

CHAPTER 13

NEPA Process and Resource Planning



This chapter summarizes:

- *The importance of environmental reviews*
- *Actions subject to environmental reviews*
- *Natural and cultural resource planning*

13.1 Regulatory Background

The **National Environmental Policy Act (NEPA)** of 1969 was signed into law on January 1, 1970, following increased appreciation and concern for the environment. NEPA established a national policy promoting the enhancement of the environment and established the President's Council on Environmental Quality (CEQ). The essential purpose of NEPA is to ensure that environmental factors are weighted equally when compared to other factors in the decision-making process undertaken by federal agencies. The NEPA process provides the means for federal agencies to assess the potential environmental impacts of their proposed actions and to identify ways to minimize and mitigate those impacts.

The NEPA regulations issued by the CEQ are contained in Title 40 of the *Code of Federal Regulations*, Parts 1500 through 1518 (40 CFR 1500 through 1518). The U.S. Air Force Environmental Impact Analysis Process (EIAP) is provided in 32 CFR 989, and environmental analysis of U.S. Army actions is outlined in 32 CFR 651. U.S. Department of the Navy Procedures for Implementing the National Environmental Policy Act are outlined in 32 CFR 775. Subordinate departments and agencies within the U.S. Department of Defense (DoD) follow additional internal regulations, instructions, and policies. The primary DoD regulations applicable to NEPA implementation by DLA Energy include DoD Instruction (DoDI) 4715.9, *Environmental Planning and Analysis*, DoDI 4715.05 *Environmental Compliance at Installations Outside the United States*, and DLAR 1000.22, *Environmental Considerations in Defense Logistics Agency Actions*.

13.2 Planning and Review Considerations

All federal facilities, including fuel facilities, must actively integrate environmental considerations into decision-making in accordance with NEPA. The timely implementation of the NEPA process during planning prevents delays and allows time for actions to be planned in a manner that minimizes environmental impacts to the greatest extent practicable.

Almost every type of action, whether it's construction, real estate, or contracts, undertaken by federal facilities is subject to environmental review. The environmental review process determines whether the action requires NEPA analysis and documentation. Federal facility actions that may be subject to environmental review include:

- Publication of policies, regulations, and procedures



The Law Says

- *The federal government is required to use all practicable means to create and maintain conditions under which man and nature can exist in productive harmony (40 CFR 1500.2).*
- *Federal agencies must incorporate environmental considerations into their planning and decision-making through a systematic, interdisciplinary approach (40 CFR 1501.2).*
- *There are three levels of environmental analysis (40 CFR 1508): categorical exclusion (CE) determination; preparation of an environmental assessment/finding of no significant impact (EA/FONSI); and preparation of an environmental impact statement (EIS).*





- Changes in mission
- New management processes, including logistics, research development test and evaluation, and/or procurement
- Personnel relocation
- Real property and facility management (including master plans) and environmental programs and plans
- Facility and structure construction, modification, or demolition
- Operations and activities including individual and unit training, overall operation of installations, or facility test and evaluation programs
- Material development, operation and support, disposal, and/or modification
- Lease, permit, license or other entitlements for use of real property (for example, grant of easement for utilities)
- Request for approval to use or store materials, radiation sources, and hazardous and toxic materials or wastes that belong to DoD components other than DLA Energy on DLA Energy permitted property

Environmental review may be required for non-federal facility actions that are facilitated through a federal facility's contract or equipment loan. For such actions, the federal facility reviews any environmental analyses and documentation that has been prepared by the requesting agency to determine compliance with NEPA.

Don't Forget...

The responsibility for performing NEPA reviews and documentation falls on the proponent proposing to initiate the action.

13.3 Overview of the NEPA Process

The NEPA process begins when a federal agency develops a proposal to undertake an action and develops sufficient detail on the proposal to allow for analysis of that action. The NEPA process mandates that a federal agency consider the environmental consequences of its proposed action before deciding whether and in what form to take an action. In simplest terms, the NEPA review process can take one of three forms:

- Categorical exclusion (CE)
- Environmental assessment (EA)
- Environmental impact statement (EIS)

The NEPA environmental review process for a proposed action consists of sequential decisions to be made as shown in *Exhibit 13-1*. One of the first questions to ask is: *Are the environmental effects of the action likely to be significant?* This helps determine the level of environmental review that is required for the proposed action. Action not normally expected to have the potential for much of an impact may qualify for a CE while those expected to result in significant impacts would typically require an EIS.

