired for housing construction, financing of general economic enterprise and purchase of land within the reservation boundaries for economic development purposes may be insured or guaranteed under the program.

Trust Responsibility: Justice Trust Section

The U.S. Department of Justice, under pressure from Senator Edward Kennedy (D-Massachusetts), has established a separate Indian Trust Section within the Department's Land Division to represent Indian interests in natural resources litigation. Clearly, a separate section with exclusive responsibility to protect Indian rights in claims against the United States was needed. Justice Department lawyers have a responsibility to defend the U.S. in litigation, and they also have a responsibility to represent the U.S. in fulfilling its obligations as trustee for Indians. When the interests of these two parties conflicted, Indian clients were often left without adequate representation.

Justice Department officials claim they will need an additional appropriation from Congress if the new section is to provide adequate protection of Indian rights in claims against the United States. Sen. Kennedy has disputed this contention, calling instead for a shifting of resources within the Department to financially support the new section.

BIA Committee

A new Advisory Committee on Indian Trust Responsibilities will be formed within the Bureau of Indian Affairs. The Committee's Charter, which appeared in the *Federal Register* on March 11, 1975, was approved by the Secretary of Interior on January 6, 1975. The 16 member group is authorized to make recommendations to the Secretary of Interior, Commissioner of Indian Affairs, and the BIA's Office of Trust Responsibilities regarding the activities of the United States in fulfilling its trust responsibilities to Indians. The Secretary of Interior is authorized to appoint Committee members, after receiving nominations from various Indian groups and organizations across the country. The Charter stipulates that nominations must "include persons selected from each of the twelve areas of the United States administered by the Bureau of Indian Affairs." Moreover, the Committee's membership "shall provide a balanced representation of Indian interests with respect to the performance of the trust responsibility of the [Interior] Department." On April 1, 1975, the BIA announced that nominations are being accepted.

Reservation Environment Comes Under Federal Scrutiny

EPA Issues New Regulations on Pesticide Use, Air Pollution

Develops Plan for Indian-EPA Cooperation

The Environmental Protection Agency (EPA) was created in 1970 in response to growing public and governmental concern over the effects of pollution on the health of the Nation's citizens. In order to coordinate federal activities in pollution control, a separate, independent agency was established by consolidating 15 units from various federal departments into one new agency, the Environmental Protection Agency.

EPA is organized with a central administrative office in Washington, D.C., and ten regional offices throughout the country. The Office of Administrator, presently headed by Russell Train, is responsible for all major policy decisions and administrative operations. Five Assistant Administrators oversee the activities of the following divisions of the Agency: Planning and Management, Enforcement, Air and Waste Management, Water and Hazardous Materials, and Research and Development.

As a regulatory agency, EPA is responsible for ensuring that certain types of pollution are adequately controlled. Besides conducting research on the effects of pollution on the environment, EPA establishes and enforces environmental pollution standards, and assists state and local governments in pollution control.

In this issue, the *Review* reports on recent actions of the Environmental Protection Agency affecting Indian reservations. Until recently, EPA had been relatively unaware of the special status of Indian lands and governments except where Environmental Impact Studies have been required. When EPA has approached the issue of establishing regulations for pollution control, it has tended in the past to talk in terms of federal and state power to regulate, without regard for the Indian interest in protecting the reservation's environment. New Mexico has argued, for instance, that the states should have the power to establish pollution controls on reservations. Such state power would have threatened the right of Indian people to determine their own policies and standards regarding the quality of the environment on their reservations.

Recently, however, EPA has published regulations affecting pesticide use and air pollution in which tribal governments are called upon to participate in establishing environmental standards. The current EPA regulations

recognize tribal regulatory power only in areas where the states have not assumed jurisdiction under federal law (e.g., P.L. 280). The editors of the *Review*, on the other hand, maintain that matters tied as closely to the value of land as air, water, and pesticide pollution should not be vulnerable to state jurisdiction and control.

The Environmental Protection Agency, recognizing that the concern of Indian people for the land includes concern for all aspects of the environment, has moved to assign specific individuals within the national and area offices to respond to Indian people and to represent Indian interests within the Agency. This plan to make EPA more responsive to Indian concerns was signed by EPA Administrator Russell Train on March 6, 1975.

The EPA "Agency Action Plan," along with comments by Russell Train, are reported on page 3 of this issue of the *Review*. EPA air pollution regulations are reported on page 8, and the pesticide regulations are reported on page 4.

Books Available from the Institute

American Indian Treaty Series. 8 volumes including a chronological list. The *Series* is a compilation of treaties and agreements between the U.S. Government and Indian tribes arranged geographically. The 8 book titles are: *Chippewa, Eastern Oklahoma, Great Lakes, Northern Plains, Northwest, Sioux, Southwest (including Western Oklahoma)*, and a *Chronological List*. The entire set is available for \$30; individual books are \$5 each.

Behind the Trail of Broken Treaties, by Vine Deloria, Jr., Dell Publishing Co., Inc., N.Y., 1974, \$8.95 (\$2.95 pap.)

Custer Died for Your Sins, by Vine Deloria, Jr., Macmillan Co., N.Y., 1969, \$8.95.

God is Red, by Vine Deloria, Jr., Grosset & Dunlap, 1973 \$7.95.

100 Million Acres, by Kirke Kickingbird & Karen Ducheneaux, Macmillan Co., N.Y., 1973, \$6.95.

Taxing Those They Found Here, by Jay White, Institute for the Development of Indian Law, Wash., D.C., 1972, \$6.00 (\$2.00 to Indian Law Students).

EPA Responds to Tribal Concerns with New Plan To Allow Indian Input

(Editors' note: The following is an in-house memorandum for EPA officials which was signed by EPA Administrator Russell Train on April 5, 1975.)

As a result of recent meetings with representatives of Indian organizations, I have approved an Agency Action Plan (attached) to insure continued good communication between EPA and Indian groups throughout the country. Proposals in this Action Plan are not intended to replace any satisfactory relationships already developed between Indian groups and EPA regional or headquarters offices. They are meant to facilitate Indian access to EPA offices where such access does not now exist and to increase awareness within EPA of the issues involved with implementation of environmental protection requirements on Indian lands.

I have designated the Office of Federal Activities as headquarters contact point for questions concerning Indian activities and their relationship to EPA programs. More specific details on the Action Plan are contained in the attachment.

You will note that one element of the plan is creation of an EPA Indian Activities Working Group. EPA headquarters and regional offices which have an interest in implementation of environmental protection regulations on Indian lands should plan to designate a representative for this group, and inform Sheldon Meyers of your designee within two weeks. Additionally, staff Regional Administrator is requested to designate a regional staff member to serve as a contact point for regional issues regarding Indian activities and EPA programs. Please inform Mr. Meyers of your regional contact once selected.

We have an opportunity to contribute substantially to protection of the environment on Indian lands and to sustaining good communication with Indian representatives. I ask that you give this matter your personal attention to assure that satisfactory arrangements are established for good liaison and policy resolution.

Action Plan for Bettering EPA-Indian Cooperation

To insure continued good communication between EPA, the Indian people and representatives of Indian organizations, and to provide for the consideration of environmental problems involving Indians and Indian lands as they relate to EPA programs, policies and regulations, an Action Plan containing the following steps has been established.

A. General Liaison

The Office of Federal Activities is designated to serve as the headquarters' contact point for questions concerning Indian activities and their relationship to EPA programs. OFA will work with interested headquarters offices and will assure that environmental problems involving Indians and Indian lands are resolved by the appropriate EPA office.

