

Department of Justice

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(3) When the sudden destruction of or damage to institutions dictates immediate replacement in order to protect the lives and safety of inmates and staff and protection of U.S. Government property.

12. Review.

(1) If a proposed action is not covered by Sections 8 through 10 of this appendix, the Bureau of Prisons will independently determine whether to prepare either an environmental impact statement or an environmental assessment.

(2) When a proposed action that could be classified as a categorical exclusion under Section 9 of this appendix involves extraordinary circumstances that may affect the environment, the Bureau shall conduct appropriate environmental studies to determine if the categorical exclusion classification is proper for that proposed action.

[Order No. 927-81, 46 FR 7953, Jan. 26, 1981, as amended by Order No. 2142-98, 63 FR 11121, Mar. 6, 1998]

APPENDIX B TO PART 61—DRUG ENFORCEMENT ADMINISTRATION PROCEDURES RELATING TO THE IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

1. Applicability.
2. Typical Classes of Action Requiring Similar Treatment Under NEPA.
3. Environmental Information.

1. *Applicability.*

This part applies to all organizational elements of the Drug Enforcement Administration [DEA].

2. *Typical Classes of Action Requiring Similar Treatment Under NEPA.*

(a) Section 1507.3(c)(2) in conjunction with §1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

(1) Actions normally requiring EIS	(2) Actions normally not requiring environmental assessments or EIS (Categorical exclusions)	(3) Actions normally requiring environmental assessments but not necessarily EIS
None	Scheduling of drugs as controlled substances Establishing quotas for controlled substances. Registration of persons authorized to handle controlled substances. Storage and destruction of controlled substances. Manual eradication of plant species from which controlled substances may be extracted.	Chemical eradication of plant species from which controlled substances may be extracted.

(b) For the principal DEA program requiring environmental review, the following chart identifies the point at which the NEPA process begins, the point at which it ends,

and the key agency officials or offices required to consider environmental documents in their decisionmaking.

Principal program	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Eradication of plant species from which controlled substances may be extracted.	Prepare an environmental assessment.	Final review of environmental assessment or Environmental Impact Statement.	Office of Science and Technology.

(c) The DEA shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action in (a) above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

3. *Environmental Information*

Interested persons may contact the Office of Science and Technology for information regarding the DEA compliance with NEPA.

APPENDIX C TO PART 61—IMMIGRATION AND NATURALIZATION SERVICE PROCEDURES RELATING TO THE IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

1. *General.* These procedures are published pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.). Section 309 of the Clean

Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977).

2. *Purpose.* These procedures shall apply to efforts associated with the leasing, purchase, design, construction, and maintenance of new and existing INS facilities. All activities concerning the Immigration and Naturalization Service's compliance with NEPA shall be coordinated with Central Office Engineering staff.

3. *Agency Description.* The INS administers and enforces the immigration and nationality laws. This includes determining the admissibility of persons seeking entry into the United States and adjudicating requests for benefits and privileges under the immigration and nationality laws. The enforcement actions of INS involve the prevention of illegal entry of persons into the United States and the investigation and apprehension of aliens already in the country who because of inadmissibility at entry or misconduct committed following entry may be subject to deportation.

In carrying out its statutory enforcement responsibilities, the INS is authorized to arrest and detain aliens believed to be deportable and to effectuate removal from the U.S. of aliens found deportable after hearing.

4. *Designation of Responsible Official.* The Chief Engineer, Facilities and Engineering Branch shall be the liaison official for INS with the Council on Environmental Quality, the Environmental Protection Agency, and the other departments and agencies concerning environmental matters. Duties of the Chief Engineer include:

(a) Insuring compliance with the requirements of NEPA and that the actions with respect to the fulfillment of NEPA are coordinated;

(b) Providing for procedural and substantive training on environmental issues, policy, procedures and clearance requirements;

(c) Providing guidance in the preparation and processing of Environmental Impact Statements; and

(d) Participating in policy formulation, as necessary, in the application of the requirements of the National Environmental Policy Act of 1969.

5. *NEPA and INS Planning.* (a) INS will make available to the public proposals and feasibility studies for facilities under consideration for possible use as INS facilities.

(b) Interested parties identified as such by the local clearinghouse (as established by the Office of Management and Budget Circular No. A-95) will be advised and informed concerning proposed plans which might involve NEPA regulations.

(c) Upon completion of the preliminary groundwork described above, INS will issue an A-95 Letter of Intent to:

(1) File an Environmental Impact Assessment (EIA);

(2) File an Environmental Impact Statement (EIS). (Reference: 1501.2—CEQ Regulations.)

6. *Public Involvement.* Information regarding the policies of INS for implementing the NEPA process can be obtained from: Immigration and Naturalization Service, Facilities and Engineering Branch, 425 I Street NW., Washington, DC 20536. (Reference: Part 1506.6(3)—CEQ Regulations.)

7. *Supplemental Statements.* If it is necessary to prepare a supplement to a draft or a Final Environmental Impact Statement, the supplement shall be introduced into the administrative record pertaining to the project. (Reference: Part 1502.9(c)(3)—CEQ Regulations.)

