

CHAPTER 12

THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

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CHAPTER 12

THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

SECTION 1: INTRODUCTION

12100. PURPOSE. This chapter establishes Marine Corps policy and responsibilities for compliance with reference (a).

12101. APPLICABILITY

1. This chapter applies to all Marine Corps active and reserve installations, commands, detachments, and units located within the United States, its territories, and possessions.

2. Marine Corps active and reserve installations, commands, units, and detachments may also need to comply with State environmental planning procedures when joint activities with non-Federal parties are conducted.

3. Marine Corps actions in foreign countries are not subject to the requirements of reference (a). Thus, the requirements of this chapter do not apply to Marine Corps actions abroad. However, certain Marine Corps actions are subject to references (b) and (c) concerning environmental effects abroad of major Department of Defense (DOD) actions. Commanders must comply with these requirements, which are reprinted at reference (d).

12102. BACKGROUND. Reference (a) is the basic national charter for the protection of the environment. It establishes policies, sets goals, and provides means for carrying out environmental policy.

12103. FEDERAL STATUTES

1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

a. Basic National Charter. Reference (a) establishes national policy and goals for protection of the environment. Reference (a) requires Federal decision makers to consider the environmental consequences of a proposed action before making the decision to take the action. For certain actions, reference (a) requires decision makers to open the decision making process to public scrutiny and involvement.

b. "Action-Forcing" Provisions. Section 102(2) of reference (a) contains "action-forcing" provisions to ensure that Federal agencies act according to the letter and the spirit of reference (a). Section 102(2)(A) of reference (a) mandates that Federal agencies "utilize a systematic, interdisciplinary approach which will ensure the integrated use of the natural and social sciences and the environmental design arts, in planning and in decision making that may have an impact on man's environment." Section 102(C) of reference (a) requires that Federal agencies "include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on the environmental impacts of the proposed action." Further, section 102(E) of reference (a) requires that Federal agencies "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

c. Council on Environmental Quality (CEQ). Section 202 of reference (a) created the CEQ in the Executive Office of the President. CEQ promulgates regulations that implement section 102(2) of reference (a). CEQ's regulations (reference (e)) are binding on the Marine Corps. CEQ also provides guidance documents that aid Federal agencies in their implementation of the myriad of NEPA procedural requirements.

d. Four Basic Tenets. The four basic tenets of references (a) and (e) are:

(1) Procedures must be in place to ensure that environmental information is available to decision makers and citizens before decisions are made and before Federal actions are taken.

(2) The NEPA process should identify and assess reasonable alternatives to proposed actions that would avoid or minimize adverse environmental effects.

(3) The purpose of reference (a) is to help agency officials make decisions based on an understanding of environmental effects, enabling them to take actions that protect, restore, and enhance the environment.

(4) Agencies must integrate the NEPA process with other planning at the earliest possible time to ensure that planning

and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.

2. Interaction with other Environmental Statutes, Regulations, and Executive Orders (E.O.s). A number of environmental statutes, implementing regulations, and E.O.s that impose substantive and procedural requirements, may apply to a proposed action. The NEPA process facilitates the identification of applicable statutes, regulations, and E.O.s with which the Action Proponent must also comply. Completion of the NEPA process does not substitute for compliance with these other laws and statutes; however, certain procedural requirements included in the NEPA process may satisfy those of other statutes and streamline compliance. The following is a representative, but not inclusive, list of environmental legislation and E.O.s that may apply to a proposed action:

- a. American Indian Religious Freedom Act (42 U.S.C. 1996 and 1996a).
- b. Archaeological Resource Protection Act (ARPA) of 1979, as amended (16 U.S.C. 470aa-mm).
- c. Clean Air Act (CAA) of 1970, as Amended (42 U.S.C. 7401 *et seq.*).
- d. Clean Water Act of 1977, as Amended (33 U.S.C. 1251 *et seq.*).
- e. Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*).
- f. Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).
- g. Marine Mammal Protection Act of 1972, as Amended (16 U.S.C. 1361 *et seq.*).
- h. Marine Protection Research and Sanctuaries Act of 1972, as Amended (33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.*).
- i. Migratory Bird Treaty Act of 1918, as Amended (16 U.S.C. 703 *et seq.*).
- j. National Historic Preservation Act of 1966, (16 U.S.C. 470 *et seq.*).

k. Magnuson-Stevens Fishery Conservation and Management Act (16 USC 1801 *et seq.*).

l. Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*).

m. Safe Drinking Water Act of 1974 (42 U.S.C. 300(f) *et seq.*).

n. E.O. 11988, Floodplain Management, 24 May 1977.

o. E.O. 11990, Protection of Wetlands, 24 1977.

p. E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 11 February 1994.

q. E.O. 12962, Recreational Fisheries, 7 June 1995.

r. E.O. 13007, Indian Sacred Sites, 24 May 1996.

s. E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 21 April 1997.

t. E.O. 13089, Coral Reef Protection, 11 June 1998.

u. E.O. 13112, Invasive Species, 3 February 1999.

v. E.O. 13158, Marine Protected Areas, 26 May 2000.

w. E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 6 November 2000.

x. E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds, 10 January 2001.

12104. POLICY

1. Headquarters Marine Corps, Facilities and Services Division (CMC (LF)) is the cognizant organization within the Marine Corps for affecting compliance with reference (a) and should be consulted regarding Marine Corps interpretation of the procedures contained in this chapter and references (e) and (f), as well as any procedural requirements related to NEPA analysis and decision making within the chain of command.

2. The Marine Corps will, consistent with its mission and the environmental laws and regulations of the United States and applicable international treaties and agreements:

a. Prevent or reduce adverse impacts on the environment through effective environmental planning.

b. Consider environmental factors concurrently with mission effectiveness, cost, and other relevant factors.

c. Commence a systematic examination of the environmental implications of proposed actions at the earliest possible time.

d. Understand and comply with all environmental legal requirements, anticipate and control associated costs, and avoid delays caused by inadequate preparation and planning.

e. Provide environmental training commensurate with the responsibilities of the trainee and consistent with the mission of the Department of the Navy (DON) through courses on environmental planning and by integrating instruction in environmental planning into other courses of training for military members and civilian employees.

f. Encourage effective and practical public participation in environmental planning.

g. Include appropriate consideration of socioeconomic issues in environmental planning matters where the potential for disproportionately high and adverse impacts on minority and low-income populations exists.

h. Include appropriate provisions for environmental planning in instructions, orders, plans, or other guidance.

i. Include the costs of environmental planning in planning, programming, and budgeting for the proposed action.

j. Prepare, safeguard, review, and disseminate required planning, analysis, and environmental documents, if any, for classified actions in accordance with applicable security instructions and requirements.

k. Assign responsibility for preparation of action specific environmental analysis under reference (a) to the Action Proponent. The Action Proponent should understand the plans, analyses, and environmental documents related to that action.

3. Whenever possible, Action Proponents must include pollution prevention alternatives in the NEPA process. In particular, Action Proponents must consider life-cycle costs and the options available in employing pollution prevention alternatives to minimize these costs when evaluating potential projects or actions.

4. Action Proponents must ensure that, consistent with other national policies and national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment; to mitigate adverse consequences; and to attain the following NEPA (section 101) objectives:

a. Attain the widest range of beneficial uses of environmental resources without degradation, risk to health or safety, and other consequences that are undesirable and unintended.

b. Preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment that supports diversity and a variety of individual choices.

c. Enhance the quality and conservation of renewable resources and work toward the maximum attainable recycling of depletable resources.

d. Achieve a balance between resource use and development within the sustained carrying capacity of the ecosystem involved.

e. Provide the opportunity for public comment and involvement.

5. The command Environmental Impact Review Board (EIRB) must include individuals with appropriate expertise to ensure that the document meets the requirements of reference (a), is consistent with the command's operational and master planning goals, and meets the policies and goals of the command in the military and civilian communities.

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## SECTION 2: MARINE CORPS PROCEDURES

12200. GENERAL NEPA COMPLIANCE OBJECTIVES. To comply with the NEPA procedural requirements, the Marine Corps must attain the following objectives:

1. Ensure compliance by beginning analysis of the effects of an action at the earliest planning stage.
2. Assess environmental consequences of proposed actions that could affect the quality of the environment in the United States, its territories, and its possessions per references (e) and (f).
3. Use a systematic, interdisciplinary approach that ensures integrated use of the natural and social sciences and environmental considerations in planning and decision making when an adverse impact on the environment could occur.
4. Consider reasonable alternatives (including the "no-action" alternative) to recommended courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available natural resources.
5. Make available to states, counties, municipalities, institutions, and individuals any advice and information useful toward restoring, maintaining, and enhancing the quality of the environment.
6. Use ecological information when planning and developing resource-oriented projects.
7. Ensure that presently unmeasured environmental amenities (i.e., recreation areas open to the public, leased lands to State or private entities) are considered in the decision making process.
8. Set time limits appropriate to the proposed action, considering operational requirements, as well as necessary time for public notice and comment periods required under section 10 of part 1506 of reference (e) as legally applied by the Environmental Protection Agency (EPA).

12201. SPECIFIC REQUIREMENTS

1. NEPA Process. The requirements of this chapter apply to proposed Federal actions that have potential to impact the human environment (i.e., those actions that could result in a change to the physical environment; social and economic impacts alone are not sufficient to trigger reference (a)). To ensure installation environmental planning staff coordinate on actions with the potential to impact the human environment, Action Proponents shall submit a completed Request for Environmental Impact Review (REIR) to the installation's environmental planning staff for all proposed actions that have potential to impact the human environment. The REIR shall be a form prescribed by the Commanding General/Commanding Officer (CG/CO) exercising a Finding of No Significant Impact (FONSI) signature authority, and should contain enough information to support the use of a categorical exclusion (CATEX) (in case a CATEX applies). Installations are encouraged to use the example REIR in appendix R, or develop an REIR suitable to meet installation coordination and documentation requirements. This reporting requirement is exempt from reports control per reference (g), part IV, paragraph 7.k. The commander exercising FONSI signature authority may delegate REIR signature authority to qualified environmental planning staff.