To insure an effective exchange of information between OFA and other EPA offices, an Indian Activities Working Group will be formed. This Working Group will have a membership which should include (1) an OFA representative (coordinator); (2) a representative of the concerned program offices; (3) a representative of the Office of General Counsel, and (4) a representative from interested regional offices. Individuals from those EPA offices with expertise or interest in Indian affairs would be likely candidates as participants on the Working Group. Meetings of the group will be on an ad-hoc basis.

Additionally, each Regional Administrator should designate a staff member to serve as a contact point and who will be responsible for directing questions on regional Indian problems to the key program personnel within the regional organization (permits, enforcement, etc.). Furthermore, the contact will insure that regional program personnel are familiar with EPA policies and programs involving Indian activities. Finally, regional contacts will inform OFA of the need for policy guidance concerning particular EPA-Indian interactions.

B. EPA Standards Setting and Program Implementation

(1) The Agency should review and identify those of its programs, policies, and regulations which presently impact on Indian activities. If necessary, EPA will propose clarifying language to those standards and/or regulations which do not now adequately address Indian lands.

(2) The Agency, through the Indian Activities Working Group or OFA-Program Office interaction, will make certain that adequate reference is made to Indian lands in applicable programs, policies and regulations proposed for adoption.

(continued on page 5)

EPA Issues Pesticide Regs New Procedures Outlined for Tribal Control of Pesticide Use

The Federal government assumed responsibility for regulating commercial and private use of pesticides in 1947, with the passage of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA, as amended by the Federal Environmental Pesticide Control Act of 1972, authorized the Environmental Protection Agency (EPA) to register pesticides, inspect pesticide-producing establishments, and certify individuals applying pesticides that are potentially harmful to the environment.

In the *Federal Register* of October 9, 1974, EPA published regulations governing the certification of individuals (designated as "applicators" by EPA) who use or apply certain "restricted use" pesticides. According to EPA's definition, unrestricted use of these pesticides will cause "unreasonable adverse effects on the environment." EPA is now determining which pesticides it will include in this category of "restricted use" pesticides. Interested tribes should contact EPA with their recommendations as to which pesticides should be included for regulation under this category.

In setting standards for certifying individuals as "applicators," EPA is attempting to ensure that any use of pesticides designated "dangerous" will be under the supervision of persons trained in the use and the dangers of those pesticides. A certified applicator is judged competent to use and handle pesticides covered by his certification.

With the passage of the 1972 Federal Environmental Pesticide Control Act, Congress delegated part of the responsibility for pesticide applicator certification to the states. Under present law, certification is intended as a cooperative effort by federal and state governments. Minimum certification standards are established by EPA, and states may, with EPA approval and guidance, administer their own certification program. Standards used in state certification must conform to minimum federal standards.

To ensure federal participation, the law requires that states wishing to administer their own certification program must submit a certification plan to the EPA Administrator for approval. Regulations governing the development and submission of state certification plans were published in the *Federal Register* on March 12, 1975.

To receive EPA approval, state plans must: designate a state agency responsible for carrying out the plan; contain assurances that the state has the legal authority and qualified personnel to carry out the plan; contain assurances that the state will devote adequate funding to the administration of the plan; provide that the state will report annually on the administration of the program to EPA; and contain assurances that state standards conform to federal standards.

State certification plans must also contain a description of state competency standards, and examples of examination and performance tests to be used in the certification process. Regulations applicable to state certification plans are reprinted below.

171.7 Submission and approval of State plans for certification of commercial and private applicators of restricted use pesticides.

If any State, at any time, desires to certify applicators of restricted use pesticides, the Governor of that State shall submit a State plan for that purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if the plan in his judgment--

(a) Designates a State agency as the agency responsible for administering the plan throughout the State. Since several other agencies or organizations may also be involved in administering portions of the State plan, all of these shall be identified in the State plan, particularly any other agencies or organizations responsible for certifying applicators and suspending or revoking certification. In the extent that more than one governmental agency will be responsible for performing certain functions under the State plans, the plans shall identify which functions are to be performed by which agency and indicate how the program will be coordinated by the lead agency to ensure consistency of programs within the State. The lead agency will serve as the central contact point for the Environmental Protection Agency in carrying out the certification program. The numbers and job titles of the responsible officials of the lead agency and cooperating units shall be included.

(b) Contains satisfactory assurances that such lead agency has or will have the legal authority and qualified personnel necessary to carry out the plan:

(1) Satisfactory assurances that the lead agency or other cooperating agencies have the legal authority necessary to carry out the plans should be in the form of an opinion of the Attorney General or the legal counsel of the lead agency. In addition:

(i) The lead agency should submit a copy of each appropriate State law and regulation.

(continued on page 5.)

Pesticide Regs (continued from page 4)

(ii) In those States where any requisite legal authorities are pending enactment and/or promulgation, the Governor (or Chief Executive) may request that a State plan be approved contingent upon the enactment and/or promulgation of such authorities. Plans approved on a contingency basis will be subject to such reasonable terms and conditions, concerning the duration of the contingency approval and other matters, as the Administrator may impose. During the period of the contingency approval, the State will have an approved certification program and may proceed to certify applicators, who will then be permitted to use or supervise the use of pesticides classified for restricted use under FIFRA, as amended.

(iii) The State plan should indicate by citations to specific laws (whether enacted or pending enactment) and/or regulations (whether promulgated or pending promulgation) that the State has legal authorities as follows:

(A) Provisions for and listing of the acts which constitute grounds for denying, suspending, and revoking certification of applicators, and for assessing criminal and/or civil penalties. Such grounds should include, at a minimum, misuse of a pesticide and falsification of any records required to be maintained by the certified applicator.

(B) Provisions for reviewing an applicator's certification to determine whether suspension or revocation of the certification is appropriate in the event of criminal conviction under section 14(b) of the amended FIFRA, a final order imposing civil penalty under section 14(a) of the amended FIFRA, or conclusion of a State enforcement action.

(C) Provisions for right-of-entry by consent or warrant by appropriate State officials at reasonable times for sampling, inspection, and observation purposes.

(D) Provisions making it unlawful for persons other than certified applicators or persons working under their direct supervision to use restricted use pesticides.

(E) Provisions requiring certified commercial applicators to keep and maintain for the period of at least two years routine operational records containing information on kinds, amounts, uses, dates, and places of application of restricted use pesticides; and for ensuring that such records will be available to appropriate State officials.

(2) Satisfactory assurances that the lead agency and any cooperating organizations have qualified personnel necessary to carry out the plan will be demonstrated by including the numbers, job titles and job functions of persons so employed.

(c) Gives satisfactory assurances that the State will devote adequate funds to the administration of the plan.

(continued on page 6)

EPA Plan (continued from page 3)

C. Legal Analyses

Considerable legal debate continues as to the applicability of State law to Indian lands. While EPA is not the appropriate agency to make final judgments concerning legal relationships between States and Indian Reservations, guidance is nonetheless required as to the procedures necessary for regional implementation of EPA regulations on Indian lands.

OFA will develop a memorandum requesting guidance from the Department of Interior's Bureau of Indian Affairs (BIA) on the general question of applicability of State laws to Indian lands. Regional Counsels will then be requested to survey their States' laws using the BIA opinion as guidance. Until such an opinion is forthcoming, OFA will request that the regions be sensitive to the complex legal relationship existing between States and Indian lands.

D. Communications

OFA or the regional contacts, as appropriate, will encourage and perhaps sponsor meetings between EPA personnel and duly designated representatives of Indian organizations to discuss those EPA programs and proposals applicable to Indian lands.