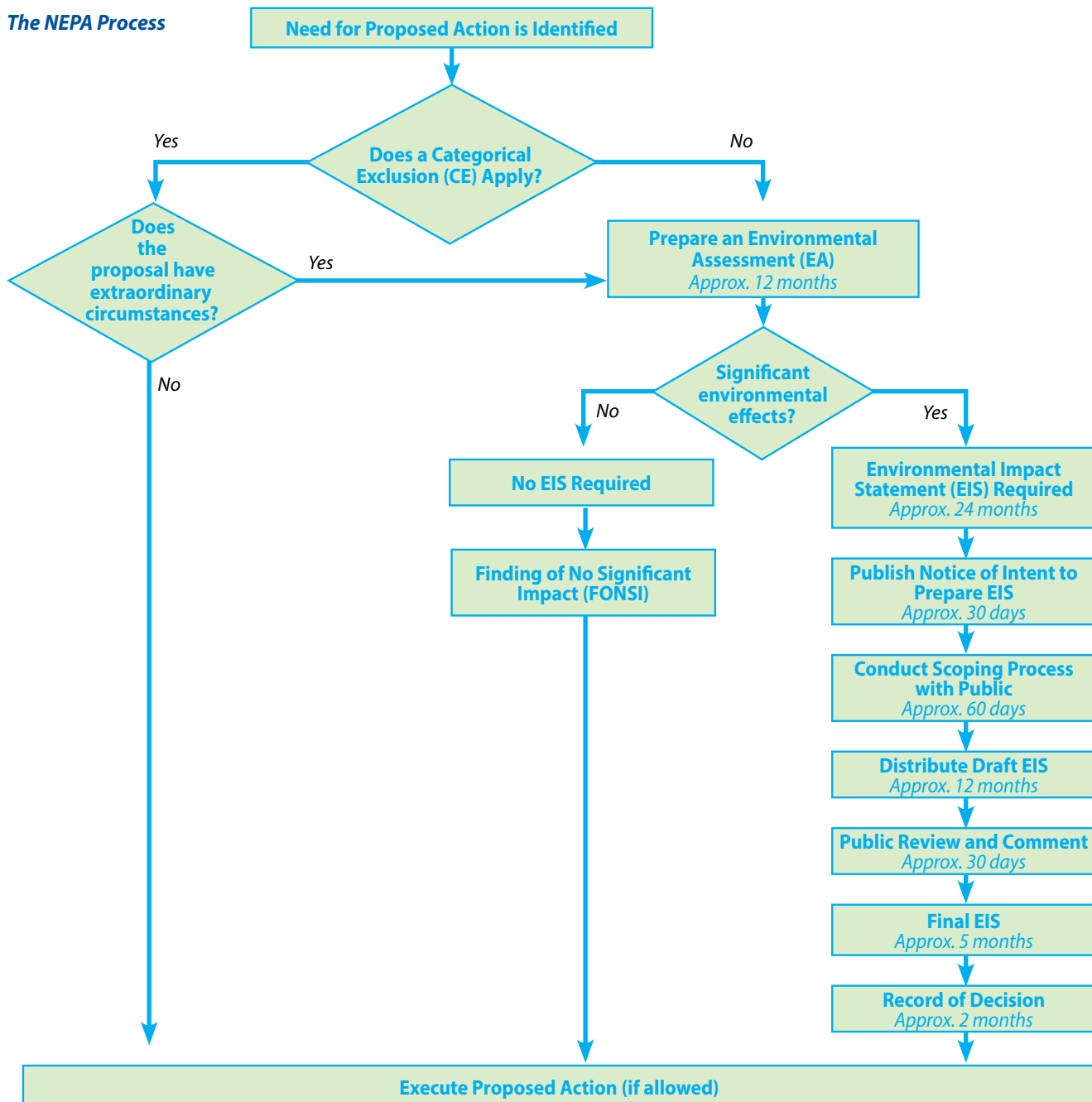
13.3.1 Exclusions

A proposed action may be exempt from NEPA analysis by law or may have been analyzed under a designated CE.

13.3.1.1 Actions Exempt by Law

The applicability of a law that would exempt a federal facility proposed action from NEPA analysis must be approved by legal counsel (such as DLA Energy or military service General Counsel). If legal approval is obtained, no further review is required, and the action may be implemented. For an action that is exempted by law, a record documenting the decision must be completed and is often referred to as a Record of Environmental Consideration (REC). For example, the Defense Logistics Agency (DLA) uses DLA Form 1664, Record of Determination, Environmental Evaluation. The REC must include sufficient information that supports the determination that the action can be exempted by law from NEPA analysis and must be retained in the administrative record for the project.

