

Environmental Protection Agency
Draft NEPA Procedures

Part I

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POLICY AND PROCEDURES
FOR THE PREPARATION OF
ENVIRONMENTAL IMPACT STATEMENTS FOR EPA ACTIVITIES

1. PURPOSE. These guidelines establish Environmental Protection Agency policy and procedures for the identification and analysis of the environmental impact of Agency actions, and the preparation and processing of environmental impact statements where significant effects on the environment occur.

2. POLICY OBJECTIVE. The National Environmental Policy Act of 1969, implemented by Executive Order 11514 and the Council on Environmental Quality's (CEQ) Guidelines of April 23, 1971, requires that all agencies of the Federal Government prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of the Agency in fulfilling this requirement is to build into the Agency decision-making process an appropriate and careful consideration of all environmental aspects of proposed actions.

3. DEFINITIONS.
 - a. Environmental Assessment. A formal evaluation process to determine whether a proposed Agency action is expected to have a significant impact on the environment.

 - b. Notice of Intent. A memorandum announcing to Federal, State, and local agencies, and to interested public organizations and

individuals, that a draft environmental impact statement will be prepared and processed.

c. Environmental Impact Statement. A report which identifies and analyzes in detail the significant environmental impacts of an Agency action.

d. Negative Declaration. A written announcement which indicates there will be no significant effect upon the quality of the human environment if the proposed Agency action is undertaken.

e. Environmental Impact Appraisal. An abbreviated document, based on an environmental assessment and supporting a negative declaration, which describes a proposed Agency action, its expected environmental impact, and the basis for the conclusion that no significant impact is anticipated.

f. Responsible Official. The individual responsible for conducting assessments and, if necessary, for the preparation of an environmental impact statement and other associated documents.

4. SUMMARY OF THE ENVIRONMENTAL IMPACT STATEMENT PROCESS.

a. Environmental Assessment. An environmental assessment shall be made of activities and proposed or recommended actions of the Environmental Protection Agency. This process shall consist of a thorough study of the program or project, identifying and evaluating the expected and potential environmental impacts of the action. This process will determine whether or not a significant impact is anticipated.

b. Notice of Intent and Impact Statements. Where the environmental assessment process does indicate a significant environmental impact, a notice of intent shall be published, and a draft environmental impact statement shall be prepared and distributed. After external coordination and evaluation of the comments received, a final environmental impact statement shall be prepared and distributed. To the maximum extent practicable, no administrative action shall be taken with respect to any activity with significant impact until 90 days after release of a draft statement and 30 days after release of a final statement.

c. Negative Declaration and Environmental Impact Appraisal. Where the environmental assessment process does not indicate a significant impact, a negative declaration to this effect shall be issued. An environmental impact appraisal, which summarizes this decision and the reasons therefore, shall remain permanently with Agency records and shall be available for public inspection.

5. APPLICABILITY.

a. Actions Covered. These guidelines apply to all Agency annual budget authorization requests, legislative proposals, direct Agency activities, and activities of others supported directly or indirectly by the Agency, except as noted below.

b. Actions Excluded. The following actions are not subject to the requirements of these guidelines:

- (1) Environmentally protective regulatory activities.
- (2) Administrative procurements (e.g., general supplies).

(3) Contracts for personal services.

(4) Normal personnel actions.

(5) Legislative proposals not originating in the Agency and not relating to or affecting the matters within its primary areas of responsibility.

c. Retroactive Application. These guidelines shall apply to incompleting and continuing Agency actions initiated prior to the promulgation of these guidelines. Where substantial funds have not been released and modifications of or alternatives to the Agency action are still available, an environmental impact statement shall be prepared for each project found to have significant environmental consequences.

d. Application to Legislative Proposals. Environmental impact statements shall be prepared for recommendations or favorable reports relating to legislation, including appropriations. Except as noted in Paragraph 5b(5), these shall include Agency recommendations on its legislative proposals and Agency reports on legislation proposed by other agencies. Because of the nature of the legislative process, however, impact statements for legislation must be prepared and reviewed with the procedures followed in the development and review of the legislative matter. These procedures are described in Office of Management and Budget Circular No. A-19; separate procedures, therefore, have not been provided in these guidelines. Where appropriate, legislative statements will contain the information required in Section 9 of these guidelines.

e. Application to Annual Budget Estimates. An annual

listing of those Agency actions which will require the preparation of environmental impact statements shall be compiled each year as specified in Office of Management and Budget Bulletin No. 72-6. Agency components shall submit with their budget estimates a listing of those projects for which they expect to prepare impact statements. Applicable portions of Section 7 and 8 of these guidelines shall be utilized to assess the projects to determine if they will have a significant impact.

