

the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

**§ 706.409 Opportunity for explanation of conflict or appearance of conflict.**

When a statement submitted under § 706.401 indicates a conflict or an appearance of conflict, between the interests of an employee and the performance of his services for the Government, the employee concerned shall be given an opportunity to explain the conflict or appearance of conflict before remedial action is initiated.

**§ 706.410 Confidentiality of statements.**

Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence and retained in limited access files of the reviewing official. The use of information on the statements shall be limited to that necessary to carry out the purposes of this part. Information from a statement or a supplementary statement shall not be disclosed except by decision of the Director for good cause shown: *Provided*, That information from a statement or a supplementary statement of the Director shall not be disclosed except by decision of the Chairman for good cause shown.

**§ 706.411 Effect of statements on other requirements.**

The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for or in derogation of any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which he or the other person's participation is prohibited by law, order, or regulation.

**§ 706.412 Submission of statements by special Government employees.**

(a) Each special Government employee shall submit a statement of employment and financial interests not later than the time of his employment.

Each special Government employee shall keep his statement current throughout his period of employment by the submission of supplementary statements.

(b) A special Government employee shall submit his statement of employment and financial interests in the format prescribed by the Division of Management. The statement will be filed with the Division of Management and is accorded the confidentiality prescribed in § 706.410.

(c) The provisions of §§ 706.406 through 706.411 apply to special Government employees in the same manner as to employees.

(d) The Director may waive the requirement in paragraph (a) of this section for the submission of a statement of employment and financial interests in the case of a special Government employee who is not a consultant or an expert when he finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. For the purposes of this paragraph "consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual.

**§ 706.413 Submission of statements by River Basin Commission Chairmen.**

A statement of employment and financial interest is not required under this part from Chairmen of River Basin Commissions created by the President pursuant to Title II of the U.S. Water Resources Planning Act. The Commission Chairmen are subject to section 401 of Executive Order 11222, as amended, and are required to file a statement with the Chairman of the Civil Service Commission.

**PART 707—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)**

**Subpart A—General**

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707.11 Environmental information.

AUTHORITY: National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); E.O. 11991, 42 FR 26967; 3 CFR 1977 Compl. p. 123.

SOURCE: 44 FR 69922, Dec. 5, 1979, unless otherwise noted.

### Subpart A—General

#### § 707.1 Background.

(a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection and enhancement of the environment. Section 102(2) of NEPA contains certain policy statements and procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, amended E.O. 11514 and directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR Parts 1500–1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. Section 1507.3(a) of CEQ regulations provides that each Federal agency shall as necessary adopt implementing procedures to supplement the regulations. Section 1507.3(b) of the CEQ NEPA regulations identifies those

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sections of the regulations which must be addressed in agency procedures.

#### § 707.2 Purpose.

The purpose of this NEPA rule is to establish Water Resources Council (WRC) policy and procedures which supplement the CEQ NEPA regulations by making them more specifically applicable to our activities and which implement § 1507.3 (a) and (b) of the CEQ NEPA regulations. This rule will be revised to incorporate detailed procedures integrating NEPA and the Principles and Standards (P&S) and applicable parts of the procedures for Federal participants in the preparation of comprehensive regional or river basin plans when these procedures are developed. This NEPA rule must be used in conjunction with the CEQ NEPA regulations. Compliance with both the CEQ NEPA regulations and this NEPA rule is required. Information in the CEQ NEPA regulations generally is not repeated here to avoid needless duplication. This NEPA rule supersedes WRC Policy Statement No. 2—Environmental Statements-Framework Studies and Assessments and Regional or River Basin Plans.

#### § 707.3 Applicability.

This NEPA rule applies to the WRC as an independent executive agency and to Title II river basin commissions (RBC's) and other entities (such as interagency committees) preparing studies and plans for WRC review and transmittal to the President. Although Title III State planning grants do not normally require environmental assessments or statements (§ 707.8 (a)(3)), the WRC will encourage States receiving grants to give appropriate consideration to the environmental effects of their proposed actions and to incorporate suitable environmental conditions, to the extent permitted by State law. The preamble to the WRC Title III guidelines will reflect this policy.