EXHIBIT 13-1
The NEPA Process





Don't Forget...

Federal agencies may from time to time update their list of categorical exclusions, so be sure to refer to the current list in the appropriate military branch's regulation.

13.3.1.2 Categorical Exclusions

Certain types of actions or activities may be given a CE from further environmental review because they are deemed to have insignificant environmental impacts. Examples of a CE include issuing administrative personnel procedures or making minor facility renovations (such as installing energy-efficient lighting). If a federal facility proposed action is determined to meet the qualifications of a designated CE, the applicability of the CE is documented, no further review is required, and the action may be implemented. Although a proposed action may qualify for a CE, this exclusion does not relieve the proponent of the responsibility for complying with all other environmental requirements, including local ordinances and state or federal permits and regulations. Preparation of the necessary documentation for a CE takes approximately 2 weeks.

Although there is overlap in the types of activities covered, specific CEs are developed and promulgated as part of the regulations for each military branch. For instance, the list of CEs can be found in the following regulations:

- Air Force: 32 CFR Part 989, Appendix B
- Army: 32 CFR Part 651, Appendix B
- Navy: 32 CFR 775.6
- DLA: DLAR 1000.22

13.3.2 Environmental Assessments

When a CE is not appropriate, and it is uncertain whether a proposed action will cause significant environmental effects, an EA is prepared. The purpose of an EA is to determine the significance of the environmental impacts of the proposed action and to analyze reasonable alternatives to the proposed action that would meet its overall objectives. An EA should include an analysis or discussion of:

- The purpose and need for the proposed action
- The proposed action and a no action alternative
- Additional alternative courses of action for any proposal that involves unresolved conflicts concerning alternative uses of available resources
- The environmental consequences of the proposed action and alternatives
- A listing of agencies and persons consulted
- Conclusion regarding the impacts of the proposed action

When preparing an EA, the federal facility has discretion as to the level of public involvement, but generally it is considered desirable. At minimum, public and stakeholder notification is required prior to signing the decision document for the EA (either a FONSI or Notice of Intent (NOI) to prepare an EIS).

An EA may be either a programmatic EA or an individual EA. A programmatic EA is prepared for broad-scope actions, such as policies, regulations, or agencywide programs. Such actions typically affect all or most federal facilities' activities and have relevant similarities across the activities, such as common timing, impacts, alternatives, methods of implementation, or subject matter. For such actions, a single programmatic EA should be prepared instead of multiple individual EAs.

Federal facility proposed actions that typically require preparation of an individual EA include:

- Construction that may significantly alter land use or may result in significant environmental consequences when the constructed entity is operated
- Change in installation land use that may alter environmental conditions
- Repair or alteration projects that may affect culturally significant sites or structures
- Actions that may affect prime or unique agricultural land, wetlands, surface waters, floodplains, coastal zones, or other sensitive area
- Development of installation master plans, resource management plans, or pest management plans
- Disposition of excess real property that may result in significant environmental impacts (for example, potential contamination or presence of cultural resources)
- Personnel actions requiring notification of Congress under 10 *United States Code* (U.S.C.) 2687 (that is, base closures and realignments)

If the impacts are determined to be significant, an EIS would be required. If the EA indicates the environmental impacts would not be significant, a FONSI may be prepared for the action, and the action may be implemented. A FONSI is a document that presents the reasons why the agency has concluded that there are no significant environmental impacts projected upon implementation of the action. The EA is either summarized in the FONSI or attached to it. It would take approximately 12 months to prepare and complete the entire EA process.

13.3.3. Environmental Impact Statements

An EIS is the most intensive level of NEPA analysis. An EIS is prepared when a federal facility proposed action is considered to likely result in significant environmental impacts or serious public controversy. An EIS is a detailed written statement that fully discloses the environmental impacts of a proposed action and reasonable alternatives. It involves more formal preparation and processing and engages stakeholders and the public.

