



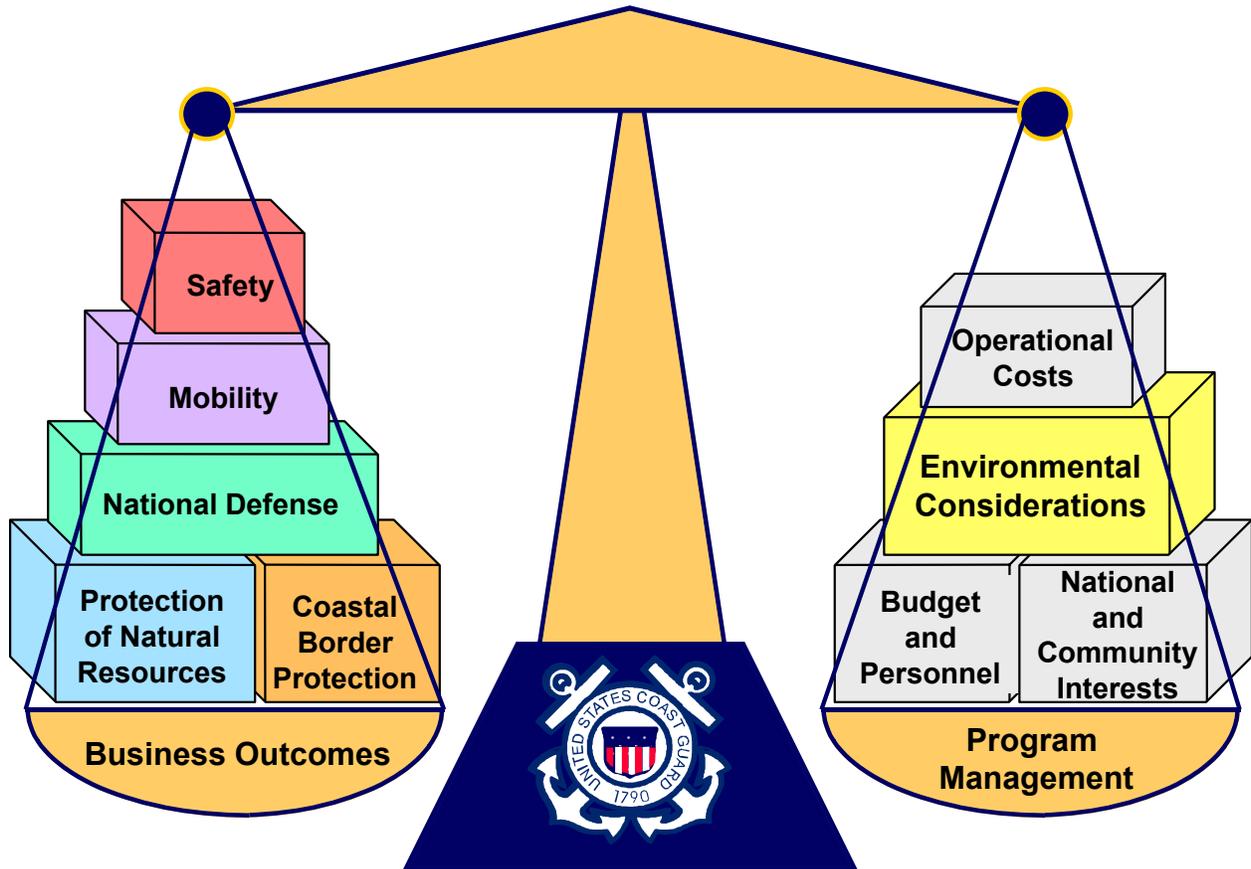
*United States Coast Guard*



Environmental  
Management Division

Office of Civil  
Engineering

# TOOLS FOR DECISION-MAKING: ENVIRONMENTAL CONSIDERATIONS



## FOREWARD

This handbook provides U.S. Coast Guard (USCG) operational business managers and planners in Headquarters, districts and support commands basic guidance on why and how to consider environmental factors when making business and operational decisions. It has been developed to guide management expectations on the process and outcomes of environmental planning. It is not intended to substitute for the expertise of USCG environmental staff. Rather, it explains what the manager should expect to become involved with and receive as he or she coordinates with environmental staff. USCG environmental staff may also find this useful for general reference, but official USCG policy and procedures on the implementation of environmental planning through the National Environmental Policy Act (NEPA) is available in DOT Order 5610.1, COMDTINST M16475.1 series and for bridge projects in the Bridge Administrative Manual, COMDTINST M16590.5A. This handbook is designed to be used in conjunction with COMDTINST M16475.1 series and M16590.5A to help further explain environmental planning and USCG NEPA policies and procedures. Nothing in this handbook supersedes NEPA policy and procedures found in COMDTINST M16475.1 series or in the Bridge Administrative Manual, COMDTINST M16590.5A.

While it may be read from cover to cover, the handbook is designed with a detailed table of contents to enable readers who want answers to specific questions about NEPA or environmental planning to access the appropriate section quickly without having to read the entire document. In this handbook, flowcharts and tables are provided as useful quick visual guides to the process of environmental planning and the requirements for NEPA documentation.

After reading this handbook, you should have a better appreciation of the role of environmental planning in USCG decision-making, and the value of incorporating environmental planning into existing USCG program and mission planning processes. Understanding this interrelationship will enable you to make the most informed and, therefore, the best decisions for your unit, the USCG, and the community as a whole.

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This handbook examines the decision-making process from the environmental planning perspective as an integral part of the overall planning process. The primary objective of environmental planning is to facilitate optimum decision-making by gathering information on all potential impacts. Environmental planning is not just a legal mandate under the National Environmental Policy Act (NEPA), but it is also a methodology for documenting environmental considerations in program planning decisions. This methodology can be applied to other program planning categories: operational costs, budget and personnel, and national and community interests.

The major difference between the environmental planning category and operational or economic planning categories is the requirement for public participation. Public participation is an invaluable tool in Federal government decision-making processes. Virtually every Coast Guard function that takes place in the greater community affects that community and is impacted by that community. The public participation process thus affords the opportunity for creative teaming, consensus building, and community backing for the decisions that are made.

This handbook is divided into four chapters. The first chapter presents the business case including the operational, cost, legal and regulatory drivers, with an explanation of the responsibilities of the business manager. The second chapter provides an overview of the environmental planning process. The third chapter presents the content and format requirements for documentation. The fourth chapter provides further guidance on frequently asked questions on environmental planning and the NEPA process. This handbook is intended to help dispel many of the misconceptions and misperceptions related to National Environmental Policy Act (NEPA) compliance, and the value of Categorical Exclusions (CEs), Environmental Assessments (EAs) and Environmental Impact Statements (EIS's) in the planning process.

This handbook presents the following four basic steps to environmental planning:

1. **Identify Purpose and Need.** Identify the need to be met and the purpose for the project. The purpose of the project is to meet the need.
2. **Formulate Reasonable Alternatives.** Determine your options for meeting your need, including no action (maintain status quo). This should include all feasible solutions to meet the need.
3. **Evaluate Each Alternative** For each alternative, determine the potential environmental impacts, as well as the significance of each impact. (Note: Also consider whether mitigation activities may reduce the significance of individual impacts).
4. **Decide.** Select the preferred alternative. The optimum alternative does not have to be the one that presents the least significant environmental impact, but should provide the best balance across all categories.

The intuitive integration of these steps with USCG program and mission planning is illustrated through an example presented in Chapter 1, on page 3, Figure 1.

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# CHAPTER 1

## Environmental Planning and the National Environmental Policy Act (NEPA)

*“Congress envisioned that federal agencies would use NEPA as a planning tool to integrate environmental concerns directly into policies and programs. ... This flexible, open-ended approach to protecting the environment stands in contrast to the prescribed-solution approach of national standards and technology-based pollution controls. It established environmental quality as an essential component of federal policy-making and project planning.”*

(NEPA: A Study of Its Effectiveness after 25 Years,  
Executive Office of the President, CEQ, January, 1997)

### 1.1 AN OVERVIEW OF ENVIRONMENTAL PLANNING.

#### The Definition and Value of Environmental Planning.

There are many legislative and regulatory environmental requirements that influence Federal agency business practices. Environmental planning provides a process to anticipate environmental requirements and potential controversies during normal business planning and decision-making. Successful environmental planning yields decisions and solutions which meet business or mission requirements and ensures regulatory compliance. Environmental planning is not a *separate* process; rather, it must be an *integral* component of the U.S. Coast Guard's (USCG) business planning and decision-making processes.

Environmental planning is similar to any other system's analytic-based business planning or decision-making process, but focuses upon the human environment. The human environment is defined as the natural and physical environment and the relationship of people with that environment. Conventional business and mission planning has required only consideration of technical, operational, and economic factors. Environmental planning integrates business and mission planning with equal consideration of Federal, State, and local environmental laws and regulations from the initiation of the planning process.

A typical business or mission planning process involves the following four steps:

1. **Identify Problem and Need.**
2. **Formulate Reasonable Alternatives** to address the need.

3. **Evaluate Each Alternative** for its merits and disadvantages through a detailed analysis.
4. **Decide** which alternative best solves the need.

Effective environmental planning involves the same four steps, with consideration of environmental factors. Figure 1, on page 3, illustrates the steps of a typical business planning process and the corresponding tasks required for environmental planning. This environmental planning process will efficiently identify the critical environmental requirements early in the decision-making process. This proactive planning process has many operational, budgetary, and public relations advantages.

*From an operational standpoint, you can*

- minimize environmental regulatory requirements affecting the action (e.g., environmental planning can help you choose solutions that avoid or eliminate environmental impacts and thus eliminate the applicability of some or all environmental regulations);
- achieve compliance prior to action implementation;
- reduce risk of delays caused by litigation or injunctions due to non-compliance; and
- facilitate continued operations with a lowered risk of disruptions or delays due to environmental compliance matters.

*From a budget standpoint, you can*

- minimize compliance costs and procedures which could occur later, after the action is begun;
- improve opportunities to gain life cycle cost savings;
- reduce the risk of fines for non-compliance;
- maximize opportunities to obtain environmental benefits during the operational phase; and

- minimize possible disposal costs at the end of an operation or of the life cycle of an item.

*From a public relations standpoint, you can*

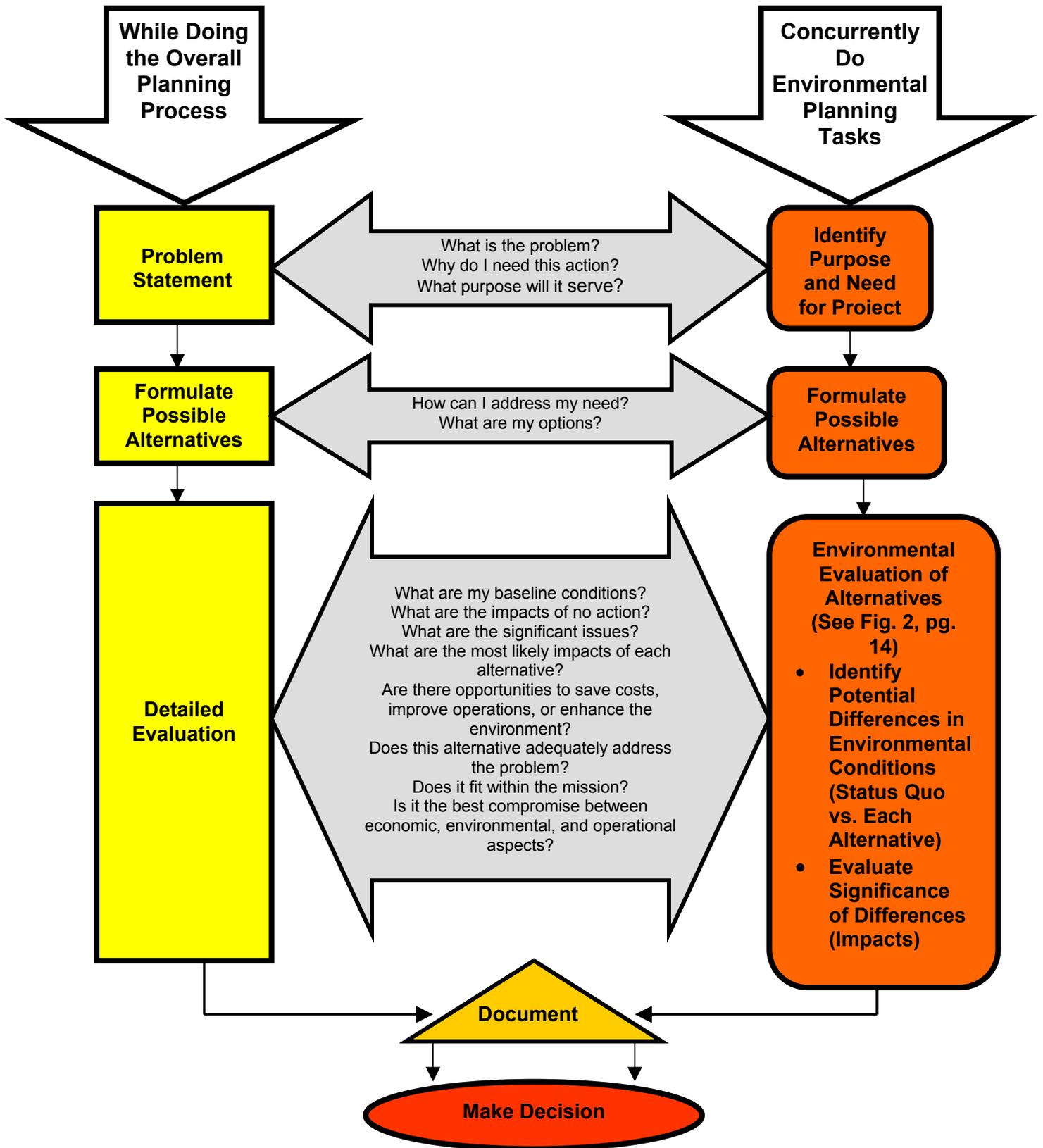
- enhance relationships with stakeholders;
- facilitate good public and community relations; and
- demonstrate environmental stewardship.

The USCG business manager often uses cost, schedule, and performance as metrics of business success. Because environmental impacts of a business action may affect cost, schedule, and performance, it is important to conduct environmental planning early in your business processes. Early environmental planning can ensure that environmental impacts, which may increase project cost and delay project schedule and project implementation, are identified early and either accommodated, avoided, or mitigated.

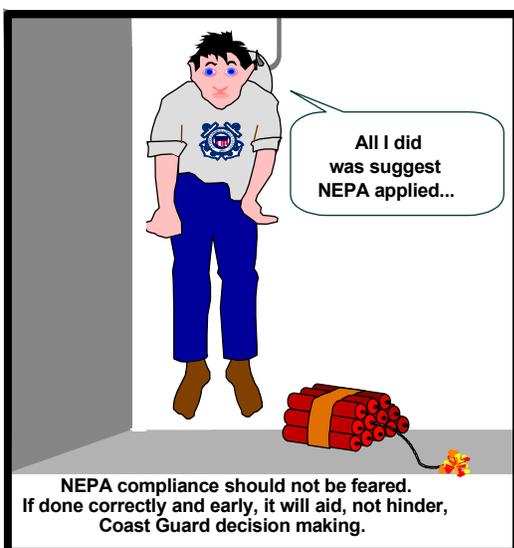
### **Environmental Planning and NEPA.**

Signed into law in 1970, the National Environmental Policy Act (NEPA) is the national charter for environmental planning. NEPA mandates the integration of environmental considerations into the overall planning processes of Federal agencies. NEPA compliance should be considered an environmental planning tool that can provide an efficient method of protecting, restoring, and enhancing the environment while achieving the USCG's mission.

As a decision-making tool NEPA (1) allows decisions to be based on facts obtained during the environmental analysis of various actions and (2) guards against single-track thinking



and premature focusing by forcing the investigation of many solutions. This investigation of options is only valuable prior to final decision-making. **If the investigation is conducted *after* deciding on the preferred alternative instead of *before*, your energy will be wasted. You will only be seeking to find support for an action instead of determining the best solution.**



## What NEPA Is

NEPA is a far-reaching, all-encompassing policy that requires thoughtful and timely application. NEPA requires all Federal agencies to analyze their proposed actions with regard to

- environmental effects;
- unavoidable environmental impacts;
- alternatives to the proposed action;
- the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and
- any irreversible and irretrievable commitments of resources that would be involved if the proposed action were implemented.

NEPA also requires that the environmental analysis must be conducted in the same detail

and be considered equally with economic, technical, and operational factors.

As a way to ensure that Federal agencies would include environmental considerations in their planning and decision-making, Congress added a requirement for the agencies to specifically document their environmental planning process—whether it be part of the overall decision-making documents for agency actions or as an independent environmental document. Congress hoped to ensure that the environment—so valuable a resource and yet so easy to neglect—was given the consideration it deserved in all applicable Federal decision-making processes. The environmental planning process required by NEPA ensures that the USCG business manager is in possession of the environmental information needed to make the most informed decisions on proposed USCG actions.