2. Step-By-Step Methodology. Use the following methodology to determine whether requirements of this chapter apply and, if so, what level of NEPA documentation the Action Proponent should initiate.

a. Step 1. Action Proponent: If the proposed action may result in an impact to the human environment, complete a REIR and submit it to the installation environmental planning staff or NEPA program manager and go to Step 2.

b. Step 2. Installation Environmental Planning Staff: Using the REIR, determine whether the proposed action is exempt from NEPA documentation pursuant to paragraphs (1) through (4) below. If the proposed action is exempt from reference (a), the requirements of this chapter do not apply and the exemption shall be documented on the REIR. Such a decision need not be presented to the command EIRB. If the proposed action is not exempt, go to Step 3.

(1) The proposed action is a Comprehensive Environmental Response, Compensation, and Liability Act cleanup action and documented pursuant to reference (h).

(2) The proposed action is one for which the Marine Corps has no decision making authority and no discretion in implementing the action, such as those carried out under a non-discretionary mandate from Congress (e.g., Congressional direction to transfer Federal property to a particular entity for a particular purpose that leaves DON no discretion in how the transfer will be implemented) or as an operation of law (e.g., reversionary interests in land recorded at the time the property was obtained and that provide no discretion in whether to trigger the reversion or how the reversion will be implemented).

(3) The proposed action is exempt from reference (a) by statute.

(4) Compliance with reference (a) would cause a clear and unavoidable conflict with another Federal law.

c. Step 3. Installation Environmental Planning Staff: Review the REIR and determine whether the proposed action is contained in the list of CATEXs at paragraph 12201.3.a. If it is on the CATEX list, go to Step 4. If the action is NOT contained in the list of CATEXs, go to Step 5.

d. Step 4. Installation Environmental Planning Staff: Determine whether any of the enumerated conditions listed in paragraph 12201.3.b apply. If one of the enumerated conditions applies, document it on the REIR and go to Step 5. If none of the enumerated conditions apply, the proposed action is categorically excluded from the requirement of preparing an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The Installation Environmental Planning Staff shall annotate the CATEX number on the REIR and forward the REIR to the official with REIR signature authority for signature. Note that even if a proposed action technically qualifies for a CATEX, the Action Proponent may prepare an EA if the circumstances are such that it would be prudent.

e. Step 5. Installation Planning Staff: Determine whether the proposed action requires an EA under paragraph 12201.4 or an EIS under paragraph 12201.5. If so, annotate on the REIR and return to the Action Proponent for preparation of an EA or EIS, as appropriate.

f. Step 6. Action Proponent: Based on the determination of the Installation Environmental Planning Staff documentation

on the REIR, proceed with preparation of an EA or EIS (using the assistance of the Installation Environmental Planning Staff).

3. CATEX (section 4, part 1508 of reference (e))

a. List of CATEXs (section 6(f) of reference (f)).

Pursuant to references (e) and (f), actions that will have no significant effect individually or cumulatively on the human environment, under normal circumstances, may be categorically excluded from the requirement to prepare an EA or EIS. If one of the enumerated conditions applies, it will be documented on the REIR with the signature of environmental planning staff who have been delegated Command authority to do so. Proponents should note that categorical exclusion of the action under the NEPA does not relieve proponents from compliance with other Federal statutes (e.g., section 106 of the National Historic Preservation Act).

(1) Routine fiscal and administrative activities, including administration of contracts.

(2) Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security.

(3) Routine use and operation of existing facilities, laboratories, and equipment.

(4) Administrative studies, surveys, and data collection.

(5) Issuance or modification of administrative procedures, regulations, directives, manuals, or policy.

(6) Military ceremonies.

(7) Routine procurement of goods and services conducted in accordance with applicable procurement regulations, executive orders, and policies.

(8) Routine repair and maintenance of buildings, facilities, vessels, aircraft, and equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, or painting, and refitting).

(9) Training of an administrative or classroom nature.

(10) Routine personnel actions.

(11) Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required.

(12) Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (e.g., consumables, electronic components, computer equipment, and pumps).

(13) Routine recreational/welfare activities.

(14) Alteration of and additions to existing buildings, facilities, structures, vessels, aircraft, and equipment to conform or provide conforming use specifically required by new or existing applicable legislation or regulations (e.g., hush houses for aircraft engines, scrubbers for air emissions, improvements to storm water and sanitary and industrial wastewater collection and treatment systems, and installation of fire fighting equipment).

(15) The modification of existing systems or equipment when the environmental effects will remain substantially the same, and the use is consistent with applicable regulations.

(16) Routine movement, handling, and distribution of materials, including hazardous materials (HM)/hazardous wastes that when moved, handled, or distributed are in accordance with applicable regulations.

(17) New activities conducted at established laboratories and plants (including contractor-operated laboratories and plants) where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, State, and local laws and regulations.

(18) Studies, data, and information-gathering that involve no permanent physical change to the environment (e.g., topographic surveys, wetlands mapping, surveys for evaluating

environmental damage, and engineering efforts to support environmental analyses).

(19) Temporary placement and use of simulated target fields (e.g., inert mines, simulated mines, or passive hydrophones) in fresh, estuarine, and marine waters for the purpose of non-explosive military training exercises or research, development, and test and evaluation.

(20) Installation and operation of passive scientific measurement devices (e.g., antennae, tide gauges, weighted hydrophones, salinity measurement devices, and water quality measurement devices) where use will not result in changes in operations tempo and is consistent with applicable regulations.

(21) Short term increases in air operations up to 50 percent of the typical operation rate, or increases of 50 operations per day, whichever is greater. Frequent use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts.

(22) Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of HM.

(23) Non-routine repair, renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes, or other contributing elements of facilities listed or eligible for listing on the National Register of Historic Places (NRHP) that will result in no adverse effect.

(24) Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking, and sanitation systems) are required to accommodate all aspects of the event.

(25) Military training conducted on or over non-military land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use (e.g., night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, or use of civilian airfields).

(26) Transfer of real property from DON to another military department or to another Federal agency.

(27) Receipt of property from another Federal agency when there is no anticipated or proposed substantial change in land use.

(28) Minor land acquisitions or disposals where anticipated or proposed land use is similar to existing land use and zoning, both in type and intensity.

(29) Disposal of excess easement interests to the underlying fee owner.

(30) Renewals and minor amendments of existing real estate grants for use of government-owned real property where no significant change in land use is anticipated.

(31) Land withdrawal continuances or extensions that merely establish times and where there is no significant change in land use.

(32) Renewals and/or initial real estate in-grants and out-grants involving existing facilities and land wherein use does not change significantly (e.g., leasing of Federally-owned or privately-owned housing or office space, and agricultural out-leases).

(33) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, storm water, and irrigation pipelines, pumping stations, and facilities; and similar utility and transportation uses.

(34) New construction that is similar to existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a containment area with associated discharges/runoff within existing handling capacities).

(35) Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls, and other HM.

(36) Acquisition, installation, and operation of utility (e.g., water, sewer, or electrical) and communication systems,

(e.g., data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities.

(37) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts.

(38) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(39) Relocation of personnel into existing Federally-owned or commercially-leased space that does not involve a substantial change affecting the supporting infrastructure (e.g., no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase).

(40) Pre-lease upland exploration activities for oil, gas, or geothermal reserves (e.g., geophysical surveys).

(41) Installation of devices to protect human or animal life (e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas).

(42) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved.

(43) Temporary closure of public access to DON property in order to protect human or animal life.

(44) Routine testing and evaluation of military equipment (1) on a military reservation or an established range, restricted area, or operating area; (2) similar in type, intensity and setting, including physical location and time of year to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and (3) conducted in accordance with all applicable standard operating procedures protective of the environment.

(45) Routine military training associated with transits, maneuvering, safety and engineering drills, replenishments, flight operations, and weapons systems (1) conducted at the unit

or minor exercise level; (2) similar in type, intensity, and setting, including physical location and time of year to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and (3) conducted in accordance with all applicable standard operating procedures protective of the environment.

b. Conditions Not Permitting the Use of a CATEX (section 6(e) in reference (f)). A CATEX will not be used if the proposed action:

(1) Would adversely affect public health or safety.

(2) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial.

(3) Establishes precedents or makes decisions in principle for future actions that have the potential for significant impacts.

(4) Threatens a violation of Federal, State, or local environmental laws applicable to the DON.

(5) Involves an action that, as determined in coordination with the appropriate resource agency, may:

(a) Have an adverse effect on Federally-listed endangered/threatened species or marine mammals.

(b) Have an adverse effect on coral reefs or on federally designated wilderness areas, wildlife refuges, marine sanctuaries, or parklands.

(c) Adversely affects the size, function, or biological value of wetlands and is not covered by a nation-wide or regional permit.

(d) Have an adverse effect on archaeological resources or resources (including but not limited to ships, aircraft, vessels, and equipment) listed or determined eligible for listing on the NRHP.

(e) Result in an uncontrolled or unpermitted release of hazardous substances, or require a conformity determination under the standards of the CAA General Conformity Rule.

c. CATEX Documentation. The administrative record on the decision to forgo preparation of an EA or EIS on the basis of one CATEX will be documented on the REIR. The REIR will identify the applicable CATEX number being used or will specify the enumerated conditions that do not permit the use of a CATEX. The REIR must be signed by the authorized environmental planning staff, returned to the Action Proponent, and retained per reference (k), Standard Subject Classification Code (SSIC) 5090.4. The REIR and any records or proposed action review correspondence must accompany the project file through project planning.

d. Documentation of Requirements for CATEX Approval. In the event certain conditions or requirements must be met to qualify for the CATEX, before, during, or following the implementation of the proposed Federal action, the environmental planning staff may impose those requirements on a Decision Memorandum or similar correspondence. The Action Proponent must acknowledge and agree to such conditions by signing and returning the Decision Memorandum or similar correspondence to the environmental planning staff, to remain with the file.