Specifically, an EIS is required when a proposed action has the potential to:

- Significantly impact environmental quality or public health or safety
- Significantly impact historical (listed or eligible for listing in the National Register of Historic Places), cultural, archaeological, or scientific resources; public parks or recreation areas; wildlife refuge or wilderness areas; wild and scenic rivers; or aquifers
- Result in significant or uncertain environmental effects or unique or unknown environmental risks
- Significantly impact a plant or animal species that is federally listed as threatened or endangered; a species that is a candidate for federal listing; a species proposed for federal listing; or critical habitat



Don't Forget...

If a federal agency anticipates that an action may significantly impact the environment, or if a project is environmentally controversial, the agency may prepare an EIS without first preparing an EA.

- Create substantial controversy concerning the significance or nature of the environmental impact of a proposed action

Federal facility proposed actions that typically, but not always, require preparation of an EIS include:

- Construction or major expansion of a facility that would significantly alter land use or result in environmental consequences when operational
- Major construction and operation of a facility in or near wetlands, inland waterways, floodplains, coastal zones, or other ecologically sensitive areas, including protected species habitat
- Major land acquisition, outleasing, or land excessing and disposition actions that may significantly alter land use
- Closure of a major installation, except where the only significant impacts are socioeconomic, or the action is otherwise exempt by law

Some proposed actions involve only one agency, the lead agency, while other more complex proposals require engagement from multiple agencies. For example, at DLA Energy facilities, the host installation may engage to address the NEPA process.

It is possible that some proposed actions may also warrant cooperation from other federal agencies (for example, U.S. Fish and Wildlife Service [USFWS], U.S. Army Corps of Engineers [USACE], U.S. Environmental Protection Agency [EPA]), and state and local agencies.

An EIS includes an early and extensive public involvement process. It begins by publishing an NOI in the *Federal Register* stating the intent to prepare an EIS for a particular proposal. The public is then engaged in the scoping process where a description of the proposed action and alternatives are provided. At points during the development of the EIS, the public can comment on the draft and final versions of the EIS and attend public meetings and public hearings.

The CEQ regulations provide for a process for determining the scope or range of actions, alternatives, and impacts to be considered in an EIS. This process, often called *scoping*, is to foster collaboration with stakeholders, integrate decision-making, identify information gaps, establish the schedule, and focus the NEPA review.

The next step in the process is preparing the draft EIS for public comment. The draft EIS is submitted to the EPA electronically via eNEPA, and the EPA files a Notice of Availability in the *Federal Register*. The comment period is at least 45 days, and public meetings or hearings may be hosted during this time as a way to solicit feedback.

Comments are addressed in the final EIS, and it is uploaded via eNEPA for the EPA to issue a second Notice of Availability with a 30-day waiting period. At the end of this time period, the decision on the environmentally preferred action is documented in a Record of Decision (ROD). The preparation of an EIS, from scoping to the issuance of the ROD, usually take approximately 24 months in addition to the time needed to prepare an EA.



13.3.4 Actions Similar to an Existing EA or EIS

If a federal facility proposed action is determined to be similar in scope and impact potential to an action that has been analyzed in an existing EA or EIS and that determination is documented, no further review is required and the action may be implemented. For an action that has been analyzed in an existing EA or EIS, a record, such as a REC or equivalent, must be completed to document the decision. This record must include sufficient information that supports the determination and must be retained in the proposed action administrative record.

13.3.5 Emergency Actions

DLA Energy may immediately implement an action that has the potential to result in significant environmental impact only for reasons of national defense or for protection of life or property. Emergency responses to mitigate harm to life, property, or important resources do not exempt federal facilities from complying with NEPA but do allow emergency actions while completing the NEPA analysis. Federal facilities must coordinate with pertinent agencies and the public on emergency actions having significant environmental impacts to the extent that time allows. As the immediate emergency is being controlled, the federal facility must work with CEQ to develop alternative arrangements for compliance with NEPA as soon as practicable.

13.3.6 Actions Abroad

The potential environmental impacts of federal facility actions conducted abroad are required by law to be considered and analyzed via a process that is analogous to and consistent with the NEPA process. Actions abroad are those conducted outside the U.S. (in other nations and in the global commons, which are geographical areas outside the jurisdiction of any nation, without any impacts in the U.S.). DoD facility actions abroad and must comply with:

- Executive Order (EO) 12114, *Environmental Effects Abroad of Major Federal Actions*
- 32 CFR 187, *Environmental Effects Abroad of Major Department of Defense Actions*
- DoDI 4715.05, *Environmental Compliance at Installations Outside the United States*
- Final governing standards for the host nation, if applicable

In addition, DLA facilities abroad must comply with Subpart D of DLAR 1000.22, *Environmental Considerations in Defense Logistics Agency Actions*.