A listing of regional contacts and a headquarters contact within OFA will be provided to designated Indian Governing Bodies and other interested groups. Similarly, OFA will develop a centralized listing of Indian Tribes, Governing Bodies and other interested organizations, and make such listing available to the regional contacts and other interested EPA personnel.

E. Current EPA Policy Regarding Implementation of Environmental Regulations on Indian Lands

It continues to be EPA policy to design regulations to accommodate the existing legal relationships between the States and Indian lands. Where a State has assumed civil authority over Indian lands, it is the Agency's policy that State emission limitations or other environmental regulations apply to those lands. However, where there is a fundamental deficiency in a State's authority over Indian lands, EPA will establish and enforce environmental regulations directly. In these instances, EPA will coordinate its enforcement effort with the appropriate Indian Governing Body and the Department of Interior, as well as with the State.

(continued from page 5)

(d) Provides that the State agency will make reports to the Administrator in a manner and containing information that the Administrator may from time to time require, including:

(i) An annual report to be submitted by the lead agency, at a time to be specified by the State, to include the following information:

(i) Total number of applicators, private and commercial, by category, currently certified; and number of applicators, private and commercial, by category, certified during the last reporting period.

(ii) Any changes in commercial applicator subcategories.

(iii) A summary of enforcement activities related to use of restricted use pesticides during the last reporting period.

(iv) Any significant proposed changes in required standards of competency.

(v) Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting period.

(vi) Any other proposed changes from the State plan that would significantly affect the State certification program.

(2) Other reports as may be required by the Administrator shall be submitted from time to time to meet specific needs.

(e) Contains satisfactory assurances that the State standards for the certification of applicators of pesticides conform to those standards prescribed by the Administrator under 171.1-171.6. Such assurances should consist of:

(1) A detailed description of the State's plan for certifying applicators and a discussion of any special situations, problems, and needs together with an explanation of how the State intends to handle them. The State plan should include the following elements as a minimum:

(i) For commercial applicators:

(A) A list and description of categories and subcategories to be used in the State, such categories to be consistent with those defined in 171.3.

(B) An estimate of the number of commercial applicators by category expected to be certified by the State.

(C) The standards of competency elaborated by the State. These shall conform and be at least equal to those prescribed in 171.4 for the various categories of applicators utilized by the State. The standards shall also cover each of the points listed in the general standards in 171.4(b) and the points covered in the appropriate specific standards set forth in 171.4(c).

(D) For each category and subcategory listed under 171.7(e)(1)(i)(A), either submission of examinations or a description of the types and contents of examinations (e.g., multiple choice, true-false) and submission of sample examination questions; and a description of any performance testing used to determine competency of applicators.

(ii) For private applicators:

(A) An estimate of the number of private applicators expected to be certified by the State.

(B) The standards of competency elaborated by the State. These shall conform and be at least equal to those prescribed in 171.5(a), including the five requirements listed in 171.5(a)(1)-(5).

(C) Types and contents of examinations and/or submission of detailed description of methods other than examination used to determine competency of private applicators.

(D) A description of any special procedure of testing that a State develops to determine the competency of a private applicator who is unable to read the label as prescribed in 171.5(b)(1).

(2) A provision for issuance by the State of appropriate credentials or documents verifying certification of applicators.

(3) If appropriate, a description of any existing State licensing, certification or authorization programs for private applicators or for one or more categories of commercial applicators may be included. If these programs are determined by EPA to meet standards of competency prescribed by 171.1 through 171.6, States may certify applicators so licensed, certified or authorized without any additional demonstration of competency provided:

(i) The commercial applicators who were licensed, certified, or authorized have demonstrated their competency based on written examinations and, as appropriate, performance testing, conforming to the standards set forth in 171.4, and

(ii) The private applicators who were licensed, certified, or authorized have demonstrated their competency by written or oral testing procedures or other acceptable equivalent system, conforming to the standards set forth in 171.5.

(4) A statement that the State accepts Federal employees qualified under the Government Agency Plan (GAP) as fully meeting the requirements for certification by that State; or a description of any additional requirements these employees must meet to apply restricted use pesticides in that State. Any such additional requirements shall be consistent with and shall not exceed standards established for other comparable applicators in that State.

(i) Until such time as the GAP has been fully developed and approved by EPA, this statement (171.7(e)(4)) is not required. However, within 60 days after final approval of the GAP, the State should forward such a statement for inclusion in its State plan.

(5) A description of any cooperative agreements a State has made with any Indian Governing Body to certify or assist in the certification of applicators not subject to State jurisdiction. (171.10).

(continued on page 7)

(6) A description of any arrangements that a State has made or plans to make relating to reciprocity with other States or jurisdictions for the acceptance of certified applicators from those States or jurisdictions. However, those arrangements should meet these conditions:

(i) The State according reciprocity should provide for issuance of an appropriate document verifying certification based upon the certifying document issued by the other States or jurisdictions.

(ii) The State according reciprocity should have enforcement procedures that cover out-of-State applicators determined to be competent and certified within the State or jurisdiction.

(iii) The detailed State or jurisdiction standards of competency, for each category identified in the reciprocity arrangement should be sufficiently comparable to justify waiving an additional determination of competency by the State granting reciprocity.

(f) In responding to the preceding requirements, a State may describe in its State plan other regulatory activities implemented under State laws or regulations which will contribute to the desired control of the use of restricted use pesticides by certified applicators. Such other regulatory activities, if described, will be considered by the Administrator in evaluating whether or not a State's certified applicator program satisfied the requirements of 171.7(a) through (c).

PESTICIDES ON INDIAN LANDS

EPA has devised separate regulations applicable to certification of individuals using restricted use pesticides on Indian reservations. According to the regulations, published as part of state plan regulations in the *Federal Register* on March 12, 1975, Indian tribes may either develop and administer their own certification plan or enter into a cooperative agreement with the state to certify and regulate pesticide use on the reservation.

Indian plans for certification must comply with federal standards and the federal regulations governing state plans as discussed above. For this reason, Indian tribes wishing to administer their own program should consult the complete set of regulations, published in the *Federal Register* on October 9, 1974 and March 12, 1975. Regulations governing pesticide use on Indian lands are reprinted below.

Section 171.10 Certification of Applicators on Indian Reservations.

This section applies to applicators on Indian Reservations.

(a) On Indian Reservations not subject to State jurisdiction the appropriate Indian Governing Body may choose to utilize the State certification program, with the concurrence of the State, or develop its own plan for certifying private and commercial applicators to use or supervise the use of restricted use pesticides.

(1) If the Indian Governing Body decides to utilize the State certification program, it should enter into a cooperative agreement with the State. This agreement should include matters concerning funding and proper authority for enforcement purposes. Such agreement and any amendments thereto shall be incorporated in the State plan, and forwarded to the Administrator for approval or disapproval.

(2) If the Indian Governing Body decides to develop its own certification plan, it shall be based on either federal standards (Sections 171.1 through 171.8) or State standards for certification which have been accepted by EPA. Such a plan shall be submitted through the United States Department of the Interior to the EPA Administrator for approval.

(b) On Indian Reservations where the State has assumed jurisdiction under other federal laws, anyone using or supervising the use of restricted use pesticides shall be certified under the appropriate State certification plan.

(c) Non-Indians applying restricted use pesticides on Indian Reservations not subject to state jurisdiction shall be certified either under a State certification plan accepted by the Indian Governing Body or under the Indian Reservation certification plan.

(d) Nothing in this section is intended either to confer or deny jurisdiction to the states over Indian Reservations not already conferred or denied under other laws or treaties.

