legislative compliance: an orientation

january 1982

NATIONAL PARK SERVICE

UNITED STATES DEPARTMENT OF THE INTERIOR

LEGISLATIVE COMPLIANCE:

AN ORIENTATION

January 1982

National Park Service
United States Department of the Interior

ROLE OF COMPLIANCE AT THE DSC

The role of the Denver Service Center is to execute the major planning, design, construction, and historic preservation programs of the National Park Service. Compliance with environmental and cultural resources legislation, executive orders, and special directives is required for virtually every project undertaken. Each team executes its own compliance work, but the Legislative Compliance Division (LCD) monitors the DSC system for the manager to assure requirements have been met, maintains an ongoing training program, provides a central compliance library as a major resource for other DSC staff, and provides staff assistance in unusually complex cases.

This information/orientation booklet is designed to provide an introduction to the interpretation and application of environmental (including historic preservation) legislation, regulations, and policy. Timely and thorough compliance work contributes to expeditious contract award and good relationships with regional offices and parks as well as being a good internal quality check for team members.

WHEN COMPLIANCE IS REQUIRED

As part of the planning process, planning and design team members are responsible for scheduling, considering, and documenting the consideration of all laws, executive orders, and NPS policies that apply to their work. Legislation is congressionally initiated; executive orders are presidential guidelines that must be followed; special directives are internal policies. Usually the LCD provides only an oversight and review role, thus individual team members must be familiar with compliance requirements.

Following are narrative descriptions of the major laws, orders, and policies requiring compliance. Each description is accompanied by references to be used in actually preparing compliance material; it is important to closely study these, including definitions, since there are often fine distinctions in word use or application.

A comprehensive "Legislative Compliance Log," reprinted at the end of the booklet, is to be used for each project.

NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act (NEPA), passed by Congress in 1969 and signed into law by Richard Nixon in 1970, was the first major environmental law enacted in the 70s.

Summary

NEPA is generally characterized as having three major components.

First, it declares a national policy for the environment: NEPA isn't the "National Environmental Protection Act," but rather a "policy" act. This emphasis on setting wide-ranging policies toward the environment is clearly stated when it is stressed that the policy of the government is to endeavor

> to fulfill the responsibilities of each generation as a trustee of the environment for succeeding generations; to assure for all Americans safe, healthful, productive and esthetically and culturally pleasing surroundings; attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; preserve important historic, cultural and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice; achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources. (Section 101(b))

NEPA's second major component is the establishment of the environmental impact statement process ((section 102(2)(c)). This is generally referred to as the "action forcing mechanism" of the act; it requires federal agencies to prepare a detailed analysis of the environmental consequences of every major proposal, circulate it, and consider the analysis and public comments in its decision making. The agencies must forecast and consider the environmental consequences of the proposed action before making a decision . . . look before they leap. They must also involve outside groups and the general public in decision making. This section is the primary vehicle for implementing the general policies in the act by forcing articulation of environmental implications of major federal proposals and forcing assessment of them in light of policies. Some say this process endeavors to make government decision making more rational and/or allows citizens to alert the government agencies to factors which hadn't been considered, either resulting in beneficial changes in the administrative process. Others have objected to the time and expense it has imposed on project accomplishment.

The third and final component of NEPA is the establishment of the Council on Environmental Quality (CEQ). The council retains general oversight on the EIS process and assists in the preparation of the yearly report on environmental quality. The activities of CEQ have varied during its first decade. During the early 70s, the CEQ campaigned on some significant environmental legislative proposals and opposed several projects, including the Tock's Island Dam, on environmental grounds. During the final year's of the Nixon administration and during the entire Ford administration, the council refrained from assuming an activist position. President Carter's Office of Management and Budget recommended that the

CEQ be abolished, however its supporters prevailed and the agency survived.

History

Before passage of NEPA, similar legislation had been under consideration for years. As early as 1959, bills were introducted which would have addressed environmental quality, the impact of the federal government on the environment, and the need for the government to consider environmental amenities in its decision making process.