Military service NEPA requirements for actions abroad are specified by branch, and guidance is included in the following documents:

- Chief of Naval Operations Instruction (OPNAVINST) 5090.1D, *Environmental Readiness Program Manual*
- Marine Corps Order (MCO) 5090.2, *Environmental Compliance and Protection Program*
- Air Force NEPA regulations (32 CFR 989.37 and 989.38)
- Army NEPA regulations (32 CFR 651.54)

13.4 DLA Energy Projects and Review

When a military service's proposed action involves DLA Energy and triggers the NEPA process, the military service (typically the installation) is responsible for ensuring appropriate NEPA documentation is prepared and signed by personnel with appropriate authority. Refer to [Appendix E](#) for DLA Energy environmental program staff contact information.

Military construction (MILCON) projects sometimes require an EA or EIS due to the size, scope, and/or location of the project; however, MILCON projects can be categorically excluded (where appropriate), as they are often constructed on previously disturbed sites. NEPA documentation for MILCON projects is a mandatory component of the requirements document package that the military service must submit for a project to be included in the DLA Energy MILCON program. While it's the military service's responsibility to prepare NEPA documentation, DLA will provide funding upon request.

The host facility is responsible for funding any necessary environmental mitigation (for example, wetland mitigation or air credits). DLA Energy will fund any necessary cleanup of capitalized product.

The Sustainment, Restoration and Modernization (SRM) Program addresses preventive maintenance, functional and engineering reviews, and associated projects for repair or replacement of facility components. SRM projects require NEPA analysis and typically qualify for a CE. SRM projects that cannot be categorically excluded include those that disturb more than 5,000 square feet of area, impact natural or cultural resources, result in major impacts to the surrounding area (for example, surrounding transportation system), or involve something controversial that should have public input. NEPA for SRM projects is the responsibility of the host facility in accordance with the host facility's NEPA guidance; however, DLA funding will be provided upon request. DLA Energy may request copies of SRM NEPA documents for recordkeeping purposes. If DLA Energy funding is used for NEPA, a copy of the NEPA documentation will be provided to DLA Energy. The host facility is responsible for funding any necessary environmental mitigation (for example, wetland mitigation or air credits). However, DLA Energy will fund any necessary cleanup of capitalized product.

Note that NEPA must be completed for the MILCON and SRM projects before funds for the project are released or allocated. Refer to [Chapter 14, DLA Energy Funding Support](#) for more information on funding.

13.5 Integration with Environmental Resource Planning

The NEPA process can serve to support or meet other environmental review requirements. For instance, actions that require the NEPA process may have an impact on endangered species, historic properties, or environmental justice communities. The NEPA analysis, which takes into account the potential impacts of the proposed action and investigates alternative actions, may serve as a framework to meet other environmental review requirements.

NEPA requirements for federal facility actions should be integrated concurrently with other planning and review procedures, such as those for the Endangered Species Act (ESA); the National Historic Preservation Act; the Environmental Justice EO 12898; and other federal, state, tribal, and local laws and regulations. The NEPA process does not replace the procedural or substantive requirements of other environmental statutes and regulations. The analyses, documentation, and consultation requirements of other statutes and regulations may duplicate those of NEPA. To avoid confusion, duplication of effort, omission, and unnecessary cost and delay, federal facility personnel should identify opportunities to integrate NEPA requirements with other environmental requirements during the early planning stages of proposed projects. Some additional environmental requirements that could require evaluation by federal facility personnel in conjunction with NEPA include those associated with the following statutes and EOs:

- Clean Air Act
- Clean Water Act
- Endangered Species Act
- National Historic Preservation Act
- Comprehensive Environmental Response, Compensation, and Liability Act
- Resource Conservation and Recovery Act
- Pollution Prevention Act
- Sikes Act
- Fish and Wildlife Coordination Act
- Migratory Bird Treaty Act
- Protection of Historic Properties Act
- Archaeological Resources Protection Act
- Rivers and Harbors Act
- Coastal Zone Management Act
- Noise Control Act
- EO 11514, *Protection and Enhancement of Environmental Quality* (amended by EO 11991)
- EO 13186, *Responsibilities of Federal Agencies to Protect Migratory Birds*
- EO 11990, *Protection of Wetlands*
- EO 11988, *Floodplain Management*



- EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*
- EO 13045, *Protection of Children from Environmental Health Risks and Safety Risk*
- EO 12372, *Intergovernmental Review of Federal Programs*
- EO 13834, *Efficient Federal Operations*

A few of the more common planning documents, statutes, and EOs that may either overlap the NEPA process or lead to a requirement for NEPA analysis of a project are briefly discussed below.

