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**Title 40 —Protection of Environment**  
**Chapter V —Council on Environmental Quality**  
**Subchapter A —National Environmental Policy Act Implementing Regulations**

**Part 1507** Agency Compliance

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**PART 1507—AGENCY COMPLIANCE**

**Authority:** 42 U.S.C. 4321-4347; 42 U.S.C. 4371-4375; 42 U.S.C. 7609; and E.O. 11514, 35 FR 4247, 3 CFR, 1966-1970, Comp., p. 902, as amended by E.O. 11991, 42 FR 26967, 3 CFR, 1977 Comp., p. 123.

**Source:** 85 FR 43373, July 16, 2020, as amended at 89 FR 35554, May 1, 2024, unless otherwise noted.

**§ 1507.1 Compliance.**

All agencies of the Federal Government shall comply with the regulations in this subchapter. It is the intent of these regulations to allow each agency flexibility in adapting its implementing procedures authorized by § 1507.3 to the requirements of other applicable laws.

**§ 1507.2 Agency capability to comply.**

Each agency shall be capable (in terms of personnel and other resources) of complying with the requirements of NEPA and the regulations in this subchapter. Such compliance may include use of the resources of other agencies, applicants, and other participants in the NEPA process, but the agency using the resources shall itself have sufficient capability to evaluate what others do for it and account for the contributions of others. Agencies shall:

- (a) Designate a senior agency official to be responsible for overall review of agency NEPA compliance, including resolving implementation issues, and a Chief Public Engagement Officer to be responsible for facilitating community engagement in environmental reviews across the agency and, where appropriate, the provision of technical assistance to communities. When the agency is a department, it may be efficient for major subunits (with the consent of the department) to identify senior agency officials or Chief Public Engagement Officers within those subunits, whom the department-level official or Officer oversees.
- (b) Fulfill the requirements of section 102(2)(A) of NEPA to utilize a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making that may have an impact on the human environment.

- (c) Identify methods and procedures required by section 102(2)(B) of NEPA to ensure that presently unquantified environmental amenities and values may be given appropriate consideration.
- (d) Prepare adequate environmental impact statements pursuant to section 102(2)(C) of NEPA and cooperate on the development of environmental impact statements in the areas where the agency has jurisdiction by law or special expertise or is authorized to develop and enforce environmental standards.
- (e) Ensure environmental documents are prepared with professional integrity, including scientific integrity, consistent with section 102(2)(D) of NEPA.
- (f) Make use of reliable data and resources in carrying out their responsibilities under NEPA, consistent with section 102(2)(E) of NEPA.
- (g) Study, develop, and describe technically and economically feasible alternatives, consistent with section 102(2)(F) of NEPA.
- (h) Study, develop, and describe alternatives to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources, consistent with section 102(2)(H) of NEPA.
- (i) Comply with the requirement of section 102(2)(K) of NEPA that the agency initiate and utilize ecological information in the planning and development of resource-oriented projects.
- (j) Fulfill the requirements of sections 102(2)(I), 102(2)(J), and 102(2)(L), of NEPA, and Executive Order 11514, Protection and Enhancement of Environmental Quality, section 2, as amended by Executive Order 11991, Relating to Protection and Enhancement of Environmental Quality.

### § 1507.3 Agency NEPA procedures.

- (a) The Council has determined that the revisions to this subchapter as of July 1, 2024 do not affect the validity of categorical exclusions contained in agency NEPA procedures as of this date.
- (b) No more than 12 months after July 1, 2024, or 9 months after the establishment of an agency, whichever comes later, each agency shall develop or revise, as necessary, proposed procedures to implement the regulations in this subchapter, facilitate efficient decision making, and ensure that the agency makes decisions in accordance with the policies and requirements of the Act. When the agency is a department, it may be efficient for major subunits (with the consent of the department) to adopt their own procedures.
  - (1) Each agency shall consult with the Council while developing or revising its proposed procedures and before publishing them in the FEDERAL REGISTER for comment. Agencies with similar programs should consult with each other and the Council to coordinate their procedures, especially for programs requesting similar information from applicants.
  - (2) Agencies shall provide an opportunity for public review and review by the Council for conformity with the Act and the regulations in this subchapter before issuing their final procedures. The Council shall complete its review within 30 days of the receipt of the proposed final procedures. Once in effect, agencies shall publish their NEPA procedures and ensure that they are readily available to the public. Agencies shall continue to review their policies and procedures, in consultation with the Council, and revise them as necessary to ensure full compliance with the purposes and provisions of the Act.
  - (3) The issuance or update of agency procedures is not subject to NEPA review under this subchapter.
- (c) Agency procedures shall:

