

PEP - ENVIRONMENTAL STATEMENT MEMORANDUM NO. ESM95-2

To: Heads of Bureaus and Offices

From: Willie R. Taylor, Director
Office of Environmental Policy and Compliance

Subject: Procedures for Approving and Filing Environmental Impact Statements

1. Purpose and Scope

This memorandum prescribes procedures for filing environmental impact statements (EIS) with the Environmental Protection Agency (EPA). It pertains to both draft and final EIS's and both delegated and non-delegated EISs. This memorandum is issued pursuant to 516 DM 4.22. It replaces ESM94-12.

2. Delegated and Non-Delegated EIS's

- a. A delegated EIS is one for which the decision authority on the proposed action rests by delegation with a single Assistant Secretary or below except in certain cases where the Secretary retains authority over the EIS. (See Attachments 1 and 2).
- b. A non-delegated EIS is one for which the decision authority on the proposed action requires the approval of more than one Assistant Secretary (or bureaus under more than one Assistant Secretary),

or

Is an EIS reserved or elevated to the Secretary (or Office of the Secretary) by expressed interest of the Secretary, the Chief of Staff, the Solicitor or the Assistant Secretary for Policy, Management and Budget,

or

The proposed action is of a highly controversial nature or one in which the Secretary has taken a prominent public position in a highly controversial issue,

or

The proposed action faces a high probability of judicial challenge to the Secretary.

3. Notification

- a. As early as possible in the NEPA compliance process for all proposed Departmental programs and projects, bureaus will notify the Office of Environmental Policy and Compliance (OEPC) when non-delegated EISs are required for proposals, as specified in Section 2. Bureaus will also notify OEPC when EISs are required for proposals where the determination of delegation vs. non-delegation is unclear.
- b. Bureaus are to consult OEPC on any questions regarding delegation or non-delegation and seek Departmental advice before filing a Notice of Intent (NOI) in such cases. All Federal Register NOIs will contain a statement as to the delegated or non-delegated nature of the proposed EIS unless a memorandum setting forth the Bureau's position is submitted to OEPC at the time the NOI is issued.

4. Procedures for Delegated EISs

- a. Assistant Secretaries, bureaus or offices, upon approval of a delegated EIS, before its release to EPA and the public, are to contact the OEPC by telephone and inform it of the title of the EIS and the date of its transmittal. The OEPC will assign the document a control number and log it.
- b. At the time of transmittal to EPA, Assistant Secretaries, bureaus and offices will file delegated EISs directly with EPA and publish bureau notices of availability in the Federal Register for all draft, final and supplemental EISs. Five (5) copies of the EIS are required by EPA. The EPA will not accept the EIS without the DOI control number.
- c. Upon transmittal, the responsible official will promptly provide one (1) copy of the EIS to the Office of Public Affairs, three (3) copies to the Natural Resources Library, and five (5) copies to OEPC. In addition, OEPC will be furnished a copy of the transmittal letter to EPA and the bureau Federal Register notice.

5. Procedures for Non-Delegated EISs

- a. Non-delegated EISs must be approved and filed with EPA by the Assistant Secretary for Policy, Management and Budget (AS/PMB). The AS/PMB has assigned this responsibility to OEPC.
- b. Bureaus are encouraged to consult early with OEPC in scheduling and preparing these documents to avoid delays in their approval. The OEPC is available for guidance and associated review of preliminary drafts at bureau head-quarters and subject to the availability of resources, at field levels. This advance consultation and coordination with OEPC will facilitate granting clearances to print documents without formal correspondence and associated processing and mailing delays. A clearance to print is OEPC's informal, but substantive, approval of non-delegated EISs.
- c. Where adequate early consultation and coordination is not achieved, bureaus will transmit proposed EISs to OEPC for review and approval. This should be done concurrently with any bureau headquarters review to avoid sequential review. Bureaus should allow at least 2-4 weeks for OEPC's review, informal approval and/or comment. In such cases, bureaus will also provide in their preparation schedules sufficient time to accommodate comments by OEPC.
- d. In order to file non-delegated EISs with EPA, bureaus will forward, through their Assistant Secretaries to OEPC:
 - a transmittal letter (Attachment 3)
 - a notice of availability (Attachment 4)
 - a draft press release (if required by the Office of Public Affairs), and
 - five (5) printed copies of the EIS.

