



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

DIRECTOR'S ORDER NO: 127

Subject: National Environmental Policy Act Compliance Checklist

Sec. 1 What is the purpose of this Order? This Order establishes policy and procedures for the preparation of an administrative record for complying with NEPA by Service personnel who administer (concur or approve) Federal financial assistance programs that may be categorically excluded or require the preparation of an environmental document (environmental assessment or environmental impact statement).

Sec. 2 Does this Order supersede other guidance? This Order supersedes guidance in 550 FW 3.3C concerning the discretionary preparation of an environmental action statement for NEPA-related actions when applicable to Service Federal financial assistance actions. All other Service actions remain subject to the administrative record guidance in 550 FW 3.3C for NEPA-related matters.

Sec. 3 To whom does this Order apply? This Order applies to all Service personnel who administer (concur or approve) Federal financial assistance programs that may be categorically excluded or require the preparation of an environmental document pursuant to NEPA.

Sec. 4 What are the authorities for taking this action?

- a. National Environmental Policy Act (42 U.S.C. 4321-4347).
- b. Council on Environmental Quality regulations (40 CFR 1500-1508) and other CEQ guidance.
- c. 516 DM 1-6.

Sec. 5 What is the Policy? You must prepare a NEPA Compliance Checklist for most Federal financial assistance actions (including major amendments) that we administer (concur or approve) within the scope of Sections 6, 7, and 8 of this Order. To meet the requirements of this Order, you may use Form 3-2185 (NEPA Compliance Checklist) or, with prior approval of the Assistant Director for Fisheries and Habitat Conservation, you may use a similar checklist. Include the Checklist in the administrative record for the Federal financial assistance action.

Sec. 6 When should I prepare the NEPA Compliance Checklist? Submit the Checklist to the Service decision maker when:

- a. The proposed action is not completely covered by a categorical exclusion (e.g., the proposal cannot meet the qualifying criteria in the categorical exclusion, and "is not" will be checked on the Checklist);

b. The proposed action cannot be categorically excluded because an exception to the categorical exclusion applies (e.g., a "Yes" will be checked on the Checklist);

c. Environmental conditions at or in the vicinity of the site have materially changed, affecting the consideration of alternatives and impacts (applicable to amendments and renewals);

d. There is a need to document a normally categorically excluded action that may be controversial; or

e. Additional internal review and/or documentation of the NEPA administrative record are desirable.

Sec. 7 To which Federal financial assistance programs does this policy apply? This Order applies to Federal financial assistance programs using appropriated funds and permanent indefinite appropriated funds through the Federal Aid Program that we administer (concur or approve) through the:

a. Division of Federal Aid (e.g., Pittman-Robertson and Dingell-Johnson Acts, Clean Vessel Act, Endangered Species Act, National Coastal Wetlands Conservation Grant Program, etc.).

b. Division of North American Waterfowl and Wetlands (e.g., North American Wetlands Conservation Act and coastal grants authorized by the Coastal Wetlands, Planning, Protection, and Restoration Act).

c. Division of Fish and Wildlife Management Assistance (e.g., Partners for Fish and Wildlife Program assistance and fisheries grants).

Sec. 8 Are there programs where this policy does not apply? This Order does not apply to Federal financial assistance actions in foreign countries, except as appropriate, under Executive Order 12114, January 4, 1979, and the Council on Environmental Quality's guidance, July 1, 1997, on the application of NEPA to proposed Federal actions in the United States with transboundary effects.

Sec. 9 How do I determine the level of NEPA compliance for Federal financial assistance actions?

a. To ensure compliance with NEPA, initiate early coordination and consultation with other Federal and State agencies, Indian tribes, and private parties seeking Federal financial assistance from the Service, in accordance with 516 DM 2.2 and 516 DM 6, Appendix 1.3.

b. We may require applicants seeking Federal financial assistance to provide additional information on the proposal and on its environmental effects as necessary to satisfy our requirements to comply with NEPA, other Federal laws, and executive orders, in accordance with 40 CFR 1506.6 and 516 DM 6, Appendix 1.3A.

c. The NEPA Compliance Checklist will document our decision as to whether or not the Federal financial assistance action:

(1) Meets the requirements for coverage under an existing categorical exclusion, in accordance with 516 DM 2, Appendix 1; 516 DM 6, Appendix 1; and the exceptions to categorical exclusions in 516 DM 2, Appendix 2; or

(2) Requires the preparation of an EA or EIS. Exhibit 1 is an Overview of the NEPA Process and Documentation (flow chart).

Sec. 10 When should I prepare and process the Checklist? Ensure that the applicant or Service personnel prepare the Checklist and that appropriate authorities sign it prior to project (e.g., Federal financial assistance) approval. In some cases, the applicant may prepare the Checklist; in other cases, Service personnel. However, we are responsible for the accuracy of the Checklist, final concurrence of the Checklist, and compliance under NEPA. The Checklist is part of the administrative record for a Federal financial assistance action, and you must include it with any documents undergoing public review and ensure that it is available to the public upon request.

Sec. 11 How should differences of opinion regarding NEPA matters be resolved between the State and the Service? Try to resolve differences of opinion between the State and Service regarding the NEPA Compliance Checklist and other NEPA matters informally at the lowest level (e.g., between the State Project Leader and the Service Federal Aid Staff Specialist or Regional Federal Aid Chief). If any issues remain unresolved, refer them to the Assistant Regional Director or Regional Director for resolution with higher level State officials.

Sec. 12 Are there any additional instructions for preparing the NEPA Compliance Checklist?

a. The Service signature approval blocks must include the Regional or Washington Office Environmental Coordinator, as appropriate, for any Federal financial assistance actions requiring the preparation of a Checklist within the scope of Section 6 of this Order.

b. You may attach other supporting documentation and/or an explanation of the "checked" responses, if necessary, to the NEPA Compliance Checklist.

Sec. 13 How can the Service work with State and local governments, local agencies, Indian tribes, and private applicants to reduce paperwork and delays for Federal financial assistance actions?

a. Cooperate with State and local agencies to the fullest extent possible, consistent with 40 CFR 1506.2, to reduce duplication between NEPA and State and local requirements. Such cooperation will include:

(1) Joint planning processes.

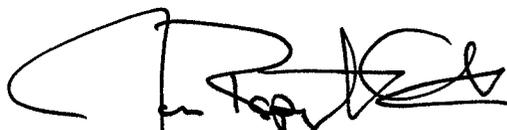
(2) Joint environmental research and studies.

(3) Joint public involvement.

(4) Joint preparation of environmental documents.

b. Provide assistance and guidance to the States and other applicants on the preparation of environmental documents and implementation of environmental streamlining measures (516 DM 6, Appendix 1.2 and 1.3).

Sec. 14 What is the effective date of this Order? This Order is effective immediately and is applicable to new grants, amendments, or renewals submitted to the Service on or after this date. Any grant actions currently under review by the Service are subject to the existing guidelines in 550 FW 3.3C. The Order will expire September 30, 2001, unless amended, superseded, or revoked. We will include the provisions of this Order in Part 550 of the Fish and Wildlife Service Manual.



DIRECTOR

Date: September 1, 2000