NEPA also established the Council on Environmental Quality (CEQ). The CEQ is an executive council that is responsible for writing the regulations implementing agency environmental planning and analysis requirements under NEPA (CEQ regulations, CFR Parts 1500-1508). The CEQ is also responsible for reporting to the President and Congress on the status, condition, and management of the Nation's environment. NEPA and the CEQs implementing regulations require Federal agencies to

1. identify and analyze environmental consequences of proposed Federal actions in *comparable detail* to economic and operational analyses;
2. assess *reasonable alternatives* to agency proposed actions;
3. document the environmental analysis and findings; and
4. make environmental information available to public officials and citizens *before* agency decisions are made.

**CEQ GOALS**

- Reduce paperwork and delay
- Produce better analyses
- Support better decisions

**POLICY OBJECTIVES [Coast Guard should]**

- develop implementing procedures;
- integrate NEPA with other planning processes;
- encourage public involvement;
- address all reasonable alternatives; and
- restore environmental damage.

**What NEPA Is Not**

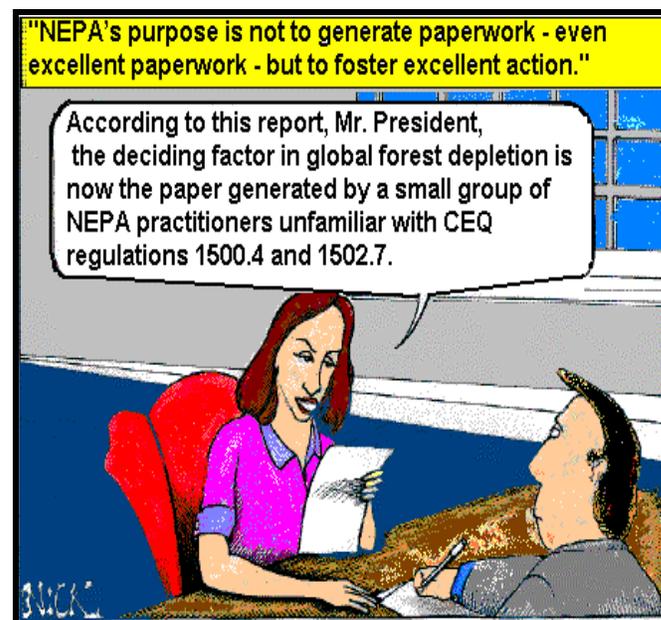
NEPA is *not a mandate* for the protection or conservation of the environment. The “P” in the acronym “NEPA” stands for *POLICY*, not *PROTECTION*. While NEPA encourages protection of the environment, NEPA does not dictate what the USCG can or cannot do as a result of investigating the effects of an action on the environment.

NEPA is *not like most other environmental laws*. It is a unique environmental law, because

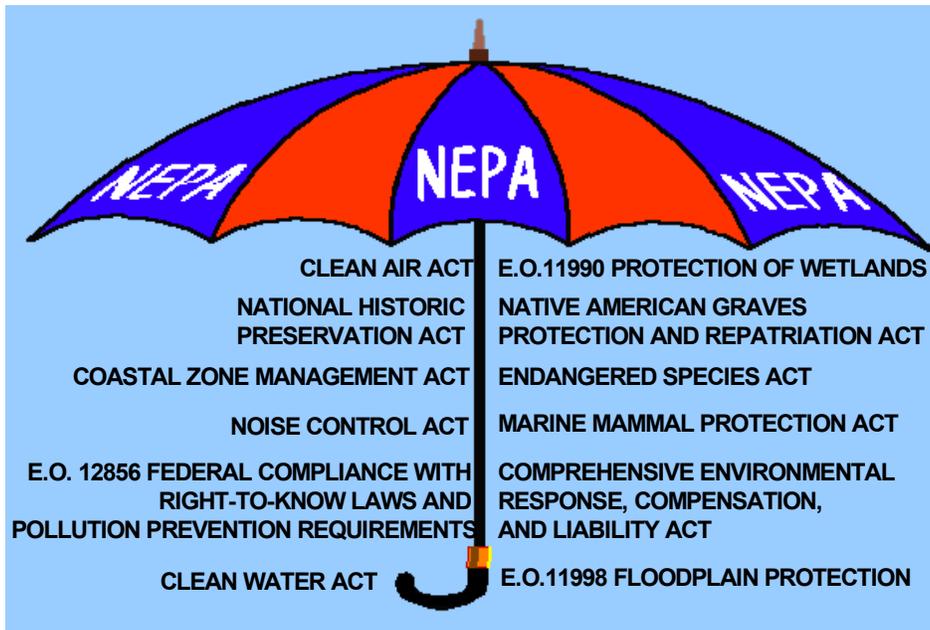
1. NEPA is a procedural law that establishes a decision-making process. To properly implement NEPA, you must incorporate the NEPA process into project planning and decision-making from a project’s first inception;
2. NEPA does not manage or protect a single resource (such as the Endangered Species Act or the Clean Air Act); and
3. NEPA requires disclosure, public involvement, and the participation of other expert agencies in the decision-making process before final agency decisions are made.

NEPA is *not just a paperwork exercise*. Unfortunately, in the years since NEPA was voted into law by Congress, undue focus and attention (especially by the courts) has been placed on the documentation of agency participation and compliance with NEPA.

This is unfortunate because many people have come to mistakenly believe that documents such as the Environmental Assessment (EA) or the Environmental Impact Statement (EIS) *are* NEPA instead of the *written documentation of the NEPA process*. While certain NEPA documentation is required, and is important, it is the environmental decision-making *process* NEPA emphasizes.



NEPA is *not a substitute for other environmental laws*. Although NEPA is an expansive policy concerning the environment, compliance with NEPA does not necessarily substitute for compliance with other legislation concerning the environment (e.g., the Endangered Species Act, Clean Water Act, and the National Historic Preservation Act) nor does compliance with other environmental laws substitute for compliance with NEPA. However, integrating other environmental laws into the “umbrella” of the NEPA process can help to ensure compliance with all pertinent environmental requirements affecting agency decision-making.



**NEPA as the Environmental Umbrella.**

*“Federal agencies shall integrate the requirements of NEPA with other planning and environmental review procedures required by law or agency practice so that all such procedures run concurrently rather than consecutively.” CEQ regulations, 40 CFR 1500.2 (c).*

Many other laws and Federal mandates require consideration of environmental issues in Federal decision-making processes besides NEPA. New environmental legislation and requirements are constantly being added to the list of environmental mandates Federal agencies must consider before they make decisions on proposed actions. Many of these mandates also require environmental planning processes, for example: E.O. 12898 on Environmental Justice, the National Historic Preservation Act, and the Coastal Zone Management Act.

With the list of environmental requirements continuing to grow, it is even more crucial that agencies use a single systematic way to ensure the consideration of all environmental requirements in their decision-making. Environmental planning through NEPA ensures the integration of all environmental review procedures required by law so that such

procedures can run “concurrently rather than consecutively.” Thus, NEPA has earned the nickname of the “Environmental Umbrella Law.” Integration of other environmental requirements into the NEPA process can also reduce redundant and excessive paperwork. Appendix A, on pages 44-49, contains a list of environmental laws, their requirements and their implications for incorporation into USCG environmental planning.

**1.2 The Application of NEPA.**

*“Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values to avoid delays later in the process, and head off potential conflicts.” (CEQ regulations, 40 CFR 1501.2)*

**When Does NEPA Apply**

Federal agencies are required to follow the NEPA process and document that process for any proposed “major Federal actions significantly affecting the quality of the human environment.” Individuals unfamiliar with NEPA often interpret this phrase to mean that only very large projects that will have significant impacts trigger the requirements of NEPA. This assumption is not correct.

The term “major Federal action” covers virtually everything an agency does, including those actions that have the *potential* for significantly impacting the environment. CEQ implementing regulations define “major Federal action” to include virtually all agency activities as follows (see CEQ regulations, 40 CFR 1508.18):

- Adoption of official policy.
- Adoption of formal plans.
- Adoption of programs.
- Approval of specific projects.

Thus, NEPA applies to virtually everything the USCG does including, but not limited to, the following USCG actions:

- Promulgation of regulations.
- Issuance of grants and permits.
- Systems acquisition.
- Shore facilities management.
- Vessel and aircraft operations, homeporting, decommissioning, and disposal.
- Research and development.

Additionally, any other new or continuing projects or programs that are financed, assisted, conducted, regulated, or approved by the USCG trigger the NEPA process. The issuing of permits for regattas or bridges; the building, closing, or relocating of a station; the changing of a vessel’s homeport, or the decommissioning and disposition of a vessel will trigger the need for some level of NEPA analysis.

***Compliance with NEPA is required for almost everything the USCG does.*** There are virtually no USCG actions that are exempt from NEPA. There may be different procedures for classified or emergency actions; however, classified actions are **not** exempt from NEPA.

**Don’t get discouraged!** The CEQ realized that some actions have repeatedly been

demonstrated to cause no significant impact on the environment and thus require only a minimum level of analysis under NEPA. These actions can be categorically excluded from detailed NEPA analysis by an agency in their NEPA procedures. The purpose and application of categorical exclusions is discussed in Chapter 3.

### **Who Is Responsible For NEPA Compliance Within The Coast Guard?**

Every Federal agency is required to develop internal implementing procedures to ensure compliance with NEPA. Procedures for Considering Environmental Impacts, DOT Order 5610.1, the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series), and, for bridge projects, the Bridge Administrative Manual, COMDTINST M16590.5 (series) contain the USCG’s policy and procedures on preparing environmental analysis and documentation required under NEPA.

Within the USCG, the operational business manager is normally responsible for ensuring compliance with NEPA. Often there is an identified project or program manager in the operational chain of command with authority for planning, programming, budgeting, and eventually executing an activity in fulfillment of a USCG mission. While the manager is not normally expected to personally execute and document the environmental planning process, he or she is responsible for the content and quality of the process and documentation (whether the work is performed in-house or by a contractor). If NEPA isn’t part of the normal USCG decision-making package that explains the problem, evaluates different alternatives, and recommends a solution, **then the manager must perform a separate NEPA analysis before making a decision.**

The business manager is not an agent who merely provides support in carrying out the

NEPA process and documentation. The manager is expected to be the team leader for the multi-disciplinary project planning effort that includes environmental planning.

feasibility studies, and provide a clear purpose and need.

The USCG's environmental protection specialists, either in the field or in Headquarters, are usually not the managers (although they can be if their program is taking an action that triggers NEPA). The environmental protection specialists usually assist the manager with NEPA compliance.

**Responsibilities of the business manager are as follows:**

- Coordinate the resources.
- Locate funding.
- Review all environmental documents for accuracy and concurrence with mission goals.
- Ensure review and approval by an environmental protection specialist with NEPA expertise.
- Make the final no-go/go decision based on the analysis (to be further approved up the chain of command).
- Execute the decision, ensuring that any mitigation and associated monitoring of significant environmental impacts are implemented appropriately.

**KEY POINT: BUSINESS MANAGER**

It is the responsibility of the business manager to clearly define the proposed Coast Guard action, initiate the environmental planning process early so that the required environmental documentation coincides with technical, economic, and mission

# CHAPTER 2

## Environmental Planning Process

*“It is important that significant environmental problems and issues be considered early in the planning process to allow sufficient time to consider alternatives, take different courses of action, or adopt strategies to compensate for unavoidable adverse environmental consequences.”*

(“Environmental Guidelines for the Military Sector”, A Joint Sweden-United States Project Sponsored by the NATO Committee on the Challenges of Modern Society, June 1996.)

### 2.1 WHEN DO I START THE ENVIRONMENTAL PLANNING PROCESS?

As in many planning processes required in the USCG, you must begin the environmental planning process the *moment the Coast Guard begins planning to take an action to satisfy an objective, to fix a problem, or to address a weakness.* In other words, begin the environmental planning process as early in the project planning process as possible.

**(CEQ regulations, 40 CFR 1502.5)  
TIMING**

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made.

### 2.2 WHAT ARE THE COMPONENTS OF A GOOD ENVIRONMENTAL PLANNING PROCESS?

A good environmental planning process in compliance with NEPA will follow the same four major components as the overall planning process (identify, formulate, evaluate, and decide). Figure 1, page 3, illustrates the complete set of steps in the environmental planning process. Figure 2, page 14, provides a detailed illustration of the tasks involved in one of the most important steps, “Environmental Evaluation of Alternatives”. Reference to these two figures will help you perform environmental planning in compliance with NEPA and ultimately arrive at a well-informed decision.

**IDENTIFY: DEVELOP YOUR PURPOSE AND NEED STATEMENT.**

The first step of any decision-making process is to identify the problem to be solved. The problem should be clearly and concisely defined before developing any possible solutions. The defined problem should include

the decision criteria, environmental or otherwise, that will be used to make the final conclusion on the best course of action. **The “purpose” of the proposed action is to fulfill the need.**

Developing a clear statement of the purpose and need is critical to the entire process, including the environmental component. An ill defined purpose and need can induce delays (by not focusing the analysis), waste resources (by examining alternatives that do not solve the problem), and result in the development of inadequate solutions for fulfilling the need. A poorly defined problem will yield a poor solution. Think of the development of the purpose and need as the framework for the entire analysis and decision-making processes that follow.

**FORMULATE: IDENTIFY ALTERNATIVES.**

Once you establish the need and purpose for action, you can generate a list of reasonable alternatives that will address the problem. Be aware that proper environmental planning under NEPA requires that you include the analysis of the no action alternative (status quo alternative) along with all other reasonable alternatives in your list. You must include the no action alternative in your list of alternatives for analysis even if no action will not fulfill your stated purpose and need.

The no action alternative represents the current state or the status quo. The no action alternative must be analyzed to provide a baseline from which to compare the other reasonable alternatives. The no action alternative allows the business manager and public to compare the environment before and after your proposed action. Establishing this baseline is vital to the environmental planning process. Therefore, the no action alternative must *always be rigorously analyzed, even if it seems to be unreasonable and not likely to occur.*

**KEY POINTS: NO ACTION ALTERNATIVE**

- The no action alternative must be analyzed in the same depth and detail as the other reasonable alternatives, even if you know that it is not likely to be the final outcome.
- Analysis of the no action alternative must occur even if the Coast Guard is under a court order or legislative command to act.
  - The no action alternative for a new project or undertaking would be “do not undertake proposed action.”
  - The no action alternative for changes to an ongoing program (for example, the reissuing of permits) would be “no change in management activity.”

In developing alternatives other than the no action alternative, determine your options. **Reasonable** alternatives are those that may be feasibly carried out based on operational requirements and economic factors. Every reasonable alternative generated must first pass the criterion: *Will this alternative fulfill my need?* If the alternative does not fulfill the need, then it does not require further environmental evaluation in the decision making process. In any case, the alternatives used for environmental evaluation must be the same as those used for operational and economic evaluations.

A well formulated purpose and need should allow you to identify a reasonable number of options to be evaluated through the environmental planning processes. If the problem is *too broadly* defined, then the resulting list of alternatives will be too large. However, if the objective is defined *too narrowly*, then the list of possible alternatives may be too restrictive, and may exclude other, possibly better, solutions.

However, there are some situations where the purpose and need are well defined and yet there are still too many reasonable alternatives to evaluate. If this is the case, it is appropriate to evaluate the potential environmental effects of a representative number of alternatives.

CEQ guidance states that agencies must also consider alternatives outside the jurisdiction of the agency or beyond what Congress has authorized as long as they meet the purpose and need and are practical from a technical and economic standpoint. For example, if you were choosing alternatives for ways the USCG can protect endangered whales, you could examine the alternative of issuing a regulation that would prohibit the approach, within a specified distance, of certain vessels to an endangered whale. While this alternative is not within the jurisdiction of the USCG, it is feasible economically and technically and may provide the impetus for another agency with jurisdiction to implement such an alternative.

#### **EVALUATE: DETERMINE SIGNIFICANCE OF ENVIRONMENTAL IMPACTS.**

This stage is the heart of the environmental planning process. During this stage, you should identify the potential for environmental impacts and the level of their significance for the no action alternative and each reasonable alternative solution. Both of these activities are important, because it is possible to have the potential for environmental effects from an alternative, without those environmental effects being significant. Chapter 4 describes, in greater detail, how to determine significance.

It is also important for you to determine the appropriate level of effort to devote to this stage of the environmental planning process. Your level of effort should be based on the likely significance of the environmental impacts of the alternatives.

The environmental analysis for USCG actions must be documented in one of the following three forms, depending on the potential impacts of the proposed action: a Categorical Exclusion (CE) and possibly a Categorical Exclusion Determination (CED), an Environmental Assessment (EA) and Finding Of No Significant Impact (FONSI), or an Environmental Impact Statement (EIS) and Record of Decision (ROD). NEPA

documentation is described in greater detail in Chapter 3.

You should conduct the environmental evaluation concurrently with the operational and economic evaluations of the alternatives. It is important to recognize that some of the alternatives that appeared to solve the problem may not survive a more detailed evaluation. As you proceed with the environmental evaluation, you can dismiss from further detailed environmental analysis any alternative (except no action) that does not meet your operational or economic criteria. Additionally, as you narrow down the number of alternatives that will fulfill your purpose and need, and you evaluate their technical, operational, economic and environmental impacts, you should be able to determine which of the alternatives is your “preferred alternative.”

**Scoping.** One of the initial steps in the environmental evaluation is to identify the range, or *scope*, of potentially significant environmental impacts raised by the alternative solutions. Scoping is the examination of a wide range of potential environmental issues to identify which are relevant and most important to the planning or decision-making process. Scoping can involve both in-house analyses and input from other agencies and the public.