13.5.1 Natural Resources Integrated Management and Planning

Natural resources include plants, animals, water, soils, and other resources that occur naturally in the environment. The Sikes Act, as amended, and DoDI 4715.03, *Natural Resources Conservation Program*, requires DoD installations to develop an Integrated Natural Resources Management Plan (INRMP) to integrate natural resources management with mission activities and other installation management programs. The INRMP contains information on the natural resources present on an installation and provides guidance on how to protect, conserve, and enhance those resources in compliance with federal, state, and local regulations. INRMPs are developed and implemented in coordination with the USFWS, state wildlife agencies, and other appropriate stakeholders. NEPA documentation is prepared for the initial INRMP and when subsequent INRMP revisions include substantial changes to natural management programs and policies.

13.5.2 Cultural Resources Integrated Management and Planning

Cultural resources include historic properties, archaeological artifacts, and other evidence of the past activities and accomplishments of people. DoD installations are required by DoDI 4715.16, *Cultural Resources Management*, to develop an Integrated Cultural Resources Management Plan (ICRMP) to integrate cultural resources management with mission activities and other installation management programs. The ICRMP provides guidance on how to identify and protect cultural resources on the installation in compliance with federal and state regulations. As with the INRMP, NEPA documentation is prepared for the initial ICRMP and when subsequent revisions include substantial changes to management programs and policies.

13.5.3 Protection of Federally Listed Species and Migratory Birds

Plant and animal species that are federally listed as endangered or threatened are legally protected under the ESA. The ESA requires federal agencies to ensure that actions they authorize, fund, or carry out won't likely jeopardize the continued existence of federally listed species, or result in the destruction or adverse modification of designated critical habitat of such species. It also requires that federal agencies implement measures to conserve, protect, and, where possible,

enhance any listed species and its habitat. The ESA is administered by USFWS and the National Marine Fisheries Service (NMFS).

Section 9 of the ESA prohibits any taking of a listed species. The definition of *take* under the ESA includes to harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. *Harm* under this definition may include an act that indirectly results in the killing or injuring of a species via habitat modification or degradation that impairs essential behavior patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Agency Consultation Sections 7 and 10 of the ESA allow USFWS and NMFS to approve exceptions to the federal prohibition against taking of a listed species.

Migratory birds are protected under the Migratory Bird Treaty Act (MBTA) and EO 13186, *Responsibilities of Federal Agencies to Protect Migratory Birds*. EO 13186 requires that federal agencies avoid or minimize the impacts of their activities on migratory birds and make efforts to protect migratory birds and their habitat. There are over 800 species of migratory birds in the U.S. protected by international treaty and the MBTA. Criminal penalties may be issued for taking or killing migratory birds and damaging their nests. More specifically, the MBTA prohibits pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting any migratory bird (as egg, chick, or adult). Taking is prohibited regardless if it is intentional, accidental, or incidental, including failure to exercise care. It's also a violation of the MBTA if an active nest is abandoned by the adult birds when new work activities (for example, people, vehicles, or noise) begin in the area.

Breeding season is specific to each species and should be considered in developing the field work and construction schedule. Projects may need some activities to be delayed until after breeding season. A pre-activity survey needs to be conducted to look for signs of migratory birds. If migratory birds and their habitat are identified, then a mitigation plan needs to be developed. Some examples of mitigation measures for consideration include lowering cranes and drill rig derricks when not in use, prohibiting after-hours lighting directly on trees, and protecting and isolating nests with buffers and barriers until chicks fledge.

Potential impacts to protected species, migratory birds, and habitat that could support such species from proposed actions are identified as part of the NEPA process, enabling the proper agency coordination, documentation, and approval processes to occur.

13.5.4 Protection of Water Resources

There are a number of statutes, regulations, and EOs that could be potentially applicable to a DLA Energy projects and trigger NEPA. These include the Clean Water Act (CWA), Rivers and Harbors Act, and Coastal Zone Management Act. Section 404 of the CWA establishes a permit program to regulate the discharge of dredged or fill material into the waters of the U.S., including wetlands. Section 10 of the Rivers and Harbors Act prevents the creation of any obstruction not authorized by Congress to the navigable capacity of any of the waters of the U.S., except as authorized by USACE. Section 307 of the Coastal Zone Management Act requires that activities that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone must be consistent with



Did You Know?

