NEPA Streamlining: Direction and Process

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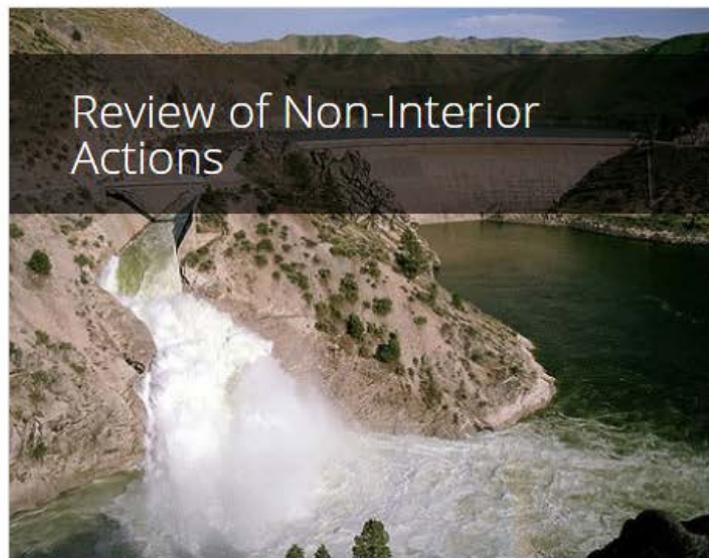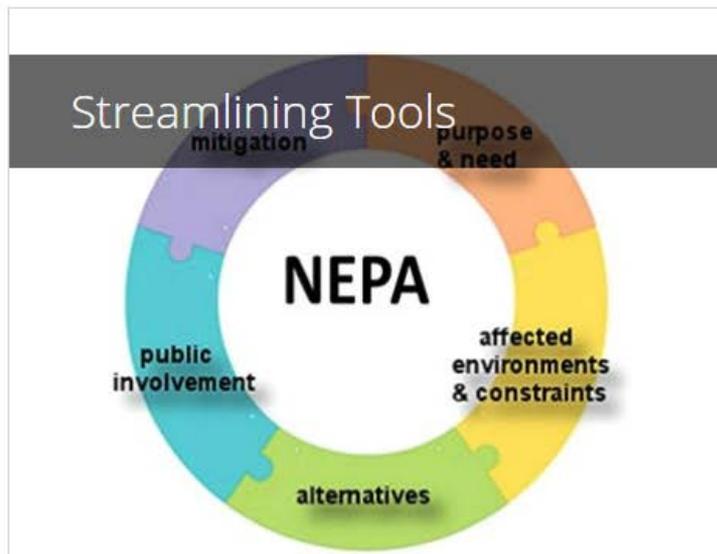
Executive Order 13807

- E.O. 13807 - Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects
- Goal: transparent / coordinated processes for conducting environmental reviews and authorizing decisions for infrastructure projects
  - Open coordination and early engagement
  - Accountability
  - Measurably better environmental outcomes
- "Major infrastructure" projects require "One Federal Decision" (OFD) consideration.
- Set a 2-year time limit for environmental reviews and authorization decisions for major infrastructure projects.

Secretarial Order 3355

- Issued on August 31, 2017
- Supports streamlining requirements of E.O. 13807
- Enhances and modernizes the Department's NEPA processes
- Immediate focus on bringing even greater discipline to the documentation of the Department's analyses and identifying opportunities to further increase efficiencies
- Established EIS and EA Page limits and Timelines

S.O. 3355 Time Limits

- For EIS started after Aug. 31, 2017:
  - Have 1 year from issuance of a Notice of Intent (NOI) to complete Final EIS;
- For EIS started before Aug. 31, 2017:
  - Must complete NEPA and issue ROD no later than April 27, 2019;
- Projects that qualify as FAST-41, E.O. 13807 and/or OFD:
  - Have 1 year, 9 months to issue FEIS and 3 months to complete permitting.
- Timelines consistent with these goals must be established before issuing a NOI.
- Exceeding time limit requires approval of waiver by the Deputy Secretary's office.

S.O. 3355 Page Limits

Establishes EIS Page Limits to help both with readability and timeliness.

- 150 pages for standard EIS.

- 300 pages for unusually complex projects.

- Applies to EIS under E.O. 13807 and OFD, where a DOI office or bureau is the lead agency.

- Exceeding 150 Page limit requires approval of waiver by the Deputy Secretary's office.

- Improves readability, which will aid in obtaining substantive public comment that can aid and inform decision making.

Meeting Page Limits

- Start schedule and page management before the Notice of Intent (NOI)
- Set a "page budget" for the EIS.
  - Ensure that all team members, including contractor, are held accountable to staying within the page limit.
- Use existing NEPA analyses and other documents to eliminate redundancy and decrease paperwork.
  - Agencies can "incorporate by reference" by relying on existing documents by citing and summarizing them.
  - "Tiering" is a specific form of incorporation by reference that refers to reliance on previously completed NEPA analyses, such as programmatic EISs.
- Reorganize document structure to eliminate and reduce redundancy.

Streamlining length

- Ensure the purpose and need is narrowly focused to bureau authorities.

- Ensure that alternatives analyzed are reasonable.

- Focus on substantive issue driven NEPA, only analyzing those issues and impacts relevant to making an informed decision.

- Use diagrams effectively to illustrate environments.

- Reference or provide resource/data information on-line whenever possible to reduce need to include lengthy appendixes.

- Document processes and detailed analyses in the Decision File (vs. everything in the NEPA document) prepared contemporaneously throughout process.

Meeting Time Limits

- Identify and conduct activities that can occur pre-NOI
  - Ensure applications are complete.
  - Identify issues that likely will need to be addressed.
  - Identify and begin data collection needed.
  - Identify and begin writing affected environment sections.
  - Identify methodologies for analysis.
  - Prepare Purpose and Need and identify preliminary, reasonable, project alternatives.
  - Ensure sufficient resources are available to begin and complete the NEPA process.

- Ensure that all team members, including contractor, cooperating agencies, and state entities, are included in the development of, and (as appropriate) held accountable to staying within the project timeline.

EIS Document Clearance Process

- Created a Review Team composed of DOI and bureau leadership: DOI Chief of Staff, Office of the Deputy Secretary, Deputy Solicitor, Director of OEPC, Assistant Secretary, Bureau Director, and Regional or State Director.
- The Review Team is briefed on and reviews all EISs at the following stages of the EIS process:
  - Initial Action
  - Notice of Intent
  - Draft EIS Development
  - Draft EIS
  - Final EIS
  - ROD
- Relevant briefing documents are distributed to the Review Team in advance of the briefings in the timeframes set by the memorandum.

Successful Streamlining of NEPA

- Get Everybody on Board
  - Involve all levels of management and solicitors early to prevent late decisions or delays in the review process.
  - Involve the entire team in creating the Project Management Plan.
- Engage Your Extended Team
  - Involve cooperating agencies, consulting agencies and contractors early and often in the process.
  - Address policy, legal and contractual requirements.
  - Set expectations to avoid rework late in the review process.
- Ask Tough Questions, Make Tougher Choices
  - Do we need to do a NEPA review?
  - What is the appropriate level of NEPA review?
  - Can we use an existing NEPA document or incorporate it by reference?
  - Does the NEPA process need to be decoupled from another process to meet the schedule?

Questions?