Identify environmental issues by examining the potential for changes to the environment that may result from implementing any of your alternatives. It is important to note that for the no action alternative, the environmental conditions you examine should include the current state and the expected future state under the status quo. After you establish the current and future state under the no action alternative, you can then evaluate the potential for changes to the environmental conditions with each of the reasonable alternatives and determine whether any changes are likely to be significant.

Typically, an initial assessment of potential significant environmental effects from the proposed action is performed in-house. It may be best to perform this initial assessment as a team effort. Initial in-house analysis can quickly develop the following information:

- The pre-existing environmental conditions within the area of operation.
- The various legal environmental requirements.
- The nature of the proposed action.

In many USCG planning and decision-making processes, your initial assessment with in-house resources may determine that there is little potential for significant environmental impacts from any of the reasonable alternatives. Situations like this may not require a significant level of effort to evaluate environmental effects. You may be able to meet NEPA analysis and documentation requirements for these types of proposed activities through the use of an existing USCG Categorical Exclusion (CE). A list of the USCG's CEs is contained in Chapter 2 of the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series). However, there are certain limitations on the use of CEs and these must also be carefully examined. These limitations can be found in Chapter 2 Section B.2.b of the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series).

In some cases, there will be little readily available information within the USCG regarding the possible environmental impacts of the alternatives being considered. In these cases, you should coordinate with recognized experts outside the USCG to complete the initial assessment.

Consultation with outside experts and the general public can add substantial merit to the environmental planning process. Both the

general public and other agencies from the Federal and State levels, can be of immense help in identifying alternatives and areas of potential environmental problems. Information on additional reasonable alternatives, mitigation measures, potential environmental impacts of the proposed action and alternatives, and other environmental laws and regulations that are applicable to the proposed action may be obtained.

This consultation can help identify and de-emphasize issues that are not important and need no further investigation. The early involvement of other agencies and the public to refine the issues can save the USCG time and money. Consultation with the general public and other agencies must occur early in the planning process to allow sufficient time to consider public comment and other agency expertise in your decision.

After outside consultation, you may still conclude that there is little potential for significant environmental impacts and that the NEPA requirements can be met with a CE. In other cases, your initial assessment may indicate that the USCG cannot be sure of the potential for significant environmental impacts, or it may even indicate that a significant environmental impact is likely. In these cases, a more detailed evaluation of the potential for significant environmental impacts is necessary. Your NEPA analysis and documentation requirements for these types of proposed activities may be met through the preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The process of a more detailed evaluation of environmental impacts is briefly described in the following text. The NEPA documentation requirements are described in greater detail in Chapter 3.

The USCG project manager should stay closely attuned to the progress of the detailed evaluation and will frequently be called upon for input and interim levels of decision-making.

**Detailed Evaluation of Environmental Impacts.** Your first step in a detailed evaluation is to fully describe the affected environment. Your description of the affected environment should succinctly characterize the natural and historic resources and environment associated with the alternatives under consideration. This includes descriptions of the existing environmental conditions and the anticipated future environmental conditions for each alternative (including status quo). The anticipated future state is extrapolated from known environmental trends.

Environmental conditions you should consider may be defined by the following three means: institutional (legal, regulatory, and agency policy), technical experts, and public opinion. While your evaluation of environmental impacts needs to consider a wide range of environmental resources or conditions, you only need to discuss in detail those resources that will be impacted. Typically, environmental conditions include, but are not limited to, the following:

- Geology/Soils
- Topography
- Hydrology/  
Floodplains/  
Wetlands/  
Water Quality
- Vegetation/ Wildlife/ Threatened and  
Endangered Species
- Historic/Cultural/Archeological Resources
- Socio-economic: Economy/Employment
- Air Quality
- Infrastructure
- Environmental  
Justice
- Land Use

For each alternative you consider, extrapolate future environmental conditions from known environmental trends. Where feasible, your descriptions of environmental conditions should address anticipated effects throughout the project life cycle:

implementation/deployment, operation, and decommissioning/disposal. You may need to do further coordination with recognized experts outside the USCG and/or the general public to determine the potential environmental conditions under each alternative.

The next step in your detailed evaluation is to determine the potential for significant environmental impacts from the alternatives that you are considering. To make this determination, first compare the environmental conditions over the life cycle of each alternative to the no action alternative and identify the differences. Then, evaluate the significance of those differences.

In order for you to evaluate potential impacts from your alternatives, you must define thresholds for significance. Many of these thresholds are contained within legal or regulatory environmental requirements. Additionally, determining significance involves understanding the context and intensity of impacts from a particular alternative. Determining the level of significance of the impacts from your alternatives can be difficult. You may need to do further coordination with recognized experts outside the USCG and the general public to evaluate the significance and identify appropriate mitigation measures, if necessary. You should ensure that final determinations on impact significance are reached with the assistance of your supporting environmental protection specialist or outside environmental expert. For detailed guidance on determining the significance of impacts see Chapter 4, Section 4.2. Your evaluation of impacts should include discussion of the potential for significant socio-economic impacts, especially if such impacts are interrelated with potentially significant environmental impacts. The evaluation of the environmental consequences provides the

## ENVIRONMENTAL EVALUATION OF ALTERNATIVES

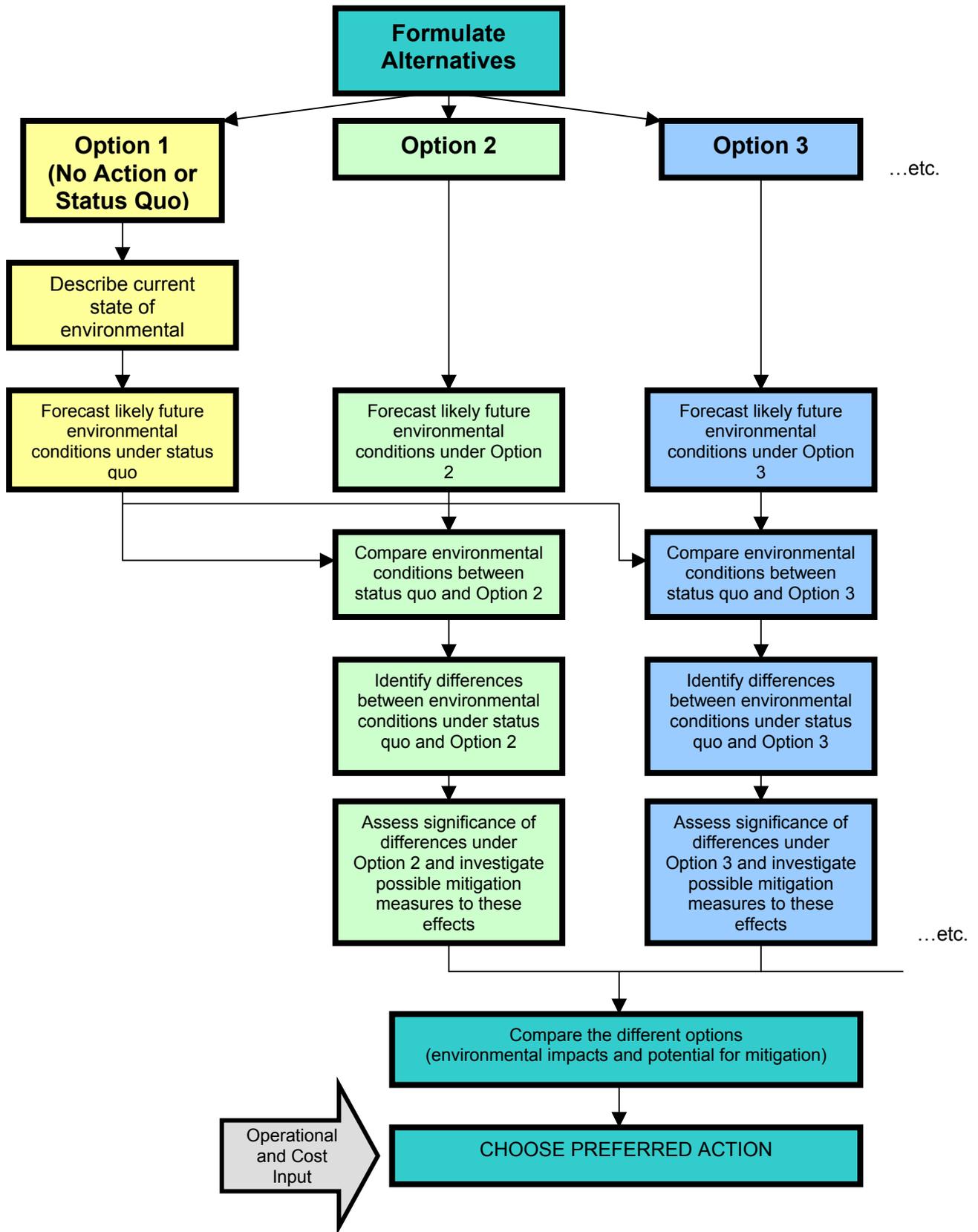


Figure 2

scientific and analytic basis for the comparison of alternatives.

Identify the differences and evaluate their significance. In the case where potentially significant adverse environmental impacts may exist with an alternative, identify ways to mitigate the impacts. You may need to do further coordination with recognized experts outside the USCG and the general public to evaluate the significance and identify appropriate mitigation measures, if necessary.

***All reasonable alternatives must be analyzed equally and rigorously and evaluated objectively.***

The CEQ stipulates that the analysis of environmental consequences should contain discussions of the following:

- Environmental effects and their significance for all alternatives, including:

<b>Direct Effects:</b>	Effects caused by the action that occur at the same time and place.
<b>Indirect Effects:</b>	Reasonably foreseeable effects caused by the action at a later time or further removed in distance.
<b>Cumulative Effects:</b>	Effects caused by the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions.

- Possible conflicts between the proposed action and the objectives of Federal, regional, state, local, and (if relevant) Tribal land use plans, policies, and controls for the concerned area.

- Energy requirements and conservation potential of various alternatives and mitigation measures.
- Natural or depletable resource requirements and the conservation potential of various alternatives and mitigation measures.
- Urban quality, historic and cultural resources, and the design of the built environment, including the reuse and conservation potential of various alternatives and mitigation measures.
- Means to mitigate adverse environmental impacts.

Your detailed evaluations for many USCG planning and decision-making processes may find that there is little potential for significant environmental impacts from the proposed activity or any of your alternatives. You may not need to evaluate activities like this in great detail for environmental effects, and your NEPA analysis and documentation requirements may typically be met for these types of proposed activities through an EA. Your environmental planning process would then conclude with a Finding of No Significant Impact (FONSI). More detail on EAs and FONSI can be found in Chapter 3 and in the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series).

In those cases where you anticipate potentially unavoidable significant environmental impacts, your NEPA analysis and documentation requirements must be met through an Environmental Impact Statement (EIS). An EIS is an in-depth investigation of the nature and extent of the impacts on the environment from the proposed action and all of the reasonable alternatives. Substantial public coordination efforts are required for an EIS. Your EIS environmental analysis culminates in a detailed report that compares and contrasts

the impacts of the proposed action with that of the reasonable alternatives. Additionally, it discusses possible mitigation measures for any environmental impacts from your proposed alternatives, including the preferred alternative that may or may not be the least environmentally damaging alternative. Your environmental planning process, when an EIS is prepared, then concludes with the preparation of a Record of Decision (ROD). Refer to Chapter 3 of this publication and the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 series for further guidance on EIS's and RODs.

**DECIDE.**

Your decision-making step should incorporate the results from the evaluations of the operational requirements, the economic factors and the environmental effects. Before a decision is made, however, all of the various pieces should be recorded in a concise and coherent document—an important aspect of the decision-making process that should not be neglected. The writing of this document will allow others to grasp the important issues and to effectively decide for themselves the best course of action and review.

**CASE STUDY:**

1. **Identify Problem and Need:** For example, a change in drug trafficking patterns indicates a need to immediately relocate resources to the Southeast United States. As no additional facilities are budgeted, there will be a change in vessel homeports to meet this critical need. Issues to be reviewed include the (possible) temporary closure of facilities as the resources relocate, the reduced level of service supporting current missions (such as marine environmental protection and fisheries), remediation efforts at the closed facility, and continued use permit issues. At the receiving site, increased Coast Guard

- presence and activities result in the need to evaluate operational impacts upon sensitive natural areas (coral reefs, marshes, etc.), endangered species, and compliance with other environmental regulations.
2. **Formulate Alternatives:** The initial list should include all feasible alternatives, including no action (maintain status quo e.g., by not changing the mission; temporary reassignment of facilities, and increased out of area deployments).
  3. **Evaluate Each Alternative:** Determine potential impacts and level of significance of impacts in each of the following categories: Environmental Considerations, National and Community Interests, Budget and Personnel, and Operational Costs. (Note: in this phase also consider whether individual impacts may be made less significant through mitigation activities).
  4. **Decide:** Select the preferred alternative. The best alternative does not have to be the one that presents the least significant impact in any one of the categories but should provide the best balance across all categories.

**2.3 WHAT ARE THE IMPORTANT DECISION POINTS IN ENVIRONMENTAL PLANNING?**

There are several important decision points for the USCG business manager in the environmental planning process. Nearly all of these occur during the evaluation step. Figure 3 on page 18 graphically displays a flowchart of these decision points. It is important to note here that the decision-making can be an iterative process.

The first decision point occurs during the scoping phase, after the initial assessment with

in-house resources. At this point, it is important that the business manager understand the potential for significance from the proposed activity and whether the environmental planning process may conclude with a CE or whether a more detailed level of environmental evaluation is necessary.

The business manager must know whether coordination with outside entities is necessary. Coordination with outside entities will have political and corporate image implications. The business manager must be fully cognizant of these implications and be willing to address any comments that may arise. For those cases where detailed environmental evaluation is necessary, the business manager must remain closely involved with the evaluation process. The business manager must understand whether significant impacts are anticipated and whether it is possible to mitigate those significant environmental impacts to levels of insignificance. Mitigation measures can impact operational requirements and economic factors. The business manager must understand the operational and cost implications of each mitigation measure. In some cases, it may not be possible to mitigate the significant environmental impacts to levels of insignificance. In those cases, the business manager must decide whether to proceed with the activity and, if so, to accept the corporate responsibility for the significant impacts.

In other cases, there may be long term monitoring requirements associated with the mitigation. In these cases, the business manager must be willing to make a long-term commitment to seek funding and apply resources to maintain levels of insignificance. Life cycle cost savings or cost avoidance may also be achieved through environmental planning. The most easily measured savings may come from efforts to plan and design new acquisitions in ways that minimize or eliminate the generation of regulated wastes in construction, operation, maintenance and disposal of the asset. No less real, but much

harder to measure, will be the contributions that environmental planning can provide both to our freedom to operate and to minimizing distractions from the performance of our core missions.

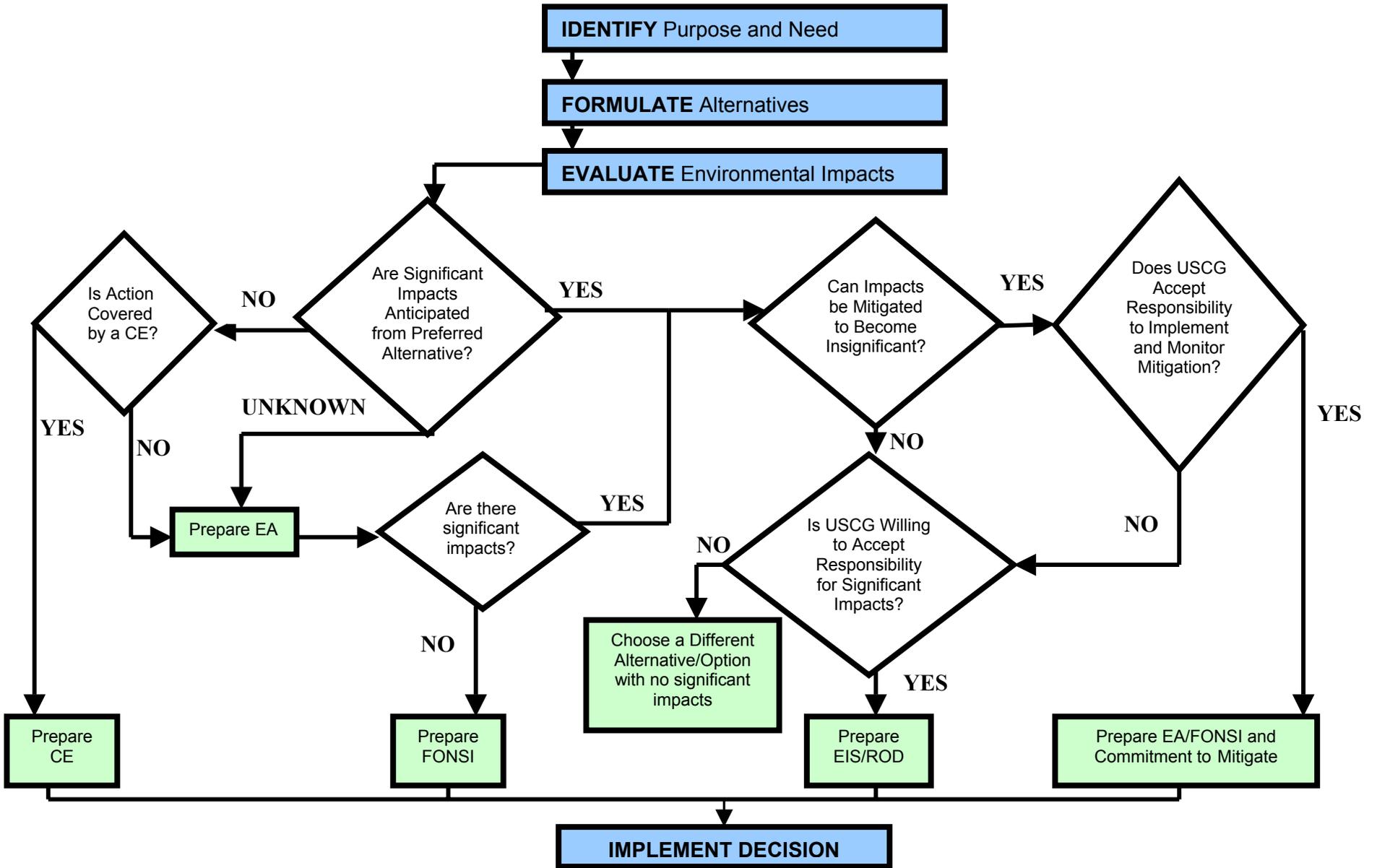


Figure 3

# CHAPTER 3

## NEPA Analysis and Documentation

*“The Coast Guard is uniquely positioned to exhibit leadership in environmental stewardship. As enforcers of environmental laws, we ensure that precious marine natural resources are protected from harm. As an operator of vessels, aircraft, and support facilities, the Coast Guard also has a special duty to ensure that we use our limited natural resources wisely and minimize the environmental impact of our operations. As environmental stewards, we must all think ahead in order to minimize the consequences of our actions on the air, land, and water.”*

(Admiral Loy, U.S. Coast Guard Commandant,  
Commandant’s Environmental Stewardship Challenge)

### 3.1 CATEGORICAL EXCLUSIONS.

(CEQ regulations, 40 CFR 1508.4)  
CATEGORICAL EXCLUSIONS

Categorical Exclusions are not exemptions from NEPA. Categorical exclusions are “a category of actions which do not have a significant impact on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required...Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have significant impacts.

