



The Deputy Secretary of Energy

Washington, DC 20585

August 31, 2020

MEMORANDUM FOR THE UNDER SECRETARY OF ENERGY
UNDER SECRETARY FOR SCIENCE
UNDER SECRETARY FOR NATIONAL SECURITY AND
ADMINISTRATOR, NNSA
DIRECTOR, ADVANCED RESEARCH PROJECTS
AGENCY-ENERGY

FROM: MARK W. MENEZES

A handwritten signature in dark ink, appearing to read "Mark W. Menezes", is written over the printed name.

SUBJECT: Designation of Senior Agency Officials for National
Environmental Policy Act (NEPA) Compliance

You are hereby designated as the Department's senior agency official for NEPA compliance for all programs and proposal actions within your respective areas of responsibility. The Council on Environmental Quality (CEQ) has substantially revised its regulations for implementation of NEPA (40 CFR parts 1500–1508). The revised regulations, which become effective on September 14, 2020, are intended to facilitate more efficient, effective, and timely NEPA reviews. Under the revised regulations, Federal agencies must designate one or more senior agency officials.

As a senior agency official you will be responsible for overall review of NEPA compliance within your programs, including resolving implementation issues; approval of requests to exceed time limits and page counts specified in the regulations for environmental assessments and environmental impact statements; and resolving interagency issues that may arise during the NEPA review process. (See attached excerpts of relevant portions of the CEQ regulations.)

For Under Secretaries, please work with the Heads of Departmental Elements within your purview to ensure they understand the new requirements. NEPA implementation matters should continue to be resolved at the program office level, in accordance with DOE Policy 451.1, NEPA Compliance Program (December 21, 2017). Issues should be raised by a Head of Departmental Element to the Under Secretary level only after exhaustion of options to resolve the matter at the program office level. As for the Director of the Advanced Research Projects Agency-Energy, ensure that your staff continues to implement NEPA efficiently and effectively.

Questions regarding this designation and requests for guidance should be addressed to the Office of the General Counsel.

Attachment

**Council on Environmental Quality NEPA Regulations, effective September 14, 2020:
Provisions Regarding Senior Agency Officials**

General Provisions

§ 1507.2 Agency capability to comply.

... Agencies shall:

- (a) Fulfill the requirements of section 102(2)(A) of NEPA to utilize a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making that may have an impact on the human environment. Agencies shall designate a senior agency official to be responsible for overall review of agency NEPA compliance, including resolving implementation issues.

§ 1508.1 Definitions.

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- (dd) *Senior agency official* means an official of assistant secretary rank or higher (or equivalent) that is designated for overall agency NEPA compliance, including resolving implementation issues.

[There may be multiple individuals within certain departments or agencies that have these responsibilities, including where subunits have developed agency procedures or NEPA compliance programs. (Preamble, 85 FR 43315)]

Time and Page Limits

§ 1501.10 Time limits.

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- (b) To ensure timely decision making, agencies shall complete:
 - (1) Environmental assessments within 1 year unless a senior agency official of the lead agency approves a longer period in writing and establishes a new time limit. One year is measured from the date of agency decision to prepare an environmental assessment to the publication of an environmental assessment or a finding of no significant impact.
 - (2) Environmental impact statements within 2 years unless a senior agency official of the lead agency approves a longer period in writing and establishes a new time limit. Two years is measured from the date of the issuance of the notice of intent to the date a record of decision is signed.
- (c) The senior agency official may consider the following factors in determining time limits:
 - (1) Potential for environmental harm. (2) Size of the proposed action. (3) State of the art of analytic techniques. (4) Degree of public need for the proposed action, including the consequences of delay. (5) Number of persons and agencies affected. (6) Availability of relevant information. (7) Other time limits imposed on the agency by law, regulations, or Executive order.
- (d) The senior agency official may set overall time limits or limits for each constituent part of the NEPA process, which may include: (1) Decision on whether to prepare an environmental impact statement (if not already decided). (2) Determination of the scope of the environmental impact statement. (3) Preparation of the draft environmental impact statement. (4) Review of any comments on the draft environmental impact statement from the public and agencies. (5) Preparation of the final environmental impact statement. (6) Review of any comments on the

final environmental impact statement. (7) Decision on the action based in part on the environmental impact statement.

§ 1502.7 Page limits.

The text of final environmental impact statements (paragraphs (a)(4) through (6) of § 1502.10) shall be 150 pages or fewer and, for proposals of unusual scope or complexity, shall be 300 pages or fewer unless a senior agency official of the lead agency approves in writing a statement to exceed 300 pages and establishes a new page limit.

§ 1501.5 Environmental assessments.

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- (f) The text of an environmental assessment shall be no more than 75 pages, not including appendices, unless a senior agency official approves in writing an assessment to exceed 75 pages and establishes a new page limit.

Lead and Cooperating Agencies

§ 1501.7 Lead agencies.

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- (d) Any Federal agency, or any State, Tribal, or local agency or private person substantially affected by the absence of lead agency designation, may make a written request to the senior agency officials of the potential lead agencies that a lead agency be designated.

§ 1501.8 Cooperating agencies.

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- (b) Each cooperating agency shall:

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- (6) Consult with the lead agency in developing the schedule (§ 1501.7(i)), meet the schedule, and elevate, as soon as practicable, to the senior agency official of the lead agency any issues relating to purpose and need, alternatives, or other issues that may affect any agencies' ability to meet the schedule.
- (c) In response to a lead agency's request for assistance in preparing the environmental documents (described in paragraph (b)(3), (4), or (5)* of this section), a cooperating agency may reply that other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement or environmental assessment. The cooperating agency shall submit a copy of this reply to the Council and the senior agency official of the lead agency.

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- * (b) Each cooperating agency shall:

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- (3) On request of the lead agency, assume responsibility for developing information and preparing environmental analyses, including portions of the environmental impact statement or environmental assessment concerning which the cooperating agency has special expertise.
 - (4) On request of the lead agency, make available staff support to enhance the lead agency's interdisciplinary capability.
 - (5) Normally use its own funds. To the extent available funds permit, the lead agency shall fund those major activities or analyses it requests from cooperating agencies. Potential lead agencies shall include such funding requirements in their budget requests.