The Palos Verdes blue butterfly is an endangered species living at DFSP (DFSP) San Pedro. DLA is a key member of the conservationist team trying to increase the Palos Verdes blue butterfly population by raising them in captivity and releasing them back to the environment.



the applicable state's coastal management program. In addition, EO 11990, *Protection of Wetlands*, and EO 11988, *Floodplain Management*, require that activities (for example, construction) that would adversely affect wetlands and floodplains be avoided unless there is no practicable alternative.

Proposed actions at DLA Energy or military service marine terminals could be subject to these statutes and EOs. For example, the issuance of a permit under Section 404 or Section 10 constitutes a federal action subject to the requirements of NEPA, including the preparation of an EIS if the environmental effects of the permit issuance are deemed to be significant.

13.5.5 Environmental Justice and Protection of Children

EO 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, was issued in 1994 to focus attention on the environmental and human health effects of federal actions on minority and low-income populations. The EO directs federal agencies to determine if their actions or potential actions could have disproportionately high and adverse human health or environmental effects on minority and low-income populations. EO 13045, *Protection of Children from Environmental Health Risks and Safety Risk*, was issued in 1997. The EO requires identification of environmental health risks and safety risks that may disproportionately affect children. Under these EOs, proposed federal actions need to include a determination of whether children or minority or low-income populations are present and could be adversely impacted. Examples of potential impacts include noise, air emissions, or increased traffic that affect areas adjacent to facilities.

Early identification of potential environmental justice and children's health issues via the NEPA process provides both project proponents and local communities more time and flexibility in finding solutions adequate for all parties.



State Requirements

13.6 State Requirements

Several states have environmental statutes and processes that are analogous and similar to NEPA. These state statutes require branches of government within the respective state (state agencies, counties, cities) to follow a protocol of analysis and public disclosure of environmental impacts of proposed actions by the state agency and to implement measures to mitigate those impacts. Federal agency projects are usually not subject to the state NEPA process, but federal agencies may be asked to coordinate and review certain state projects.

Cooperation with state and local agencies should occur when feasible to reduce duplication between NEPA and comparable state and local requirements. Such cooperation may include the preparation of joint EAs and EISs, participating as a cooperating agency, and holding joint public hearings. In such cases, federal agencies cooperate with the state, tribal, and local governments to integrate environmental impact analysis and documentation requirements so that one document will suffice for complying with as many applicable environmental laws and requirements as practicable. States with programs similar to NEPA include:

- The California Environmental Quality Act (CEQA) does not apply to federal facilities or federal actions unless the state of California or a local California

governmental body has a separate state-specific discretionary approval of a project (for example, approval of an operating or discharge permit). If no state or local discretionary approval authority exists for a project, CEQA does not apply. For remedial activities subject to state discretionary approval in California, the California Department of Toxic Substances Control (DTSC) will establish whether the project is categorically exempt from or subject to CEQA review. Some minor remedial activities are explicitly exempt from CEQA under Title 14 of California Code of Regulations, Chapter 3, Article 19 (Minor Actions to Prevent, Minimize, Stabilize, Mitigate or Eliminate the Release or Threat of Release of Hazardous Water or Hazardous Substances). For projects not considered exempt from CEQA, DTSC will determine whether and the extent to which the project requires CEQA review. Examples of CEQA compliance formats include checklists of environmental impacts, Initial Studies (IS), and Environmental Impacts Reports (EIRs). The type of CEQA compliance document is at the discretion of the DTSC as the agency with approval authority over a project.



- New York’s State Environmental Quality Review Act (SEQR) does not apply to federal facilities or federal actions. However, NEPA and SEQR reviews may be coordinated to reduce duplication and potential conflict between the two levels of government. Specifically, for federally funded projects implemented by non-federal entities, a coordinated SEQR and NEPA review process may include joint procedures to satisfy both state and federal requirements, such as EAs, scoping and preparing EISs, conducting public hearings, and preparing and publishing public notices.
- Washington’s State Environmental Policy Act (SEPA) does not apply to federal facilities or federal actions; however, NEPA and SEPA reviews may be coordinated as described above for NEPA and SEQR reviews.