#### **Purpose and Application of Categorical Exclusions (CEs).**

Categorical exclusions are classes of actions that normally have no significant impact on the environment. The CEQ encourages agencies to utilize the CE process where appropriate to reduce paperwork and conserve resources. The NEPA Implementing Procedures and Policy for Considering Environmental Impacts,

COMDTINST M16475.1 (series) contains a list of categories of actions that the USCG has determined, both individually and cumulatively, not to have significant environmental impacts. Be aware that the CE list (while extensive) is an evolving document. Therefore, actions that may seem to have minimal environmental effects may not yet be on the list.

**When To Use a CE.** In order to categorically exclude your proposed action, it must fit into one or more of the categorical exclusions listed in the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series). Determining whether one of these categories applies usually requires some preliminary analysis.

**When Not To Use a CE.** During the initial assessment, you should look for circumstances that would make a CE inappropriate. Some actions that normally would be categorically excluded could require additional environmental review and, for this reason,

responsible personnel should be alert for circumstances that dictate the need to prepare an EA or EIS. A checklist of environmental issues is contained in Enclosure (2) to the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series) to assist in identifying extraordinary circumstances.

A determination of whether an action that is normally excluded requires additional review must focus on the action's significance. The proposed action must be evaluated in its context (whether local, State, regional, tribal, national, or international) and in its intensity by considering whether the action is likely to involve one or more of the following:

- Potential for adverse effects on public health or safety.
- Unique characteristics in or near the geographic area (historic, cultural, ecological, etc.).
- Potential for controversy in terms of scientific validity or public opinion.
- Uncertain or unknown effects or risks.
- The degree to which the action may establish precedence for future actions with significant effects.
- An individually insignificant, but cumulatively significant impact when considered along with other past, present, and reasonably foreseeable future actions.
- An adverse effect on a district, site, highway, structure, or object that is listed in or eligible for listing in the National Register of Historic Places, or the loss or destruction of a significant scientific, cultural, or historic resource.
- An adverse effect on species or habitats protected by the Endangered Species Act.
- A potential or threatened violation of a Federal, state, or local law or requirement imposed for the protection of the environment.
- An impact that may be both beneficial and adverse. A significant impact may exist even if it is believed that, on balance, the effect will be beneficial.

**KEY POINTS: CEs**

All aspects of the proposed action must be covered by one or more Categorical Exclusions in order to Categorically Exclude the action. For example, if your proposed action is to close an existing base and to construct a replacement ten miles down the coast, in order to remain compliant with NEPA, your CE(s) must cover all of the following:

1. The closing of the existing base.
2. The purchasing/leasing of land for the new base.
3. Construction/renovations as needed on the new base.
4. The transfer of staff from other Coast Guard units.

The checklist in COMDTINST M16475.1 series is a useful tool to confirm that no extraordinary circumstances exist before you determine that a CE covers an action.

**REMEMBER:** Categorical Exclusions are not exemptions from the NEPA process; they are the minimum level of analysis required under NEPA for actions that have been determined by the agency not to have the potential for significant impacts.

*Note: The fact that an action falls into the category of CE does not preclude compliance with other environmental laws and regulations such as the Endangered Species Act, the National Historic Preservation Act, or the Clean Water Act.*

**Format and Content.**

Different USCG Categorical Exclusions require different levels of documentation. A CE may require any one of the following:

- No documentation.
- Completion of the Environmental Checklist in the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series).

- Completion of a Categorical Exclusion Determination and Environmental Checklist in the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series).

The level of documentation required for each CE is specified in the National Environmental Policy Manual, COMDTINST M16475.1 (series) along with each CE description. Once you have completed the appropriate documentation required by your categorical exclusion, you have completed the NEPA process. HOWEVER, if your proposed action

- does not fit into a USCG Categorical Exclusion;
- has, or might have, extraordinary circumstances; or
- has, or might have, individual or cumulative significant environmental impacts;

then you must proceed to a more detailed level of environmental evaluation as described in Chapter 2. Generally, you should proceed to an EA if you are unsure of the potential for significant impacts from your action and proceed to an EIS if you know or suspect your proposed action will have significant impacts. While public participation is not specifically required for a CE in the regulations, some outside input on issues, especially from expert environmental agencies, may be necessary to determine if significant issues exist that could render your use of the CE process inappropriate. Additionally, it is important for you to remember that even after you have completed a CE and any applicable documentation in support of the CE, this does not automatically mean that you have complied with all other applicable laws and regulations. Compliance with NEPA does not necessarily mean compliance with all environmental laws and regulations. You should ensure that you

have complied with all applicable laws and regulations before implementing your action.

### 3.2 ENVIRONMENTAL ASSESSMENT (EA) AND FINDING OF NO SIGNIFICANT IMPACT (FONSI).

*“Many more EAs are written than EIS’s.”*

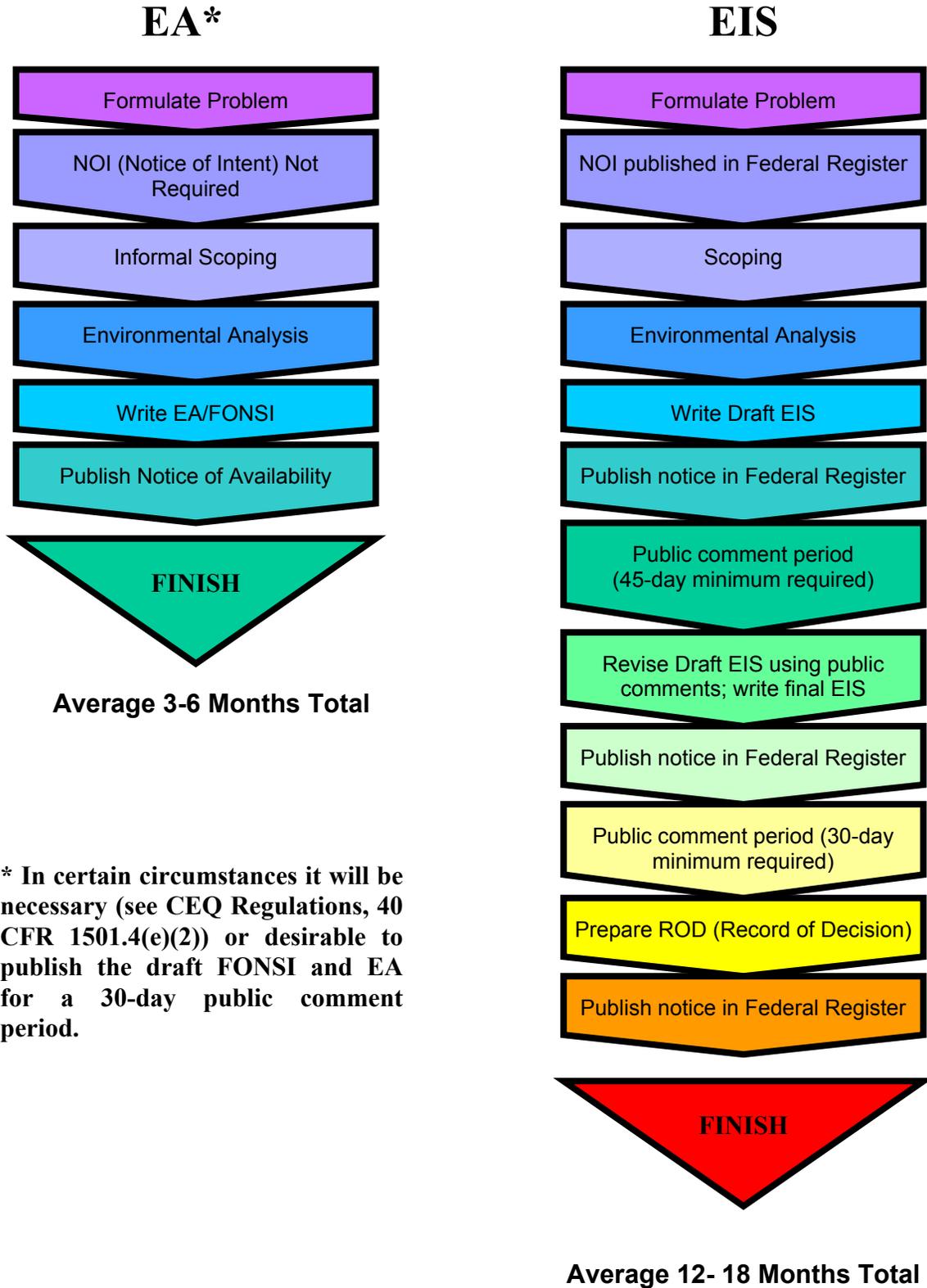
*“Since NEPA was passed, the role of the EA has evolved to the point where it is the predominant way agencies conduct NEPA analyses. With the increased use of EAs, often to the overall benefit of the environment, comes the danger that public involvement will be diminished and individually minor actions will have major adverse cumulative effects. Therefore, as agencies rely more heavily on EAs, agencies need to insure that they forge true partnerships with other agencies and the surrounding communities. Only then will stakeholders trust that EAs are honestly serving to protect the environment.”*

(NEPA: A Study of its Effectiveness After 25 Years  
Executive Office of the President, Council On  
Environmental Quality January 1997)

#### Purpose and Application.

An EA is intended to be a concise public document prepared when a CE does not cover an action and/or the significance of impacts is unknown. Of the three levels of NEPA analysis, EAs are the second most common for USCG actions. It is important that EAs are done properly, not only to ensure compliance with NEPA, but also to maintain the trust of the public. The three main purposes of an EA are as follows:

1. An EA briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or FONSI.
2. An EA constitutes an agency’s compliance with NEPA when no EIS is necessary.
3. An EA facilitates preparation of an EIS when one is necessary.



\* In certain circumstances it will be necessary (see CEQ Regulations, 40 CFR 1501.4(e)(2)) or desirable to publish the draft FONSI and EA for a 30-day public comment period.

**Figure 4 Timeframes for EAs and EIS's.**

**(CEQ regulations, 40 CFR 1501.4  
PUBLIC INVOLVEMENT IN AN EA**

The agency shall involve environmental agencies, applicants, and the public, to the extent practicable, in preparing assessments required by CEQ regulations, 40 CFR 1501.4(b).

**GOALS OF PUBLIC PARTICIPATION**

- Reach better decisions.
- Inform the public of activities, plans, and decisions.
- Encourage public understanding.
- Be aware of and responsive to public values.
- Understand the public's needs and concerns.
- Broaden information base.

**KEY POINTS: PUBLIC PARTICIPATION**

- Contrary to a common misconception, CEQ regulations do require public input to the EA process when it is feasible for the agency to do so. See CEQ regulations, 40 CFR 1501.4 (b).
- No formal responses to public comments are required at the EA level of analysis; however, the EA should reflect the fact that comments were considered in the preparation of the document. (It is also recommended that any comments and any responses be included in the EA appendix.)
- No formal time frames are established by CEQ for public input to EA development. However, public involvement must occur before the decision is made. In some ways, the lack of specific time constraints for obtaining public input to your EA process makes the EA process easier to deal with; however, this also means that the burden is on you to make sure all the requirements are met in a timely manner.

**The EA Document.**

CEQ regulations require brief discussions of the need for the proposal, of alternatives as required by NEPA section 102(2)(E), of environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted (CEQ regulations, 40 CFR 1508.9(b) (1)). The EA document, supported by the necessary appendices and technical data, is to be **concise** for meaningful review and

decision. The NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series) defines the content for the USCG EA, which should not exceed 15 pages, as follows:

1. **Cover Sheet.** (Enclosure (4) of the NEPA Implementing Procedure and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series)).
2. **Statement of Need.** This section should briefly, yet clearly, explain the underlying need for the action addressed by the proposed action and alternatives, and explain the purpose it will fulfill once implemented. This documents the first step of the environmental planning process.
3. **Alternatives Considered.** This section should contain a brief description of all of the alternatives considered, including the no action alternative, reasonable alternatives including those not within the jurisdiction of the USCG, and those that were dismissed from detailed evaluation. For alternatives that were eliminated from detailed study, you should briefly discuss the reasons for their having been eliminated. This section documents step 2 of the planning process.
4. **Summary of Environmental Impacts of the Proposed Action and Alternatives.** This section should form the scientific and analytic section of your EA. The discussion should include the environmental impacts of the alternatives including the proposed action, and any adverse environmental effects which cannot be avoided should the proposal be implemented. It should include discussions of direct, indirect and cumulative impacts, their level of significance for each alternative, and any mitigation you are committed to, especially if the mitigation is necessary in order to reduce significant adverse environmental impacts to a level of insignificance (see the section on mitigated FONSI's). This section documents the first part of step 3 of the planning process.

**5. A Comparative Analysis of the Proposed Action and Alternatives.**

This section should provide a detailed, comprehensive comparison of all the alternatives, including the proposed action. All alternatives should be compared in equal detail on environmental and other grounds. These comparisons should be based on the investigation and examination completed during the environmental evaluation. This section completes documentation for step 3 of the environmental planning process. The format for EAs is flexible, allowing the preparer to choose where this section will occur in the EA document. While the comparison can occur as a separate section, usually, the comparison occurs either in the Alternatives Section or in the Environmental Impact Section of the EA.

**6. Statement of Environmental Significance of the Proposed Action.**

**7. List of All Agencies and Persons Contacted During the EA.**

In this section, the names and qualifications of all persons who were primarily responsible for preparing or contributing information to the EA is provided. This list should include information on the authors and compilers of any significant background papers as well.

**8. Appendix.** The appendix should be circulated with the EA or be readily available upon request. Information included must meet the following criteria:

- a. It was prepared in connection with the EA (Note that this is different from information available previously which should be incorporated by reference only).
- b. It substantiates any analysis fundamental to the EA.
- c. It is analytic and relevant to the decision to be made.

**Optional EA Sections.** Two other sections that are often included in EAs are a Summary Section of 1-2 pages and an Affected

Environment Section. While these sections are not specifically required for EAs either by CEQ regulations or the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series), they are sometimes helpful to include in EAs that are either lengthy, complex, or a precursor to an EIS. A summary to an EA should accurately and adequately summarize the assessment, and it should stress major conclusions, areas of controversy, and the issues to be resolved (including the choice between the alternatives). The Affected Environment Section should briefly describe the current environment of the areas to be affected by the proposed action and alternatives. Areas described should be limited to areas affected by the alternatives, and the level of description should be comparable to the importance of the associated potential impacts. The Affected Environment Section can also be combined with the Environmental Consequences Section if desired.

**The FONSI Document.**

If you complete the EA analysis and find no significant impacts, then you must complete a Finding of No Significant Impact (FONSI) in order to conclude the EA process. A FONSI states why there will not be significant impacts due to the implementation of your preferred alternative. This documents the decision step of the environmental planning process.

**(CEQ regulations, 40 CFR 1508.13)  
FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

“A finding of no significant impact is a document briefly presenting the reasons why an action, not categorically excluded will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.”

The NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series) states that an USCG FONSI must be a separate one-page document containing a brief explanation of why the action will not significantly impact the environment. The environmental assessment is attached to the FONSI. The FONSI must also note any other environmental document related to it. The format for the FONSI document is found in COMDTINST M16475.1 series, Enclosures (5) and (6).

A mitigated FONSI is one in which, although the preferred alternative will have some significant impacts to the environment, the FONSI and EA analysis include mitigation that is built into the preferred alternative to reduce such impacts to the point where they are no longer significant. It is a good idea to document the fact that you are concluding the NEPA process with a mitigated FONSI either in

- a) the explicitly written FONSI statement; or
- b) the preferred alternative, and reference it in the FONSI.

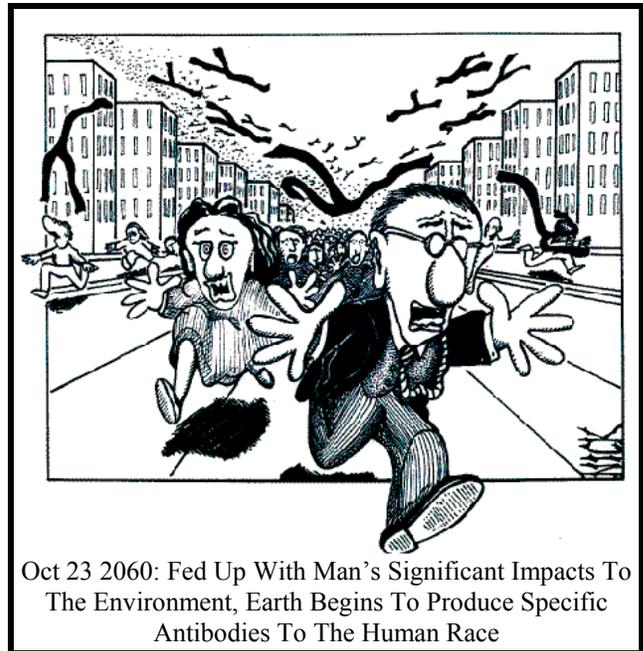
The mitigation measures must be carried out in order to avoid a future requirement to prepare an EIS.

CEQ NEPA regulations require public notification of your FONSI or mitigated FONSI, and the level of public notification should be appropriate for the scope of the proposal. For example, a proposal for a local project affecting only local constituents may only require the notification of regional Federal agency offices and local environmental offices and the local community.

However, a FONSI on a proposed action of national concern would require notification of all appropriate Headquarters offices of Federal agencies, State points of contact, and any interested or affected local constituents.

It is *strongly* advised that, in the case of a mitigated FONSI, you submit the EA and draft

EARTH'S ULTIMATE MITIGATION PLAN



FONSI for a minimum of 30 days of public comment and review before implementing your action (CEQ regulations, 40 CFR 1501.4 (e)(2)).

Once you have completed your FONSI and made it available to the public, you have completed the EA process and documentation. One copy of the completed EA and FONSI must be forwarded to Commandant (G-SEC) and the responsible Commandant level program office, and retain one copy in the office of the preparer and the appropriate program office. REMEMBER that if through an EA it is determined that your proposed action will have significant effects, then you must proceed to prepare an Environmental Impact Statement (EIS). Generally, you should proceed directly to an EIS at any time during the EA process if you know, or strongly suspect, your proposed action will have unavoidable significant impacts.

At any point during an EA, if sufficient evidence arises that demonstrates a significant environmental impact and the Coast Guard cannot, or does not propose alternatives that mitigate those impacts to a level of insignificance, then you can and should switch immediately to an EIS.

**Methods of Public Notification.**

**(Some or all of these methods can be used depending on the individual circumstances, the level of NEPA analysis prepared and whether the action has national or local impacts.)**

- Directly mail notices of individual actions upon request.
- Publish notification in the Federal Register and mail notices to national organizations if the action is of national concern.
- Publish notice in local newspapers.
- Distribute notices of proposed actions that may affect reservations to Indian tribes.
- Distribute notices to interested community organizations and small business associations.
- Directly mail notice to owners and occupants of nearby or affected property.
- Post notices on and off proposed action site.
- Notify State and area-wide clearinghouses pursuant to the Intergovernmental Review Process (EO 12372).

**EAs, Project Changes, New Information, and Obsolete Environmental Analyses.**

If there are substantial changes made in an EA's proposed action or preferred alternative which are relevant to environmental concerns, or if significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts arise, it is strongly recommended that you prepare additional environmental analysis and documentation as appropriate.

For example, if your EA is not yet complete, revision of the EA to include the new information is recommended. If your EA and FONSI are complete and new information relevant to environmental concerns arises before project implementation, you should either supplement your original EA or prepare a new EA to analyze the environmental impacts of the new information. If you believe that an EA that was done more than 5 years ago may

be sufficient for an action you want to initiate in the near future, it is recommended that you carefully reexamine the document to ensure that the environmental, and any project specific information, is still current. If you find that the information contained in the document is obsolete, you may want to consider preparing a supplemental or new EA for your future action. In all the cases described above, you should not take action until the additional environmental evaluations are complete.

Usually, you would prepare new EAs only when the change in scope of the proposed action or new environmental information is so great that the original evaluation is no longer adequate. You should prepare a supplement to your EA if the proposed action is still similar but has changed in scope such that new environmental concerns have arisen, you discover a new viable alternative, or you discover important new information about environmental impacts. The supplement to your EA need not repeat information contained in the original EA but can incorporate that information by reference and concentrate its main discussion on the new issues pertinent to the current document. However, the supplement should state where the original EA is available. Additionally, it is recommended that, at a minimum, you carry out the same public notice on the supplemental EA as you completed for the original EA. Supplemental and/or new EAs should be followed by a FONSI or the more detailed EIS, as appropriate.

### 3.3 ENVIRONMENTAL IMPACT STATEMENT (EIS) AND RECORD OF DECISION (ROD).

*"[The EIS] has become an end in itself, rather than a means to making better decisions... [EIS's] have often failed to establish the link between what is learned through the NEPA process and how the information can contribute to decisions which further national environmental policies and goals."*  
(Charles Warren, former CEQ Chairman, preamble to the regulations, 1978)

#### Purpose and Application.

The EIS is the most comprehensive of the three levels of NEPA analysis. It was, and still is, intended to be an action-forcing device to ensure that government agencies incorporate the policies and goals of the Act into their ongoing actions and programs.

If the EIS process and documentation is completed properly, the USCG ensures the public, courts, and stakeholders that it has:

1. examined and documented the impacts of the proposed action sufficiently, but not excessively;
2. identified and investigated reasonable alternatives to the proposed action;
3. clearly described possible mitigation to any impacts;
4. adequately incorporated the public and other agencies, including relevant State and local agencies, into the process from the beginning;
5. carefully considered and actively responded to any comments from the public; and
6. accomplished the above while complying with the time frames established by the CEQ for public participation.

#### EIS Procedures.

An EIS documents the overall environmental analysis of the proposed action and alternatives in more detail than an EA. When significant environmental impacts are anticipated, public participation in the environmental analysis and evaluation of alternatives is a substantial requirement in the EIS preparation.

Other significant differences include requirements to publish a Notice of Intent to prepare an EIS and to provide comment periods for public review of the document.

The following is a basic outline of the steps in the EIS process and a detailed description of each is provided below.

1. Record and publish notice of intent (NOI).
2. Carry out scoping and early public involvement.
3. Analyze purpose and need.
4. Choose and analyze alternatives.
5. Analyze affected environment.
6. Analyze environmental consequences.
7. Prepare and publish public notice and circulate the draft EIS (45-day comment period required).
8. Respond to comments on draft EIS.
9. Prepare and publish public notice and circulate the final EIS (30-day comment period required).
10. Prepare Record of Decision.
11. Publish Record of Decision (30-day wait period from FEIS [Final EIS] & 90 days from DEIS [Draft EIS] required).

**Notice of Intent.** The first requirement for an EIS is to publish a Notice of Intent (NOI) in the Federal Register, which publicly announces the intent of the USCG to prepare an EIS.

(CEQ regulations, 40 CFR 1508.22)  
NOTICE OF INTENT

A “Notice of Intent” states that an environmental impact statement will be prepared and considered, and shall briefly

- describe the proposed action and alternatives;
- describe the agency’s proposed scoping process; and
- state the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.



SCOPING: THE HUNT FOR KNOWLEDGE

**Scoping/Early Public Involvement.** Once the NOI is published, the scoping process should begin to determine the range of impacts and reasonable alternatives. The regulations for the EIS, written by the CEQ, permit the USCG to select its scoping method, but suggest early collaboration with the public and other agencies. There is no approach to scoping that is appropriate for all proposals. It is important to tailor the scoping process to the current proposal with consideration to the potential interested parties, the extent of the affected/interested public (local concern or national), and the logistics of interaction between the USCG and the stakeholders.

**Example:** If the USCG proposed to build a new building on or near USCG existing facilities, it would be entirely proper to aim the public notification to the local community in which the action would occur. If the USCG proposed to close a base and change the way it provided search and rescue for an area, the entire affected public should be notified. Therefore, closing this base might require notification at a state or regional level. The USCG should use national public notification channels for any action that would affect the USCG as a whole, such as rule making, changes in regulations, and operational changes that will broadly affect the USCG.

Beyond the NOI, the CEQ gives many suggestions and much guidance for increasing and improving public participation in the scoping process; Chapter Three lists suggestions for public notice in its discussion of EAs. A good source for a more in-depth discussion of scoping, with particular emphasis on the public meeting, is the memorandum issued from the CEQ on 30 April 1981, “Scoping Guidance”, which should be available from your servicing environmental staff.

**Draft EIS.** The draft EIS (DEIS) should specifically address the issues raised during scoping. The DEIS should include a meaningful analysis of the proposed action and its alternatives. The DEIS is meant to embody the analysis and comparison of the proposed action and the alternatives.

***An EIS must list all Federal permits, licenses, or other approvals that need to be obtained to implement the proposed action (CEQ regulations, 40 CFR 1502.28).***

Prior to submitting the DEIS to the EPA (Environmental Protection Agency) and for public comment, the USCG is required to indicate any preferred alternatives. If the USCG has yet to decide on a preferred action, then it may defer that selection until the final EIS is submitted.

**Public Notice of the Draft EIS.** The completed DEIS must be sent first to the EPA and then circulated for public and agency comment for at least 45 days. It is important to note that the clock for this 45-day comment periods starts *once the EPA publishes the notice of availability for the DEIS in the Federal Register*.

With the exception of the Bridge Administration projects, the originator or the responsible program office forwards (per the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series)) 12 copies of the DEIS to Commandant (G-SEC), who will distribute the copies as necessary to the EPA, DOT (Department of Transportation), and USCG Headquarters offices. Note again that this can require additional time between the time the DEIS leaves your hands and a notice is published in the Federal Register.

**(CEQ regulations, 40 CFR 1506.6  
PUBLIC INVOLVEMENT)**

Agencies Shall:

- Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.
- Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies that may be interested or affected.

Although the Commandant will distribute the DEIS within Headquarters and to the EPA as needed, it is still your responsibility to obtain comments from other federal agencies, state and local governments and agencies, and other interested parties. Comments should be solicited from the following sources:

- Any Federal agency which has jurisdiction by law or special expertise or which is authorized to develop and enforce environmental standards.

- Appropriate State and local agencies that are authorized to develop and enforce environmental standards.
- Any affected State and local governments, and/or Indian tribes, when the effects may be on a reservation.
- Any agency that has requested that it receive such statements.
- From the public, particularly those persons or organizations who may be interested or affected.

**Document and Respond to Comments on the DEIS.** All substantive comments must be documented (summaries are acceptable if the response has been particularly large) and attached to the final statement. In addition, you must respond to the public comments for the DEIS and incorporate them into the final statement.

If you receive input that you feel is irrelevant or insignificant, *do not just ignore it!* These concerns must be acknowledged by a brief explanation of why you found them without merit for further consideration.

**Final EIS.** The USCG’s preferred alternative *must* be indicated in the final EIS (FEIS) (CEQ regulations, 40 CFR 1502.14.e). Because CEQ regulations require the Record of Decision to state the *environmentally* preferred alternative, it is also a good idea to state the environmentally preferred alternative in the FEIS as well.

**Public Notice of the Final EIS.** With the exception of the Bridge Administration projects, the originator, or the responsible Headquarters’ program office forwards twelve (12) copies of the FEIS to Commandant (G-SEC) for distribution within USCG Headquarters offices and DOT elements, as appropriate, and for filing with the Environmental Protection Agency’s (EPA’s) Office of Federal Activities. The 12 copies are forwarded to Commandant (G-SEC) in

sufficient time for review and comment by Headquarters' offices and DOT elements as appropriate. The FEIS must be submitted to the EPA for publication of a notice of availability in the Federal Register, and commencement of a 30-day comment period. Copies must be provided to agencies with jurisdiction by law, environmental regulatory agencies, those who have requested copies, and those who submitted substantive comments on the DEIS. Additional copies of the FEIS should be made available to public libraries and upon request. The FEIS should be circulated to all those who commented on the DEIS, or received a copy of the DEIS, and to any other interested or affected organizations, agencies or members of the public.

**Prepare Record of Decision.** After the 30-day comment period for the FEIS, the proposed alternative to be enacted must be documented in a prepared record of decision (ROD).

**Publish Record of Decision.** The ROD must be provided to the public via publication in the Federal Register.

### **The EIS Document.**

The USCG should prepare a concise EIS focusing on the significant issues only and should not dwell on extraneous background or irrelevant information. The USCG must address mitigation measures that cover the range of impacts of the proposal. All relevant, reasonable mitigation measures that can alleviate or lessen a project's negative impacts on the environment must be identified.

The CEQ has recommended 11 elements for the EIS document (CEQ regulations, 40 CFR 1502.10-1502.18) and strongly encourages agencies to adhere to this format unless there are compelling reasons to do otherwise. A typical EIS should not exceed 150 pages (CEQ regulations, 40 CFR 1502.7), but complex EIS documents can be up to 300 pages. The

following is a list containing the required sections of an EIS:

1. Cover Sheet.
2. Summary.
3. Table of Contents.
4. Purpose and Need for Action.
5. Alternatives Including Proposed Action.
6. Affected Environment.
7. Environmental Consequences.
8. List of Preparers.
9. List of Agencies, Organizations, and Persons To Whom Copies of the Statement Are Sent.
10. Index.
11. Appendices (if any).

The most important characteristic of the EIS document, is the clear presentation of the results of accurate and thorough analysis of the alternatives and proposed action. (*Remember: it is not better documents, but better decisions that count.*)

### **The ROD Document.**

The CEQ stipulates in CEQ regulations, 40 CFR 1505.2 that the ROD should include all of the following information:

1. The decision made.
2. All alternatives considered by the USCG in reaching its decision, and the alternative(s) identified as environmentally preferable.
  - The environmentally preferred alternative must be indicated in the Record of Decision. The environmentally preferred alternative is defined as that which is most protective of the biological and physical environment and which best protects, preserves, and enhances historic, cultural, and natural resources. Although NEPA does not

require that the environmentally preferred alternative be selected as the preferred alternative, NEPA does require the specific identification of the environmentally preferred alternative in the ROD.

- Discuss preferences among alternatives based on relevant factors including economic and technical considerations and USCG statutory missions.
  - Identify and discuss all essential factors and considerations of national policy that influenced the decision-making process.
3. State whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and if not, why they were not.

### **EIS's, Project Changes, New Information, and Obsolete Environmental Analyses.**

Although the CEQ regulations do not contain specific requirements for supplementing EAs, they do contain specific requirements for supplements to EIS's. If there are substantial changes made in an EIS's proposed action or preferred alternative which are relevant to environmental concerns, or if significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts arise, then you *must, at a minimum*, prepare a supplement to your draft or final EIS, as applicable.

If your draft EIS is not yet complete, revision of the draft EIS to include the new information is recommended. If your final EIS is complete and new information relevant to environmental concerns arises before project implementation, you should either supplement your final EIS or prepare a new EIS to analyze the environmental impacts of the new information. If you want to use a programmatic EIS that was done more than 5 years ago to serve as your environmental analysis for an action you want

to initiate in the near future, it is recommended that you carefully reexamine the programmatic document to ensure that the environmental, and any project specific information, is still current. If you find that the information contained in the programmatic is obsolete, you may want to consider preparing a new or supplemental document for your future action. In all the cases described above, you should not take action until the additional environmental analysis is complete.

Usually, you would prepare new EIS's only when the change in scope of the proposed action or new environmental information is so great that the original analysis is no longer adequate. You should prepare a supplement to your EIS if the proposed action is still similar but has changed in scope such that new environmental concerns have arisen, you discover a new viable alternative, or you discover new information about environmental impacts. The supplement to your EIS need not repeat information contained in the original EIS but can incorporate that information by reference and concentrate its main discussion on the new issues pertinent to the current document. However, the supplement should state where the original EIS is available. Additionally, it is *required* that, at a minimum, you carry out the same public notice on the supplemental EIS as you completed for the original EIS unless alternate procedures are approved by CEQ. You must also file the supplemental EIS with EPA in the same manner as you filed the draft and final EIS.

Once you have filed the supplemental EIS with EPA, you must wait 30 days from the date of EPA's notice in the Federal Register on your filing before issuing your Record of Decision and implementing your preferred alternative.