[FR Doc. 75-6105 Filed 3-11-75; 8:45 am]

Recommendations for members of the new BIA Advisory Committee on Indian Trust Responsibilities are being accepted. (see story on page 1). Interested individuals and groups may submit nominations to: Martin Seneca, Director, Office of Trust Responsibility, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington D.C., 20242. Phone: (202) 343-5831.

New EPA Regulations Will Affect Air Pollution on Indian Reservations

The Clean Air Act of 1970, as amended, delegated the primary responsibility for preventing and controlling air pollution to local (state and tribal) governments. Under the system created by the Act, local governments and the Environmental Protection Agency cooperate in controlling future increases in air pollution within designated areas. The Act directed EPA to formulate and publish regulations that would assure local and federal participation in preventing "significant air quality deterioration." These regulations appeared in the *Federal Register* on December 5, 1974.

After receiving public comments, EPA announced a system whereby air pollution increases would be controlled through a process for designating local areas within one of three classifications. The classes govern allowable increases in air pollution above present levels.

In areas designated Class I, only a very slight air pollution increase would be allowed by EPA. In Class II areas, air quality would be allowed to deteriorate to a degree normally accompanying "moderate, well-controlled growth." In Class III areas, air quality would be allowed to deteriorate up to the maximum levels allowed under federal law.

Initially, all areas have been designated as Class II. Local governments may participate in air pollution control by applying to EPA for a reclassification.

As an additional means of air pollution control, the regulations specify that all construction of certain industrial plants begun after June 1, 1975, must be approved by the EPA Administrator. According to the regulations, the Administrator's decision will be based on whether the air pollution caused by the proposed facility would violate the pollution limits of the area's classification. Opportunity for written public comment on the environmental effects of the proposed facility is provided for in the regulations. All comments must be considered by the Administrator in making a final decision.

Of particular importance is that the EPA Administrator, in approving or disapproving an application to construct a pollution-causing facility, must consider not only the classification of the area in which the facility is to be built, but also areas located downwind whose air may be polluted by the facility's operation. In effect, tribes may be able to prevent construction of pollution-causing facilities located

up-wind in the neighboring state or states. Conversely, neighboring states may be able to prevent the construction of pollution-causing facilities on reservation lands. In practice, this situation would most likely occur where a proposed facility to be built in a Class II or III area is upwind of another area which carries a lower, or "cleaner" classification, such as Class I.

As the states and tribes are to be given an equal voice in these situations, it is important for the tribes (located in the states which have not assumed jurisdiction over Indian reservations) to read the regulations, to contact EPA if any questions arise, and to inform EPA of any tribal decision to remain Class II or to apply for reclassification as Class I or Class III. A reclassification as Class I is necessary to protect air pollution levels at or near present levels.

The regulations published in the *Federal Register* on December 5, 1974 are reprinted beginning on the following page.

The *Legislative Review* is a monthly publication of the Institute for the Development of Indian Law. General Subscription \$25; Indian Subscription \$10. Co-editors of the *Review* are Leigh Price and Curtis Berkey.

The Institute for the Development of Indian Law is a nonprofit organization; donations and gifts are tax deductible. Vine Deloria, Jr. is Chairman, Board of Directors; John Tiger is Publications Director.



Title 40—Protection of Environment
CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY
SUBCHAPTER C—AIR PROGRAMS
 [FRL 302-4]
PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS
Prevention of Significant Air Quality Deterioration

(Editors' note: The following regulations were published with explanatory comments by EPA. From these explanatory discussions, we have included two which refer specifically to Indian lands.)

* * * * *

Discussion of Public Comment

5. State reclassification of Federal and Indian Lands.

The State of New Mexico commented that the proposed regulations appeared to take authority away from the States to regulate air pollution over Indian lands. These regulations were not intended to alter the present legal relationships between the States and Indian Reservations within the States. As these relationships vary from State to State EPA has not attempted to define such relationships but has modified the proposed regulations to clarify that there is no intent to alter these relationships. Where States have not assumed jurisdiction over Indian lands, the regulations provide that the Indian governing body may propose redesignations to the Administrator. Boundary problems between Indian and State lands are dealt with in the same way that boundary problems between two States are dealt with, as discussed below. This is consistent with the independent status of Indian lands not subject to State laws.

9. EPA review of state redesignations. The proposed regulations did not adequately cover problems created when a State or Indian Governing Body wishes to designate one or more of its areas in such a way that it will have a negative impact on other States or Indian Reservations. These regulations provide that a State or Indian Governing Body must take into account the effect of proposed redesignations on other States, Indian Reservations, and regional and national

interests. Where no State or Indian Governing Body protests the redesignation of another State or Indian Reservation, the Administrator will only review the redesignation to determine whether it is arbitrary and capricious. However, where a State or Indian Governing Body protests a redesignation to the State proposing the redesignation and to the Administrator, the Administrator will take an expanded role of review in which he will balance the competing interests involved.

Regulations

These regulations will be effective January 6, 1975 and will be applicable to sources commencing construction on or after June 1, 1975.

(Secs. 110(c) and 301(a) of the Clean Air Act as amended [42 U.S.C. 1857 c-5(c) and 1857 g(a)])

Dated: November 27, 1974.

RUSSELL E. TRAIN,
 Administrator.

Subpart A, Part 52, Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. In § 52.01, paragraph (d) is revised and paragraph (f) is added. As amended § 52.01 reads as follows:

§ 52.01 Definitions.

(d) The phrases "modification" or "modified source" mean any physical change in, or change in the method of operation of, a stationary source which increases the emission rate of any pollutant for which a national standard has been promulgated under Part 50 of this chapter or which results in the emission of any such pollutant not previously emitted, except that:

(1) Routine maintenance, repair, and replacement shall not be considered a physical change, and

(2) The following shall not be considered a change in the method of operation:

(i) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(ii) An increase in the hours of operation;

(iii) Use of an alternative fuel or raw material, if prior to the effective date of a paragraph in this Part which imposes conditions on or limits modifications, the source is designed to accommodate such alternative use.

(f) The term "best available control technology," as applied to any affected facility subject to Part 60 of this chapter, means any emission control device or technique which is capable of limiting emissions to the levels proposed or pro-

mulgated pursuant to Part 60 of this chapter. Where no standard of performance has been proposed or promulgated for a source or portion thereof under Part 60, best available control technology shall be determined on a case-by-case basis considering the following:

(1) The process, fuels, and raw material available and to be employed in the facility involved,

(2) The engineering aspects of the application of various types of control techniques which have been adequately demonstrated,

(3) Process and fuel changes,

(4) The respective costs of the application of all such control techniques, process changes, alternative fuels, etc.,

(5) Any applicable State and local emission limitations, and

(6) Locational and siting considerations.

2. Section 52.21 is revised by designating the first paragraph (a) and adding paragraphs (b), (c), (d), (e), and (f) to read as follows:

§ 52.21 Significant deterioration of air quality.

(a) *Plan disapproval.* Subsequent to May 31, 1972, the Administrator reviewed State implementation plans to determine whether or not the plans permit or prevent significant deterioration of air quality in any portion of any State where the existing air quality is better than one or more of the secondary standards. The review indicates that State plans generally do not contain regulations or procedures specifically addressed to this problem. Accordingly, all State plans are disapproved to the extent that such plans lack procedures or regulations for preventing significant deterioration of air quality in portions of States where air quality is better than the secondary standards. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part.