#### 4. EA (section 9, part 1508 of reference (e))

a. Overview. An EA analyzes the potential environmental impacts of a proposed action. An EA is prepared for those proposed actions that do not qualify for a CATEX, and when the Action Proponent:

(1) Initially predicts that the proposed action will not have a significant impact on the environment.

(2) Is uncertain whether the effects of the proposed action will have a significant impact on the human environment.

(3) Has reason to believe the proposed action will be environmentally controversial. Based on these criteria, an EA will result in either a FONSI or a decision to prepare an EIS.

b. Actions for which an EA Must Be Prepared. The following are examples of actions that under normal circumstances would require an EA:

(1) Training exercises for which the impacts are unknown, are potentially significant, or have the potential for environmental degradation or controversy.

(2) Dredging projects that increase water depth over previously dredged or natural depths.

(3) Proposed land use that would impact the quality or quantity of tidelands or freshwater wetlands.

(4) Real estate acquisitions or outleases of land involving:

(a) New in/out-grants only (i.e., neither renewals nor continuances wherein land use remains the same).

(b) Substantive changes in existing land use.

(c) Renewals of agricultural or grazing leases that involve notably different animal stocking rates, agricultural practices, seasons of use, or conversions to or from cropland.

(5) Acquisition of any size or in/out-grants that may be considered environmentally controversial, regardless of the appropriation or intended use.

(6) Family housing projects when the resident population changes.

(7) New target ranges or range mission changes with new or increased environmental impact.

(8) New low-altitude aircraft training routes or special use airspace and warning areas wherein over flights impact persons (particularly of low-income or minority populations), wildlife (particularly endangered species), or property.

(9) Mission changes, base closures, relocations, consolidations, or deployments that would cause major long-term population increases or decreases in affected areas. EAs are not required where impacts are purely socioeconomic and involve no potential for significant environmental impacts.

(10) Any proposed activity that may adversely affect a Federally-listed threatened or endangered species, candidate species, or designated or recommended critical habitat of an endangered species. The EA does not replace the requirements for a biological assessment and consultation under reference (i) (see chapter 11 of this Manual for a complete discussion of endangered species requirements).

(11) Any activity that would adversely affect resources either listed, or eligible for listing in the NRHP (see chapter 8 of this Manual for a complete discussion of cultural resources requirements).

(12) Permanent closure or limitation of access to any areas previously open to public use (e.g., roads and recreational areas).

(13) Construction or any other action resulting in discharges to, or potential contamination of, an aquifer, watershed, or recharge zone as described in reference (j).

(14) Irreversible conversion of "prime or unique farmland" to other uses.

(15) Transportation of hazardous substances, conventional munitions, or other wastes for intentional disposal into the ocean.

(16) Award or termination of contracts involving substantial quantities of natural resources, wherein the military is the contracting agency.

(17) Any action for which the environmental effect is controversial.

c. EA Public Participation (section 4(b), part 1501 in reference (e)). In the preparation of an EA, CEQ regulations require agencies to involve the public to the extent practicable. Therefore, commands proposing an action will develop an appropriate public involvement strategy. In determining the extent to which public participation is practicable, consider the following factors:

(1) What individuals and organizations would be interested in or affected by the proposed action.

(2) The magnitude of the environmental considerations associated with the proposed action.

(3) The extent of anticipated public interest.

(4) Methods that would most effectively notify and involve the public.

(5) Any relevant issues of national security or classification.

d. EA Procedures/Responsibilities

(1) Action Proponent

(a) Following the determination that an EA should be prepared for a proposed action and using the information submitted on the REIR as a foundation, the Action Proponent must, in consultation with the installation environmental planning staff, compile the following information:

1. A clear, detailed description of the need for, and purpose (objectives) of the action, the proposed action, and its expected results.

2. A brief description of all considered alternatives, including the reasons for eliminating them from further consideration.

3. A description of the likely results of canceling the proposal (e.g., "no action" alternative) and not meeting the need for action.

4. A description of the potential adverse impacts that might result from engaging in the proposed action and any alternative actions considered in detail.

5. A list of the supporters and likely opponents of the proposed action and alternatives.

6. A list of the names of persons and organizations familiar with the proposal, a summary of any current responses to the proposal, and a list of additional persons or agencies to be contacted during scoping.

7. A description of any associated support or facility requirements that would be necessary to accomplish the proposed action and any other connected actions, similar actions, or cumulative actions (see paragraph 12202.20 for the definition of "Scope").

8. A list of other past, present, or reasonably foreseeable future actions with the potential, together with the proposed action, to cause cumulative environmental impacts.

(b) The action proponent is responsible for the EA preparation (exclusive of the EA conclusion and final recommendation) via contractor, Engineering Field Division/Activity as a reimbursable service, installation environmental staff, or Action Proponent staff (if the proposed action is not part of the mission of the affected Marine Corps activity). At the earliest opportunity, the Action Proponent must determine which entity will prepare the EA.

(2) Installation Environmental Planning Staff. The installation environmental planning staff will review the EA documentation provided by the Action Proponent and prepare draft recommendations of findings, a separate conclusion in the context of one of the alternatives identified here, and distribute all documentation to the Installation EIRB for appropriate action.

(3) Installation EIRB

(a) The Installation EIRB will review the documentation and make one of the following determinations:

1. The proposed action will have no significant impact on the environment, a FONSI is appropriate, and the action may proceed as planned.

2. The proposed action as planned may have a significant impact on the environment unless prescribed mitigation measures are accomplished. The final recommendation will contain a full description of all required mitigation and monitoring necessary to ensure that no significant impacts will occur. These measures will be made a part of the FONSI and incorporated into project design.

3. The proposed action cannot proceed as planned without a significant impact on the environment. However, a reasonable alternative to the proposal that was not originally evaluated in the EA can proceed without a significant impact. The final recommendation from the EIRB will contain a full description of the new preferred alternative and direct the EA to be revised appropriately.

4. A FONSI for the proposed action is inappropriate; significant impacts can be avoided only if the "no action" alternative is selected. The final recommendation will be to begin an EIS if the Action Proponent wishes to

continue with the proposal. The determination should describe the significant impacts that cannot be avoided.

(b) Upon considering the EA and the conclusion of the environmental staff, the EIRB will prepare a recommended course of action (to include a draft FONSI, if appropriate) for consideration by the commander exercising FONSI signature authority.

(4) Commander exercising FONSI Signature Authority. The commander exercising FONSI signature authority, upon consideration of the EA conclusion and EIRB recommendation, will take one of the following three actions:

(a) Finalize, approve, and issue a FONSI and initiate a course of action for proceeding with the selected action.

(b) For proposed actions that fall within one of the categories set forth in paragraph 12201.5e, forward the proposed FONSI, EA, and a recommended course of action to the CMC (LF) for review and approval before the commander exercising FONSI signature authority signs the FONSI.

(c) Direct the preparation of an EIS if the Action Proponent intends to proceed with the proposed action.

e. Coordinate with the CMC (LF)

(1) If the commander exercising FONSI signature authority decides not to issue a FONSI and concludes that an EIS is required, notify CMC (LF). EIS notification shall occur prior to commencing EIS preparation or receiving any public or regulatory agency involvement.

(2) Notify CMC (LF) as soon as it becomes apparent that potentially sensitive public interest issues are involved with the preparation of an EA.

(3) For proposed actions that fall within one or more of the following categories, forward the proposed FONSI, EA, and recommended course of action to the CMC (LF) for review and appropriate action:

(a) The proposed action is, or is closely similar to, one that normally requires the preparation of an EIS.

(b) The proposed action is of a nature that is without precedent.

(c) The proposed action is to develop substantial acres of undeveloped land.

(d) The proposed action has or can be expected to have substantial public or congressional interest.

(4) Commands must promptly submit a copy of all published FONSI's and related EIRB recommendations (in the form of minutes taken during board meetings) to the CMC (LF).

f. Content of EA (section 9, part 1508 of reference (e)). EA preparation should follow the basic format provided in paragraph 12201.5e.

Following this format, the EA should:

- (1) Describe the proposed action.
- (2) Briefly discuss the purpose and need for the action.
- (3) Describe reasonable alternatives considered (including the "no-action" alternative).
- (4) Describe the existing environment within the area of effect for the proposed action.
- (5) Describe the potential environmental impacts of the proposal and alternatives considered, paying special attention to the following actions:
  - (a) Address the potential impact on endangered or threatened species and/or their habitat.
  - (b) Satisfy the requirements of the General Conformity Rule under section 176(c) of reference (1).
  - (c) Satisfy references (m) and (n) by identifying and addressing in the EA disproportionately high and adverse human health and environmental effects of Federal programs, policies, and activities on minority and low-income populations.

(d) Address the potential impacts to:

1. Resources listed in or eligible for listing in the NRHP.

2. Archaeological resources to comply with references (o) and (p).

(6) Describe any avoidance, mitigation, or environmental monitoring requirements.

(7) List the agencies and persons consulted.

(8) Include in the appendix substantive comments, replies, and consultation correspondence from agencies or entities with relevant expertise.

g. Preparation of a FONSI

(1) Signature Authority. If the commander exercising FONSI signature authority approves of the recommendation by the EIRB for a FONSI, he or she will finalize and sign the FONSI. For actions described in paragraph 12201.4e, the commander exercising FONSI signature authority will seek the CMC (LF) review and approval before signing the FONSI.

(2) Contents. The FONSI will consist of a brief summary of the EA. Each main section of the EA (as described in paragraph 12201.4f) should be summarized in the FONSI, excluding the list of agencies, consultants, and correspondence. A Notice of the Availability (NOA) of a FONSI can be published in local newspapers vice the entire FONSI text.

(3) Publication

(a) Unless the proposed action meets one of the conditions in paragraph 12201.4g(3)(b), the Action Proponent is responsible for publishing the signed FONSI or the NOA in local newspapers for at least three consecutive days if practicable (preferably over a weekend to ensure higher public visibility). The proposed action may begin once publication is effected.