6. GENERAL RESPONSIBILITIES.

a. Responsible Official.

(1) Conducts environmental assessments and determines where significant environmental effects are expected to occur.

(2) Where significant effects occur, prepares and distributes draft statements, coordinates their internal and external review, and prepares and distributes final statements.

(3) Where no significant effects occur, prepares and processes negative declarations and environmental appraisals.

(4) On projects which embody a high degree of national controversy or significance or "pioneer" Agency policy, consults with:

(a) the Office of Federal Activities if the "responsible official" is a Regional Administrator, or

(b) the appropriate Assistant Administrator if the "responsible official" is other than a Regional Administrator.

b. Office of Federal Activities.

(1) Provides Agencywide policy guidance and assures that Agency components establish and maintain adequate administrative procedures to comply with these guidelines.

(2) Monitors the overall timeliness and quality of the Agency effort to comply with these guidelines.

(3) Provides assistance to "responsible officials" as required.

(4) Coordinates the training of personnel involved in the review and preparation of impact statements.

(5) Acts as Agency liaison with the Council on Environmental Quality and other Federal and State entities on matters of Agency policy and administrative mechanisms to facilitate external review of Agency statements.

(6) Advises the Administrator and Deputy Administrator on projects or activities which embody a high degree of national controversy or significance, "pioneer" Agency policy, or involve more than one Agency component.

c. Office of Public Affairs.

(1) Advises the "responsible official" on matters pertaining to negative declarations, notices of intent, press releases, and other public notification procedures.

(2) Assists the public by answering queries on the impact statement process and on specific impact statements, and by filling requests for copies of specific documents.

(3) Analyzes the present procedures for public participation, and develops and recommends to the Office of Federal Activities a program to improve those procedures and increase public participation.

d. Office of Congressional Affairs. Provides the necessary liaison with Congress.

e. Offices of the Assistant Administrators.

(1) Provide specific policy guidance to their respective program offices and assure that those offices establish and maintain adequate administrative procedures to comply with these guidelines.

(2) Monitor the overall timeliness and quality of their respective components' efforts to comply with these guidelines.

(3) Provide technical assistance to "responsible officials" as required.

(4) Act as liaison between their components and the Office of Federal Activities and between their components and other Assistant Administrators on matters of Agencywide policy and procedures.

(5) Advise the Administrator and Deputy Administrator, through the Office of Federal Activities, on projects or activities within their respective areas of responsibility which embody a high degree of national controversy or significance, "pioneer" Agency policy, or involve more than one Agency component.

f. Budget Operations Division, Office of Resources Management.
The Budget Operations Division, Office of Resources Management, prepares from the submissions of Agency components a listing of those Agency actions, covered by the budget estimates, which will require the

preparation of environmental impact statements, as specified in Office of Management and Budget Bulletin No. 72-6.

g. The Legislative Counsel. The Legislative Counsel coordinates the preparation of impact statements required on legislative proposals or reports on legislation.

7. GUIDELINES FOR DETERMINING WHEN TO PREPARE AN IMPACT STATEMENT.

The following general guidelines shall be used when assessing an Agency action to determine if it will have a significant impact on the environment and therefore require an impact statement.

a. Significant Effect on the Environment.

(1) Although there is some latitude in defining "significant effect" on the quality of the human environment, it is mandatory that "significant effects" encompass both adverse and beneficial effects.

(2) Secondary effects which have fundamental environmental implications (e.g., land use) shall be identified and considered fully. Typically, these are not considered even though they overshadow more obvious impacts (e.g., siltation during construction of waste treatment facilities).

b. Individually Small but Cumulatively Large Actions. The total expected environmental impact of precedent-setting actions and individually small, but cumulatively large actions, shall be identified and considered fully.

c. Controversial or Nationally Significant Actions. An environmental

impact statement shall be prepared and processed where an Agency action is likely to be highly controversial or nationally significant.