The transmittal letter, upon signature by the Director of OEPC, is the official document signifying AS/PMB approval. After signature, a bureau may hand carry it and five (5) of the copies of the EIS to EPA and the notice of availability to the Federal Register if it so chooses; otherwise OEPC will mail them.

- e. Concurrent with the filing of an EIS with EPA, bureaus are to distribute the document to Federal agencies with jurisdiction by law or special environmental expertise and to State and local agencies, including Indian Tribes, that are authorized to set and enforce related environmental standards, and to make it available to the public. In addition, they will provide one (1) copy to the Office of Public Affairs and three (3) copies to the Natural Resources Library.

Attachments

<p>Signed: July 12, 1995 By: Willie R. Taylor Director, Office of Environmental Policy and Compliance</p>	<p>Authenticated: July 17, 1997 By: Terence N. Martin Team Leader, Office of Environmental Policy and Compliance</p>
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Exceptions to Delegated EIS's

Although program actions may be delegated to the Assistant Secretaries or subordinate bureaus for the following activities, the EISs for these actions will remain Non-Delegated and follow the procedures outlined in Section 5:

Wilderness proposal EISs

Wild and Scenic River EISs

EISs for proposals that result from study processes required by statute.

EISs for major bureau legislative proposals with significant environmental impact.

Major bureau comprehensive program proposal EISs

Guidelines for OCS Lease Sale EISs

- As early as possible, and as appropriate throughout the NEPA compliance process for all OCS lease sale EISs, MMS and OEPC will coordinate on all appropriate matters including scheduling and integrating review and comment periods for administrative efficiency.
- Opportunity for substantive review and comment by OEPC will be provided at major intervals during NEPA document development including reviews at scoping, preliminary draft EIS, and preliminary final EIS stages. The MMS and OEPC will coordinate these reviews.
- Prior to the publication of draft and final EISs, MMS will obtain surnames from the Office of the Solicitor and the Office of Environmental Policy and Compliance.
- In addition to the guidelines listed above, the procedures listed in item 4 of ESM95-2, i.e., Procedures for Delegated EISs will also apply.

Mr. Richard E. Sanderson
Director
Office of Federal Activities (A-104)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Mr. Sanderson:

In compliance with Section 102(2)(C) of the National
Environmental Policy Act of 1969 and in accordance with 40 CFR
1506.9, we are enclosing five (5) copies of a (draft/final)
environmental impact statement for (title of proposal). This
statement was prepared by the (bureau).

* Additional copies are included for your (review/information).

Sincerely,

Willie R. Taylor
Director, Office of Environmental
Policy and Compliance

Enclosures

* Include only if EPA's review will occur at headquarters rather than at a region.

DEPARTMENT OF THE INTERIOR
(BUREAU)

Notice of Availability of (Draft/Final) Environmental Impact Statement

AGENCY: (Bureau), Department of the Interior

ACTION: Notice of availability of a (draft/final) environmental impact statement (EIS) for the proposed (title)

*DATE: Comments will be accepted until (date)

*ADDRESS: Comments should be sent to (office and address)

FOR FURTHER INFORMATION CONTACT: (office and address)

SUPPLEMENTAL INFORMATION: A limited number of individual copies of the EIS may be obtained from (the above contact or wherever).

Copies are also available for inspection at the following locations:

** A public (hearing/meeting) will be held on the proposal on (dates and locations).

_____	_____
Date	Willie R. Taylor Director, Office of Environmental Policy and Compliance

* Include only for draft EIS

** Include if appropriate to this notice

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