(b) If the proposed action involves one of the following two conditions, the Action Proponent must make the FONSI available for public review (including in State- and area-wide clearing-houses and forward the FONSI to the CMC (LF) for publication in the *Federal Register*) for 30 days before making

the final determination whether to prepare an EIS and before the action may begin. The conditions are:

1. The proposed action is, or is closely similar to, one that normally requires the preparation of an EIS (e.g., there is a reasonable argument for the preparation of an EIS).

2. The nature of the proposed action is without precedent (e.g., if it is an unusual case, a new kind of action, or a precedent-setting case such as a first intrusion of even a minor development into a pristine area).

5. EIS (section 1, part 1502 in reference (e))

a. Overview. An EIS provides a full and unbiased discussion of significant environmental impacts and informs decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. Briefly, the EIS process includes public "scoping," the issuance of a draft EIS (DEIS), a final EIS (FEIS), a supplemental EIS (if applicable), and the opportunity for public comment. The process culminates in the issuance of a Record of Decision (ROD).

b. Significantly. As defined in paragraph 12202, Terms and Definitions, the term "significantly" provides a basis for determining whether a proposed action significantly affects the quality of the human environment. While all aspects of the definition are important, commands should pay special attention to the following issues set forth:

(1) The Geographical Extent of the Action ( section 27(b)(3), part 1508 of reference (e)). For example, construction and land use modification to support a limited maneuver or training exercise by an individual command may not have a significant effect on the environment. However, training exercises on a broad geographic scale involving diverse natural areas could have a significant effect on environmental quality.

(2) The Long-Term Impact of the Action (section 27(b)(6,7), part 1508 of reference (e)). Maintain an objective overview toward the magnitude of environmental effects of both the immediately contemplated action and future actions for which the proposed action may serve as a precedent and that could result in a cumulatively significant impact.

(3) The Risk Potential (section 22, part 1502 of reference (e), section 27(b)(5), part 1508 of reference (e)). For example, even though the environmental impact of an efficiently and safely operated fuel depot may not be significant, if a massive oil spill is reasonably foreseeable in the lifetime of the project, the effects of an oil spill could render significant the effects of construction or operation of such a depot.

(4) Sites Having Existing or Possible Historic, Architectural, or Archaeological Interest (section 27(b)(8), part 1508 of reference (e)). (See chapter 8 of this Manual.)

(5) The Potential Impact on Endangered or Threatened Species, and/or Their "Critical Habitat" as designated by the United States Fish and Wildlife Service or National Marine Fisheries Service (section 27(b)(9), part 1508 of reference (e)). (See chapter 11 of this Manual.)

c. EIS Preparation

(1) General (section 2, part 1502). To achieve the NEPA goal of preparing a concise and useful statement, Action Proponents must prepare an EIS per the format in paragraph 12201.5e, following these guidelines:

(a) Write an analytic, rather than encyclopedic, EIS.

(b) Discuss impacts in proportion to their significance. Briefly discuss issues that are less significant. As in a FONSI, write only enough to show why more study is not warranted.

(c) Keep the EIS concise and no longer than is necessary to comply with reference (a), these regulations, and regulations issued by the CEQ. Length should vary first with potential environmental issues and then with project scope.

(d) Outline the criteria for selecting alternatives.

(e) Outline the range of alternatives, including a "no action" alternative, to be discussed in the EIS and considered by the ultimate decision maker or by the lead agency if the DOD is a cooperating agency.

(f) Cognizant commands must not make irreversible commitments of resources that change the physical environment before making a final decision.

(g) To satisfy references (m) and (n), identify and address in the EIS disproportionately high and adverse human health and environmental effects of Federal programs, policies, and activities on minority and low-income populations.

(2) Document Length (section 7, part 1502 in reference (e)). Restrict the document to pertinent facts, excluding material not directly applicable to the expected impact. The EIS must contain sufficient information and baseline data to support the conclusions reached. Supporting data can be included in the EIS as appendices.

(3) Scoping (section 7, part 1501 in reference (e)) and Lead and Cooperating Agencies (sections 5 and 6 , part 1501 of reference (e))

(a) The scoping process will:

1. Invite the participation of affected Federal, State, and local agencies, any Native American tribe, minority and low-income populations, and other interested persons.

2. Determine the scope and the significant issues to be analyzed in depth in the EIS.

3. Identify and eliminate from detailed study the issues that are not significant or that have been covered by prior environmental review. Narrow the discussion of these issues to a brief presentation of why they will not have a significant effect on the human environment or provide a reference to their coverage elsewhere.

4. Allocate assignments for the preparation of the EIS among the lead and cooperating agencies, with the lead agency retaining responsibility for the statement.

5. Indicate any public EAs and other EISs that are being, or will be, prepared and that are related to, but are not part of, the scope of the EIS under consideration.

6. Indicate the relationship between the timing of the preparation of an EIS and the agency's tentative planning and decision making schedule.

7. Identify other environmental review and consultation requirements (e.g., section 7 of reference (i), the compliance requirement of reference (o), CAA Conformity, or reference (q)), so the lead and cooperating agencies may prepare other required analyses and studies concurrently with the EIS.

8. Identify environmental permits and regulatory agency approvals required for the project and the relationship between the timing of permits and approvals with the start of the proposed action.

(b) These scoping functions may be carried out in the context of a public, informal meeting at which written responses or oral presentations resulting from the public notices may be received. Such meetings, while not mandatory, may be held whenever practicable. There is no authority for the payment of expenses incurred by any person(s) in the preparation and presentation of information at these meetings.

(4) Public Notification (section 6, part 1506 of reference (e)). As soon as practicable after the cognizant command has determined that an EIS is required and the proper chain of command has been notified, undertake the following efforts to involve agencies and the public appropriately and to focus the environmental analysis on the significant issues:

(a) The Command EIRB drafts a Notice of Intent (NOI) to prepare an EIS and forwards it to the commander exercising FONSI signature authority for approval. The commander forwards the NOI to the CMC (LF) for Headquarters Environmental Impact Review Board (HQEIRB) review and approval. If approved, the Deputy Chief of Installations and Logistics or designee signs the NOI.

(b) The CMC (LF) must publish the NOI to prepare an EIS in the *Federal Register*.

(c) Action Proponents must mail the NOI to national organizations that the cognizant command reasonably expects to be interested in the matter. In all cases, the cognizant command must mail the notice to those who have requested it.

(d) The NOI will:

1. Solicit the comments and suggestions of affected Federal, State, and local agencies; any affected Native American tribes; Hawaiian interest groups; the proponent of the action; and any other interested persons (including those who might not be in accord with the action on environmental grounds).

2. Briefly describe the proposed action and the scoping process to be undertaken.

3. Include a public notice of any scoping meetings to be held. This notice may be published separately from the NOI, but must be published no less than 15 days before the scheduled meeting, regardless of whether it is an individual notice or part of the NOI.

4. Be mailed directly to concerned agencies, organizations, and individuals and may be published in local newspapers.

(e) Per reference (m), whenever practicable and appropriate, the NOI and announcement of the scoping meeting must be translated for non-English speaking populations.

(f) In the case of an action with effects of primarily local concern, the NOI can include compliance with the affected state's public notice procedures of comparable actions.

(5) Time Limits (section 8, part 1501 in reference (e)). The EPA publishes a weekly notice in the *Federal Register* listing the EISs filed during the preceding week. The following schedule, calculated from the date of publication of the EPA notice, must be followed:

(a) The DEIS should be made available to the public 15 days prior to any public hearing or meeting on the DEIS.

(b) The FEIS may not be filed less than 45 days after publication of the NOI of the DEIS.

(c) Prior to any ROD on the proposed action, the DEIS must be made available to the public for no less than 90 days, and the FEIS for no less than 30 days.

d. Format (section 10-18, part 1502 of reference (e)). Print the document on 8-1/2 by 11-inch bond paper; foldout sheets may be used as long as the 11-inch vertical dimension is retained. Use the following format for all EIS documents and, as appropriate, for EA documents:

(1) Cover Sheet. The one-page cover sheet includes the following:

(a) A list of the responsible agencies, including the lead agency and any cooperating agencies.

(b) The title of the proposed action that is the subject of the environmental analysis (and if appropriate, the titles of related cooperating agency actions), together with states, counties, and other jurisdictions where the action is located.

(c) The name, address, and telephone number of the person at the responsible command who can supply further information.

(d) A designation of the analysis as an EA, DEIS, FEIS, or draft or final supplement.

(e) A one-paragraph abstract of the analysis.

(f) The date by which comments must be received.

(2) Summary. The summary appears at the beginning of the document, immediately follows the cover sheet, usually will not exceed 15 pages, and includes the following:

(a) Indication of whether the analysis is an EA, DEIS, or FEIS.

(b) The name of the action and whether it is administrative or legislative.

(c) A brief description of the action and what geographical region (including state and county, as applicable) is particularly affected.

(d) A summary of the adverse environmental impacts and mitigating actions considered. This summary includes a statement as to whether the action is subject to the General

Conformity Rule under section 176(c) of reference (1), and if so, whether applicable requirements have been met.

(e) A list of considered alternatives.

(f) A statement as to whether the action may have a significant environmental impact or may be environmentally controversial.

(g) For DEISs, a list of all Federal, State, and local agencies from which comments have been requested; for FEISs, a list of all Federal, State, and local agencies and other sources from which written comments have been received

(h) The dates the DEIS and FEIS were made available to the CEQ and public.

(3) Purpose and Need. This section, which actually begins the body of the analytic portion of the document, briefly specifies the underlying need for the project and its objectives for which the Marine Corps or Action Proponent is presenting the proposed action and alternatives. It succinctly and objectively justifies the proposed action and explains the essential requirements that must be satisfied to achieve the purposes of the proposed action.

(4) Alternatives, Including the Proposed Action

(a) This section is the heart of the EA or EIS. Based on the information and analysis presented in paragraphs 12201.5d(5) and (6) sections 5 and 6, it presents the environmental impacts of the proposal and the alternatives in a comparative (matrix) form, thus sharply defining the issues and providing a basis for choice among the options by the decision makers and the public.