# CHAPTER 4:

## Frequently Asked Questions

*“The EIS was intended to set forth the environmental facts relative to proposed public actions. It was conceived as a mandatory, action-forcing reorientation of planning and decision-making. But it was never intended to preempt the decision-making authority of responsible public officials. It was intended to influence the way in which this decision-making authority was exercised.”*

(Lynton K. Caldwell, consultant to the Senate committee that drafted NEPA)

### **4.1 WHAT ARE THE DIFFERENCES BETWEEN EAS AND EIS'S, AND WHAT ARE THE ADVANTAGES AND DISADVANTAGES?**

Although similar in many respects, an EA should not be considered as *only* a short or condensed version of an EIS. There are advantages and disadvantages to each process that the business manager should keep in mind when first making the decision to start with an EA or an EIS. The science involved, the analysis of risk, the degree of potential controversy, and politics must all be taken into account during the development of the environmental planning strategy. One of the major differences between the two processes is the intent of the final document.

An EA is written to provide sufficient evidence that an action will not cause significant impacts

to the environment. If the FONSI is challenged, it will be up to the business manager to ensure that the administrative record provided supports his or her determination.

An EIS, on the other hand, concedes the significance of some or all impacts. It is a report of the potential impacts and consequences of an action. If an EIS is challenged, the business manager needs to provide an administrative record demonstrating that the determinations and decisions were not arbitrary or capricious, the NEPA procedures were followed, and the analysis was conducted in a reasonable manner. This advantage in court for an EIS somewhat offsets the

disadvantage of a longer time frame and a more costly analysis. For any action that might be controversial, it would be wise to complete an EIS so that you have the advantage if the proposal is challenged in the courts (very likely with controversial issues).

The varying levels of public involvement between an EA and an EIS could be seen as both advantages and disadvantages. By involving the public early in the EIS, there is a greater chance that any significant issues will be raised and addressed. However, this also means that you must publish both the draft and final EIS with scoping, full notice, and comment periods—adding both time and cost to the process.

An EA process has a shorter and more flexible time frame with the method and extent of public involvement left to the business manager's discretion. However, the public may not have the opportunity to comment on the proposal until *after* the decision has been made (there are no formal time requirements for public review or comment on the draft EA). Therefore important concerns or issues might not be raised until after the EA is completed and the action is ready to begin. This could lead to costly delays due to court action, public relations, and rewriting.

## 4.2 HOW IS SIGNIFICANCE DETERMINED?

### Defining “Significance”.

The CEQ regulations define significance in terms of the *context* of the action and the *intensity* of the impacts (CEQ regulations, 40 CFR 1508.27). Note that the word “significance” (regarding environmental impacts) has a legal definition, and therefore should not be used indiscriminately in a NEPA document.

### Context of Impacts.

The context of impacts ranges from site-specific (local impacts), to regional (county or counties), to national and global impacts. Context also includes the duration of the impacts. For example, the destruction of an old building may have a site-specific impact on topography. However, if that building is a historic landmark, there may be a regional economic impact if it is destroyed. Its loss as a cultural resource could have a national impact. Therefore, CEQ regulations require impact analysis in the following contexts:

- Society as a whole (human, national).
- The affected region.
- The affected interests.
- The locality.

The preparer must also consider the duration of various environmental effects—whether they are temporary, short term, or long term. While there are no formal criteria for defining the duration of impacts, the following suggestions may help:

- Temporary: reduced early in the project.
- Short term: project life.
- Long term: existing after project completion.

An impact will more likely be significant if it is long term; however, even a temporary effect may have serious consequences. For example, a vehicle convoy or rail movement of equipment may cause damage to public roads and bridges, local traffic congestion, and safety hazards to the public as a result of hazardous material spills.

### Intensity of Impacts.

The intensity of environmental impacts refers to the severity of an impact. When evaluating the intensity of an impact, the following factors

should be considered (CEQ regulations, 40 CFR 1508.27(b)):

- Beneficial as well as adverse impacts.
- Degree to which public health or safety is affected.
- Unique characteristics of the geological area.
- Controversial nature of the action.
- Uncertain effects, or unique or unknown facts.
- Precedent-setting actions.
- Cumulative impacts.
- Degree to which historic landmarks are affected.
- Degree to which endangered or threatened species or their habitats may be affected.
- Potential for violation of Federal, state, or local environmental standards.

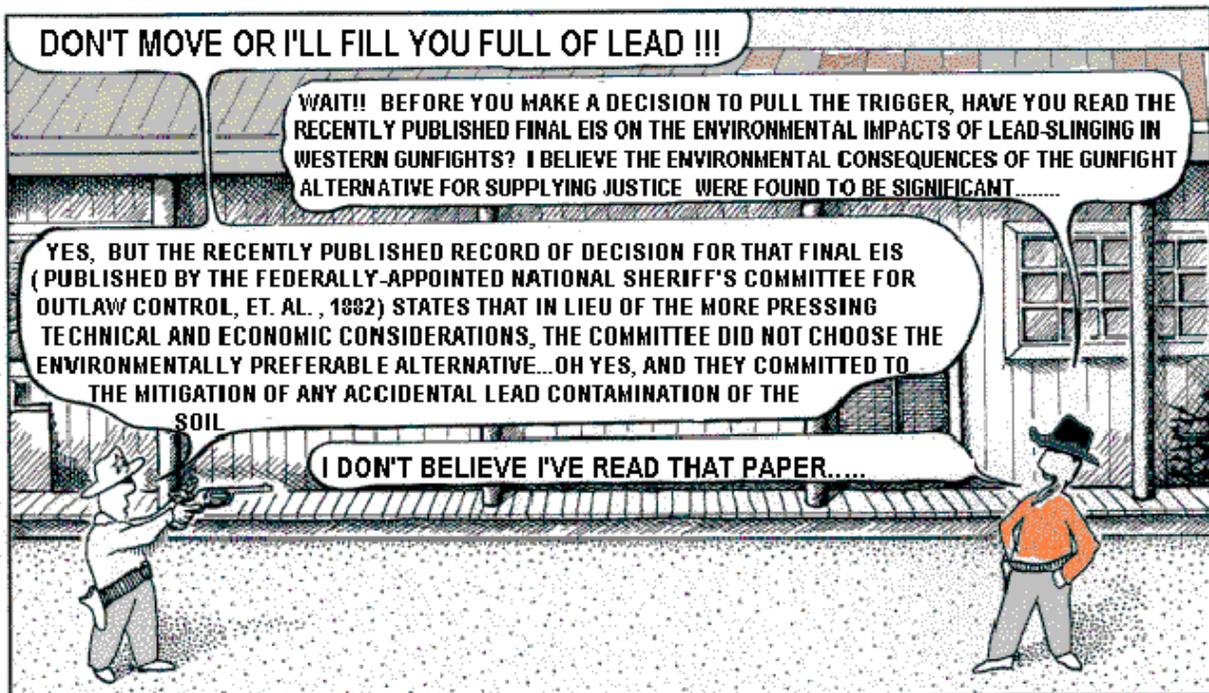
**Types of Impacts.**

Whether or not the impacts of a proposed action are, or potentially are, significant will

determine if you need to prepare an EIS. To evaluate the impacts, you must systematically assess each individual environmental resource such as air quality and water resources.

An action with significant impacts on one or more environmental resources is considered to have significant effects for the purposes of NEPA analysis. Also, the sum of less-than-significant impacts in separate environmental parameters, when combined in an eco-system, may result in significant cumulative impacts for the entire proposed action.

The following is a general list (in no particular order) of the types of environmental parameters that should be evaluated in determining significance. These criteria are highly subjective and may often have no clear thresholds.



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- Geology/Soils
- Topography
- Hydrology/  
Floodplains/  
Wetlands/ Water  
Quality
- Vegetation/ Wildlife/ Threatened and  
Endangered Species
- Historic/Cultural/Archeological Resources
- Socio-economic: Economy/Employment
- Air Quality
- Infrastructure
- Environmental  
Justice
- Land Use

In addition to impacts on resources, you need to consider potential controversy that may affect the decision to prepare an EIS. A proposed action that is likely to create substantial public controversy over its effect on the human environment will probably require an EIS. Controversy is included by the CEQ as a factor in the intensity of an impact (CEQ regulations, 40 CFR 1508.27 (b)(4)).

It is also worthy to note that although economic and social effects are listed, *in and of themselves*, they are not sufficient to require the preparation of an EIS. However, once an EIS is undertaken, these effects must be fully considered.

### Determining Significance.

Determining whether beneficial or adverse impacts would likely result from the proposed action is best made through the dynamic interaction of members of an interdisciplinary team. During the early stages of the analysis, all team members need to address the possible significance of the entire range of impacts. It is not enough to merely divide up the various impacts to be evaluated by the individual team members; cumulative effects and interactions among factors leading to significant impacts may be missed. The following factors should be considered when evaluating the significance of an action:

- **Irreversible and Irretrievable Commitments of Resources.** The proposed action may cause environmental damage that cannot be reversed or mitigated. Such damage is more likely to be considered significant than similar damage that is temporary or even long-term.
- **Indirect Impacts.** Often, indirect impacts are not obvious during a quick analysis of an action and may be easily missed. Many of these indirect impacts affect social and cultural values of the local communities and region. This includes alterations of life style and diminished quality of life that might be caused by the proposed action. Public input is a good source of information on indirect impacts.
- **Cumulative Impacts.** These impacts must be assessed. Individual minor actions may collectively have a significant impact. Incremental development or changes may have significant cumulative impacts.
- **Relevant Legal Requirements.** Legal requirements should be considered in determining significance. Such criteria may appear in local, state, or Federal statutes, regulations, or court decisions. Actions that are likely to result in violation of those standards will probably have significant impacts. Consultation with the legal office is essential on these types of questions.
- **Scientific Concerns.** Often, the scientific community will have differing opinions on the accuracy or validity of scientific matters. This seems especially true with environmental matters. If there is scientific controversy concerning any aspect of a proposed action, then the occurrence of significant impacts is questionable and an EIS should be considered.

- **Public Opinion.** As with the scientific community, strong controversy over the environmental impacts of a proposed action can arise among the general public. Again, an EIS should be considered due to the possible significant impacts perceived by the public.
- **Documenting Significance.** The final determination of whether the environmental impact of a proposed action is significant eventually will be subject to review by other agencies and the public and to potential challenge in the courts. A record demonstrating that all the related issues have been carefully considered will be necessary to support and, if challenged, defend the determination.

### 4.3 WHAT ARE THE OPTIONS FOR EA/EIS PREPARATION?

#### **In-house vs. Contractor.**

The business manager has the choice of whether to rely on in-house preparers or to contract parts of this job directly to contractors or to consultants. You should note, however, that many of the necessary tasks *cannot* be contracted out; the use of a contractor does not mean that you wash your hands entirely of the process until the document is written. The business manager, whether it be an office or a person, must be actively involved throughout the environmental planning process as well as the preparation of the documents for NEPA compliance.

Involved USCG staff must attend all public meetings, review and concur with draft documents, arrange for local distribution of the documents, and prepare the ROD/FONSI. In addition, if data collection is contracted out, the contractor will need to rely heavily on USCG environmental staff to provide existing data sources and to help gain access to and interpret

the data. Both the proponent and the environmental staff will have to attend in-progress reviews and other meetings with the contractor to ensure quality control.

There is no way around it—preparing an EIS or an EA necessitates a significant workload on the responsible USCG office, *even if most of the preparation is contracted out.*

#### **EIS/EA Preparation Options**

**Option 1: Preparation by Available Technical In-House Staff.** The document is prepared using only in-house staff, which have the training and expertise to adequately address technical NEPA issues. The environmental staff may perform the data gathering, analysis, and write the document, while the proponent takes on all the organizational tasks such as manuscript preparation and meeting logistics.

If this option is used, an objective team leader must be appointed to resolve differences of opinion and to elicit a response from participants as needed.

**Option 2: Partial or Complete Preparation by Contractor.** If budget and resource constraints preclude in-house preparation, a portion, or all, of the work may be contracted out. The business manager is responsible for

- managing the procured delivery order or purchase request;
- supplying the contractor with internal USCG data; and
- the content of the final EA/EIS.

To ensure a technically accurate, unbiased analysis, the business manager must carefully select a contractor in a manner that avoids any conflict of interest. Business managers are encouraged to solicit applications from multiple contractors to assess technical qualifications, past performance, and best

value. Use of indefinite-delivery order contractors, which have been competitively selected using criteria including their technical qualifications and past performance in preparing NEPA documents, is also satisfactory. Contractors must submit a disclosure statement that documents their lack of any financial or other interest in the outcome of the project.

Throughout the preparation of the EA/EIS, the business manager should actively collaborate with the selected contractor to ensure

- an accurate representation of USCG policy and operations;
- a correct assessment of the environmental conditions and alternatives. assessment/statement; and
- a timely, cost-effective exchange of information and document revision.

PREPARATION:	IN-HOUSE	CONTRACTOR
<b>ADVANTAGES</b>	<ul style="list-style-type: none"> <li>• Eliminates or reduces contract costs.</li> <li>• In-house personnel readily incorporate knowledge of USCG processes and projects.</li> <li>• In-house staff provides detailed information of affected area of responsibility (AOR).</li> </ul>	<ul style="list-style-type: none"> <li>• Specialized environmental expertise.</li> <li>• Augments environmental office staff.</li> <li>• Delivery orders or purchase requests ensure deliverables within a specified period of performance.</li> </ul>
<b>DISADVANTAGES</b>	<ul style="list-style-type: none"> <li>• Substantial in-house staff time may be required and not available for other duties.</li> <li>• Delays in completion due to the part-time allocation of in-house staff to both environmental planning documentation and other duties.</li> <li>• In-house staff may not be fully aware of public concerns.</li> <li>• In-house staff encounters conflicts with their primary role of reviewing NEPA documents.</li> <li>• Specialized environmental expertise may not be available in-house.</li> </ul>	<ul style="list-style-type: none"> <li>• Costs.</li> <li>• Management required to ensure representative and accurate documentation.</li> <li>• You must be able to communicate to the contractor in detail <i>what exactly</i> you want and <i>how it should be done</i>.</li> </ul>

## 4.4 WHAT ARE PROGRAMMATIC EAs/EIS'S AND TIERING?

**Programmatic NEPA Analysis and Documentation.** Programmatic NEPA documents allow the business manager to do one NEPA analysis for programs, plans, and groups of geographically or generically related projects or actions. A major benefit of preparing a programmatic NEPA document for groups of actions is that future specific actions covered by that programmatic may require minimal or no additional NEPA documentation. A good example is the preparation of a programmatic NEPA document in conjunction with the preparation of a Master Plan for an USCG shore facility. If NEPA is completed for the Master Plan, it can assist a facility in foreseeing possible environmental conflicts or problems that may occur at the specific project implementation stage. An EA or EIS for a Master Plan may also eliminate the need for additional detailed NEPA analysis at the project implementation stage. Once a programmatic document is complete, individual actions covered under that document will only require further documentation if

- the programmatic document did not cover important specific information related to the individual action;
- the individual action changes substantially; or
- the data in the programmatic document becomes obsolete.

Even if further documentation is required, it need only address items not covered by the programmatic document, and it can reference the programmatic document for all other information (see *tiering* below). Using programmatic NEPA documents can avoid or cut down on paperwork and duplicated information, and conserve time committed to

the NEPA process. It can also serve as a good planning tool for new programs or initiatives.

The programmatic EA or EIS must discuss

1. the subsequent stages or sites that may ultimately be proposed in as much detail as presently possible;
2. the implementing factors of the program that are known at the time of EA/EIS preparation;
3. the environmental impacts that will result from establishment of the overall program itself that will be similar for subsequent stages or sites as further implementation plans are proposed; and
4. the appropriate mitigation measures that will be proposed for subsequent stages or sites.

After completion, programmatic NEPA documents should be formally reviewed and data updated for NEPA compliance on future individual actions. Documentation of the review and update should become part of the administrative record. Refer to DOT 5610.1C Sec. 19d for specific time frames associated with the review and update of EIS's covering multi-phase projects. Programmatic EIS's and EAs and all of the subsequent tiered EIS's or EAs should be prepared, circulated, and filed in the same fashion as required of any other EA or EIS.

**Preparation of a Tiered Analysis.** Tiering is the process where a broad NEPA environmental analysis (EA or EIS) is prepared (such as for a national program or policy statement) and a subsequent NEPA analysis is then prepared on an action included within the entire program or policy (such as a site specific action). The subsequent NEPA analyses or "tiers" incorporate by reference the general discussions from the previous statements and concentrate solely on the issues specific to the statement subsequently prepared.

The analytical document used for stage- or site-specific analysis subsequent to a programmatic EIS should also be an EIS when the subsequent tier itself may have a significant impact on the quality of the human environment or when an EIS is required for other reasons.

Otherwise, it is appropriate to document the tiered analysis with an EA. In addition to the discussion required by these regulations for inclusion in EIS's and EAs, each subsequent tiered EIS, or EA, should

1. summarize the program-wide issues discussed in the programmatic statement and incorporate discussions from the programmatic statement by reference;
2. concentrate on the issues specific to the subsequent action; and
3. state where the earlier document is available (CEQ regulations, 40 CFR 1502.20).