- (1) Designate the major decision points for the agency's programs and actions subject to NEPA, ensuring that the NEPA process begins at the earliest reasonable time, consistent with § 1501.2 of this subchapter, and aligns with the corresponding decision points;
- (2) Require that relevant environmental documents, comments, and responses be part of the record in rulemaking and adjudicatory proceedings;
- (3) Integrate the environmental review into the decision-making process by requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review processes so that decision makers use them in making decisions;
- (4) Require that the alternatives considered by the decision maker are encompassed by the range of alternatives discussed in the relevant environmental documents and that the decision maker consider the alternatives described in the environmental documents. If another decision document accompanies the relevant environmental documents to the decision maker, agencies are encouraged to make available to the public before the decision is made any part of that document that relates to the comparison of alternatives;
- (5) Require the combination of environmental documents with other agency documents to facilitate sound and efficient decision making and avoid duplication, where consistent with applicable statutory requirements;
- (6) Include the procedures required by § 1501.2(b)(4) of this subchapter (assistance to applicants);
- (7) Include specific criteria for and identification of those typical classes of action that normally:
  - (i) Require environmental impact statements; and
  - (ii) Require environmental assessments but not necessarily environmental impact statements;
- (8) Establish categorical exclusions and identify extraordinary circumstances. When establishing new or revising existing categorical exclusions, agencies shall:
  - (i) Identify when documentation of a determination that a categorical exclusion applies to a proposed action is required;
  - (ii) Substantiate the proposed new or revised categorical exclusion with sufficient information to conclude that the category of actions does not have a significant effect, individually or in the aggregate, on the human environment and provide this substantiation in a written record that is made publicly available as part of the notice and comment process (§ 1507.3(b)(1) and (2)); and
  - (iii) Describe how the agency will consider extraordinary circumstances consistent with § 1501.4(b) of this subchapter;
- (9) Include a process for reviewing the agency's categorical exclusions at least every 10 years, which the agency may conduct on a rolling basis, starting with its oldest categorical exclusions;
- (10) Include processes for reevaluating and supplementing environmental assessments and environmental impact statements, as appropriate;
- (11) Explain where interested persons can get information or status reports on environmental impact statements, environmental assessments, and other elements of the NEPA process; and

- (12) Where an agency has applicants that seek its action, include procedures to allow an applicant (including an applicant-directed contractor) to prepare environmental assessments and environmental impact statements under the agency's supervision. Such procedures shall not apply to applicants when they serve as joint lead agencies. Such procedures shall be consistent with § 1506.5(a) and (c) of this subchapter, and at a minimum shall include the following:
  - (i) Requirements that the agency review and approve the purpose and need (§§ 1501.5(c)(2)(i) or 1502.13 of this subchapter) and reasonable alternatives (§§ 1501.5(c)(2)(ii) or 1502.14 of this subchapter);
  - (ii) A process for the agency to independently evaluate the applicant-prepared environmental assessment or environmental impact statement; take responsibility for its accuracy, scope, and contents; and document the agency's evaluation in the document; and
  - (iii) A prohibition on the preparation of a finding of no significant impact or record of decision by applicants.

(d) Agency procedures also may:

- (1) Identify activities or decisions that are not subject to NEPA;
- (2) Include processes for consideration of emergency actions that would not result in significant effects;
- (3) Include specific criteria for providing limited exceptions to the provisions of the regulations in this subchapter for classified proposals. These are proposed actions that are specifically authorized under criteria established by an Executive order or statute to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order or statute. Agencies may safeguard and restrict from public dissemination environmental assessments and environmental impact statements that address classified proposals in accordance with agencies' own regulations applicable to classified information. Agencies should organize these documents so that classified portions are included as annexes, so that the agencies can make the unclassified portions available to the public; and
- (4) Provide for periods of time other than those presented in § 1506.10 of this subchapter when necessary to comply with other specific statutory requirements, including requirements of lead or cooperating agencies.

[85 FR 43373, July 16, 2020, as amended at 87 FR 23469, Apr. 20, 2022]

#### **§ 1507.4 Agency NEPA program information.**

- (a) To allow agencies and the public to efficiently and effectively access information about NEPA reviews, agencies shall provide for agency websites or other information technology tools to make available documents, relevant notices, and other relevant information for use by agencies, applicants, and interested persons. The website or other such means of publication shall include the agency's NEPA procedures, including those of subunits, and a list of environmental assessments and environmental impact statements that are in development and complete. As appropriate, agencies also should include:
  - (1) Agency planning and other documents that guide agency management and provide for public involvement in agency planning processes;
  - (2) Environmental documents;

- (3) Agency policy documents, orders, terminology, and explanatory materials regarding agency decision-making processes;
  - (4) Agency planning program information, plans, and planning tools; and
  - (5) A database searchable by geographic information, document status, document type, and project type.
- (b) Agencies shall provide for efficient and effective interagency coordination of their environmental program websites and other information technology tools, such as use of shared databases or application programming interfaces, in their implementation of NEPA and related authorities.