(b) Rigorously explore and objectively evaluate all reasonable alternative actions, particularly those actions that might enhance environmental quality or avoid some or all of the adverse environmental effects. Include, where relevant, alternatives to the proposed action not within the existing authority of the agency. If applicable, conduct an analysis of such alternatives, and report the results relating to their environmental benefits, costs, and risks. This analysis should accompany the proposed action through the agency review process. If a cost/benefit analysis relevant to the choice among environmentally different alternatives is prepared, discuss the

relationship between the analysis and any analysis of unquantified environmental impacts, values, and amenities as per section 23 of part 1502 of reference (e). The analysis evaluates qualitative and quantitative considerations, including factors not related to environmental quality that are likely to be relevant and important to a decision. This process will prevent a premature foreclosure of options that might enhance environmental quality or have less detrimental effects.

(c) Alternatives include, but are not limited to, the following examples:

1. Taking no action.
2. Postponing action.
3. Selecting actions of a substantially different nature that would meet mission and project objectives and have different environmental impacts.
4. Adopting different designs or details of the proposed action that would present different environmental impacts (including mitigation measures).
5. Those alternatives not within the authority of the Marine Corps or Action Proponent to implement but that would still meet project objectives.

(d) In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the proposed action and each reasonable alternative. In all cases, however, evaluate the impact of not proceeding with the proposed action ("no action" alternative). Throughout the EA or EIS, the discussion and analysis should be structured to prevent a premature foreclosure of options that might enhance environmental quality or have less detrimental effects.

(5) Existing Environment in which the Proposed Action Would Occur. Succinctly describe the existing environment within the area that would be affected by the proposed action, including existing and anticipated uses and activities in the area (i.e., a baseline description from which to compare the probable impact). The descriptions will be no longer than necessary to understand the effects of the proposed action. In the analysis, present the interrelationship of other Federal and non-Federal actions that might cause cumulative environmental

impacts with the proposed action. The amount of detail provided in such descriptions will be commensurate with the extent and impact of the action and with the amount of information required at the particular level of decision making.

(6) Environmental Consequences. This section forms the scientific and analytic basis for the comparison of impacts presented in the alternatives section. The discussion will include the proposed action, any adverse environmental impacts that cannot be avoided should the proposal be implemented, the relationship between short-term uses of the human environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources that would be involved in the proposal should it be implemented. This section does not duplicate the discussions in the alternatives section, but does include the following discussions:

(a) Direct effects and their significance; i.e., an analysis of the positive and negative effects of the proposed action. The attention given to different aspects of the human environment varies according to the nature, scale, and location of proposed actions. Give primary attention to a discussion of those aspects most evidently impacted by the proposed action.

(b) Indirect effects and their significance. Include a discussion of secondary or indirect consequences for the environment in the analysis. Many major Federal actions, especially those that involve construction (e.g., new installation or joint use of an installation), stimulate or induce secondary effects in the form of associated investments and changed patterns of social and economic activities. Such secondary effects, by their impact on existing community facilities and activities, by inducing new facilities and activities, or by changing natural conditions, often are more substantial than the primary effects of the original action. For example, estimate the effects of the proposed action on population and growth if they may be significant. Evaluate the effect of any possible change in population patterns or growth upon the resource base, especially those that may impact low-income and minority populations, such as impacts on land use, water resources, and public services of the area in question. Consider major Federal actions that may cause indirect effects on the natural and physical environment off site or later in time.

(c) Possible conflicts between the proposed action and the objectives of Federal, State, and local (and in the case of a reservation, Native American tribe) land use plans, policies, and controls. Discuss how the proposed action will conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies, and controls for the area affected, including those developed in response to environmental legislation. Where a conflict or inconsistency exists, describe the extent to which the agency has reconciled its proposed action with the plans, policies, or controls. In the absence of full reconciliation, document justification for any decision to proceed.

(d) The environmental effects of alternatives, including the "no action" alternative. Base comparisons as outlined in paragraph 12201.5e(4), preceding.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures. Address the energy impact of the proposed action and alternatives.

(f) Any irreversible or irretrievable commitments of resources that would be involved if the proposed action is implemented. From a survey of unavoidable impacts, identify the extent to which the action irreversibly curtails the range of potential uses of the environment. "Resources" (both renewable and nonrenewable) means the natural and cultural resources committed to, or lost by, the action, as well as labor, funds, and materials committed to the action.

(g) The relationship between local short-term use of the environment and maintenance and enhancement of long-term productivity. Briefly discuss the extent to which the proposed action involves trade-offs between short-term environmental gains and the expense of long-term losses (and vice versa). Discuss the extent to which the proposed action forecloses future options. In this context, "short-term" and "long-term" do not refer to any fixed periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

(h) Urban quality, historic architecture, cultural value, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.

(i) Ways to mitigate and/or monitor adverse environmental impacts (if not previously discussed). When appropriate, discuss mitigation measures in the form of avoidance, design modification, rehabilitation, preservation, or compensation; address the extent of countervailing benefits derived from implementing mitigation measures and/or monitoring programs to avoid or reduce some or all of the adverse environmental effects. In the EIS, mitigation measures and monitoring programs, including implementing feasibility and funding availability, should be discussed in the context of "potential mitigation measures" and "potential monitoring programs." The decision to commit to a particular mitigation measure or monitoring program is made in the ROD. In many cases, mitigation measures should also be coordinated with cognizant regulatory agencies.

(j) Cumulative impacts as appropriate and in context with the scope and magnitude of the proposed action. Rigorously examine the potential overlap of the proposed action and alternatives with the impacts of current and future actions planned in the immediate vicinity of the proposed action. Include a discussion any programs currently in place to monitor impacts from previous actions and whether the observations from such programs inform the assessment of impacts anticipated from the proposed action. Also discuss any programs that should be put in place to monitor long-term impacts on specific resources.

(k) Any probable and unavoidably adverse environmental effects should the proposal be implemented. Briefly discuss those effects that are adverse, not amenable to mitigation, and unavoidable under the proposed action.

(7) List of Preparers. Prepare environmental statements using an interdisciplinary approach that will ensure the integrated use of the natural, social sciences, and the environmental design arts. To verify that this approach was undertaken, list the names, together with the qualifications (expertise, experience, professional disciplines) of the persons primarily responsible for preparing the EA or EIS, or significant background papers, including basic components of the statement. Where possible, identify the persons who are responsible for the particular analysis, including analyses in background papers. Normally the list will not exceed two pages.

(8) Distribution List. Include in the document a complete distribution list, including the names and addresses of

all the organizations, agencies, and individuals to whom copies of the statement are to be sent.

(9) Correspondence. List all Federal, State, and local agencies, and their records of correspondence related to the proposed action, from which comments and coordination have been requested.

(10) Appendix. An appendix to an EIS is optional; however, if used, it will:

(a) Consist of material prepared in connection with the EIS (as distinct from material that is not so prepared and that is incorporated by reference).

(b) Normally include material that substantiates any analysis fundamental to the impact statement.

(c) Normally be analytic and relevant to the decisions to be made.

(d) Circulate with the EIS or be readily available upon request.

e. Incorporation by Reference (section 21, part 1502 of reference (e)). As much as possible, commands preparing an EIS must incorporate material into the document by reference when doing so will cut down on bulk without impeding agency and public review of the action. Cite the incorporated material in the statement and briefly describe its contents. Do not incorporate material by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Do not incorporate by reference material based on proprietary data that is itself not available for review and comment.

f. Incomplete or Unavailable Information (section 22, part 1502 of reference (e)). For the purposes of this section, "reasonably foreseeable significant adverse impacts" include those impacts that have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason. When the command preparing the EIS is evaluating reasonably foreseeable significant adverse effects on the human environment and there is incomplete or unavailable information, it must make

clear that such information is lacking. For such situations it can take the following actions:

(1) Include the information in the EIS if the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant.

(2) Include the following items in the EIS, if the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art):

(a) A statement that such information is incomplete or unavailable.

(b) A statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment.

(c) A summary of existing credible scientific evidence that is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment.

(d) The Action Proponent's evaluation of such impacts based on theoretical approaches or research methods generally accepted in the scientific community.

g. The CMC (LF)/Secretary of the Navy (SECNAV) Review of DEIS/FEIS. Following the Command EIRB recommendation, the commander exercising FONSI signature authority forwards the DEIS and FEIS to the CMC (LF) for HQEIRB approval. If approved by the HQEIRB, the DEIS or FEIS is forwarded to the Deputy Assistant Secretary of the Navy (Installations and Environment) (DASN I&E) or a designee for signature. The CMC (LF) must also deliver copies of the document to EPA Headquarters. The Action Proponent distributes the DEIS or FEIS to interested parties.

h. ROD (section 2, part 1505 of reference (e))

(1) The ROD is a public record of the decision to select one alternative for implementation from among the alternatives considered in detail in an EIS. The document, as proposed by

the activity/Action Proponent, will be finalized by the CMC (LF) on behalf of the HQEIRB and will state the decision, identify the alternatives considered (including those that were environmentally preferable), and discuss all factors, including non-environmental considerations, that influenced the decision. The ROD will commit the Action Proponent to the appropriate mitigation, if applicable, to minimize environmental harm, and to identify those measures that were considered, but not selected, for implementation. Additionally, any monitoring program associated with selected mitigation measures will be addressed. After the ROD is signed, it becomes the responsibility of the activity/Action Proponent to track implementation of mitigation measures and review the effectiveness of monitoring programs.

(2) The ROD must be drafted by the command in coordination with the CMC (LF) environmental planning staff. The Command EIRB must review the ROD and forward it with its recommendation to the commander exercising FONSI signature authority for approval. The commander exercising FONSI signature authority must forward the ROD to the CMC (LF) for consideration by the HQEIRB and approval. The CMC (LF) must forward the ROD to the DASN I&E or a designee for signature. The CMC (LF) must publish the signed ROD in the *Federal Register*, and the command or Action Proponent publishes the document in the local newspaper(s) and mails it to appropriate agencies, organization, and individuals.

