

National Science Foundation

§ 640.3

§ 630.670 Suspension.

Suspension means an action taken by a Federal agency that immediately prohibits a recipient from participating in Federal Government procurement contracts and covered non-procurement transactions for a temporary period, pending completion of an investigation and any judicial or administrative proceedings that may ensue. A recipient so prohibited is suspended, in accordance with the Federal Acquisition Regulation for procurement contracts (48 CFR part 9, subpart 9.4) and the common rule, Government-wide Debarment and Suspension (Non-procurement), that implements Executive Order 12549 and Executive Order 12689. Suspension of a recipient is a distinct and separate action from suspension of an award or suspension of payments under an award.

PART 640—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

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AUTHORITY: NEPA; the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*); sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609); E.O. 11514, "Protection and Enhancement of Environmental Quality" (March 5, 1970, as amended by E.O. 11991, May 24, 1977); and CEQ regulations at 40 CFR Parts 1500 through 1508.

SOURCE: 45 FR 40, Jan. 2, 1980, unless otherwise noted.

§ 640.1 Purpose.

The purpose of this regulation is to adopt NSF procedures to supplement regulations at 40 CFR parts 1500 through 1508 (hereafter referred to as "CEQ regulations").

§ 640.2 Committee on Environmental Matters.

(a) There is established an NSF Committee on Environmental Matters (hereafter referred to as the Committee) to consist of one representative from each directorate. The General Counsel, or his or her designee, shall serve as Chairman. At the discretion of the Chairman and with the concurrence of the Committee, additional members may be appointed.

(b) All incoming correspondence from CEQ and other agencies concerning matters related to NEPA, including draft and final environmental impact statements, shall be brought to the attention of the Chairman. The Chairman will prepare or, at his or her discretion, coordinate replies to such correspondence.

(c) The Committee shall meet regularly to discuss NSF policies and practices regarding NEPA, and make recommendations on the need for or adequacy of environmental impact assessments or statements.

(d) With respect to actions of NSF, the Committee will:

(1) Maintain a list of actions for which environmental impact statements are being prepared.

(2) Revise this list at regular intervals, based on input from the directorates, and send revisions to CEQ.

(3) Make the list available for public inspection on request.

(4) Maintain a list of environmental impact assessments.

(5) Maintain a file of draft and final environmental impact statements.

(e) The Committee and/or the Chairman will perform such additional functions as are set forth elsewhere in this part and in other NSF issuances.

[45 FR 40, Jan. 2, 1980, as amended at 49 FR 37596, Sept. 25, 1984; 59 FR 37438, July 22, 1994]

§ 640.3 Actions requiring an environmental assessment and categorical exclusions.

(a) The types of actions to be classified as "major Federal actions" subject to NEPA procedures are discussed generally in the CEQ regulations. Paragraph (b) of this section describes various classes of NSF actions that normally require the preparation of an environmental assessment or an EIS, and

those classes that are categorically excluded. (Categorical exclusion is defined at 40 CFR 1508.4.) The word “normally” is stressed; there may be individual cases in which specific factors require contrary action. NSF directorates and offices are responsible for identifying situations in which an environmental assessment or an EIS should be prepared even if not normally required by paragraph (b) of this paragraph.

(b) Most NSF awards support individual scientific research projects and are not “major Federal actions significantly affecting the quality of the human environment” except in the sense that the long term effect of the accumulation of human knowledge is likely to affect the quality of the human environment. However, such long term effects are basically speculative and unknowable in advance; thus they normally do not provide a sufficient basis for classifying research as subject to NEPA (See 40 CFR 1508.8) and are categorically excluded from an environmental assessment. Nevertheless, in some cases the actual procedures used in carrying out the research may have potential environmental effects, particularly where the project requires construction of facilities or major disturbance of the local environment brought about by blasting, drilling, excavating, or other means. Accordingly, except as provided in paragraph (c) of this section, the following types of activities require at least an environmental assessment:

(1) Cases where developmental efforts are supported, if the project supports the transition of a particular technology from the development stage to large-scale commercial utilization.

(2) Any project supporting construction, other than interior remodeling.

(3) Cases where field work affecting the natural environment will be conducted.

(4) Any project that will involve drilling of the earth, excavation, explosives, weather modification, or other techniques that may alter a local environment.

(5) Any project that provides for the testing and release of biological-control agents for purposes of ecosystem manipulation and assessment of short-

and long-term effects of major ecosystem perturbation.

(c) Directorates having divisions or programs with a substantial number of projects that fall within categories (3), (4), and (5) in (b) of this section, are authorized to issue supplemental guidelines to Division Directors and Program Officers establishing subcategories of research methodologies or techniques for which environmental assessments need not be prepared. For example, if a program regularly supports research that involves noninvasive techniques or nonharmful invasive techniques (such as taking water or soil samples, or collecting non-protected species of flora and fauna) the directorate may determine that field projects otherwise coming under paragraph (b)(3) of this section which involve only the use of such techniques do not require an environmental assessment. However, any such guidelines must be submitted to the Chairman for approval.

(d) In some cases within the categories listed in paragraph (b) of this section, it will be evident at the outset or after the assessment process is begun that an EIS should be prepared. In such cases an assessment need not be completed, but the process of preparing an EIS (See §640.5, of this part) should be started.

§ 640.4 Responsibilities and procedures for preparation of an environmental assessment.

(a) Program Officers, as the first point of decision in the review process, shall determine into which category incoming proposals fall, according to the criteria set forth in §640.3 of this part. Notwithstanding this responsibility of the Program Officer, the appropriate Division Director, Assistant Director, and other reviewing policy officials must assure that adequate analysis is being made.

(b) Where appropriate, programs, divisions, or directorates will advise prospective applicants in program announcements, requests for proposals, and other NSF-prepared brochures of the requirement to furnish information regarding any environmental impact that the applicant’s proposed study may have.