

(b) If the Department of Justice has primary responsibility for the subject matter involved and if the subunit affected finds that the bill or legislative proposal has a significant impact on the environment, that subunit shall prepare a legislative environmental impact statement in compliance with 40 CFR 1506.8.

#### § 61.8 Classified proposals.

If an environmental document includes classified matter, a version containing only unclassified material shall be prepared unless the head of the office, board, bureau or division determines that preparation of an unclassified version is not feasible.

#### § 61.9 Emergencies.

CEQ shall be consulted when emergency circumstances make it necessary to take a major federal action with significant environmental impact without following otherwise applicable procedural requirements under NEPA.

#### § 61.10 Ensuring Department NEPA compliance.

The Land and Natural Resources Division shall have final responsibility for ensuring compliance with the requirements of the procedures set forth in this part.

#### § 61.11 Environmental information.

Interested persons may contact the Land and Natural Resources Division for information regarding Department Justice compliance with NEPA.

#### APPENDIX A TO PART 61—BUREAU OF PRISONS PROCEDURES RELATING TO THE IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

1. *Authority:* (CEQ Regulations) NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.) section 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and Executive Order 11514, Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by Executive Order 11991, May 24, 1977.)

2. *Purpose:* This guide shall apply to efforts associated with the leasing, purchase, design, construction, management, operation and maintenance of new and existing Bureau of Prisons facilities as well as the closing of existing Bureau of Prisons institutions.

These procedures shall be used by the Regional Facilities Administration staff as well as the Central Office of Facilities Development and Operations staff. Activities concerning Bureau of Prisons compliance with NEPA shall be handled by and coordinated with these staff members and coordinated by Central Office Personnel. (Reference shall be made to Part 1507—Agency Compliance of the CEQ Regulations.)

3. *Agency Description:* The Bureau of Prisons, a component of the U.S. Department of Justice, is responsible for providing custody and care to committed Federal offenders in an integrated system of correctional institutions across the nation.

The Bureau of Prisons performs its mission of protecting society by implementing the judgments of the Federal courts and safeguarding Federal offenders committed to the custody of the Attorney General.

The administration of the Federal Prison System consists of six divisions. The central office in Washington, DC, is supplemented by five regional offices located in Atlanta, San Francisco, Dallas, Kansas City, and Philadelphia.

4. (*Reference: § 1501.2(d)(1)—CEQ Regulations*) The Bureau of Prisons shall make available the necessary technical staff to review proposals and prepare feasibility studies for facilities under consideration for possible use as Federal correctional institutions. (*Reference: § 1501.2(d)(2)—CEQ Regulations*) At the appropriate time after project funding approval, the Bureau of Prisons, having identified a preferred general area for a new facility, will inform the members of Congress representing the affected locale of the intent to pursue the establishment of a Federal correctional institution in the area. This activation might include but not be limited to: (1) The construction of a new facility; (2) or Surplus Federal, state, or local facility to the Bureau of Prisons for prior use. The Bureau of Prisons shall advise and inform interested parties concerning proposed plans which might result in implementation of the NEPA regulations. After initial informal contacts have been made, the Bureau of Prisons will with the aid of local area officials, begin to identify desired locations for the proposed new facility. In the event of proposed activation of an existing facility for prison use, the Bureau of Prisons shall seek initial involvement among local officials and advice on alternative courses of action.

In either case, if the issues appear significantly controversial, an informal public hearing will be held to present the issues to the community and seek their involvement in the planning process. Upon completion of the preliminary groundwork described above, the Bureau of Prisons will issue an A-95 letter of intent to (1) either file an EIS; (2)

file an EIA; or (3) discontinue the efforts of locating a facility in the proposed area.

5. *Public Involvement: (Reference: Part 1506.6(3)—CEQ Regulations)* Information regarding the policies of the Bureau of Prisons for implementing the NEPA process can be obtained from: Bureau of Prisons Facilities Development and Operations Office, 320 First Street, NW., Washington, DC 20534.

6. *Supplemental Statements: (Reference: Part 1502.9(c)(3)—CEQ Regulations)* If it is necessary to prepare a supplement to a Draft or Final Environmental Impact Statement, the supplement shall be introduced into the project administrative record.

7. *Bureau of Prisons Decisionmaking Procedures: (Reference: Part 1501.1 (a) through (e)—CEQ Regulations)* Major decision points likely to involve the NEPA process:

(1) Construction of a new Federal correctional institution.

(2) Closing of an existing Federal correctional institution.

(3) Activation of a surplus facility for conversion to a Federal correctional institution.

(4) Significant change from the original mission of a Federal correctional institution.

(5) New construction at an existing Federal correctional institution which might significantly impact upon the existing community environment.

When the inclusion of certain voluminous data in environmental documents would prove impractical, the Bureau of Prisons will summarize the data and retain the original material as a part of its administrative record for the project. This material will be made available to the public in a central place to be designated in Environmental Impact Statements, and upon written request or court order copies of specified material will be provided. A charge may be made for copying, in accordance with current Department of Justice guidelines for reproduction of records.

Decisionmakers shall verify the consideration of all available options in the EIS with a comparative analysis of the alternatives to be considered in the decisionmaking process.