(b) *Definitions.* For purposes of this section:

(1) The phrase "baseline air quality concentration" refers to both sulfur dioxide and particulate matter and means the sum of ambient concentration levels existing during 1974 and those additional concentrations estimated to result from sources granted approval (pursuant to approved new source review procedures in the plan) for construction or modification but not yet operating prior to

January 1, 1975. These concentrations shall be established for all time periods covered by the increments set forth under paragraph (c) (2) (i) of this section, and may be measured or estimated. In the case of the maximum three-hour and twenty-four-hour concentrations, only the second highest concentrations should be considered.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection, or installation of an affected facility.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a binding agreement or contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) *Area designation and deterioration increment.* (1) This paragraph applies to all States listed in Subpart B through DDD of this part, all lands owned by the Federal Government, and Indian Reservations, except those counties or other functionally equivalent areas that pervasively exceed any national ambient air quality standards for sulfur oxides or total suspended particulates and then only with respect to such pollutants. States shall notify the Administrator by June 1, 1975, of those areas which are above the national air quality standards and therefore are exempt from the requirements of this paragraph.

(2) (i) For purpose of this paragraph, areas designated as Class I or Class II shall be limited to the following increases in pollutant concentrations over the baseline air quality concentration:

Area designations		
Pollutant	Class I (g/m)	Class II (g/m)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate

matter and sulfur dioxide no greater than the national ambient air quality standards.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Managers, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in § 51.4 of this chapter, and

(b) Other States which may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(iii) Except as provided in subdivision (iv) of this subparagraph, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of the subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under

other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (i) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, (3) that the State has not requested delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the

area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) *Review of new sources.* (1) This paragraph applies to any new or modified stationary source of a type identified below which will be located in any State listed in Subpart B through DDD of this part, which source has not commenced construction or expansion prior to June 1, 1975. A source which is modified, but does not increase the amount of a pollutant other than sulfur oxides or particulate matter, or is modified to utilize an alternative fuel, or higher sulfur content fuel shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, or other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to the baseline air quality;

and general commercial, residential, industrial, and other sources of emissions growth not included in the definition of baseline air quality which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in § 52.01(f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by subparagraph (2) of this paragraph, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information; plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall also provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the Administrator) since the effective date of this paragraph.

(4) (i) Where a new or modified source is located on Federal lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation

with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) *Procedures for public participation.* (1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date



such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e)(1)(ii), (iv), or (v) of this section or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) *Delegation of authority.* (1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(1) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State or local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such Agency shall consult with the appropriate State and local land use planning agency prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e)(1)(ii)(c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

[FR Doc.74-28353 Filed 12-4-74;8:45 am]

**INSTITUTE for the
DEVELOPMENT of
INDIAN LAW**

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

SEP 20 1976

OFFICE OF THE
ADMINISTRATOR

Dear Mr. Patterson:

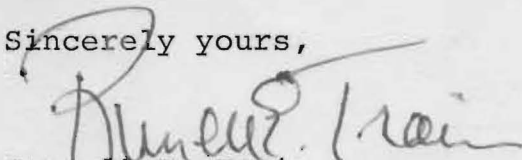
I am writing to acknowledge your recent designation as the President's Special Assistant for American Indian Affairs and to offer the assistance and support of the Environmental Protection Agency in this undertaking.

For some time now, EPA has recognized the need to promote the efficient administration of national environmental protection programs on Indian lands. In this regard, special Indian liaison functions have been established at both the headquarter and regional EPA levels. We have found this to be a satisfactory approach to insuring communication between our various program offices and the Indian people affected by those programs.

EPA will continue to work toward a more coordinated and effective Federal environmental program as it affects Indian people and lands. If you wish additional information regarding EPA program and policy implementation on Indian lands, please contact me or Ms. Rebecca Hanmer, Director of EPA's Office of Federal Activities. Ms. Hanmer serves as the principal headquarters contact for policy matters relating to EPA program administration on Indian lands.

I look forward to a close and cooperative relationship between EPA and the Executive Office of the President as we pursue our mutual goal of improving the administration of programs which serve Indian people.

Sincerely yours,


Russell E. Train
Administrator

Honorable Bradley H. Patterson, Jr.
Special Assistant to the President
The White House
Washington, D.C. 20500





NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006

202 - 343-9484

October 8, 1976

Honorable Bradley Patterson
Special Assistant to the President
The White House
Washington, D.C. 20500

Dear Mr. Patterson:

I want to thank you for spending a generous amount of your time with Mr. Cecial Williams, Chairman, Papago Tribe and member of our Indian Rights Impact Statement Committee, and Ms. Fran Ayer, Counsel and Special Assistant to me. They both reported enthusiastically of your interest in NTCA's objective to require special consideration of Indian Rights when proposed Federal action is being undertaken. They did meet per your arrangements in the afternoon of the September 30th with Mr. David A. Schaller, Resource Development Liaison Staff, Office of Federal Activities, United States Environmental Protection Agency. He was helpful and willing to assist the NTCA Committee in its future activities.

I am enclosing copies of the initial data gathering process which the committee is undertaking to document the need for special consideration of Indian rights, and to identify Federal actions and their adverse effects in order to formulate guidelines for whatever requirement on the part of Federal agencies eventually evolves.

We appreciate your interest in this matter and will keep you informed.

Sincerely yours,


William Youpee
Executive Director

Enclosures

cc: Cecial Williams, Chairman, Papago Tribal Council
Anthony Drennan, Chairman, Colorado River Tribal Council



To: Tribal Chairmen:

Re; Statement of Impact on Indian Rights

The Board of Directors of the National Tribal Chairmen's Association is seeking administrative and/or legislative action which would make it a requirement that a Statement of Impact on Indian Rights be filed with Indian Tribes before a Federal Agency can approve or finalize plans which would affect Indian Tribes, their natural resources of their members.

In order to establish the need for such administrative and/or legislative action, your Tribe is requested to complete the enclosed Statement of Adverse Impact on Indian Rights for past, present or pending projects planned, approved or to be approved by Federal Agencies which have or may adversely affect your Tribe, its natural resources or members. Please complete a separate Statement of Adverse Impact for each project which has or may have adverse impact on your Tribe, its natural resources or members.

Dated this _____ day of _____, 1976.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

By _____

Title



STATEMENT OF ADVERSE IMPACT ON INDIAN
RIGHTS OF PROJECTS PLANNED/AUTHORIZED
BY FEDERAL AGENCIES

NAME OF TRIBE: _____

ADDRESS OF TRIBE: _____

NAME(S) OF PLANNING/AUTHORIZING
FEDERAL AGENCIES: _____

DESCRIPTION AND LOCATION OF PROJECT: _____

DATE(S) OF PROJECT: _____

AUTHORIZATION FOR PROJECT-

FEDERAL: _____

TRIBAL: _____

STATE: _____

STATEMENT OF FACTS (Give brief description of development of
project):

(Insert page if necessary.)



ADVERSE IMPACT OF PROJECT

DATE: _____ 19 _____

TRIBE: _____

By: _____

Title

SAMPLE

STATEMENT OF ADVERSE IMPACT ON INDIAN
RIGHTS OF PROJECTS PLANNED/AUTHORIZED
BY FEDERAL AGENCIES

NAME OF TRIBE: The Papago Tribe of Arizona

ADDRESS OF TRIBE: P. O. Box 837
Sells, Arizona 85634

NAME(S) OF PLANNING/AUTHORIZING
FEDERAL AGENCIES: Corp of Engineers
Department of the Interior
Bureau of Indian Affairs

DESCRIPTION AND LOCATION OF PROJECT: North-Central part of
Sells Reservation
Sif Oidak District

DATE(S) OF PROJECT: October 27, 1965 through April 1975

AUTHORIZATION FOR PROJECT-

FEDERAL: Congressional Action (Public Law 89-298,
79 Stat. 1073)

TRIBAL: Council Resolution No. 1239 (May 4, 1962)
and Resolution No. _____ (October 18, 1969)

STATE: _____

STATEMENT OF FACTS (Give brief description of development of
project):

The U. S. Government through its agency, the Corp of Engineers, and with the consent of the BIA requested permission to build a flood control dam on the North Central part of the Sells Reservation (Sif-Oidak District) for the protection of Tribal members living on the
(Insert page if necessary.)



