United States Department of the Interior
Office of the Secretary
Washington, D.C. 20240

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PEP - ENVIRONMENTAL STATEMENT MEMORANDUM NO. ESM 13-2[1]

To: Heads of Bureaus and Offices

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

Subject: Approving and Filing Environmental Impact Statements

1. Purpose and Scope

This memorandum provides guidance for filing environmental impact statements (EISs) with the Environmental Protection Agency (EPA). It pertains to both draft and final EISs and both delegated and non-delegated EISs. This memorandum is issued pursuant to 43 CFR 46.415, and supplements 516 DM 3.3.

2. Definitions

Delegated EIS - An EIS for which the decision authority on the proposed action is delegated to a single Assistant Secretary or a subordinate officer.

Non-delegated EIS – An EIS for which any one of the following applies:

- the decision authority on the proposed action requires the approval of more than one Assistant Secretary (or bureaus under more than one Assistant Secretary),
- the decision authority is reserved or elevated to the Secretary (or Office of the Secretary) by expressed interest of the Secretary, Deputy Secretary, the Chief of Staff, the Solicitor or the Assistant Secretary for Policy, Management and Budget, or
- it is so designated at the discretion of the Secretary, Deputy Secretary, or the Assistant Secretary for Policy, Management and Budget.

[1] The guidance in this Environmental Statement Memorandum (ESM) are being issued under the authority provided to the Office of Environmental Policy and Compliance (OEPC) by 381 Departmental Manual (DM) 4.5B, to convey instructions and guidance through its Environmental Memoranda Series, and by 516 DM 3.2, which authorizes OEPC to provide advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations, and 516 DM 1.21, which authorizes OEPC to provide further guidance concerning NEPA.

3. Notification

a. Before a notice of intent (NOI) to file an EIS is published for proposed departmental programs, plans, and projects, a bureau or office will notify the Office of Environmental Policy and Compliance (OEPC) of any "non-delegated EIS" determination under section 2 above. If a previously delegated EIS changes to non-delegated, OEPC should be notified as soon as possible. Bureaus will also notify OEPC when EISs are required for proposals where the determination of delegated vs. non-delegated is unclear. OEPC may advise the bureau or office and the Assistant Secretary/Policy, Management and Budget (AS/PMB) on the bureau or office determination.

b. If OEPC does not concur with the determination, OEPC will advise the bureau or office in writing setting forth its reasons for the non-concurrence.

4. Notice of Intent to Prepare an Environmental Impact Statement

Once a determination is made under section 3 above, bureaus and offices are responsible for publishing notices of intent (NOI) to prepare an environmental impact statement in the *Federal Register*.

5. Early Coordination

a. At the earliest possible stage, bureaus and offices should determine whether other Interior bureaus and offices should be requested to participate as cooperating agencies. This is especially critical when proposing to permit major transportation or infrastructure projects because such projects often require decisions on a tight schedule from multiple agencies.

b. Bureaus and offices should distribute electronic copies of their NOIs or links to the *Federal Register* publication to all other Interior bureaus and offices. Bureau/Office National Environmental Policy Act (NEPA) contacts are listed on the Natural Resources Management Team website at http://www.doi.gov/pmb/oepc/nrm/upload/Bureau-NEPA-Contacts.pdf.

c. Bureaus and offices wishing to participate in the preparation of the intended EIS are responsible for contacting the lead bureau/office and indicating the level of participation sought.

6. Delegated EISs

a. Assistant Secretaries, bureaus, and offices will file EISs directly with EPA and, as required by the Office of Executive Secretariat and Regulatory Affairs, publish bureau notices of availability in the *Federal Register*. Any mention of the comment period closing date in the bureau's notice of availability must be consistent with the closing date specified in the EPA notice of availability. EPA should be notified along with the public if a

comment period is to be extended. However, extensions of comment periods do not require a separate Federal Register notice.

b. EPA's guidance for filing EISs was published in the *Federal Register* on August 24, 2012 (77 FR 51530). Filing guidance is also available on EPA's website "Submitting Environmental Impact Statements."

c. Prior to filing an EIS with EPA, bureaus and offices are to distribute the document to Federal agencies with jurisdiction by law or special expertise and to State and local agencies, including Indian Tribes, which are authorized to set and enforce related environmental standards, and to make it available to the public. Upon transmittal, the responsible official should promptly provide copies to the Department's Natural Resources Library as required by 481 DM 1 Section 1.3 B(3). (U.S. Department of the Interior Library, (Mail Stop: 1151), 1849 C Street NW, Washington, DC 20240.

d. Circulation to other Federal and State agencies is guided by the list on the Natural Resources Management Team SharePoint site at https://portal.doi.net/oepc/Environmental%20Review/EIS_distribution_list.xlsx.

7. Non-Delegated EISs

a. Non-delegated EISs must be approved by the AS/PMB. The AS/PMB has assigned this responsibility to OEPC.

b. The OEPC is available for providing or interpreting guidance and reviewing preliminary drafts (or portions of drafts) at headquarters and, subject to the availability of resources, at OEPC's or bureau field offices. Bureaus and offices are encouraged to consult early with OEPC in scheduling and preparing these documents to avoid delays in their approval. This advance consultation and coordination with OEPC will facilitate granting clearances to print documents with a minimum of formal correspondence and associated processing and mailing delays. Absent any advance review, bureaus and offices should allow at least 2 weeks for OEPC's review, comment, and approval. Bureaus and offices will also provide in their preparation schedules sufficient time to accommodate comments by OEPC.

c. A clearance to print is OEPC's substantive approval of non-delegated EISs. It generally takes the form of a memorandum from the bureau or office to the Director, OEPC requesting a clearance to print. A concurrence line is provided at the bottom for the Director's signature. OEPC will return a signed electronic version of the document so printing may commence. Hard copy will follow. See template link in section 8.

d. For filing, noticing, and distribution, Assistant Secretaries, bureaus and offices should follow the same procedures as described above in Section 5.

8. Templates

The following templates are available on an OEPC SharePoint site:

Approval to Print
Notice of Availability

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Additionally, nothing in this guidance is intended to affect the authority and responsibility of the United States Department of Justice with respect to the conduct of litigation on behalf of the United States.

This memorandum replaces ESM 11-2.