8. PROCEDURES FOR PREPARATION, DISTRIBUTION, AND REVIEW OF IMPACT STATEMENTS AND ASSOCIATED DOCUMENTS.

a. Environmental Assessment. Proposed Agency actions shall be subjected to the environmental assessment process. This process shall consist of a thorough study of the proposed program or project which identifies and evaluates the expected and potential environmental impacts of the action and alternatives to it. It will determine whether a significant impact is anticipated.

When making this determination, a general class of actions occurring within a common time frame may be treated as a single action if their individual environmental effects and alternatives are substantially similar.

Individual projects that may be highly controversial or are nationally significant shall not be treated collectively.

In order to assist the "responsible official" in assessing the proposed action, applicants for a grant or contract may be required to submit with their original application an environmental analysis or written assessment. Alternative sites or methods of construction or project implementation should be evaluated so that alteration

of the environment can be avoided. The applicant's analysis may be utilized in the preparation of an impact statement or **negative declaration** by providing primary data and research. It cannot, however, substitute for Agency judgment. Responsibility for the reliability of the applicant's figures and his consideration of impacts and alternatives rests with the approving Agency office.

Applicants for grants or contracts shall submit an additional environmental analysis or written assessment where new and unanticipated impacts are realized, or implementation of the proposal or project does not significantly conform with the original proposal.

b. Notices of Intent. When an environmental assessment indicates a significant impact will occur, a notice of intent shall be prepared, announcing that an impact statement will be prepared. The notice shall briefly describe the Agency action, its location, and the issues involved (see Exhibit 1). Preferably, such a notice should be published immediately after completion of an environmental assessment that indicates a significant impact.

The purpose of a notice of intent is to involve other government agencies and interested, affected, or technically competent public groups as early as possible in the planning and evaluation of Agency actions which embody significant environmental impacts. This device should facilitate coordination during the preparation of a draft

impact statement and assure that environmental values will be identified and weighed from the outset, rather than accommodated by adjustments at the end of the decision-making process. In addition, notices of intent will allow public groups who want copies of draft statements to get them promptly, since notices can serve as a subscription device to receive statements.

The specific actions that should be taken with respect to notices of intent are as follows:

(1) When the assessment process indicates there will be a significant impact, issue a notice of intent as soon as practicable.

(2) Forward copies to the appropriate State and local agencies and to the appropriate State, regional, and metropolitan clearinghouses.

(3) Forward copies to environmental and conservation action groups and other concerned or affected organizations or individuals that have shown interest in such projects in the past.

(4) Forward copies to the Office of Federal Activities and to the headquarters Office of Public Affairs.

(5) When the originating office is a Regional Office and the action is related to waste water treatment, forward a copy to the Planning and Interagency Programs Division, Office of Water Programs.

(6) When the originating office is not a Regional Office, forward a copy to the Headquarters impact statement office in the program office to which the originating office reports.

(7) Forward copies to the Office of Congressional Affairs for

distribution to the pertinent congressional delegation. The pertinent congressional delegation consists of the Congressmen in whose districts the proposed project will occur and the U.S. Senators in whose States the proposed project will occur.

(8) Publish in the local newspaper which has adequate circulation to cover the area that will be affected by the project, a brief news release (see Exhibit 2) informing the public that an impact statement will be prepared on a particular project.

c. Draft Impact Statements. The "responsible official" for the project shall prepare a draft environmental impact statement as soon as practicable after the release of the notice of intent. The draft statement shall be circulated to other offices within the Agency with collateral interest in or technical expertise related to the action. Afterwards, the draft statement shall be circulated to Federal, State, and local agencies with special expertise or jurisdiction by law, and to interested, affected, or expert segments of the general public. If the responsible official determines that a public hearing on the project is warranted, the hearing will be held after preparation of the draft statement in accordance with the requirements of Section 10 of these guidelines. Upon receipt of comments, a final environmental impact statement shall be prepared.

Where a plan or program has been developed, and submitted to the Agency for approval, the relationship between the plan and the subsequent

projects encompassed by it shall be evaluated to determine the preferable and most meaningful point in time for assessing impacts. Where practicable, an environmental impact statement will be drafted for the total program at the overall planning stage. Subsequently, component projects included in the plan will not require individual statements unless they deviate substantially from prior plans or unless the plans do not provide sufficient detail to fully assess significant impacts of individual projects. Plans shall be reevaluated periodically to monitor the cumulative impact of the component projects and to preclude the plans' obsolescence. In all cases, however, component projects shall be subjected to the environmental assessment process. In addition, component projects which are highly controversial or nationally significant, notwithstanding their accord with overall plans, shall be evaluated through environmental impact statements.