#### **4.5 CAN I ADOPT NON-USCG NEPA DOCUMENTS?**

Under USCG policy, categorical exclusions of other federal agencies cannot be adopted. If another federal agency determines that an action can be categorically excluded, and this action is also categorically excluded under USCG regulations, then the USCG business manager *must* prepare a Categorical Exclusion Determination (Enclosure (3) of the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series)). The CED must be prepared regardless of whether the CE normally requires one.

In order to save time and money and to reduce paperwork, the USCG may adopt the non-USCG EAs or EIS's, as long as the EAs or EIS's comply with NEPA and the CEQ regulations for implementing NEPA. When the

USCG adopts non-USCG EAs and EIS's, the USCG must ensure that the service is in agreement with the findings of the documents.

If the document you want to adopt is an EA, then in addition to determining that the document meets the requirements put forth by NEPA and the CEQ regulations, you must also ensure that it meets USCG standards for this level of analysis. When the USCG adopts the document, it takes full responsibility for its scope and content.

Should review of the non-USCG EA by the USCG business manager conclude in a FONSI, an USCG FONSI statement must be prepared using the format found in Enclosure (6) of the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series). This enclosure serves as both the adoption statement and the FONSI. It should be attached to the EA and sent to Commandant (G-SEC-3) (keep one copy for your files). Be aware that the FONSI for the adopted EA must still be made publicly available per CEQ regulations, 40 CFR 1501.4(e)(1) and (2).

The USCG may adopt the EIS of another agency if the EIS adequately addresses the impacts of the project within the USCG's area of jurisdiction and concern.

If the actions covered by the original EIS and the proposed action are substantially the same, the USCG is not required to re-circulate the document except as a final document.

If the USCG is a cooperating agency on an EIS and determines that USCG comments and suggestions for the document have been satisfied in the EIS, then the USCG can adopt the statement without re-circulating it.

If the actions are not substantially the same, then the USCG must treat the document as a draft and re-circulate it.

**In all cases** where the USCG adopts a non-USCG EIS, the draft and final adopted EIS must be reviewed at Headquarters and DOT, as applicable, per Chapter 2 Section C.2 of the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series). Draft and final adopted EIS's that require "re-circulation" per CEQ regulations, 40 CFR 1506.3 must be filed with the EPA. Additionally, **in all cases**, preparation of a USCG ROD is required for final adopted EIS's before the preferred USCG alternative is implemented. See the NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series), Chapter 3 Section D.4.b.4 for the suggested wording of the ROD.

If in reviewing a non-USCG EA or EIS for possible USCG adoption, the USCG business manager concludes that the analysis is inadequate, then the USCG can reject adoption and prepare its own EA or EIS, adopt only the adequate portions of the EA or EIS (per CEQ regulations, 40 CFR 1506.3(a)) or supplement or rewrite the non-USCG document to correct the inadequacies. (However, if the non-USCG EA is rewritten, the non-USCG document is not adopted but becomes the basis for a USCG EA.) Additionally, if the EA/EIS being considered for adoption is not yet complete, the business manager may want to request that the originating agency revise their EA or EIS to correct the inadequacies before USCG adoption.

**Note:** Another option for USCG use of non-USCG NEPA documents is incorporation by reference. If for some reason adoption of a non-USCG EA or EIS is not desirable, useful information in the non-USCG documents can still be summarized in USCG NEPA analyses and the original NEPA document referenced as the source of the information (See CEQ regulations, 40 CFR 1502.21). The incorporated and referenced material must be

readily available for inspection within the time allowed for comment.

## 4.6 HOW DO I COMPLY WITH NEPA UNDER SPECIAL CIRCUMSTANCES?

### **Incomplete or Unavailable Information.**

When the business manager evaluates significant adverse effects on the human environment and there is incomplete or unavailable information, the business manager must make clear that such information is lacking. For such situations the following actions should be taken:

1. 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, the information must be obtained and included in the NEPA document.
2. 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), the NEPA document must include
  - a) a statement that such information is incomplete or unavailable;
  - b) a statement about the relevance of the incomplete or unavailable information to evaluation of reasonably foreseeable significant adverse impacts on the human environment;
  - c) a summary of existing credible scientific evidence relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; and
  - d) an evaluation of such impacts based upon theoretical approaches or

research methods generally  
 accepted in the scientific  
 community.

**Emergency Actions.**

Where emergency circumstances make it necessary to take an action with potential environmental impacts without observing the provisions of NEPA regulations, the USCG must contact CEQ through Commandant (G-SEC) and discuss alternative arrangements.

**Classified Actions.**

Some aspects of a proposed action may involve information that cannot be released to the public because its release is prohibited by law. This does not relieve the proponent from complying with the requirements of NEPA and the subsequent CEQ regulations.

The business manager should prepare, safeguard, and disseminate classified or sensitive EAs and EIS's, both draft and final, per the requirements applicable to classified or sensitive unclassified information. When feasible, the business manager should organize these documents so that classified or sensitive unclassified portions are included as appendices and then make the unclassified portions available to the public.

An EA or EIS that is classified, or contains classified or other information not releasable to the public by law, should serve the same purpose of informing key decision-makers as an ordinary EA or EIS. Even though such documents, or sections of such documents, are not subject to public review and comment, the entire package should accompany the proposal through the USCG decision-making process.

**4.7 WHAT ARE THE LEGAL RAMIFICATIONS OF INADEQUATE COMPLIANCE?**

**What Happens If NEPA Is Violated?**

As NEPA is a *procedural* law, you are only responsible for following the procedural requirements (as outlined by the CEQ regulations) in good faith and for making a well-reasoned decision with awareness of the subsequent environmental impacts. There is no provision for civil or criminal penalties under the law. However, delays caused by court injunctions, which can last until program compliance is achieved, can incur significant programmatic costs. Therefore, NEPA does not stipulate *which* decision you make, but can prevent you from implementing that decision if you are not in compliance.

**4.8 WHAT ARE COMMON MISTAKES THAT COULD LEAD TO NEPA LEGAL CHALLENGES?**

In 1996, about 100 NEPA related lawsuits were filed; this is a considerable drop from the all-time high in 1974 of 189. Most of these lawsuits, as in previous years, involved claims that an agency had failed to prepare an EIS when one was required or that the analysis that had been prepared was inadequate under NEPA and the implementing regulations.

This is not surprising as many more EAs are prepared every year—about 50,000—than EIS's—only about 488 annually. Most agencies, like the USCG, prefer the less intensive, less expensive, and less time-consuming EA analysis that results in an EA/FONSI and therefore, focuses on mitigating effects rather than the EIS analysis that culminates in a final EIS/ROD.

This preference, however, leaves the USCG vulnerable. The primary purpose of the EA process is to determine whether there are significant impacts; this decision is ultimately a subjective one, so it is open to challenge. It is the responsibility of the agency to substantiate their determination.

An EIS, on the other hand, assesses the potential impacts of alternatives once an agency has determined that the proposed action does have significant impacts; there is no judgment as to whether there will be impacts and if those impacts will be significant. The EIS informs the public what the environmental impacts are and that the agency is aware of them. The litigant usually attacks the methodology and procedures, rarely the determination that the effect is significant.

**Unclear Purpose and Need.** An unclear purpose and need is probably one of the most frequent causes of problems in environmental planning. As discussed in Chapter 2, the framing of the purpose and need is the most critical step in the whole environmental planning process. How you craft these two ideas will shape the thought processes, the organization, and the very structure of the analyses that follows. The purpose and need will determine which and how many alternatives are considered. It will be the first thing the courts will look for when they review the case.

It is worth the time to think carefully about what it is you are trying to accomplish. What is the problem you are trying to solve? Be careful not to confuse the question of how to accomplish an alternative with the problem.

FOR EXAMPLE: Your staff is working under very cramped conditions, affecting their morale and ability to work efficiently. You would like to build a new building to move your staff.

- ✗ The problem is NOT: “I need a new building” (too narrow)—that is your *proposed action*.
- ✗ The problem is NOT: “How do I improve my staff’s morale and increase their efficiency?” (too broad)—that is a symptom of the problem, not the cause.

- ✓ The problem IS: “How do I adequately house my staff?” This allows for alternatives such as building additions, staff reductions, renovations/new office design, renting a different building, as well as the proposed action of building a new building.

**Problems in Methodology and Documentation.** The most common pitfalls in the methodology and the documentation involved with NEPA compliance are as follows:

- **Looking at alternatives that don’t accomplish objectives.** This is like stacking the deck—of course you are going to reject alternatives that won’t meet your purpose and need. The alternatives chosen to compare with the proposed action must be legitimate possibilities.
- **Providing little evidence of a site-specific analysis.** Except for a programmatic EA or EIS, the environmental analyses documented for NEPA should be a specific examination of the environmental impacts that would occur *at a specific site* due to *specific actions*. A general environmental study is not sufficient. If you are using all or parts of another agency’s documentation, then it is the responsibility of the business manager to ensure that it is relevant and directly related to the site in question.
- **Using jargon or other confusing technical language.** As stipulated by CEQ regulations, 40 CFR 1502.8: “[NEPA documents] shall be written in plain language...so that decision-makers [sic] and the public can readily understand them”.
- **Providing little or no discussion of additive impacts or connected actions.** Be careful not to get stuck in the reductionist mode of thinking when analyzing and documenting environmental impacts. Many such impacts may in themselves not be significant, but when viewed together, they are significant.

- **Providing poor evidence for a FONSI.** In order to conclude with a finding of no significant impact, you must present proof that supports this fact. In a way, it is assumed that there will be significant impacts unless you can prove otherwise.
- **Providing inadequate public involvement.** NEPA places a heavy emphasis on public involvement, which might be very different and uncomfortable for many agencies not used to working with the public during the early stages of their **planning** processes. Because of this, legal problems often arise related to the interactions between the public and the agency, such as inadequate public involvement or downplayed controversy.

#### **4.9 What Should I Do With the Environmental Records (Both in Paper and Electronic Form) Accumulated During My Work on Various Projects?**

Coast Guard units holding any environmental records must continue to adhere to the provisions of Change 5 to the Paperwork Management Manual, COMDTINST M5212.12, requiring that all records construed to be “environmental” be retained indefinitely until further notice and not destroyed. These records include, but are not limited to: hazardous waste management; pollution incident/cleanup; environmental planning, e.g.

**NEPA documents, CEDs, EAs, and EIS’s;** spill response; asbestos and/or other chemicals/materials.

Note: Certain oil and hazardous discharge records were scheduled as a result of the Exxon Valdez incident, with the majority having a permanent disposition.

# APPENDIX A

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>ENVIRONMENTAL LAW</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>
<b>Abandoned Shipwreck Act (ASA)</b>	Transfers responsibility for abandoned wrecks from the US to the States except where they are in submerged lands administered by a Federal agency or Indian tribe. In cases where these wrecks are embedded in Federal agency lands, then the agency has responsibility for the abandoned shipwreck. The ASA only applies to formally abandoned shipwrecks. Abandonment of a wrecked USCG or Naval vessel requires an act of Congress.	Ensure that any actions taken that may effect abandoned shipwrecks in submerged lands under USCG control are in compliance with the National Historic Preservation Act (NHPA), the Archeological Resources Protection Act (ARPA), and the ASA. Under the NHPA, the USCG has the responsibility to protect historic abandoned shipwrecks and follow the section 106 process for actions that may effect such sites. Under ARPA, permits are required for actions that disturb archeological resources associated with shipwrecks on Federal land. Consultation with SHPO <sup>1</sup> , the ACHP <sup>2</sup> and interested parties may be necessary for USCG actions that affect historic sites.
<b>American Indian Religious Freedom Act (AIRFA)</b>	Directs agencies to respect the practice of traditional American Indian religions, including access to religious sites and use of ceremonial items.	Identify potentially concerned tribes; consult with them during environmental analyses.
<b>Archeological and Historic Preservation Act (AHPA)</b>	Requires Federal agencies to identify and recover data from archeological sites threatened by their actions.	Conduct surveys, identify archeological sites, consult with specialists and others during environmental analyses, and fund data recovery as mitigation.
<b>Archeological Resources Protection Act (ARPA)</b>	Requires permits for activities that disturb archeological resources located on Federal and Tribal lands. Provides for civil and criminal penalties for persons disturbing archeological resources on Federal and tribal land without a permit.	Archeologists performing work for the USCG on Federally owned or non-USCG land or Indian land must meet permit requirements. (43 CFR 7; see also 36 CFR 79, and 43 CFR 3)
<b>Architectural Barriers Act</b>	Requires public buildings to be accessible to persons with disabilities.	Consider accessibility issues and the environmental impact of accessibility solutions during the environmental review. See Uniform Federal Accessibility Standards (UFAS).

<sup>1</sup> State Historic Preservation Officer

<sup>2</sup> Advisory Council on Historic Preservation

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>ENVIRONMENTAL LAW</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>
<b>Clean Air Act (CAA)</b>	Requires agencies to act in conformity with State Implementation Plans (SIP) that set air quality standards.	Review SIP, determine current air quality, project potential changes, and seek alternatives that meet standards. Document this in your environmental analyses. (40 CFR 50)
<b>Clean Water Act (CWA)</b>	Requires dredge and fill permits for certain actions affecting the waters of the United States.	Identify potentially affected waters, consult with Army Corps of Engineers during environmental analyses, and explore alternatives to minimize fill. (33 CFR 320-330; 40 CFR 35, 116, 117, 122, 124, 125, 131, 133, 220, 401, 403)
<b>Coastal Barrier Resources Act</b>	Prohibits new federal expenditures or financial assistance for any purpose impacting the Coastal Barrier Resources System. Specified exceptions to this prohibition are allowed only after consultation is carried out with the Secretary of the Interior.	Ensure consultation is conducted for activities within areas covered by the Act (maps of the system are available at Regional Fish and Wildlife Service Offices). Construction, operation, maintenance and rehabilitation of Coast Guard facilities and access thereto are permitted after consultation with the appropriate Regional Fish and Wildlife Service Director.
<b>Coastal Zone Management Act (CZMA)</b>	Requires that Federal actions be consistent with the State coastal zone management plan to the maximum extent practicable.	Review State Coastal Zone Management Plan, and pursue alternatives that are consistent with it. Determine whether a consistency determination is required, and if so, prepare it and submit it to the appropriate state(s). (15 CFR 930)
<b>Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)</b>	Requires reporting of releases and clean up of hazardous substances. Requires identification of uncontaminated property prior to transfer. Requires plans for clean up of contaminated sites, and disclosure to public of hazardous materials and processes.	To protect USCG interests, identify potential for presence of contamination on proposed new property acquisitions or dispositions in your environmental analyses through Phase I and sometimes Phase II remediation studies. (40 CFR 373; 41 CFR 101-47)
<b>DOT Act (formerly Section 4(f), now codified at 49 U.S.C. § 303)</b>	Permits the use of publicly owned recreational properties or historic properties for a transportation project only if there is no prudent or feasible alternative to its use.	Examine alternatives if park, historic, or recreational land is needed for a transportation project.

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>ENVIRONMENTAL LAW</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>
<b>Endangered Species Act (ESA)</b>	Requires consultation with U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) to ensure actions do not jeopardize threatened or endangered species, or their habitat.	Analyze impacts on fish, wildlife, plants, and habitats. Consult with FWS or NMFS when the proposed action “may effect” endangered or threatened species or their habitat. The presence of endangered or threatened species may require operational controls to avoid or minimize effects. (50 CFR 402)
<b>Environmental Quality Improvement Act</b>	Declares a national policy for enhancement of environmental quality, assigns primary responsibility to State and local governments, and mandates that agencies’ conducting or supporting public works activities implement existing environmental protection and enhancement policies.	Underscores the need for quality environmental studies and environmentally sensitive decisions, requires consultation with state and local governments.
<b>Farmland Protection Policy Act</b>	Establishes criteria for identifying and considering the effects of Federal actions on the conversion of farmland to non-agricultural uses.	Identify potentially affected prime farmland (including lands subject to indirect or cumulative effect); explore alternatives to minimize impacts. (7 CFR 658; see also 7 CFR 657 [Prime Farmlands])
<b>Federal Records Act</b>	Controls maintenance and disposal of government documents with historical value.	Identify potentially affected documents (e.g., in buildings being disposed of) and address in environmental review per applicable regulations. (36 CFR 1222, 1228, 1230, 1232, 1234, 1236, and 1238)
<b>Fish and Wildlife Coordination Act</b>	Requires consultation with Fish and Wildlife Service on actions affecting stream modifications.	Study potential impacts on streams, and consult as needed.
<b>Flood Disaster Protection Act</b>	Prohibits Federal actions in areas subject to flood hazards.	Delineate floodplain; seek alternatives that do not promote floodplain development. (See EO 11988 and EO 11990)
<b>Historic Sites Act</b>	Establishes National Historic Landmark (NHL) program and declares a national policy to preserve sites, buildings and objects significant in American history.	Consider impacts on NHLs in environmental analysis and minimize harm to the maximum extent possible. (36 CFR 65)

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>ENVIRONMENTAL LAW</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>
<b>Marine Mammal Protection Act (MMPA)</b>	Prohibits takings of marine mammals; that is to harass, hunt, capture, collect, or kill or attempt to harass, hunt, capture, collect, or kill any marine mammal. Requires permits for takings of marine mammals and consultations with NMFS if impacts to marine mammals are possible.	Consider impacts to marine mammals from your proposed action in your environmental analysis and documentation. Make sure to obtain all necessary permits and conduct consultations with NMFS when planning for actions that may impact marine mammals. Document consultations and results of permit applications in your NEPA documents.
<b>Marine Protection, Research, and Sanctuaries Act</b>	Prohibits transporting any material from the United States for the purpose of dumping it into ocean waters without an EPA permit.	Ensure that all necessary ocean dumping permits are obtained.
<b>National Historic Preservation Act (NHPA)</b>	Requires agencies to identify historic properties that may be affected by their actions, and to consult with State Historic Preservation Officer and others about alternatives and mitigation in the event the proposed action affects an eligible or listed historic property.	Conduct surveys, etc., to identify historic properties and determine potential effects. Consult, execute and implement agreements to address adverse effects, and record this in your NEPA documents. (36 CFR 800; see also 36 CFR 60, 61, 65, 68)
<b>Native American Graves Protection and Repatriation Act (NAGPRA)</b>	Requires consultation with Indian Tribes and Native Hawaiian groups; and repatriation of human remains, associated cultural items, and certain other items. Requires development and implementation of a Plan of Action for the treatment of such items, or 30-day work stoppage and consultation with Tribes if cultural items are found during a project on Federal or Tribal land.	Identify culturally affiliated Tribes or groups, consult with them, and seek to develop plans of action, report in NEPA documents and implement appropriate mitigation. Identify and investigate archeological resources to minimize potential 30-day work stoppage. (43 CFR 10)
<b>Noise Control Act</b>	Prohibits removing of noise control devices or rendering them inoperable. Requires EPA to act as federal coordinator for noise control efforts and establishing noise control standards.	Ensure that proposed new construction or operations and aircraft landing, take-off and launching patterns that may increase noise in neighboring communities are evaluated for potential noise impacts.