8. *INS Decisionmaking Procedure.* (a) *Policy—*

(1) The Chief Engineer will consider all practical means, including the "no-action" alternative and other alternatives to the proposed action, which will enhance, protect, and preserve the quality of the environment, restore environmental quality previously lost, and minimize and mitigate unavoidable adverse effects. He will analyze and study the environment together with engineering, economic, social and other considerations to insure balanced decisionmaking in the overall public interest.

(2) During INS project planning and the related decisionmaking process, environmental effects will be weighed together with the engineering, economic and social and other considerations affecting the public interest.

(b) *Preparation of the environmental impact statements.* (1) Situations where Environmental Impact Statements (EIS) are required are described in section 102(2)(C) of NEPA. EIS constitute an integral of the plan formulation process and serve as a summation and evaluation of the effects, both beneficial and adverse, that each alternative action would have on the environment, and as an explanation and objective evaluation of the plan which is finally recommended.

(2) Should the Chief Engineer determine in assessing the impact of a minor action that an environmental statement is not required, the determination to that effect will be placed in the project file. This negative determination shall be made available to the public as required in §1506.6 of the CEQ regulations and shall include a statement of the facts and the basis for the decision.

(3) When inclusion of certain voluminous data in an EIS would prove to be impractical, INS will summarize the data and retain the original material as a part of its administrative record for the project. This material will be made available to the public in a central place to be designated in the EIS,

and upon written request or court order, copies of specified material will be provided. A charge for the reproduction of records may be made in accordance with current Department of Justice guidelines. (Reference: Part 1505 CEQ Regulations.)

9. *Actions Which Normally Do Require Environmental Impact Statements:* (a) Construction of a new INS facility which would have a significant impact upon the environment.

(b) Construction of a new addition to an existing INS facility which would significantly affect the physical capacity and which would have a significant impact upon the environment. (Reference: §1507.3(b)(2)(i)—CEQ Regulations.)

10. *Actions Which Normally Do Not Require Either An Environmental Impact Statement Or An Environmental Assessment:* (a) Construction projects for existing facilities including but not limited to: Remodeling; replacement of building systems and components; maintenance and operations repairs and general improvements when such projects do not significantly alter the initial occupancy and program of the facility or significantly impact upon the environment.

(b) Increase or decrease in population of a facility within its physical capacity. (Reference: Part 1507.3(b)(2)(ii) and Part 1508.4—CEQ Regulations.)

11. *Actions Which Normally Require An Environmental Assessment But Not Necessarily Environmental Impact Statements:*

(a) Construction of a new addition to an existing INS facility which may affect the physical capacity and may have some impact upon the environment.

(b) Closing of an INS facility which may have some impact on the environment. (Reference: §1507.3(b)(2)(iii)—CEQ Regulations.)

APPENDIX D TO PART 61—OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS PROCEDURES RELATING TO THE IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

1. AUTHORITY

These procedures are issued pursuant to the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321, *et seq.*, Regulations of the Council on Environmental Quality, 40 CFR part 1500, *et seq.*, the Environmental Quality Improvement Act of 1970, as amended, 42 U.S.C. 4371, *et seq.*, Section 309 of the Clean Air Act, as amended, 42 U.S.C. 7609, and Executive Order 11514, "Protection and Enhancement of Environmental Quality," March 5, 1970, as amended by Executive Order 11991, March 24, 1977.

2. PURPOSE

It is the purpose of these procedures to supplement the procedures of the Depart-

ment of Justice so as to insure compliance with NEPA. These procedures supersede the regulations contained in 28 CFR part 19.

3. AGENCY DESCRIPTION

The Office of Justice Assistance, Research, and Statistics (OJARS) assists State and local units of government in strengthening and improving law enforcement and criminal justice by providing financial assistance and funding research and statistical programs. OJARS will coordinate the activities and provide the staff support for three Department of Justice Federal financial assistance offices: the Law Enforcement Assistance Administration, the National Institute of Justice, and the Bureau of Justice Statistics. Each of the assistance offices has the authority to award grants, contracts and cooperative agreements pursuant to the Justice System Improvement Act of 1979, Public Law 96-157 (December 27, 1979).

4. TYPICAL CLASSES OF ACTION UNDERTAKEN

(a) Actions which normally require an environmental impact statement.

(1) None.

(b) Actions which normally do not require either an environmental impact statement or an environmental assessment.

(1) The bulk of the funded efforts; training programs, court improvement projects, research, and gathering statistical data.

(2) Minor renovation projects or remodeling.

(c) Actions which normally require environmental assessments but not necessarily environmental impact statements.

(1) Renovations which change the basic prior use of a facility or significantly change the size.

(2) New construction.

(3) Research and technology whose anticipated and future application could be expected to have an effect on the environment.

(4) Implementation of programs involving the use of chemicals.

(5) Other actions in which it is determined by the Administrator, Law Enforcement Assistance Administration; the Director, Bureau of Justice Statistics; or the Director, National Institute of Justice, to be necessary and appropriate.

5. AGENCY PROCEDURES

An environmental coordinator shall be designated in the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, and in the National Institute of Justice. Duties of the environmental coordinator shall include:

(a) Insuring that adequate environmental assessments are prepared at the earliest possible time by applicants on all programs or projects that may have a significant impact on the environment. The assessments shall