The specific actions that should be taken with respect to draft impact statements are as follows:

(1) Before transmitting the draft statement to the Council on Environmental Quality, the "responsible official" shall:

(a) When the originating office is a Regional Office and the project is related to waste water treatment, notify by phone the Office of Federal Activities and the Planning and Interagency Programs Division, Office of Water Programs, that the draft impact statement has been prepared.

(b) When the originating office is not a Regional Office,

notify by phone the Office of Federal Activities and the headquarters impact statement office in the program office to which the originating office reports.

(c) At the same time, send two (2) copies to each of the appropriate offices above.

(d) If neither of the appropriate offices requests any changes within a ten (10) day period after notification, the "responsible official" shall proceed with the steps below.

(2) Inform the headquarters Office of Public Affairs of the date of release and the regional plans for local press release.

(3) Notify the EPA Office of Congressional Affairs so they will be able to answer any queries from Congress on the matter.

(4) Send ten (10) copies of the draft environmental impact statement to the Council on Environmental Quality.

(5) Provide copies of the draft statement to the Office of Congressional Affairs for distribution to the members of the pertinent congressional delegation.

(6) Provide the headquarters Office of Public Affairs with sufficient copies to meet the anticipated initial public demand.

(7) Forward two (2) copies to the appropriate field offices of reviewing Federal agencies that have special expertise or jurisdiction by law with respect to any impacts involved (the field offices are expected to reply directly to the originating EPA office). The Council on Environmental Quality Guidelines (Section 7 and Appendices II - III thereof) specify those agencies to which draft statements will be sent for official review and comment.

Commenting agencies shall have at least thirty (30) days to reply; afterwards, it shall be presumed that, unless a time extension has been requested, the agency has no comment to make. EPA will grant extensions where practical, not to exceed fifteen (15) days.

(7) Send copies of the draft statement to the appropriate State and local agencies and to the appropriate State and metropolitan clearinghouses. The time limits for review and comment shall be the same as those available to Federal agencies.

(8) Send copies of the draft statement to interested environmental and conservation action groups. Organizations solicited shall have thirty (30) days for reply, after which it may be presumed, unless the organization requests a specified extension of time, that the organization has no comment to make. The Agency will endeavor to comply with requests for extension of time, not to exceed 15 days.

(9) Place a news release (see Exhibit 2) in the local newspaper that the draft statement is being released and where copies may be obtained.

(10) Send two (2) copies of the summary sheet to the Office of Management and Budget, Organization and Management Systems Division.

d. Final Impact Statements. Final statements shall consider fully the suggestions, criticisms, and comments raised through the review process for possible modification of the final action. In all cases, final statements shall specifically address the comments and criticisms raised, particularly where the Agency position is at variance with issues surfaced or recommendations provided.

Notification and distribution will be as specified for draft statements, except that in the case of Federal and State agencies and environmental and conservation action groups, only those who responded to the draft statement will be sent a copy.

e. Negative Declaration and Environmental Impact Appraisal. Where an environmental assessment indicates no significant impact, a negative declaration shall be issued (see Exhibit 3). Concurrently, an environmental impact appraisal (see Exhibit 4) shall be prepared, which supports the assessment, describes the proposed activity and its impact, and documents the reasons for concluding that there will be no significant impact. This appraisal shall remain with internal records for the activity or action, and shall be available for public inspection.

The specific actions that should be taken with respect to negative declarations and environmental impact appraisals are as follows:

(1) Negative Declarations.

(a) When the assessment process indicates that there will not be any significant impact, issue a negative declaration as soon as practicable.

(b) The negative declaration shall be distributed in the same fashion as the notice of intent, except that copies shall be sent only when practicable to environmental and conservation action groups and other concerned or affected organizations or individuals that have shown an interest in such projects in the past.

(c) Where practicable, publish a brief news release

(see Exhibit 2) in the local newspaper informing the public that an impact statement will not be prepared on a particular project.