## 6. Other Issues

a. Contractor Involvement in NEPA Documentation (section 5, part 1506 of reference (e)). An EIS, like an EA, frequently is prepared by a contractor. To obtain unbiased analyses, the contractor must be selected in a manner avoiding any conflict of interest. Therefore, contractors will execute disclosure statements approved by the Marine Corps, which specify that the contractors have no financial or other interest in the outcome of the project. Contractor efforts should be closely monitored throughout the process to ensure an adequate document and avoid extensive, time consuming, and costly revisions. Project planners, the environmental planning staff, the Action Proponent, and area land managers should be continuously involved in the process.

b. Cooperation with Federal, State, and Local Agencies (section 2, part 1506 of reference (e)). To eliminate duplication with Federal, State, and local procedures and to

fully address their requirements, commands must cooperate with other agencies as much as possible. Such cooperation could include:

(1) Joint planning processes.

(2) Joint environmental research and studies, including assessments of the presence or special needs of minority and low-income groups (including foreign language interpretation and collection and analysis of demographic characteristics).

(3) Joint public hearings (except where otherwise provided by statute).

(4) Joint EAs or EISs.

c. Administrative Record. The administrative record is a critical component of the NEPA process. The administrative record consists of all documents and materials (including intra-office e-mails) directly or indirectly considered by the decision maker. Should a decision be challenged, a reviewing court will review the decision primarily (if not solely) based on the administrative record. The decision maker is responsible for assembling and maintaining the administrative record. To this end, commanders/supervisors/officers-in-charge must ensure that all administrative record documents and materials are properly maintained and readily retrievable upon request. The administrative record must be retained after the proposed action has taken place, in the event that the action is challenged after the fact, per reference (k), SSIC 5090.4.

d. Classified EA and EIS Documents (section 3(c), part 1507 of reference (e))

(1) The fact that a proposed action is of a classified nature does not relieve the Action Proponent from complying with the requirements of this chapter. Prepare, safeguard, and disseminate the DEIS and FEIS, as well as the EA, per the requirements applicable to classified information. When feasible, organize these documents in such a manner that classified portions are included as appendices so the unclassified portions can be made available to the public. Coordinate the review of classified NEPA documentation with the EPA for requirements applicable to section 309 of reference (1).

(2) An EA or EIS containing classified information, or other information for which the public release is prohibited by

law, serves the same purpose as an EA or EIS without classified material, even though not all of its contents are subject to public review and comment. The entire package must accompany the proposal through the decision making process. The content of an EA or an EIS containing portions that cannot be released to the public must meet the same overall content requirements applicable to a fully published EA or EIS.

e. Emergency Actions. Where emergency circumstances outside Marine Corps control make it necessary to take an action with significant environmental impact without observing the provisions of CEQ regulations, the Marine Corps must consult with the CEQ about alternative arrangements. Action Proponents must contact the CMC (LF), as soon as practicable, to allow consultation with SECNAV and the CEQ. The CMC (LF) will consult with the CEQ and make alternative arrangements as appropriate with the CEQ to effect NEPA compliance for emergency actions. Alternative arrangements are limited to those aspects of a proposal that must proceed on an emergency basis. Remaining action to be taken is subject to normal NEPA review. Ordinarily, the failure to plan properly does not establish an emergency. Note: Regulations implementing other environmental laws (e.g., references (i) and (r)) contain requirements for consultation with the applicable regulatory agencies for actions taken relative to emergency circumstances.

f. Acquisition Programs

(1) The Acquisition Program Manager must comply with references (a) or (b) when a proposed action within an acquisition program will impose a physical effect on the natural environment.

(2) Reference (s) provides the requirements for NEPA compliance relative to the acquisition process.

g. Pollution Prevention

(1) The EPA evaluates NEPA documentation for incorporation of pollution prevention measures to assist Federal agencies in acknowledging and receiving credit for commitment to pollution prevention.

(2) The term "pollution prevention" includes equipment or technology modifications; process or procedure modifications; reformulation or redesign of products; substitution of raw materials; and improvements in housekeeping, maintenance,

training, or inventory control. During all stages of project formulation, from early planning and NEPA documentation through implementation, Action Proponents should seek opportunities to incorporate pollution prevention into their programs.

(3) The following list describes areas where pollution prevention opportunities may be appropriately addressed during the NEPA scoping and subsequent environmental review phases:

(a) The definition of the project's purpose and need (it should be clearly identified and not slanted to support the proponent's desires, which could limit pollution prevention options).

(b) The project design specification and standards.

(c) The sizing of a project (e.g., a smaller project may affect less habitat, have fewer impacts on soil erosion and water quality, and/or result in less induced growth).

(d) The facility location.

(e) The range of alternatives (e.g., whether pollution prevention opportunities are included).

(f) Rejection of certain alternatives.

(g) Emphasis on environmental requirements (whether the focus is on pollution prevention, source reduction, innovative technologies, or traditional end-of-pipe, add-on controls).

(h) The proposed action's potential to prevent pollution.

(i) The secondary effects of a proposed action, which may discourage pollution prevention.

(j) The mitigation measures incorporated into the proposal (e.g., some mitigation measures may have more pollution prevention benefits than others, and significant pollution prevention measures may require a basic change in the project).

(4) Further guidance on compliance with reference (t), as well as pollution prevention strategies, can be found in chapters 6, 7, and 15 of this Manual.

h. Tiering (sections 20 and 28, part 1502 of reference (e)). Reference (e) encourages the use of tiering whenever appropriate to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for discussion at each level of the environmental review. An EA or EIS of broad scope discussing the impacts of a wide-ranging or long-term phased program, referred to as a programmatic EA or EIS, can be followed by an EA or EIS of more narrow scope concentrating solely on issues specific to the actions being considered. Tiering is appropriate when it helps the Action Proponent to focus on issues that are ripe for decision and excludes from consideration issues already decided or not yet ripe. This results in a stepped approach to planning and decision making.

(1) Tiering is appropriate when the sequence of statements or analysis is:

(a) From a broad program, plan, or policy (not necessarily site-specific) EIS to a program, plan, or policy statement of lesser scope or to a site-specific EA or EIS. For example, a national program providing for mineral exploration on military-held lands with a subsequent analysis tiered for each installation impacted, or the initiation of a new training apparatus where the use of the apparatus itself may impact the environment, with subsequent tiered analysis at each site proposed for locating such training.

(b) From an EIS on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent EIS or EA at a later stage (such as environmental mitigation).

(2) Content of Programmatic EIS. In addition to the discussion required by these procedures for inclusion in an EIS, the programmatic EIS will discuss:

(a) A description of the related stages, sites, or actions that may ultimately be proposed in as much detail as presently possible.

(b) The implementing program factors that are known at the time of EIS preparation.

(c) The environmental impacts resulting from establishing the overall program that would be similar for subsequent stages, sites, or actions as further implementation plans are proposed.

(d) The appropriate mitigation measures that would be similarly proposed for subsequent stages, sites, or actions.

(3) Preparation of a Tiered Analysis

(a) When the subsequent tier itself may have significant impact on the quality of the human environment or when an impact statement is required by these procedures, use the EIS as the analytical document for a staged or site-specific analysis subsequent to the programmatic EIS. Otherwise, document the subsequent tiered analysis with an EA to fully assess the need for an EIS or a FONSI.

(b) In addition to the discussion required by these procedures for inclusion in EA and EIS documents, each subsequent tiered analysis must:

1. Summarize the program-wide issues discussed in the programmatic statements and incorporate discussions from the programmatic statement by reference.

2. Concentrate on the issues specific to the subsequent action.

3. State where the programmatic document is available for review.

(4) Programmatic EISs and all the subsequent tiered EISs will be prepared, circulated, and distributed in the same fashion as required of any other EIS. Commands must prepare, circulate, and distribute tiered EAs and resulting FONSI per the procedures applicable to EAs.

i. Supplemental Statements (section 9, part 1502 of reference (e)). Prepare supplements to either a DEIS or FEIS if substantial changes are made in the proposed action and they are relevant to environmental concerns, or if significant new circumstances or information arises that is relevant to environmental concerns. Prepare, circulate, and file such supplements in the same fashion as a DEIS or FEIS. Scoping is not required.

j. Procedures for Conducting Public Hearings under NEPA. Conduct hearings as follows:

(1) Guidelines and Standards. The Action Proponent, in coordination with the CMC (LF), determines whether a public

hearing will be held. Public hearings are appropriate in the following situations:

(a) When the proposed agency action will have a direct or peculiar environmental impact on the people residing in a particular geographic area.

(b) When public organizations or members of the public possess expertise concerning the environmental impact of the action that may not otherwise be available.

(c) When the proposed action is not a classified action, or when there is no overriding concern for national security associated with the proposed action.

(d) When a request for a hearing has been submitted by another agency with jurisdiction over the action and is supported by reasons why a hearing will be helpful.

(e) When a minority or low-income population may be affected.

(2) Preparation

(a) The purpose of the public hearing on a proposed project is twofold. First, the hearing is intended to provide interested members of the public with relevant information. Second, the hearing affords members of the public an opportunity to present their views of the proposed action. The two foregoing objectives dictate the format for conducting public hearings.

(b) If the proposed action dictates that a hearing be held, the public must be advised of the proposed hearing via the *Federal Register* at least 15 days prior to the scheduled hearing. This *Federal Register* notice is in addition to publication in local newspapers. Per reference (m), provide notice, wherever practicable and appropriate, in foreign language local newspapers. Notification should include:

1. The date and time of the meeting, and the phone number of the hearing officer.

2. The request that speakers submit in writing their intention to participate.

3. The suggestion that technical statements or statements of considerable length be submitted in writing.

4. Any time limitation on the length of oral statements.

5. A summary of the proposed action, and the findings contained within the DEIS.

6. Offices/locations where the DEIS is available for examination.

7. A request that any individual or groups with special needs (e.g., accessibility/transportation or need for foreign language interpretation) notify the agency conducting the hearing.

(c) If feasible, make copies of the DEIS available to the public at an appropriate regional or local location. Also, forward copies of the DEIS to the appropriate State, regional, and metropolitan clearing-house (unless the governor of the state involved has designated some other point for receipt of the information). At the same time the statement is sent to CEQ, the EPA, and other Federal agencies, make the DEIS available to the public at least 15 days prior to public hearings. Use local outlets such as libraries and county commissioners' offices whenever appropriate. As necessary, translate document summaries into languages other than English.