Reservation and non-members living off the Reservation in the Casa Grande - Stanfield, Arizona area. As reflected in the Tribal Resolution attached hereto, the Corp of Engineers or agents thereof or the BIA or agents thereof represented to the Papago people that for making a gift of 5,323.78 acres to the Federal Government for purposes of dam construction and water containment the basic consideration would be as follows:

- (a) An excellent fishing, boating and recreation area that would become a viable economical entity of the Papago Tribe;
- (b) Sufficient water would be available for irrigating a large part of the irrigable lands in the area;
- (c) There would be control of future flood waters to protect Papago lands;
- (d) There would be replenishment of water basins on the Reservation.

ADVERSE IMPACT OF PROJECT

After the dam had been completed the Tribe determined its own the following facts:

1. The dam was so located and constructed to guarantee the replenishment of the water basins in the Casa Grande-Stanfield area with little or no water being retained on the Reservation.
2. That due to the annual evaporation rate (10-14 ft. per year) and the place and type of construction of the dam, any water behind the dam would recede at such a rate that it would be impossible to use as a boating, fishing and/or recreational area or for developing any substantial agricultural area dependent on this water source.
3. Damages also exist, due to the rapid recession of any water behind the dam, to people, children, cattle and wild -ife.
4. The Corp of Engineers never complied with certain Federal Law prior to starting and completing construction of the dam (right-of-way consent).
5. The original site was engineered so that more water



would be available to the Tribes and most of the Tribes' irrigable land could be irrigated by gravity when water was available behind the dam. The moving of the dam two (2) miles closer to the boundary of the Reservation, not only eliminated tribal use of large amounts of water but also eliminated the gravity flow of water for irrigation purposes.

PROPOSED SOLUTION:

One concrete fact is quite apparent - the dam cannot be removed from the Reservation - and therefore any remedy must be restricted to a practical solution. The only reasonable and practical solution would be the payment of the true value for loss of land plus interest and damages and installation of adequate safeguards to protect the Papago people, children, cattle and wildlife.

DATE: _____ 19 _____

TRIBE: _____

By: _____

Title

RESOLUTION
OF THE
SIF Oidak DISTRICT COUNCIL

RES. NO. _____

WHEREAS, Resolution No. 1239 approved and supported proposed construction of a multiple-purpose dam and reservoir on the Santa Rosa Wash approximately six and one-half (6½) miles upstream from Vaiva Vo, Arizona, and

WHEREAS, it is considered to the advantage of the Papago Indian Reservation to amend and supplement said resolution as hereinafter provided,

NOW THEREFORE BE IT RESOLVED by the SIF Oidak District Council as follows:

1. That the SIF Oidak District Council does hereby concur with and approve the revised location of the dam and reservoir on the Santa Rosa Wash to be approximately two (2) miles ~~up~~ down stream from the site previously approved by Resolution 1239, adopted May 4, 1962,
2. The SIF Oidak District Council hereby agrees and guarantees that public access to the project land and water areas for recreation and fish and wildlife purposes will be provided and made available upon construction of the aforesaid multiple-purpose dam and reservoir on the Santa Rosa Wash,
3. That except as hereinafter provided, Resolution 1239 of the Papago Council adopted May 4, 1962 is hereby reaffirmed.

The foregoing resolution was approved by the SIF Oidak District Council by a vote of 13 for and 0 against, after full and free discussion, this 18 day of October, 1969.

Attest:

Secretary
SIF Oidak District Council

John P. Johnson

Chairman
SIF Oidak District Council

Billie Joe

Secretary
The Papago Council

Approved:
Thomas A. Johnson

Chairman
The Papago Council



RESOLUTION
OF THE
PAPAGO COUNCIL

RES. NO. 1239

NOW, LET IT BE RESOLVED BY THE PAPAGO INDIAN TRIBAL COUNCIL, THAT

Recognizing the advantages that will accrue to the Sif Oidak District and to the Papago Indian Reservation from construction of a multiple-purpose dam and reservoir on Santa Rosa Wash about 6-1/2 miles upstream from Vaiva Va, Arizona for water conservation, fish and wildlife, recreation, and flood control, not only in the present generation but also to future generations, the Papago Indian Tribal Council with consent of the Sif Oidak District herewith goes on record approving and supporting the proposed construction of the multiple-purpose reservoir, subject to the following agreements, considerations, and understandings:

a. The dam, reservoir, and appurtenances will be turned over to the Bureau of Indian Affairs, U. S. Department of the Interior, for operation and maintenance, subject to flood-control operation regulations to be prepared by the Secretary of the Army.

b. All monetary proceeds from operation of the water conservation, fish and wildlife, and recreation features of the project, less replacement, operating, and maintenance expenses, will accrue to the Papago Indian Tribe.

c. The Papago Indian Tribal Council agrees to make available to the United States (1) appropriate rights to those lands required for construction of the dam and appurtenances, and (2) appropriate rights to those lands that would be required for construction of a water-conservation reservoir. Rights-of-entry to the damsite and vicinity will be granted to personnel and equipment engaged in preconstruction activity, construction work, and subsequent operation, maintenance, and periodic inspection of the improvement. The Council, however, understands and expects that a fair and equitable settlement will be made to the Papago Indian Tribe for the use of the additional lands required to provide the flood-control facilities. (Such lands will be located above elevation 1,535 feet, the proposed elevation of the emergency spillway for the water-conservation reservoir, and below elevation 1,547 feet, the proposed elevation of the spillway for the multiple-purpose reservoir.)

With respect to the Indian burial ground (located near Tat Nomolikot), we have been informed that the burial ground would be protected by a levee and that an access road would be provided, all at no cost to the Papago Indian Tribe.

We also understand that a fair market value will be paid to the owners for all residences and improvements, including the village of Tat Nomolikot, regardless of the location of these improvements within the reservoir area.

We understand further that the community facilities, such as the well and the community church, will be relocated, if desired by Tat Nomolikot Village.

We understand that the responsibility of naming the proposed dam and reservoir resides with the Papago Indians.

The foregoing Resolution was on May 4, 1962 duly enacted by a vote of 13 for, 3 against, and 4 not voting, by the Papago Council, pursuant to authority vested in it by Sec. 2 (a) Article V of Constitution of the Tribe, ratified by the Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934, (Stat. 934), and amended to add Article (1) on April 9, 1960, by the Papago Tribe, and approved May 9, 1960, by the Secretary of the Interior. Said ordinance is effective as of the date of its approval by the Superintendent of the Papago Agency, and is subject to the rescission by the Secretary of the Interior pursuant to Section 6, Article V of the Constitution and By-Laws of the Papago Tribe.

THE PAPAGO COUNCIL

BY: Enos J. Francisco
Enos J. Francisco,
Chairman

ATTEST:

Claudina R. Chavez
Claudina R. Chavez, Secretary



NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006
October 7, 1976 202 - 343-9484

(Identical letter to All BIA Area Directors)

Dear

Since 1974 the National Tribal Chairmen's Association has been interested in establishing the requirement that any federal agency planning actions which would affect Indian tribes or their natural resources in any way must file an Indian Rights Impact Statement more or less along the line of Environmental Impact Statements.

