

## SUBCHAPTER Q—ENVIRONMENTAL PROTECTION

### PART 161—REGULATIONS FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

#### Subpart A—General

- Sec.  
161.1 Purpose and scope.  
161.2 Policy.  
161.3 Applicability.  
161.4 Definitions.

#### Subpart B—NEPA and Departmental Decisionmaking

- 161.5 Major decision points and timing.  
161.6 Responsibilities of departmental officials.  
161.7 Categories of actions.

#### Subpart C—Environmental Review Procedures

- 161.8 General description of the Department's NEPA process.  
161.9 Specific steps in the Department's NEPA process.

#### Subpart D—Coordination of Other Requirements of NEPA

- 161.10 Non-Federal applicants for permits.  
161.11 Environmental review and consultation requirements.  
161.12 Environmental effects abroad of major departmental actions.

AUTHORITY: National Environmental Policy Act (NEPA), as amended, 42 U.S.C. 4321 *et seq.*; E.O. 11514, 34 FR 4247, as amended by E.O. 11991, 42 FR 26927; 22 U.S.C. 2658, as amended.

SOURCE: 45 FR 59554, Sept. 10, 1980, unless otherwise noted.

#### Subpart A—General

##### § 161.1 Purpose and scope.

These Departmental regulations are designed to supplement the CEQ Regulations and provide for the implementation of those provisions identified in § 1507.3(b) of the CEQ Regulations. The CEQ Regulations are incorporated herein by reference. The Department's regulations seek to assure that environmental considerations and values are incorporated into the Department's decisionmaking process and assign re-

sponsibility within the Department for assessing the significant environmental effects in the United States of the Department's actions.

##### § 161.2 Policy.

It is the policy of the Department of State to use all practicable means, consistent with the Department's statutory authority, available resources and national policy, to:

- (a) Protect and enhance the quality of the environment;
- (b) Ensure that environmental amenities and values are appropriately considered in Departmental actions;
- (c) Integrate planning and environmental review procedures with the Department's decisionmaking process;
- (d) Invite and facilitate, when appropriate, Federal, State and local governmental authorities and public involvement in decisions which affect the quality of the environment; and
- (e) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

##### § 161.3 Applicability.

The provisions of these regulations apply to decisions on all Departmental actions which may affect the quality of the environment within the United States. The Department is establishing separate environmental review procedures under Executive Order 12114 (January 4, 1979) for actions having potential effects on the environment of global commons or areas outside the jurisdiction of any nation, or on the environment of foreign nations.

##### § 161.4 Definitions.

Definitions for many terms used in these regulations may be found in section 1508 of the CEQ Regulations. In addition, for the purpose of these regulations, the term:

(a) *Responsible action officer* means the Department officer principally responsible for the preparation of action memoranda and other documents relating to a given Departmental action to which by these regulations apply. Ordinarily, the responsible action officer will be the country or office director whose office has action responsibility for a given action.

(b) *CEQ Regulations* means the regulations implementing the procedural provisions of the National Environmental Policy Act, issued by the Council on Environmental Quality on November 29, 1978 (43 FR 55978–56007), and codified at 40 CFR parts 1500–1508.

(c) *United States* means the States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, American Samoa, the U.S. Virgin Islands, Guam and the other territories and possessions of the United States, including the territorial seas thereof. For the purpose of these regulations, actions having significant environmental effects on the resources of the U.S. continental shelf or resources of the U.S. Fishery Conservation Zone subject to the jurisdiction of the United States shall be considered to be actions having significant environmental effects in the United States.

(d) *Environmental document* means an environmental assessment, an environmental impact statement, a Finding of No Significant Impact or a Notice of Intent prepared under these regulations.

### Subpart B—NEPA and Departmental Decisionmaking

#### § 161.5 Major decision points and timing.

(a) The responsible action officer shall ensure compliance with these regulations at the earliest practicable stage of Departmental study, consideration or planning of a proposed major Federal action which could significantly affect the quality of the human environment. To accomplish this the responsible action officer must ensure that data developed during the review process is collected, analyzed and made available for consideration early in planning and decisionmaking when it

will be most valuable in formulating, reviewing and deciding upon proposals for Departmental action.

(b) Environmental analysis and review of a proposed Departmental action shall be conducted as early as practicable so as to be timely, yet late enough to be relevant to the decision-making.

(c) Environmental documents should, whenever possible, accompany the principal action memorandum relating to a proposed action. An environmental document required in conjunction with conclusion of an international agreement shall, where possible, be prepared and circulated for review and comment before final negotiations begin. The completed environmental document should thus ordinarily accompany the principal action memorandum or request for authority to negotiate an agreement under the Department's Circular 175 regulation (11 FAM 720).

(d) To the maximum extent possible an environmental document should be prepared before the establishment of a final United States position on a proposal. In such cases the document should indicate the alternatives under consideration without specifying a Departmental preference. If the content and dimensions of a proposed action will not be clear until after the conclusion of an international negotiation or if a decision to proceed on an action involving another nation or international organization is required on short notice and before the environmental document can be prepared, the environmental document should be prepared as soon as possible after the conclusion of an agreed text of a treaty or agreement on the proposed action. If the Senate's advice and consent to a treaty with potential significant environmental effects in the United States will be sought, the final environmental impact statement should accompany other decision documentation for ratification. Legislative environmental impact statements on proposed treaties or legislation shall conform to the requirements of § 1506.8 of the CEQ Regulations and must be prepared in time for Congressional hearings and deliberations.