(d) Hold hearings at a time and place readily accessible to civilian organizations and individuals interested in the proposed action. Generally, hearings are preferable in a civilian facility such as a high school auditorium on a weekday evening when such groups can reasonably be expected to attend.

(e) The Action Proponent must select a hearing officer who is of appropriate seniority, preferably military, thoroughly familiar with the proposed action, and of suitable temperament to preside at a public meeting at which the news media may attend. While there should be only one hearing officer, he/she may be assisted by other personnel who are also familiar with the proposed action or some phase of it. These personnel may help explain details or specialized portions of the proposed action. Foreign language interpreters should be present, as appropriate.

(f) An experienced court reporter or stenographer may prepare a verbatim or summary written record of the hearing, or the Action Proponent may tape the hearing. Append to the record as exhibits all written statements submitted to the hearing officer during the hearing or prior to the record's completion. Add to the record the list of persons attending the hearing, along with the organizations or interests they represent and their addresses. Mail a copy of the hearing to persons who have indicated this desire, subject to the cost of the reproduction.

(3) Format. The following format for the conduct of a hearing is provided as a general guideline. Hearing officers should tailor the format for each hearing as the circumstances dictate to meet the objectives of the hearing. The objectives are to provide information to the public and to record the opinions of interested persons for later evaluation in conjunction with the proposed action.

(a) Apprise the hearing officer of those who attend the hearing. A record of attendance assists in preparing the record, in recognizing individuals who desire to make a statement, and in mailing written answers to persons who desire them. That record can be compiled by having each person attending the hearing complete an individual card indicating name, address, and organization represented, if any, and whether a statement will be made at the hearing. Use an appropriate number of attendants to distribute and collect the cards and to separate cards of those who desire to make a statement from those who do not. The hearing officer may then use the cards as an orderly system for calling upon individuals who desire to make statements. Additionally, those individuals responding to the announcement and requesting opportunity to speak should be asked to provide copies of any remarks for hearing proceedings.

(b) The hearing officer and any assistants first should be introduced, make a brief statement on the purpose of the hearing, state the general ground rules, and welcome any present dignitaries. Explaining the hearing's purpose will be simplified if written copies have been made available to attendees. The hearing officer should inform the attendees that he/she is not authorized to make any decision as to whether the project is to proceed, be modified, or be abandoned.

(c) The hearing officer will fully explain what the proposed action entails, including information on alternative

courses of action. The hearing officer may call upon one or more assistants to explain any particular phase of the program.

(d) The hearing officer only should answer questions that seek clarification of the action and should not attempt to respond to attacks on it. Include all questions asked in the record of the hearing.

(e) Offer the persons attending the hearing an opportunity to present oral and/or written statements and publicize this opportunity in the Notice of Public Hearing. The hearing officer will ensure that the name and address of each person submitting an oral or written statement is noted. The attendees should be permitted to submit written statements during the hearing and within a reasonable time following the hearing (normally two weeks). Allot a reasonable length of time (three to five minutes) for oral statements. After all other scheduled statements have been completed, offer an opportunity to speak to individuals who desire to make a written or oral statement, but did not so indicate on the cards submitted when they entered the meeting.

(f) When it is time to adjourn the meeting, the hearing officer should first thank the attendees. Attendance may warrant an additional hearing, perhaps at another time and location. If so, the hearing officer should announce the intent, but not normally agree to repeat the entire procedure of publishing notice in the *Federal Register*, etc. At the conclusion of the meeting, the hearing officer should not express any opinion on the merits of the proposals or comments presented at the hearing.

7. Environmental Compliance. See chapter 4 of this Manual for information on policy, responsibility, and procedures for achieving compliance with applicable E.O.s, and Federal, State, interstate, and regional statutory and regulatory environmental requirements.

#### 12202. TERMS AND DEFINITIONS

1. Action. Broadly interpreted as any proposal initiated by the Marine Corps, including:

a. New activities or projects entirely or partly funded, assisted, conducted, regulated, or approved by the Marine Corps.

b. Substantive changes in continuing actions, such as major changes in operation tempo, areas of use, or in methodology/equipment, where these changes have the potential for significant impact.

c. Specific projects, such as construction or management activities located in a defined geographic area (e.g., Military Construction projects, public/private venture projects, special projects, land acquisition, natural resources management projects, and locally funded projects).

2. Action Proponent. The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for action, as defined in section 23, part 1508 of reference (e), and who has command and control authority over the action once it is authorized. For some actions, the Action Proponent will also serve as the decision-making authority for that action. In specific circumstances, the Action Proponent and decision maker may be identified in Navy regulations, other SECNAV Instructions, operational instructions and orders, acquisition instructions, and other sources which set out authority and responsibility within the DON.

3. Administrative Record. The administrative record is a critical component of the NEPA process and consists of all documents and materials (including intra-office emails) directly or indirectly considered by the decision maker. Should a decision be challenged, a reviewing court will review the decision primarily (if not solely) based on the administrative record. The decision maker is responsible for assembling and maintaining the administrative record. To this end, commanders/supervisors/officers-in-charge must ensure that all administrative record documents and materials are properly maintained and readily retrievable upon request.

4. CATEX ( section 4, part 1508 of reference (e)). Actions that the DON has determined do not have a significant effect, individually or cumulatively, on the human environment under normal circumstances and for which neither an EA nor an EIS is required. DON CATEXs are provided in section 6, paragraph f of reference (f).

5. Installation EIRB. A selected group of subject matter experts appointed by the CG/CO of the installation. The board reviews environmental documentation to determine if the potential for environmental degradation or public controversy exists and the recommended level of NEPA documentation. The

composition of this EIRB will include a cross section of the command, and where appropriate, other Marine Corps commands/units and tenants. Members of the board should include the counsel or staff judge advocate; the heads of facilities, environment, and operations/training; the comptroller; public affairs; community plans and liaison office; and any others as determined by the commander exercising FONSI signature authority. The EIRB will ensure that the documentation is in compliance with reference (a).

6. Cooperating Agency. Any Federal agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or any reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. A State or local agency of similar qualifications, or when the effects are on a reservation, a Native American tribe may, by agreement with the lead agency, become a cooperating agency.

7. EA (section 9, part 1508 of reference (e)). An EA is a concise document that:

a. Briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or FONSI.

b. Aids Marine Corps compliance with reference (a) when no EIS is necessary.

c. Facilitates preparation of an EIS when one is necessary (i.e., when the contemplated actions are considered to have a potential for significant environmental impact or environmental controversy, and therefore a FONSI is not appropriate).

d. Includes brief discussions of the need for the proposal, reasonable alternatives to the proposed action, environmental impacts of the proposed action, and a list of the agencies and persons consulted.

8. EIS (part 1502 of reference (e)). A NEPA document that provides full and fair discussion of significant environmental impacts of major Federal actions and informs decision makers and the public of the reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. It is used by Federal officials, in conjunction with other relevant materials, to plan actions and make decisions.

a. DEIS. A document normally prepared for actions potentially having a significant impact on the quality of the human environment or having potentially controversial environmental effects. DEISs are filed with the EPA and distributed to cognizant Federal, State, local, and private agencies, organizations, and individuals for review and comment before preparation of an FEIS.

b. FEIS. A completed statement, normally a separate and additional document from the DEIS, incorporating all pertinent comments and information provided during public and agency review of the DEIS. Responses to all substantive review comments will be contained in the FEIS. The FEIS is filed with the EPA.

c. SEIS (section 9, part 1502 of reference (e)). A document evaluating changes to either a DEIS or an FEIS necessitated by substantial modifications to the proposed action or significant new circumstances or information that would result in different environmental impacts than those evaluated in the original document. An SEIS may be prepared at any time after the preparation and filing of a DEIS or FEIS; it is filed with the EPA and distributed to recipients of the DEIS and FEIS.

9. FONSI (section 13, part 1508 of reference (e)). A document in which the Marine Corps briefly presents reasons why an action, not otherwise categorically excluded, will not have a significant effect on the human environment and for which an EIS will not be prepared. A FONSI may be one result of the review of an EA.

10. HQEIRB. A selected group of subject matter experts established at the CMC (LF) to review and assess the content of submitted EISs and selected EAs.

11. Human Environment (section 14, part 1508 of reference (e)). The natural and physical environment and the relationship of people with that environment.

12. Impacts (sections 7 and 8, part 1508 of reference (e)). Impacts are synonymous with effects and include direct, indirect, and cumulative impacts.

a. Direct Effect. Effect caused by an action that occurs at the same time and place as the action.

b. Indirect Effect. Effect also caused by an action and which occurs later in time or farther removed in distance from the action. Indirect impacts include:

(1) Growth-inducing effects.

(2) Effects related to induced changes in the pattern of land use, population density, or growth rate.

(3) Related effects on the human environment, including the natural and physical environment.

c. Cumulative Impact. Impacts that result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over time.

13. Lead Agency. The agency or agencies preparing or having taken primary responsibility for preparing an EIS.

14. Mitigation (section 20, part 1508 of reference (e)). Activities that would lessen or modify the adverse impacts associated with a proposed action. Mitigation includes:

a. Avoiding the impact altogether by not taking a certain action or parts of an action; this mitigation measure is preferred.

b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

e. Compensating for the impact by replacing or providing substitute resources or environments.

15. Proposal (section 23, part 1508 of reference (e)). A "proposal" exists at that stage in the development of an action when the Action Proponent has a goal and is actively preparing to make a decision on one or more alternative means of

accomplishing that goal and the effects can be meaningfully evaluated. A proposal may exist in fact as well as by agency declaration that one exists.

16. REIR. A standard form prescribed by the Installation Commander to document the need for environmental analysis and compliance with reference (a).