The NTCA has formed an ad hoc committee to draft proposals to the President's Office or Congress or both for accomplishing this objective. As you know this is a complex and difficult task. One of the first things to be done is to get a clear picture of the scope of the problem. I am asking, therefore, that your office provide us with examples of instances where federal agencies (or even states or local governments) have undertaken programs or actions without proper regard for the wishes of the tribes, which may have meant, in some instances, without even consulting the tribes. The damage to the tribe(s) resulting from these actions or programs should be dissolved in each example.

Attached is an example from the Phoenix Area which indicates the format we have in mind, but it should in no way limit your selection of examples. You perhaps will wish to work with tribal leaders in preparing your answer. In any case as a matter of protocol we would appreciate your sending a copy of your report to each tribal chairman to give him the opportunity to comment further if he wishes.

Needless to say I will appreciate all the help you can give me in this worthwhile effort, and would like to have the information as soon as you can make it available. I suggest a target date of November 15th.

Very sincerely,

NTCA Area Representative

Enclosure



STATEMENT OF ADVERSE IMPACT ON INDIAN
RIGHTS OF PROJECTS PLANNED/AUTHORIZED
BY FEDERAL AGENCIES

NAME OF TRIBE: _____

ADDRESS OF TRIBE: _____

NAME(S) OF PLANNING/AUTHORIZING
FEDERAL AGENCIES: _____

DESCRIPTION AND LOCATION OF PROJECT: _____

DATE(S) OF PROJECT: _____

AUTHORIZATION FOR PROJECT-

FEDERAL: _____

TRIBAL: _____

STATE: _____

STATEMENT OF FACTS (Give brief description of development of
project):



STATE OF TEXAS
DEPARTMENT OF TRANSPORTATION
SECTION OF TRANSPORTATION

PROJECT NO. _____

SECTION NO. _____

SECTION TITLE _____

SECTION LOCATION _____

SECTION DESCRIPTION _____

SECTION COMMENTS _____

SECTION DATE _____

ADVERSE IMPACT OF PROJECT

DATE: _____ 19____

TRIBE: _____

By: _____

_____ Title

SAMPLE
STATEMENT OF ADVERSE IMPACT ON INDIAN
RIGHTS OF PROJECTS PLANNED/AUTHORIZED
BY FEDERAL AGENCIES

NAME OF TRIBE: The Papago Tribe of Arizona

ADDRESS OF TRIBE: P. O. Box 837
Sells, Arizona 85634

NAME(S) OF PLANNING/AUTHORIZING
FEDERAL AGENCIES: Corp of Engineers
Department of the Interior
Bureau of Indian Affairs

DESCRIPTION AND LOCATION OF PROJECT: North-Central part of
Sells Reservation
Sif Oidak District

DATE(S) OF PROJECT: October 27, 1965 through April 1975

AUTHORIZATION FOR PROJECT-

FEDERAL: Congressional Action (Public Law 89-298,
79 Stat. 1073)

TRIBAL: Council Resolution No. 1239 (May 4, 1962)
and Resolution No. _____ (October 18, 1969)

STATE:

STATEMENT OF FACTS (Give brief description of development of project):

The U. S. Government through its agency, the Corp of Engineers, and with the consent of the BIA requested permission to build a flood control dam on the North Central part of the Sells Reservation (Sif-Oidak District) for the protection of Tribal members living on the
(Insert page if necessary.)

Reservation and non-members living off the Reservation in the Casa Grande - Stanfield, Arizona area. As reflected in the Tribal Resolution attached hereto, the Corp of Engineers or agents thereof or the BIA or agents thereof represented to the Papago people that for making a gift of 5,323.78 acres to the Federal Government for purposes of dam construction and water containment the basic consideration would be as follows:

- (a) An excellent fishing, boating and recreation area that would become a viable economical entity of the Papago Tribe;
- (b) Sufficient water would be available for irrigating a large part of the irrigable lands in the area;
- (c) There would be control of future flood waters to protect Papago lands;
- (d) There would be replenishment of water basins on the Reservation.

ADVERSE IMPACT OF PROJECT

After the dam had been completed the Tribe determined its own the following facts:

- 1. The dam was so located and constructed to guarantee the replenishment of the water basins in the Casa Grande-Stanfield area with little or no water being retained on the Reservation.
- 2. That due to the annual evaporation rate (10-14 ft. per year) and the place and type of construction of the dam, any water behind the dam would recede at such a rate that it would be impossible to use as a boating, fishing and/or recreational area or for developing any substantial agricultural area dependent on this water source.
- 3. Damages also exist, due to the rapid recession of any water behind the dam, to people, children, cattle and wild life.
- 4. The Corp of Engineers never complied with certain Federal Law prior to starting and completing construction of the dam (right-of-way consent).
- 5. The original site was engineered so that more water

would be available to the Tribes and most of the Tribes' irrigable land could be irrigated by gravity when water was available behind the dam. The moving of the dam two (2) miles closer to the boundary of the Reservation, not only eliminated tribal use of large amounts of water but also eliminated the gravity flow of water for irrigation purposes.

PROPOSED SOLUTION:

One concrete fact is quite apparent - the dam cannot be removed from the Reservation - and therefore any remedy must be restricted to a practical solution. The only reasonable and practical solution would be the payment of the true value for loss of land plus interest and damages and installation of adequate safeguards to protect the Papago people, children, cattle and wildlife.

DATE: _____ 19 _____

TRIBE: _____

By: _____

_____ Title

RESOLUTION
OF THE
SIF Oidak DISTRICT COUNCIL

RES. NO. _____

WHEREAS, Resolution No. 1239 approved and supported proposed construction of a multiple-purpose dam and reservoir on the Santa Rosa Wash approximately six and one-half (6½) miles upstream from Valva Vo, Arizona, and

WHEREAS, it is considered to the advantage of the Papago Indian Reservation to amend and supplement said resolution as hereinafter provided,

NOW THEREFORE BE IT RESOLVED by the Sif Oidak District Council as follows:

1. That the Sif Oidak District Council does hereby concur with and approve the revised location of the dam and reservoir on the Santa Rosa Wash to be approximately two (2) miles ~~up~~ down stream from the site previously approved by Resolution 1239, adopted May 4, 1962,
2. The Sif Oidak District Council hereby agrees and guarantees that public access to the project land and water areas for recreation and fish and wildlife purposes will be provided and made available upon construction of the aforesaid multiple-purpose dam and reservoir on the Santa Rosa Wash,
3. That except as hereinafter provided, Resolution 1239 of the Papago Council adopted May 4, 1962 is hereby reaffirmed.

The foregoing resolution was approved by the Sif Oidak District Council by a vote of 13 for and 0 against, after full and free discussion, this 18 day of October, 1969.

