

### Subpart D—Environmental Impact Review Procedures for VOI/TIS Grant Program

AUTHORITY: 42 U.S.C. 13701 *et seq.*, as amended by Pub. L. 104–134; 42 U.S.C. 4321 *et seq.*; 40 CFR Parts 1500–1508.

SOURCE: 65 FR 48595, Aug. 8, 2000, unless otherwise noted.

#### IN GENERAL

#### §91.50 Purpose.

The purpose of this subpart is to inform grant recipients under the Violent Offender Incarceration and Truth-in-Sentencing Incentive (VOI/TIS) Formula Grant Program of OJP's procedures for complying with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and related environmental impact review requirements.

#### §91.51 Policy.

(a) *NEPA Policy.* NEPA policy requires that Federal agencies, to the fullest extent possible:

(1) Implement procedures to make the NEPA process more useful to decision-makers and the public; reduce paperwork and the accumulation of extraneous background data; and emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(2) Integrate the requirements of NEPA with other planning and environmental review procedures required by law and by agency practice so that all such procedures run concurrently rather than consecutively.

(3) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(4) Use the NEPA process to identify and assess reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(5) Use all practicable means to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of the actions upon the quality of the human environment.

(b) *OJP's policy to minimize harm to the environment.* It is OJP's policy to minimize harm to the environment. Consequently, OJP can reject proposals or prohibit a State from using formula grant funds for a project that would have a substantial adverse impact on the human environment. Additionally, federal law prohibits the implementation of a project that jeopardizes the continued existence of an endangered species or that violates certain regulations related to water quality. Generally, though, where an EA or EIS reveals that a project will have adverse environmental impacts, OJP will work with the State grantee to identify ways to modify the project to mitigate any adverse impacts, or will encourage the State to consider an alternative site.

(c) *Mitigation.* OJP may require the following mitigation measures to reduce or eliminate a project's adverse environmental impacts:

(1) Avoiding the impact altogether by not taking certain action or part of an action.

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

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

(5) Compensating for the impact by replacing or providing substitute resources or environments.

(d) *Use of grant funds.* In accordance with OJP's general policy of providing the States with the maximum amount of control and flexibility over the use of formula grant funds, the States can use VOI/TIS grant funds to pay for the costs of preparing environmental documents, to implement mitigation measures to reduce adverse environmental impacts, and to cover the costs of construction delays or other project changes resulting from compliance with the NEPA process. However, any funds used for these purposes must be included as a portion of the State's grant which requires a State match.