#### § 707.4 Definitions.

(a) *Responsible Federal Official (RFO)*. The “Responsible Federal Official (RFO)” is the official of the Federal Government designated by this rule

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who shall be responsible for the implementation of NEPA, including regulations issued by the CEQ (40 CFR parts 1500 through 1508) and the rule. Of particular importance, the RFO determines the need for an Environmental Assessment or Environmental Impact Statement (EIS) in accordance with § 707.8 (a)(2) and (b), and if an EIS is required, files the draft and final EIS, makes the Record of Decision and assures appropriate public involvement in accordance with 40 CFR 1506.6. The Chairman of the RBC's are the RFO's for the purpose of ensuring compliance with the provisions of NEPA and the P&S for those activities which are funded in whole or in part through the WRC and carried out by the RBC's, such as framework studies, special studies, comprehensive coordinated joint plans, regional or river basin (Level B) plans and revisions thereof. The Chairman of the WRC, or his designee, is the RFO for complying with the provisions of NEPA and the P&S for those framework studies, regional or river basin plans, comprehensive coordinated joint plans, and special studies which are funded by the WRC and carried out by WRC interagency committees and WRC coordinating committees; principles, standards and procedures for planning water and related land resources; rules and regulations of the WRC, and other activities of the WRC.

(b) *Major Federal Action*. "Major Federal action" as defined in the CEQ NEPA regulations (40 CFR 1508.18) includes actions with effects that may be major and which are potentially subject to Federal control and responsibility. Such actions include WRC interagency committee, and WRC coordinating committee adoption, approval or submittal of plans for water and related land resources. For the purpose of this rule, RBC adoption, approval or submittal of a plan for water and related land resources is considered a major Federal action by virtue of the scope and significant environmental consequences of such actions, the participation of Federal officials in these RBC actions, and the WRC requirements for Federal agency consistency with approved regional water resource management plans (WRC Policy State-

ment No. 4—The Utilization of Comprehensive Regional Water Resource Management Plans).

### § 707.5 Policy.

(a) *General*. The WRC and the RBC's administer certain programs that must comply with both NEPA and the P&S. Generally, the environmental analysis done during the development of the Environmental Quality (EQ) account under the P&S partially overlaps the analysis required in an EIS, presenting an opportunity for integration. The requirements of NEPA and the P&S will be carried out by integrating the two processes to the fullest extent practicable and by combining to the fullest extent practicable the Environmental Assessment or, when required, Environmental Impact Statement, with each study or plan into a single document that will comply fully with the requirements of both processes, as provided by the CEQ NEPA regulations (40 CFR 1502.10 and 1506.4).

(b) *Public participation*. For each environmental assessment and impact statement, the appropriate RFO will establish a specific program and schedule for public participation of all interested parties in the NEPA process, and shall otherwise provide for public involvement in accordance with the CEQ NEPA regulations (40 CFR 1506.6).

(c) *Environmental Impact Statements*. Environmental Impact Statements (EIS's) as required under Section 102(2)(C) of NEPA will be prepared by river basin commissions, interagency committee, or WRC coordinating committees for comprehensive coordinated joint plans and regional or river basin (Level B) plans, or revisions thereof. The Environmental Impact Statement will be prepared concurrently with the preparation of the study or plan. The statement will reflect the level of planning involved and will address those environmental considerations and alternatives relevant to decisionmaking at that level (see § 707.9 Tiering). Review and comment on the draft study or plan and the incorporated draft environmental impact statement will be performed simultaneously, and the final combined report will incorporate and discuss the comments received on the draft.

### Subpart B—Water Resources Council Implementing Procedures

#### § 707.6 Early involvement in private, State, local, and other non-Federal activities requiring Federal action.

(a) Section 1501.2(d) of the CEQ NEPA regulations requires Federal agencies to provide for early involvement in activities which, while planned by private or other non-Federal entities, requires some subsequent form of Federal approval or action to which NEPA applies. Such activities for which early involvement is appropriate include those private, local, State, or regional water and related land resources plans, projects or programs which should be included in a regional water resources management plan or Level B plan, since the plans normally required an EIS or assessment as provided in § 707.8(a) of this NEPA rule.

(b) To facilitate the implementation of 40 CFR 1501.2(d), the appropriate RFO shall publish and distribute in the region or basin in which a comprehensive or Level B study is conducted, guidelines for non-Federal entities of the types of plans, projects, and programs which shall be included in such comprehensive or Level B plan. The RFO shall advise non-Federal entities on the scope and level of environmental information and analysis needed for environmental documents.

#### § 707.7 Ensuring that environmental documents are actually considered in agency decisionmaking.

(a) Section 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of the environmental documents in agency decisionmaking. To implement these requirements, the RFO shall:

(1) Consider relevant environmental documents in evaluating actions proposed in plans and studies.

(2) Make relevant environmental documents, comments, and responses part of the record in any formal rulemaking or adjudicatory proceedings.

(3) Ensure that relevant environmental documents, comments and responses accompany the proposed actions through existing review processes.

(4) Consider only those alternatives encompassed by the range of alternatives discussed in the relevant environmental documents when evaluating proposals for agency action.