Attest:

Secretary
Sif Oidak District Council

[Signature]

Chairman
Sif Oidak District Council

[Signature]

Secretary
The Papago Council

Approved:
[Signature]

Chairman
The Papago Council

RESOLUTION
OF THE
PAPAGO COUNCIL

RES. NO. 1239

NOW, LET IT BE RESOLVED BY THE PAPAGO INDIAN TRIBAL COUNCIL, THAT

Recognizing the advantages that will accrue to the Sif Oidak District and to the Papago Indian Reservation from construction of a multiple-purpose dam and reservoir on Santa Rosa Wash about 6-1/2 miles upstream from Vaiva Va, Arizona, for water conservation, fish and wildlife, recreation, and flood control, not only in the present generation but also to future generations, the Papago Indian Tribal Council with consent of the Sif Oidak District herewith goes on record approving and supporting the proposed construction of the multiple-purpose reservoir, subject to the following agreements, considerations, and understandings:

a. The dam, reservoir, and appurtenances will be turned over to the Bureau of Indian Affairs, U. S. Department of the Interior, for operation and maintenance, subject to flood-control operation regulations to be prepared by the Secretary of the Army.

b. All monetary proceeds from operation of the water conservation, fish and wildlife, and recreation features of the project, less replacement, operating, and maintenance expenses, will accrue to the Papago Indian Tribe.

c. The Papago Indian Tribal Council agrees to make available to the United States (1) appropriate rights to those lands required for construction of the dam and appurtenances, and (2) appropriate rights to those lands that would be required for construction of a water-conservation reservoir. Rights-of-entry to the damsite and vicinity will be granted to personnel and equipment engaged in preconstruction activity, construction work, and subsequent operation, maintenance, and periodic inspection of the improvement. The Council, however, understands and expects that a fair and equitable settlement will be made to the Papago Indian Tribe for the use of the additional lands required to provide the flood-control facilities. (Such lands will be located above elevation 1,535 feet, the proposed elevation of the emergency spillway for the water-conservation reservoir, and below elevation 1,547 feet, the proposed elevation of the spillway for the multiple-purpose reservoir.)

With respect to the Indian burial ground (located near Tat Komoliket), we have been informed that the burial ground would be protected by a levee and that an access road would be provided, all at no cost to the Papago Indian Tribe.

We also understand that a fair market value will be paid to the owners for all residences and improvements, including the village of Tat Komoliket, regardless of the location of these improvements within the reservoir area.

We understand further that the community facilities, such as the well and the community church, will be relocated, if desired by Tat Komoliket Village.



We understand that the responsibility of naming the proposed dam and reservoir resides with the Papago Indians.

The foregoing Resolution was on May 4, 1962 duly enacted by a vote of 13 for, 5 against, and 4 not voting, by the Papago Council, pursuant to authority vested in it by Sec. 2 (a) Article V of Constitution of the Tribe, ratified by the Tribe on December 12, 1936, and approved by the Secretary of the Interior on January 6, 1937, pursuant to Section 16 of the Act of June 18, 1934, (Stat. 984), and amended to add Article (1) on April 9, 1960, by the Papago Tribe, and approved May 9, 1960, by the Secretary of the Interior. Said ordinance is effective as of the date of its approval by the Superintendent of the Papago Agency, and is subject to the rescission by the Secretary of the Interior pursuant to Section 6, Article V of the Constitution and By-Laws of the Papago Tribe.

THE PAPAGO COUNCIL

BY: Enos J. Francisco
Enos J. Francisco,
Chairman

ATTEST:

Claudina R. Chavez
Claudina R. Chavez, Secretary



NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006
202 - 343-9484

October 7, 1976

(Identical letter to all Area NTCA Representatives)

Dear

You will recall that one of the priorities of the National Tribal Chairmen's Association for 1976-77 is to establish the requirement that any federal agency planning actions which would affect Indian tribes or their natural resources in any way must file an Indian Rights Impact Statement. I am a member of an ad hoc committee to develop both the case for such action and the procedures for achieving it through administrative action such as an executive order. The committee is also exploring the possibility of the necessity for congressional legislation.

Part of the justifying process is to present the President's Office or Congress or both with a number of examples of the problem from all parts of the United States. That is, we need well-described cases which show how the interests of Indian tribes have been seriously damaged by federal actions (or even state and local governmental actions) which were taken without giving the tribes adequate, if any, opportunity to influence the decisions made.

The ad hoc committee believes the best way to round up the necessary information is for the area representatives of NTCA to solicit examples from the BIA Area Offices. For whatever help it may be, I am enclosing a suggested letter you may wish to send to your Area Director. Also enclosed is an example of a Phoenix Area problem and a blank form which show the format we prefer. The example and form were developed by Mr. Cecil Williams, Chairman of the Papago Tribe and member of the ad hoc committee. From a protocol standpoint it seems best to send a copy of the Area Director's reply to each Tribal Chairman in the area at the same time you send a copy to NTCA. We are asking the Area Directors to do that. I have also enclosed a sample letter to tribal chairmen that may be useful to you. I hope we can get these case examples to the NTCA Office by December 15, 1976. Please forward the Area Director's replies and any you may receive from tribal chairmen to Mr. William Youpee, Executive Director, NTCA, 1701 Pennsylvania Avenue, Suite 207, Washington, D.C. 20006.



October 7, 1976
Page 2

You will agree, I am sure, that if NTCA can succeed in this effort we will have made important progress in stopping the erosion in Indian rights by public agencies.

Sincerely yours,

Anthony Drennan
Chairman, Colorado River Tribe
NTCA Arizona Area Representative
Member NTCA Indian Rights Impact
Statement Committee

Enclosures



WEDNESDAY, AUGUST 1, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 147

PART II



**COUNCIL ON
ENVIRONMENTAL
QUALITY**

■
**PREPARATION OF
ENVIRONMENTAL
IMPACT STATEMENTS**

Guidelines



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.
- 1500.2 Policy.
- 1500.3 Agency and OMB procedures.
- 1500.4 Federal agencies included; effect of the act on existing agency mandates.
- 1500.5 Types of actions covered by the act.
- 1500.6 Identifying major actions significantly affecting the environment.
- 1500.7 Preparing draft environmental statements; public hearings.
- 1500.8 Content of environmental statements.
- 1500.9 Review of draft environmental statements by Federal, Federal-State, and local agencies and by the public.
- 1500.10 Preparation and circulation of final environmental statements.
- 1500.11 Transmittal of statements to the Council; minimum periods for review; requests by the Council.
- 1500.12 Legislative actions.
- 1500.13 Application of section 102(2)(C) procedure to existing projects and programs.
- 1500.14 Supplementary guidelines; evaluation of procedures.

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-

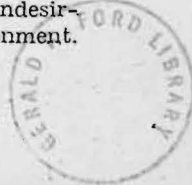
sideration in decisionmaking along with economic and technical considerations; section 102(2)(C) of the Act directs that copies of all environmental impact statements be filed with the Council; and section 102(2)(H) directs all Federal agencies to assist the Council in the performance of its functions. These provisions have been supplemented in sections 3(h) 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 on 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, 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(3) (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 Basins 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 Environmental
 Research and Safety Programs, Atomic Energy Commission,
 Washington, D.C. 20545 973-3208

For regulatory matters: Office of the Assistant
 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. Department
 of Defense, Room 3E172, The Pentagon,
 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) 883-9500

ENVIRONMENTAL PROTECTION AGENCY²

Director, Office of Federal Activities, Environmental
 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
1431 Peachtree Street
N.E., Atlanta, Ga. 30309
(404) 528-5727

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,
U.S. Environmental Protection Agency
Suite 900, Lincoln Tower
1860 Lincoln Street
Denver, Colorado 80203
(303) 937-8895

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

⁴Contact 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, Washin-
gton, 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

³Contact 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 13716
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

⁵ Requests 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

⁶ Contact 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 Secretarial 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-13 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) 374-2761

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) 837-8646

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 76103 (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, 223 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 UMTA Representative, Urban Mass Transportation Administration, 1720 Peachtree Road, Northwest, Suite 501, Atlanta, Georgia 30309 (404) 528-3948

Region V, Office of the UMTA Representative, Urban Mass Transportation Administration, 300 South Wacker Drive, Suite 700, Chicago, Illinois 60608 (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) 749-3242

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]