17. ROD. A concise public document providing a rationale for the alternative selected for implementation as presented in an FEIS. The document, as proposed by the activity/Action Proponent, will be finalized by the CMC (LF) on behalf of the HQEIRB and will state the decision, identify the alternatives considered (including those that were environmentally preferable), and discuss all factors, including non-environmental considerations, that influenced the decision. The ROD will commit the Action Proponent to the appropriate mitigation, if applicable, to minimize environmental harm, and to identify those measures that were considered, but not selected, for implementation. Additionally, any monitoring program associated with selected mitigation measures will be addressed.

18. Scope (section 25, part 1508 of reference (e)). "Scope" consists of the range of actions, alternatives, and impacts to be considered in an EA or an EIS. The scope of an individual EA or EIS may depend on its relationships to other EAs or EISs. To determine the scope of an EA or an EIS, Action Proponents must consider three types of actions, three types of alternatives, and three types of impacts. They include:

a. Actions (other than unconnected single actions) that may be:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are "connected" if they:

(a) Automatically trigger other actions that may require EISs.

(b) Cannot or will not proceed unless other actions are taken previously or simultaneously.

(c) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An Action Proponent may wish to analyze these actions in the same EA or EIS. It should do so when the best way to assess adequately the combined impacts of similar actions is to treat them in a single EA or EIS.

b. Alternatives, which include:

(1) No Action alternative.

(2) Other reasonable courses of action.

(3) Mitigation measures (not in the proposed action).

c. Impacts, which may be:

(1) Direct.

(2) Indirect.

(3) Cumulative.

19. Scoping. An early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action.

20. Significantly (section 27, part 1508 of reference (e)). "Significantly" as used in NEPA requires consideration of both context and intensity:

a. Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

b. Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant, but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, landscapes, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under reference (i).

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

## CHAPTER 12

## THE NATIONAL ENVIRONMENTAL POLICY ACT

## SECTION 3: RESPONSIBILITIES

12300. CMC (LF)

1. Establish policy and procedures regarding NEPA compliance.
2. Coordinate the CMC (LF) review and disposition of EAs referred by the commander exercising FONSI signature authority and DEIS and FEIS documents through the HQEIRB.
3. Coordinate as appropriate with the CEQ; EPA; Deputy Under Secretary of Defense for Environmental Security, Office of the Assistant Secretary of the Navy, Installations and Environment; and Office of the Assistant Secretary of the Navy, Research, Development, and Acquisition regarding NEPA actions elevated to Headquarters level.
4. Coordinate with the command EIRB during preparation of a ROD. The proposed ROD will be drafted to reflect the HQEIRB review of the FEIS and will be forwarded to SECNAV by the CMC (LF) for signature and final disposition.
5. Assist commands with the interpretation of policies, implementation of procedures, and compliance with reference (a) for Marine Corps actions.
6. Coordinate, as appropriate, with the director of public affairs, for releasing to the public environmental documents per reference (a) and other applicable Federal laws.
7. Publish NOIs, announcements of public hearings, and RODs in the *Federal Register*.
8. Provide assistance for actions initiated by private persons, State or local agencies, and other non-DON/DOD entities for which DON involvement may be foreseen.
9. Provide support to Marine Corps installations and Marine Corps commands/units and tenants by interpreting Federal, State, local, and overseas NEPA requirements and by uniformly applying Marine Corps policy as set forth in this Manual.

10. Assist installations in resolving disputes with Federal, State, local, and foreign regulatory agencies as required.

11. Ensure, through field visits and the Environmental Compliance Evaluation Program, Marine Corps cooperation and compliance with Federal, State, and local regulatory agencies with regard to NEPA regulations.

12301. HQEIRB. Receive, review, and provide recommendations, as appropriate, to Deputy Chief of Staff, Installations and Logistics on DEIS, FEIS, ROD, and those EA/FONSI documents elevated to Headquarters level.

12302. CGS/COS OF INSTALLATIONS, AND COMMANDER MARINE FORCES RESERVE EXERCISING FONSI SIGNATURE AUTHORITY

1. Designate, chair, and provide for establishing a command EIRB consisting of a cross section of command personnel, including both environmental and legal staff.

2. Designate an individual and alternate, in addition to the commander exercising FONSI signature authority, in cases where the action has been identified as a CATEX.

3. Promptly notify the CMC (LF) when a decision to prepare an EA that meets conditions in paragraph 12201.5.b, or a DEIS has been made.

4. Decide whether a FONSI is appropriate when the proposed action does not involve any of the circumstances listed at paragraph 12104.5, recommend preparation of a DEIS, or recommend that the action not proceed. The decision must be based on the command EIRB's recommendation.

5. Ensure that adequate funding and personnel are available for environmental review and that appropriate orders include the requirements of planning and funding environmental documents.

6. Ensure that analyses are conducted for the environmental effects of current and proposed actions per DOD regulations, reference (e), and other applicable statutes and regulations.

7. As appropriate, encourage public participation in environmental evaluations of projects or programs.

8. Ensure that environmental analysis and the NEPA process are included at the initial planning stages and at each following

procedural step or decision milestone in the development of a project or program.

9. Ensure that all agency consultations and coordination are completed prior to signing FONSI and prior to forwarding final EISs to CMC (LFL).

10. Ensure that the administrative record supporting the NEPA process for the proposed action is assembled and maintained.

11. Identify and submit to the Commandant of the Marine Corps, Logistics, Facilities, CMC (LFL), and CMC (LFF) project documentation and funding requests for NEPA-related actions that are required to maintain compliance with applicable existing and emerging regulations and permits. Program and budget for personnel, equipment, materials, training, and monitoring required to comply with NEPA requirements. Pay appropriate Federal, State, and local fees. Ensure that the Environmental Management Hierarchy is employed, pollution prevention alternatives evaluated, and life-cycle cost impacts assessed, in evaluating and selecting projects that address compliance requirements.

12. Ensure that impacts to installation resources are mitigated, as required per applicable environmental statutes.

13. Ensure that permit conditions and commitments are met.

12303. EIRB

1. Ensure that all NEPA documents fully comply with all legal and procedural requirements through a review for technical sufficiency, including, but not limited to:

a. Complete analysis of alternatives and their associated impacts;

b. Appropriateness of alternatives analyzed; and

c. Appropriateness of proposal as required to coexist with other actions on the installation.

2. Ensure that all NEPA documents have undergone appropriate staff review.

3. Assist the Action Proponent in determining whether the proposed action requires the preparation of an EA or EIS.

4. Review the completed EA, and make recommendation to the commander exercising FONSI signature authority for a FONSI, a DEIS, or no action. The EIRB will draft the proposed FONSI and forward both the EA and FONSI to the commander exercising FONSI signature authority for signature.

5. If the EA meets one of the requirements discussed in paragraph 12104.5, the EIRB will forward, for the commander exercising FONSI signature authority, the EA and proposed FONSI to HQEIRB for review and concurrence for approval.

6. Draft NOI, DEIS, and EIS, and forward NOI to commander exercising FONSI signature authority for approval.

7. Retain on file, for no less than 10 years, copies of all decision memoranda, completed EAs and EISs, published FONSI statements, RODs, and minutes taken during EIRB meetings.

8. The EIRB will include the designated chair of the commander exercising FONSI signature authority, a legal representative, the heads of facilities, environment, operations/training, comptroller, public affairs, community plans and liaison departments, as appropriate, and any others as determined by the commander exercising FONSI signature authority.

12304. INSTALLATION ENVIRONMENTAL PLANNING STAFF

1. Assist the Action Proponent to effect reference (a).

2. Provide specific installation guidance related to reference (a).

3. Review NEPA documents and provide technical assistance.

4. Natural resource program managers shall serve as the primary point of contact for all formal or informal consultation with the appropriate regulatory agencies when actions may impact natural resources (e.g. threatened or endangered species, critical habitat, wetlands).

5. Cultural resource program managers shall serve as the primary point of contact for all consultations with State Historic Preservation Offices, Native American tribes and Native Hawaiian organizations when actions may impact cultural resources.

6. Negotiate (in coordination with action proponent) mitigation requirements with applicable regulatory agencies.
7. Monitor and track mitigation implementation and adjust as necessary to ensure success.

12305. ACTION PROPONENTS

1. Provide funds for NEPA documentation and all related ancillary studies and mitigation costs. NEPA funding is not centrally managed. Action Proponents and/or Action Proponents must program funds for NEPA compliance.
2. Coordinate with the command environmental staff at the earliest possible opportunity to determine the level of NEPA documentation required. The command environmental staff will consult with counsel and/or the EIRB when the level of NEPA documentation may be subject to legal or other qualifying interpretations.
3. Sign a decision memorandum if required for an action that has been CATEX'd, with conditions to be met before, during, and following completion of the proposed action. The Action Proponents are to maintain the original documentation. Copies of the REIR and/or decision memorandum must be made available to the CMC (LF) upon request.
4. Coordinate with the installation environmental staff and fund for the development of an EA or EIS, as appropriate for actions not identified on the list of CATEXs.
5. Coordinate with the installation environmental staff and fund for the publication of the FONSI, NOI, or ROD, as appropriate, in local newspapers.
6. Ensure funds are available and programmed to fund implementation of mitigation commitment(s) and satisfy established success criteria.

REFERENCES

- (a) 42 U.S.C. 4321-4347
- (b) Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," January 4, 1979
- (c) DOD Directive 6050.7, "Environmental Effects Abroad of Major Department of Defense Actions," March 31, 1979
- (d) 32 CFR 187
- (e) 40 CFR 1500-1508
- (f) 32 CFR 775
- (g) SECNAV M-5214.1
- (h) 42 U.S.C. 9601-9675
- (i) 16 U.S.C. 1531-1544
- (j) 42 U.S.C. 300f-300j-26
- (k) SECNAV M-5210.1
- (l) 42 U.S.C. 7401-7671
- (m) Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 16, 1994
- (n) DOD Strategy on Environmental Justice, March 24, 1995
- (o) 16 U.S.C. 470-470w-6
- (p) 16 U.S.C. 470aa-470mm
- (q) 16 U.S.C. 1451-1465

(r) 33 U.S.C. 1251-1387

(s) SECNAVINST 5000.2D

(t) 42 U.S.C. 13101-131