13.7 For More Information

For Information On...	See...
Regulatory Agency	
EPA NEPA website	www.epa.gov/compliance/nepa
EIS Filing Guidance	www.epa.gov/nepa/environmental-impact-statement-filing-guidance
EIS Database	https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search
Fed Center NEPA website	https://www.fedcenter.gov/programs/nepa
Council on Environmental Quality	www.whitehouse.gov/ceq/
Documents and References	
DoDI 4715.03, <i>Natural Resources Conservation Program</i>	www.dodnaturalresources.net/files/DoDI_4715_03.pdf
DoDI 4715.9, <i>Environmental Planning and Analysis</i>	www.denix.osd.mil/nepa/home/nepa-home-documents/existing-dod-policy-dod-directive-4715-6/
DoDI 4715.16, <i>Cultural Resources Management</i>	www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/471516p.pdf?ver=2017-11-21-114100-670471516p.pdf



For More Information

<i>For Information On...</i>	<i>See...</i>
DoDI 4715.05 Environmental Compliance at Installations Outside the United States	https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/471505p.pdf?ver=2017-10-05-073242-057
Department of Defense Regulations, 32 CFR 187, Environmental Effects Abroad of Major Defense Department Actions	www.gpo.gov/fdsys/pkg/CFR-2011-title32-vol1/pdf/CFR-2011-title32-vol1-part187.pdf
Army Environmental Command, NEPA Support	www.aec.army.mil/index.php?cID=340
Army NEPA Regulations: 32 CFR 651	https://www.gpo.gov/fdsys/pkg/CFR-2011-title32-vol4/pdf/CFR-2011-title32-vol4-part651.pdf
Air Force Civil Engineer Center, NEPA Support	https://www.afcec.af.mil/Home/Environment/National-Environmental-Policy-Act-Center/
Air Force NEPA Regulations: 32 CFR 989	www.gpo.gov/fdsys/pkg/CFR-2011-title32-vol6/pdf/CFR-2011-title32-vol6-part989.pdf
OPNAVINST 5090.1C, Environmental Readiness Program Manual	www.public.navy.mil/surfor/Documents/5090_1C_CHANGE_1.pdf
Navy NEPA Regulations, 32 CFR 775	www.gpo.gov/fdsys/pkg/CFR-2011-title32-vol5/pdf/CFR-2011-title32-vol5-part775.pdf
MCO 5090.2, Environmental Compliance and Protection Manual	https://www.marines.mil/Portals/59/Publications/MCO%205090.2.pdf?ver=2018-06-18-114045-040
DLAR 1000.22, Environmental Considerations in Defense Logistics Agency Actions	www.dla.mil/Portals/104/Documents/J5StrategicPlansPolicy/PublicIssuances/r1000.22.pdf
EO 11988, <i>Floodplain Management</i>	www.archives.gov/federal-register/codification/executive-order/11988.html
EO 11990, <i>Protection of Wetlands</i>	www.archives.gov/federal-register/codification/executive-order/11990.html
EO 12114, <i>Environmental effects abroad of major Federal actions</i>	www.archives.gov/federal-register/EO12114
EO 12898, <i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf
EO 13045, <i>Protection of Children from Environmental Health Risks and Safety Risk</i>	www.gpo.gov/fdsys/pkg/FR-1997-04-23/pdf/97-10695.pdf
EO 13186, <i>Responsibilities of Federal Agencies to Protect Migratory Birds</i>	www.gpo.gov/fdsys/pkg/FR-2001-01-17/pdf/01-1387.pdf
Environmental Justice, Guidance Under the National Environmental Policy Act	www.epa.gov/sites/production/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf

13.8 Action Items



Action Items

Item	Date Started	Date Completed	N/A	Comment(s)
<i>Integrate</i> NEPA concurrently with other planning and review procedures.			<input type="checkbox"/>	
<i>Determine</i> if your proposed action qualifies for a CE.			<input type="checkbox"/>	
<i>Conduct</i> an EA if a CE is not applicable (unless an EIS is more appropriate).			<input type="checkbox"/>	
<i>Prepare</i> a FONSI for any EA that determined there are no significant effects from the proposed action.			<input type="checkbox"/>	
<i>Prepare</i> an EIS when significant impacts or public controversy is likely.			<input type="checkbox"/>	
<i>Coordinate</i> with DLA Energy environmental staff for DLA Energy projects or impacts by submitting appropriate public and EPA notifications during the EIS effort.			<input type="checkbox"/>	
<i>Implement</i> final action per NEPA process.			<input type="checkbox"/>	

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