

Department of Homeland Security
DHS Directives System
Directive Number: 023-01
Revision Number 01
Issue Date:

IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT

I. Purpose

The purpose of this Directive is to establish Department of Homeland Security (DHS) policy for implementing the requirements of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA. Instruction Manual 023-01-001-01 (Instruction Manual) provides the procedures for implementing this Directive. This Directive and the Instruction Manual adopt and supplement the CEQ regulations and are to be used in conjunction with those regulations. Together, this Directive and the Instruction Manual help ensure the integration of environmental stewardship into DHS decision making as required by NEPA.

II. Scope

A. Policy and procedures in this Directive and the Instruction Manual apply to all DHS Components, direct appropriate compliance with NEPA, and are to be used in the planning and implementation of DHS programs, projects, and other activities as described in 40 CFR 1508.18 (herein after collectively referred to as “action”). DHS actions include, but are not limited to, the following: mission and operations planning; promulgation of regulations; acquisitions and procurements; asset and facility management; research and development; issuance of permits; and grants and other forms of federal assistance.

B. This Directive and the Instruction Manual provide for a flexible framework for implementing NEPA in DHS. To implement NEPA within their respective organizations to fit their unique missions, needs, and capabilities, Components have the option of developing Supplemental Instructions and of obtaining a delegation of authority to approve NEPA documents.

III. Authorities

- A. 42 United States Code [U.S.C.] 4321-4335 (The National Environmental Policy Act of 1969);
- B. 40 Code of Federal Regulations [CFR] Parts 1500-1508 (The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA);
- C. 6 U.S.C. Section 112 (“Secretary, functions”);
- D. 6 U.S.C. Subchapter VII (“Management”);
- E. DHS Delegation 00002, Delegation to the Under Secretary for Management;
- F. DHS Delegation 00500, Delegation for Administrative Services;
- G. DHS Delegation 00501, Delegation for Environmental Management, Energy Management, and Environmental Planning and Historic Preservation.

IV. Responsibilities

- A. The Departmental Chief Readiness Support Officer (CRSO) in the Management Directorate:
 - 1. Exercises DHS-wide authority and responsibility for various management functions, including environmental programs and among which is the implementation of NEPA; and
 - 2. Provides guidance, direction, and oversight to the Director of Sustainability and Environmental Programs (SEP).
- B. The Director of SEP:
 - 1. Develops policy and guidance and establishes standardized requirements and processes for implementing NEPA across DHS;
 - 2. Serves, unless otherwise delegated, as the single point of contact for DHS on NEPA and NEPA related-matters in interactions with CEQ, the Office of Management and Budget (OMB), the Advisory Council on Historic Preservation (ACHP), and other federal agency headquarters;

3. Approves Components' Supplemental Instructions for implementing NEPA within their respective organizations;
4. Approves Components' requests for a delegation of authority to approve NEPA documents; and
5. Approves NEPA documents, when such approval is required, unless otherwise delegated.

C. The Office of General Counsel:

1. Provides, upon request, legal advice to leadership and management regarding DHS compliance with NEPA;
2. Advises Proponents, in consultation with the respective Environmental Planning Program Manager (EPPM), as to whether a proposed action constitutes a major federal action to which NEPA applies;
3. Provides, upon request, review of NEPA documents for legal sufficiency; and
4. Coordinates DHS legal position with the Department of Justice, as appropriate, in the event of litigation.

D. Heads of Components:

1. Integrate the requirements of this Directive and the Instruction Manual into their respective mission activities, including providing for adequate staff and funding;
2. Ensure that any commitments made in NEPA decision documents are implemented as agreed upon and are monitored for effectiveness;
3. Have the option to develop Supplemental Instructions for approval by the Director of SEP;
4. Have the option to request a delegation of authority from the Director of SEP to approve NEPA documents in their respective component;
5. Implement approved Supplemental Instructions;
6. Designate an EPPM with the authority to oversee the implementation of this Directive and the Instruction Manual, to be the primary point of contact for SEP regarding NEPA matters, and to receive

any delegation of authority upon the Director of SEP's approval of Component Supplemental Instructions; and

7. Provide NEPA documents to the Director of SEP for approval, when such approval is required, unless otherwise delegated.

V. Policy and Procedures

A. It is DHS policy to comply with NEPA. Environmental stewardship and DHS missions are compatible and complementary. NEPA requires federal agencies to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans. Integrating the environmental planning requirements of NEPA with the planning and implementation of DHS actions helps to achieve environmental sustainability goals.

B. Compliance with NEPA does not alleviate the need to comply with numerous other laws, regulations, Executive Orders, and other requirements established for the protection and stewardship of the human environment. However, the process of complying with NEPA can provide a framework to achieve compliance with many of these other requirements. To the fullest extent possible, DHS integrates the NEPA process with compliance activities for these other requirements.

C. Within Components, the Proponent of a proposed action is responsible for ensuring that the NEPA analysis and appropriate documentation is completed before a decision is made and with sufficient time to have a practical influence on the decision making process.

D. DHS establishes and implements cost effective approaches for achieving NEPA compliance that are integrated into DHS missions and activities.

E. DHS makes proposals for substantive revision to this Directive or the Instruction Manual available for review by CEQ and the public, as required by 40 CFR 1507.3.

F. Procedures for implementing this Directive and definitions of terms are found in the Instruction Manual.

VI. Questions

Address any questions or concerns regarding this Directive and the Instruction Manual to the Departmental CRSO through the Director of SEP.

[Name]
[Title]

Date