2. Environmental Impact Appraisal.

(a) Have the appraisal available when the negative declaration is released.

(b) Forward a copy to the headquarters impact statement office in the program office to which the originating office reports.

(c) Have copies on file in the originating office for public inspection upon request.

9. CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS.

a. Cover Sheet. The cover sheet shall indicate the type of statement (draft or final), the official project name, the responsible Agency office, the date, and the signature of the responsible official. The format is shown in Exhibit 5.

b. Summary Sheet. The summary sheet shall conform to the format prescribed in Appendix I of the April 23, 1971, Council on Environmental Quality Guidelines. The format is shown in Exhibit 6.

c. Body of Statement. The body of the impact statement shall contain eight sections. Each shall identify, develop, and analyze the pertinent issues and the pros and cons of alternative courses of action. Impact statements shall not be merely justification documents for proposed Agency funding or actions. Rather, they shall be objective evaluations of actions and their alternatives in light of all environmental considerations.

Environmental impact statements shall be prepared using a systematic, interdisciplinary approach. Statements shall incorporate all relevant analytical disciplines and shall provide meaningful, factual data, information, and analyses. The presentation should be simple and concise, yet include all facts necessary to permit independent evaluation and appraisal of the beneficial and adverse environmental effects of alternative actions. Statements shall not be drafted in a style which requires extensive scientific or technical expertise to comprehend and evaluate the environmental impact of an Agency action.

(1) Description of the Proposed Action. Describe the recommended or proposed action, its purpose, where it is located, its time setting, and its interrelationship with other projects or proposals. To prevent piecemeal decision-making, the project shall be described in as broad a context as possible. The relationship to other projects and proposals shall be discussed, including not only other Agency activities, but also those of other governmental and private organizations and prevailing trends in the project area. Maps, photos, and artist sketches should be incorporated where they help depict the environmental setting. If not enclosed, supporting references and documents should be identified.

(2) Environmental Impact of the Proposed Action. Describe the primary and secondary environmental impacts, both beneficial and adverse, anticipated from the action. The scope of the description shall include both short and long-term impacts. It shall include specifics of the area, the resources involved, physical changes, alterations to

ecological systems, induced changes in human use of land and other natural goods, and the time frames in which these impacts are anticipated.

Remedial, protective, and mitigation measures which will be taken as part of the proposed action shall be identified. These measures to prevent, eliminate, reduce, or compensate for any environmentally detrimental aspects of the proposed action shall include those of the Agency and others, e.g., its contractors and grantees. Adverse impacts which cannot be substantially avoided will be considered in greater detail in the next section.

(3) Adverse Impacts Which Cannot Be Avoided Should The Proposal be Implemented. Describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity or which can be reduced to an acceptable level but not eliminated. For those which cannot be reduced, their implications and the reasons why the action is being proposed, notwithstanding their effect, shall be described in detail. Where abatement measures can reduce adverse impacts to acceptable levels, the basis for considering these levels adequate and the effectiveness and costs of the abatement measures shall be specified. In particular, this analysis shall detail the aesthetically or culturally valuable surroundings, human health, standards of living, or environmental goals set forth in Section 101(b) of National Environmental Policy Act which would be sacrificed. Also, it shall describe the parties affected and any objection raised by them.

(4) Alternatives to the Proposed Action. Develop, describe, and weigh objectively alternatives to any proposed action which involve significant tradeoffs among the uses of available environmental resources. The analysis shall be structured in a manner which allows comparisons of: (1) environmental and financial cost differences among equally effective alternatives, or (2) differences in effectiveness among equally costly alternatives. Where practicable, benefits and costs should be quantified or else described qualitatively in a way which will aid in a more objective judgment of their value. Where such an analysis is prepared, it shall be appended to the statement. The analysis of different courses of action shall include alternatives capable of substantially reducing or eliminating any adverse impacts, even at the expense of reduced project objectives. The specific alternative of taking no action always must be evaluated. Also, possible alternatives which go beyond the authority of the Agency shall be discussed.

This analysis shall evaluate alternatives in such a manner that reviewers independently can judge their relative desirability. In addition, the reasons why the proposed action is believed by the Agency to be the best course of action shall be explained.

(5) Relationship Between Local Short-Term Uses of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity.