8. *Those Actions Which Normally Do Require Environmental Impact Statements: (Reference: §1507.3(b)(2)(ii)—CEQ Regulations)* (1) New Federal correctional institution construction projects.

(2) Acquisition of surplus facilities for conversion to Federal correctional institutions, if the impact upon the quality of the human environment is likely to be significant.

(3) The closing of an existing Federal correctional institution, if that is likely to have a significant impact upon the quality of the human environment.

(4) Significant change from the original mission of a Federal correctional institution when the issue is likely to have an impact upon the quality of the human environment.

(5) New construction at an existing Federal correctional institution which would significantly affect the physical capacity, when the action is likely to have an impact upon the quality of the human environment.

(6) New construction at an existing Federal correctional institution which would significantly impact upon the quality of the community environment.

9. *Those Actions Which Normally do not Require Either an Environmental Impact Statement or an Environmental Assessment: (Reference: Part 1507.3(b)(2)(ii) and Part 1508.4—CEQ Regulations)* (1) Increase or decrease in population of a facility, above or below its physical capacity.

(2) Construction projects for existing facilities, including but not limited to: additions and remodeling; replacement of building systems and components; maintenance and operations, repairs, and general improvements; when such projects do not significantly alter the program of the facility or significantly impact upon the quality of the environment in the community.

(3) Contracts for halfway houses, community corrections centers, comprehensive sanction centers, community detention centers, or other similar facilities.

10. *Those Actions Which Normally Require Environmental Assessments but not Necessarily Environmental Impact Statements: (Reference: §1507.3(b)(2)(iii)—CEQ Regulations)* (1) Acquisition of surplus facilities for conversion to Federal correctional institution.

(2) Construction of additional facilities at an existing institution when the impact on the local environment is not seen to be significant, but when the alteration of programs or operations may be controversial.

(3) The closing of an institution or significant reduction in population of an institution when the impact on the local environment is not seen to be significant.

11. *Emergency Actions: (Reference: Part 1506.11—CEQ Regulations)*. After consultation with the Council on Environmental Quality regarding alternative courses of action, the Bureau of Prisons may take action without observing the provisions of the CEQ Regulations and these Bureau of Prisons Procedures in the following cases:

(1) When the replacement of suddenly unavailable local utilities services, and/or resources, due to circumstances beyond the control of the Bureau of Prisons, is vital to the lives and safety of inmates and staff or protection of U.S. Government property.

(2) When unforeseen circumstances, such as greatly increased judicial commitments, suddenly dictate the activation of facilities to house increased numbers of Federal offenders and detainees significantly above the physical capacity of the combined Bureau of Prisons facilities in order to insure the lives and safety of inmates and staff or protection of U.S. Government property.

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(3) When the sudden destruction of or damage to institutions dictates immediate replacement in order to protect the lives and safety of inmates and staff and protection of U.S. Government property.

12. Review.

(1) If a proposed action is not covered by Sections 8 through 10 of this appendix, the Bureau of Prisons will independently determine whether to prepare either an environmental impact statement or an environmental assessment.

(2) When a proposed action that could be classified as a categorical exclusion under Section 9 of this appendix involves extraordinary circumstances that may affect the environment, the Bureau shall conduct appropriate environmental studies to determine if the categorical exclusion classification is proper for that proposed action.

[Order No. 927-81, 46 FR 7953, Jan. 26, 1981, as amended by Order No. 2142-98, 63 FR 11121, Mar. 6, 1998]

**APPENDIX B TO PART 61—DRUG ENFORCEMENT ADMINISTRATION PROCEDURES RELATING TO THE IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT**

1. Applicability.
2. Typical Classes of Action Requiring Similar Treatment Under NEPA.
3. Environmental Information.

1. *Applicability.*

This part applies to all organizational elements of the Drug Enforcement Administration [DEA].

2. *Typical Classes of Action Requiring Similar Treatment Under NEPA.*

(a) Section 1507.3(c)(2) in conjunction with §1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

(1) Actions normally requiring EIS	(2) Actions normally not requiring environmental assessments or EIS (Categorical exclusions)	(3) Actions normally requiring environmental assessments but not necessarily EIS
None .....	Scheduling of drugs as controlled substances .....  Establishing quotas for controlled substances. Registration of persons authorized to handle controlled substances. Storage and destruction of controlled substances. Manual eradication of plant species from which controlled substances may be extracted.	Chemical eradication of plant species from which controlled substances may be extracted.

(b) For the principal DEA program requiring environmental review, the following chart identifies the point at which the NEPA process begins, the point at which it ends,

and the key agency officials or offices required to consider environmental documents in their decisionmaking.

Principal program	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental documents
Eradication of plant species from which controlled substances may be extracted.	Prepare an environmental assessment.	Final review of environmental assessment or Environmental Impact Statement.	Office of Science and Technology.

(c) The DEA shall independently determine whether an EIS or an environmental assessment is required where:

(1) A proposal for agency action is not covered by one of the typical classes of action in (a) above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

3. *Environmental Information*

Interested persons may contact the Office of Science and Technology for information regarding the DEA compliance with NEPA.

**APPENDIX C TO PART 61—IMMIGRATION AND NATURALIZATION SERVICE PROCEDURES RELATING TO THE IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT**

1. *General.* These procedures are published pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 et seq.). Section 309 of the Clean