(5) Where an EIS has been prepared, consider the specific alternatives analyzed in the EIS when evaluating the proposal which is the subject of the EIS.

(b) The NEPA process begins at the earliest possible stage of the planning process and is completed when the RFO makes a finding of significant impact or a record of decision. In cases where the Chairman of a River Basin Commission, or regional Federal official has been designated as the RFO, and a plan or report is submitted to WRC for review and comment after completion of the NEPA process, the environmental documents incorporated into such plans or reports, or submitted with them, shall be fully considered by WRC when it prepares its views, comments, and recommendations for transmittal to the President and Congress. The RFO shall include the Findings of No Significant Impact, or the Record of Decision, with the documents submitted to WRC for review.

#### § 707.8 Typical classes of action requiring similar treatment under NEPA.

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

(1) Actions normally requiring EIS's:

(i) Adoption, approval or submittal of regional water resources management plans (comprehensive, coordinated, joint plans or elements thereof).

(ii) Adoption, approval or submittal of Level B plans.

(2) Actions normally requiring assessments but not necessarily EIS's:

(i) Establishment and implementing guidance (including significant changes) in principles, standards, and procedures for planning water and related land resources.

(ii) Adoption, approval or submittal of framework studies and special studies which include recommendations for future actions.

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(iii) Any action not in paragraph (a) (1) or (3) of this section.

(3) Actions normally not requiring assessments or EIS's (categorical exclusions):

(i) Approval of Title III State planning grants.

(ii) Adoption, approval or transmittal of priorities reports.

(iii) Preparation of the National Water Assessment.

(iv) Recommendations to the President with the respect to Federal policies and programs, except for transmittal of plans described in paragraph (a) (1) or (2) of this section for which the original EIS or Environmental Assessment (EA) will be transmitted with the plan. A second EIS is not required.

(v) Framework studies and assessments and special studies which do not include recommendations for future actions.

(b) Where the presence of extraordinary circumstances indicates that an action normally excluded may have a significant environmental effect, the appropriate RFO shall independently determine whether an EIS or an environmental assessment is required.

### § 707.9 Tiering.

In accordance with the CEQ NEPA regulations 40 CFR 1502.4(d) and 1508.28(a), this NEPA rule emphasizes the use of tiering to relate broad and narrow actions. The level of detail in EIS's and EA's prepared by RBC's, WRC interagency committees or WRC coordinating committees will reflect the level of detail in the plans, particularly the comprehensive and policy nature of comprehensive, coordinated, joint plans or elements or revisions thereof. These EIS's are not intended to substitute for individual statements on individual projects as more detailed planning and analysis will be required for major Federal actions proposed in these plans. The "policy" or "overview" EIS should serve as the framework and introduction for a more site-specific project EIS developed by the implementing Federal agency. Environmental impact statements for regional water resource management and Level B plans will generally address the items in the recommended format (40 CFR 1502.10) on the basis of water

and related land resources of an entire region or river basin. This is the level of consideration at which the environmental issues and considerations are most relevant to decisionmaking. They may also address groups of interrelated or individual plan elements where these involve significant environmental considerations.

### § 707.10 Scoping.

Scoping will be used to determine the extent of issues to be addressed by the EIS and to identify significant issues related to the proposed action. Scoping will be conducted as described by the CEQ NEPA regulations, §§1501.7 and 1508.25.

### § 707.11 Environmental information.

Interested persons may contact the Director, U.S. Water Resources Council, 2120 L Street, NW., Washington, DC 20037, for information regarding the Council's compliance with NEPA.

## PART 708—UPPER MISSISSIPPI RIVER BASIN COMMISSION: PUBLIC PARTICIPATION IN UPPER MISSISSIPPI RIVER SYSTEM MASTER PLAN

Sec.

708.1 Definitions.

708.2 Scope.

708.3 Policy, objectives, and standards.

708.4 Required programs and reports.

708.5 Program objectives implementation.

AUTHORITY: Title II, sec. 204, Pub. L. 89-80, Water Resources Planning Act of 1965; Title I, sec. 101(b), Pub. L. 95-502, Inland Waterways Authorization Act of 1978.

SOURCE: 44 FR 14537, Mar. 13, 1979, unless otherwise noted.

### § 708.1 Definitions.

As used in the part, the term:

(a) *Act* means the Inland Waterways Authorization Act of 1978, Pub. L. 95-502.

(b) *Commission* means the Upper Mississippi River Basin Commission, with headquarters at Fort Snelling, Twin Cities, Minnesota.

(c) *Master Plan* means the Upper Mississippi River System Comprehensive Master Management Plan mandated by Title I of the Act.