Describe the cumulative and long-term effects of the proposed action which either significantly reduce or enhance the state of the environment for future generations. In particular, the desirability of Agency actions shall be weighed to guard against short-sighted fore-closure of future options or needs. Special attention shall be given

to effects which narrow the range of beneficial uses of the environment or pose long-term risks to health or safety. Who is paying the "environmental cost" versus who is gaining the "benefits" over time shall be identified. In addition, the reasons why the proposed action is believed by the Agency to be justified now, rather than reserving a long-term option for other alternatives, including no use, shall be explained.

(6) Irreversible and Irretrievable Commitments of Resources Which Would be Involved in the Proposed Action Should it be Implemented.

Describe the extent to which the proposed action curtails the diversity and range of beneficial uses of the environment. Uses of renewable and non-renewable resources during the initial and continued phases of the action shall be specified. In this regard, construction and facility uses are basically irreversible since a large commitment of resources makes removal or non-use thereafter unlikely. Such primary impacts and, particularly, secondary impacts (e.g., opening areas to further development) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the action. Any irretrievable and significant commitments of resources shall be evaluated to assure that such current consumption is justified.

(7) A Discussion of Problems and Objectives Raised by Other Federal, State, and Local Agencies and by Private Organizations and Individuals in the Review Process and the Disposition of the Issues Involved. Final statements shall summarize the comments and suggestions

made by reviewing organizations and shall describe the disposition of issues surfaced (e.g., revisions to the proposed action to mitigate

anticipated impacts or objections). In particular, they shall address in detail the major issues raised when the Agency position is at variance with recommendations and objections (e.g., reasons why specific comments and suggestions could not be accepted, and factors of overriding importance prohibiting the incorporation of suggestions). Reviewer's statements should be set forth in a Comment and discussed in a Response. In addition, the source of all comments should be clearly identified.

10. PUBLIC PARTICIPATION. Public participation is an integral part of the Agency planning process. It consists of continuous, two-way communication keeping the public fully informed about the status and progress of studies and findings, and actively soliciting comments from all concerned and affected groups and individuals.

a. Public Hearings. Public hearings on draft impact statements shall be held where the originating official determines that:

(1) The action will have a significant impact on the environment and a public hearing would facilitate the resolution of conflict or significant public controversy;

(2) A public hearing is a routine step in the decision-making and authorization process for such actions.

When public hearings are held, the draft statement prepared by the originating office shall serve as an outline for discussion. A summary of the issues raised, conflicts resolved and unresolved,

and any other significant portion of the general discussion shall be appended to the draft statement for incorporation as a separate section of the final statement. Formal public notice of the hearing shall be given immediately after distribution of the draft statement for review and comment. This notice shall be given wide coverage. Draft statements shall be available to the public at least 15 days prior to the time of such hearings. The Agency shall endeavor to comply with requests for extensions of time for the submission of comments, not to exceed fifteen (15) days, when hearings are held.

When a public hearing has been held by another Federal, State, or local agency on an Agency action, additional hearings need not necessarily ensue.

b. Comments on Draft and Final Statements. Draft impact statements and negative declarations shall be made available to the public to assure the fullest practical provision of timely public information and understanding of Federal plans and programs. This shall be accomplished through public hearings, notices of intent, press releases, distribution of draft and final statements to public organizations for comment, and availability of statements to private individuals.

Final environmental impact statements shall be furnished to all citizen groups and conservation/environmental groups with which the statement was coordinated or other organizations which submitted comments. This is to enable public organizations to comment on the final statement to the Agency or the Council on Environmental Quality,

Agency administrative action on the proposal.

11. AVAILABILITY OF IMPACT STATEMENTS, NEGATIVE DECLARATIONS, AND APPRAISALS.

Draft and final environmental impact statements, negative declarations, and environmental impact appraisals shall be made available for public review at the following locations:

- a. The originating office, and
- b. The headquarters Office of Public Affairs for draft and final impact statements only.

12. TIMING FOR PROPOSED AGENCY ACTIONS. To the maximum extent practicable, no administrative action shall be taken sooner than ninety (90) days after a draft statement has been distributed or sooner than thirty (30) days after the final statement has been distributed. If the final statement is filed within ninety (90) days after the draft statement has been circulated and made public, the thirty (30) day period and ninety (90) day period may run concurrently to the extent that they overlap.