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>ENVIRONMENTAL LAW</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>
<b>Resource Conservation and Recovery Act (RCRA)</b>	Regulates hazardous and solid waste activities and underground storage tanks (USTs).	Identify potential for generation of hazardous wastes and opportunities to minimize or eliminate wastes during environmental analysis. Identify potential site contamination. Units may be subject to state and federal waste management requirements. Phase I and Phase II remediation studies may be required. (40 CFR 260-281)
<b>Rural Development Act</b>	Directs Federal Agencies to site their facilities in such a way as to support appropriate rural development.	Consider rural development when identifying alternatives.
<b>Safe Drinking Water Act (SDWA)</b>	Sets standards for drinking water quality and regulates activities affecting drinking water supplies.	Analyze existing water quality and potential impacts on it. (40 CFR 141)
<b>Toxic Substances Control Act (TSCA)</b>	Regulates specific chemical substances, including PCBs (polychlorinate biphenyls) and asbestos.	Address presence of substances in environmental review, as needed. (40 CFR 761)
<b>Wild and Scenic Rivers Act</b>	Requires agencies to review actions for possible impacts on wild and scenic rivers.	Consider impacts on wild and scenic rivers in environmental analyses.

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>EXECUTIVE ORDER (EO)</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>
<b>EO 11514: Protection and Enhancement of Environmental Quality</b>	Requires agencies to monitor, evaluate, and control activities so as to protect and enhance the quality of the environment.	Underscores the need for quality environmental analyses, monitoring of mitigation measures.
<b>EO 11593: Protection and Enhancement of the Cultural Environment</b>	Requires agencies to identify, evaluate and protect historic properties under their ownership or control.	Similar to National Historic Preservation Act requirements.
<b>EO 11988: Floodplain Management</b>	Requires agencies to evaluate the potential effects of any action it takes in a floodplain, and consider alternatives to avoid adverse effects.	Delineate floodplain. Discuss project impacts on, and potential development of, floodplains in environmental analysis. Consider alternatives. Specific 8-step review process is set forth in guidelines maintained by Federal Emergency Management Agency (FEMA).
<b>EO 12088: Federal Compliance with Pollution Control Standards</b>	Requires an agency to prevent, control and abate environmental pollution with respect to Federal facilities and activities under Federal control.	Reinforces application of other environmental laws and requirements.
<b>EO 12114: Environmental Effects Abroad of Major Federal Actions</b>	Requires agencies to conduct environmental analyses for some actions taken abroad.	Ensure environmental analysis of those actions, or portions of actions, taken abroad where required by the E.O.
<b>EO 12372: Intergovernmental Review of Federal Programs</b>	Requires state and local governments to coordinate and review the processes of proposed Federal financial assistance and direct Federal development programs.	Strengthens the federalism requirements of the state and local governments to coordinate policies and programs as laid forth in the Intergovernmental Cooperation Act of 1968.
<b>EO 12856: Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements</b>	Requires all Federal agencies to comply with the Emergency Planning and Community Right-To-Know Act and the Pollution Prevention Act. Requires agencies to manage facilities and acquisition activities so that to the maximum extent practicable, the quantity of toxic chemicals entering any waste stream (including any release to the environment) is reduced as expeditiously as possible through source reduction; that waste generated is recycled to the maximum extent practicable; and that any wastes remaining are stored, treated, or disposed of in a manner protective of public health and the environment. Requires Federal agencies to improve local emergency planning response and accident notification.	Requires Federal agencies to report, in a public manner, toxic chemicals entering any waste stream from their facilities, including any releases to the environment. Identify opportunities to minimize or eliminate the use of toxic chemicals or the generation of wastes during the environmental analyses.
<b>EXECUTIVE ORDER (EO)</b>	<b>FORMAL REQUIREMENTS</b>	<b>IMPLICATIONS and REGULATIONS</b>

<b>Some Related Legal Requirements and Their Implications for Environmental Planning</b>		
<b>EO 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</b>	Requires Federal agencies to identify and address any disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.	Contact G-HE for latest census data to identify potentially impacted communities, to provide low-income/minority community outreach efforts in the planning and decision-making phases of the project, and to assist in the review and assessment to determine the effects on the low-income and minority communities. Conduct impact analyses, involve impacted communities in the NEPA review, make adjustments in public involvement to accommodate them, and, if necessary, seek alternatives that avoid disproportionately high and adverse effects.
<b>EO 13006: Locating Federal Facilities on Historic Properties in our Nations Central Cities</b>	Requires Federal agencies to give priority to the use of historic buildings in historic districts in central business areas.	Identify historic buildings in central business areas, analyze their use potential, and consider as priority alternatives in NEPA review.
<b>EO 13007: Indian Sacred Sites</b>	Requires Federal agencies to avoid where possible impeding access to, or physically damaging, Indian sacred sites.	Consult with Indian Tribes during NEPA analysis to identify possible impacts. Respect confidentiality of information on sacred sites.
<b>EO 13045: Protection of Children from Environmental Health Risks and Safety Risks</b>	Requires Federal agencies to make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children.	Identify environmental health and safety risks that are disproportionately affecting children and address measures to mitigate these risks in environmental analyses. Follow recommendations on Federal strategies issued by the Task Force on Environmental Health and Safety Risks to Children as established by the order.
<b>EO 13089: Coral Reef Protection</b>	Federal agencies must identify actions that may affect coral reefs, use their programs and authorities to protect and enhance coral reefs, and ensure that actions taken do not degrade coral reefs.	Identify actions that may impact coral reefs in environmental analyses and address mitigation to prevent degradation to coral reefs.
<b>EO 13101: Greening the Government through Waste Prevention, Recycling, and Federal Acquisition</b>	Requires the Federal government to improve its use of recycled products and environmentally preferable products and services.	Include discussions of the potential of proposed projects or actions to improve use of recycled products in environmental analyses.

# APPENDIX B

## TERMS AND DEFINITIONS

- Adoption.** The term adoption refers to the practice of adopting appropriate existing environmental documents, or portions of such documents, prepared by other Federal agencies to serve as the compliance document under NEPA. The adopted document must meet the standards for an adequate environmental assessment or environmental impact statement under NEPA and its implementing regulations, and the adopting agency must take responsibility for the content of the document.
- Analysis of Reasonable Alternatives.** The analysis of reasonable alternatives is the equal analysis of an appropriate range of reasonable alternatives including those not within the existing authority of the agency. A reasonable alternative is one which: meets the agency mission, need, and objectives; is technically and economically feasible; and makes sense. The agency must analyze alternatives, if they are reasonable, that are outside the scope of what Congress approved or funded. When an infinite or large number of alternatives exist, an agency only needs to analyze a reasonable number of examples covering the full spectrum of the alternatives available. The degree of analysis devoted to other alternatives is substantially the same as that devoted to the preferred alternative. Examples of alternatives include: taking no action, postponing action, selecting actions of a significantly different nature which would meet mission and project objectives, selecting different designs or details of the proposed action, or selecting different locations or sites for the action.
- Business Manager.** This term refers to the identified business manager for a proposed action. Identifying the business manager is dependent upon the nature and scope of the proposed action. In the USCG, the business manager is the lowest ranking individual with the authority to approve or decide on a proposed action. The business manager has the responsibility for securing the availability of the necessary resources for the preparation of the environmental analysis and documentation. The business manager may or may not be the preparer. In the USCG, the business manager is often not the preparer of the environmental document. For example, the proponent for a field regulation may be the district commander, or for major systems acquisition, the proponent may be a Headquarters directorate.
- Categorical Exclusion (CE).** CEs are actions that do not have, under normal circumstances, individually or cumulatively, a significant effect on the human environment and which have been previously found to have no such effect as a result of procedures adopted by the USCG for implementing the NEPA regulations and for which, therefore, neither an EA nor an EIS is required.
- Cooperating** A cooperating agency is any Federal agency other than a lead agency that has

<b>Agency.</b>	jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action.
<b>Draft Environmental Impact Statement (DEIS).</b>	DEIS's are statements prepared for actions which may have a significant impact on the quality of the human environment or which are potentially controversial due to environmental effects. DEIS's are filed with EPA and distributed to Federal, State, local, and private agencies, organizations, and individuals for review and comment before preparation of a final EIS.
<b>Environmental Assessment (EA).</b>	An EA is a concise public document which <ul style="list-style-type: none"> <li>• briefly provides sufficient evidence and analysis for determining whether to prepare an EIS or a Finding of No Significant Impact (FONSI);</li> <li>• assists the USCGs compliance with NEPA when no EIS is necessary; and</li> <li>• facilitates preparation of an EIS when one is necessary.</li> </ul>
<b>Environmental Issue.</b>	An environmental issue is the actual or perceived potential of a USCG activity to affect the natural or physical aspects of the human environment and directly related socioeconomic aspects. Environmental issues can come from a diversity of technical or scholarly sources: social, cultural, biologic, economic, recreational, and public perception. Many environmental issues have processes or requirements that exist independently of NEPA; appropriate environmental planning and documentation include consideration of these independent issues as well. <b>EXAMPLE:</b> Air and water quality control requirements must be considered in environmental planning, yet both must be complied with independent of NEPA.
<b>Environmentally Preferred Alternative.</b>	The environmentally preferred alternative is the alternative that is most protective of the biological and physical environment; it is also the alternative which best protects, preserves, and enhances historic, cultural, and natural resources.
<b>Final Environmental Impact Statement (FEIS).</b>	A FEIS is a completed statement, which incorporates all pertinent comments and information obtained as a result of the review of the DEIS. The FEIS is filed with EPA and distributed to DEIS recipients.
<b>Finding of No Significant Impact (FONSI).</b>	A FONSI is a document in which the USCG briefly presents the reasons that an action, not otherwise categorically excluded, will not have a significant effect on the quality of the human environment and for which an EIS will not be prepared. The FONSI summarizes or attaches the EA and notes any other related environmental documents.
<b>Impact.</b>	Impacts, as used in this handbook, are synonymous with effects, and include direct, indirect, and cumulative impacts. Direct impacts are caused by an action and occur at the same time and place as the proposed action. Indirect impacts are also caused by an action; although they occur later in time or farther removed in distance from the action, they are still reasonably foreseeable. Indirect impacts include

- growth inducing effects;
- effects related to induced changes in the pattern of land use, population density, or growth rate; and
- related effects on the human environment.

Cumulative impacts 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) or person undertakes such actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**Lead or Joint Lead Agency.** This is the agency or agencies that prepares or has taken primary responsibility for preparing an EA or an EIS.

**Major Federal Action.** The term “major Federal action” includes all actions that have the potential to have major effects, on the human environment and are potentially subject to Federal control and responsibility. “Major” reinforces but does not have a meaning independent of “significantly”. Major Federal actions include, but are not limited to

- new activities, including projects entirely or partly funded, assisted, conducted, regulated, or approved by the USCG;
- continuing activities, if there is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations;
- a substantial change to a continuing activity, which may result in significant environmental impacts;
- new or revised agency rules, regulations, plans, policies, procedures, and legislative proposals;
- approval of specific projects, such as construction or management activities located in a defined geographic area (e.g., major construction, unspecified minor construction, natural resources management, special projects, land and other acquisitions, and locally funded projects);
- adoption of programs, such as a group of concerted actions to implement a specific policy or plan; and
- actions that do not include bringing judicial or administrative civil or criminal enforcement actions. (This language refers to court actions or administrative hearing actions.)

**Mitigation.** Mitigation is the reduction of the severity or intensity of impacts associated with an action or actions, and includes

- avoiding the impact altogether by not taking a certain action or parts of an action;
- minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- reducing or eliminating the impact over time by monitoring, maintaining, and/or replacing equipment or structures so that future environmental

degradation due to equipment or structural failure does not occur during the life of the action; and

- compensating for the impact by replacing or providing substitute resources or environments.

**Monitoring and Enforcement Program.**

An action plan to review, assess, and ensure completion of the mitigation measures committed to in either an EA or an EIS.

**No Action Alternative.**

The no action alternative is the status quo alternative. It examines the alternative of not pursuing the proposed action. The no action alternative includes the resulting predictable actions taken by others as a result of the USCG taking no action. The no action alternative serves as a base line for comparison with the action alternatives. An agency must always analyze the no action alternative even if taking no action would prevent completion of the agency mission or the agency is under a court order or legislative command to act.

**Preferred Alternative.**

The preferred alternative is the alternative preferred by the agency for carrying out their proposed action.

**Programmatic Environmental Documents.**

Programmatic environmental documents (EAs and EIS's) cover broad agency actions. Different types of programmatic documents are prepared for different types of actions. For example, programmatic documents are prepared in the following categories:

- For new or substantially changing agency plans, programs, and or regulations.

**EXAMPLE:** Master plans, changing operational programs such as changing vessel operations, revision of safety regulations, implementation of new electronic positioning systems, etc.

- Geographically, for actions occurring in the same general location, such as a body of water, region, or metropolitan area.

**EXAMPLE:** Several new construction projects located on the same site or in the same metropolitan area, home porting of vessels in the same region, etc.

- Generically, for actions that have relevant similarities such as common timing, impacts, alternatives, methods of implementation, media or subject matter.

**EXAMPLE:** One particular reoccurring marine event permitted by USCG at the same time and in the same manner each year.

- Technologically, by stage of technological development.

**EXAMPLE:** Fire testing and training programs.

**Purpose and Need.**

The purpose and need for a USCG action is the underlying purpose and need to which the proponent of a USCG action responds. The need is defined as the necessity to act to satisfy an agency objective, remedy a problem or weakness, or respond to an outsider's or applicant's request to take action. The purpose of the action is to fulfill the basic agency need.

**EXAMPLE:** The USCG's proposed action is to build new housing at a shore facility. The need for the action is the USCG's addition of new personnel at this location, and the lack of housing at this location. The purpose of the action is to house the new personnel. The purpose is not the proposed action or preferred alternative. The proposed action is only one means of fulfilling the agency need and purpose. The purpose and need help to define the scope of reasonable alternatives and define the agency objective.

**Record of Decision (ROD).**

A Record of Decision (ROD) is a concise summary for publication in the *Federal Register* of the decision made by the USCG from among the alternatives presented in an FEIS. The document states the decision, identifies alternatives considered (including that which was environmentally preferable), and discusses all considerations, including non-environmental, that influenced the decision identified. Proposals to minimize environmental harm, if applicable, will be identified as well as those that are not implemented. The ROD discusses the monitoring and enforcement program associated with any planned mitigation.

**Scoping.**

Scoping is an early and open process for determining the scope of issues to be addressed and for identifying the significant issues (actions, alternatives, and impacts) related to a proposed action. Scoping often involves consultation with other Federal and non-Federal entities and may also involve discussion with the general public.

**Significance.**

Context and intensity determine significance of an impact. Context is identified by the area or processes affected. Intensity refers to the severity of impact as derived from evaluating the magnitude of effects on public health or safety, unique characteristics of the geographic area, controversy about environmental effects, risk analysis, precedents, relationship to other actions, cumulative impacts, and the potential for violating environmental laws.

**Supplemental**

A supplemental EA or EIS document describing environmental impacts of a

**Environmental Documentation.** project or proposal which is prepared when substantial changes are made in the proposed action that are relevant to environmental concerns, or when significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts becomes available.

**Tiering.** This term describes the practice of using a graduated system of environmental documentation, from programmatic documents, which discuss the impacts of a wide-ranging or long-term stepped program, to narrower EISs or EAs concentrating solely on specific actions or locations.

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