Two reports issued in the summer of 1968 marked the beginning of NEPA as it was finally passed. One examined the relationship between the objective of environmental quality and the management structure of the federal government; it concluded that environmental responsibilities were dispersed among as many as nine different agencies. In the words of that report, "Existing institutions can do the job if they operate (1) under a coherent national policy for the environment, and (2) with expanded understanding of ecological facts and processes." The second 1968 report, and the most direct ancestor of NEPA, was prepared by Indiana University professor Lynton Caldwell for the Senate Interior and Insular Affairs Committee. It described a wide range of considerations and issues which would underlie any attempt to formulate a national environmental policy; most importantly, it defined environmental policy in terms of the total human environment--not merely in terms of biological systems or historic preservation or aesthetics of any sort. Caldwell stressed that although national environmental policy would necessarily be concerned with natural resources conservation issues, all environmental needs of man--ethical, physical and intellectual, and economic--must be taken into account.

An environmental policy bill was drafted and introduced into both houses of Congress. The Senate bill passed unanimously, the companion bill passed in the House with few dissenting votes. A conference committee inserted the action-forcing provisions of 102(2)(c). Congress passed the bill as modified in conference and it was signed by President Nixon on January 1, 1970.

As written, NEPA is fairly broad. It has been called a statesman's, rather than a lawyer's, law. This is not surprising in view of its intent: to establish a policy cutting across agency lines. Despite ambiguities, NEPA is fairly coherent; its various elements were intended to reinforce one another in achieving policy goals. Although intended to be a policy law rather than a procedural law, it does incorporate action-forcing procedures.

NEPA's basic policy change strives to promote better decisions due to the preparation of environmental statements. This is sort of a "slippery road" theory: if a driver knows there is a slippery road ahead, s/he will change driving habits. Similarly, an environmental impact statement or assessment is intended to alert agencies to environmental dangers so they can plan appropriately.

From the agency perspective, the procedures were most important because they required acton and were easier to implement than a philosophical policy directive.

Significant Court Cases and Interpretations

The difficulty with NEPA has been that some directives were not clear. For instance, the courts have been asked to determine what is appropriate consideration of environmental impact, what is a major federal action, what is the human environment, and what are appropriate alternatives. A series of court cases and issuance of governmentwide CEQ regulations now make it easier to say what actions are required under NEPA.

Until about 1978, some judges, especially in the District of Columbia Court of Appeals, ruled that NEPA protected the environment. Within the last few years, however, the Supreme Court, which had dealt with few NEPA cases, wrote two decisions that indicate a more traditional view of administrative law may be taken when applying NEPA. The first was the Stryker's Bay Neighborhood Council case, and the second, more important one, was Vermont Yankee Nuclear Power Corporation vs. NRDC. In the latter, the Supreme Court said that "once an agency has made a decision subject to NEPA procedural requirements, the only role for a court is to insure that the agency has considered environmental consequences. It cannot interject itself within the area of discretion of the executive as to the choice of action." Thus a court will not substitute its decision making for an administrator's unless the environmental document is faulty or the Record of Decision shows the administrator was arbitrary, capricious, or abused his discretion by failing to adequately weigh the information established by the environmental process. In cases where one alternative would result in more environmental damage than another decision of equal merit, this forces an administrator who chooses the more damaging alternative to adequately and satisfactorily enunciate the decisive reasons. Thus the transition the courts seem to be making is from interpreting NEPA as an environmental protection policy to interpreting NEPA as procedural policy that forces administrators to enunciate the reasons for their actions and, theoretically, to make better decisions.

CEQ Regulations

CEQ was established to guide the application of NEPA. The council's first real effort that affected the Park Service was the establishment of guidelines for preparing environmental impact statements. Following that, November 1978 regulations changed the required format of Environmental Impact Statements (EIS) and required that environmental considerations be incorporated in the planning and decision making process. Copies of the CEQ regulations are available from the LCD office; those not familiar with the regulations should obtain copies exactly as printed in the Federal Register because the introductory section discusses the reasons behind certain requirements. This helps in interpreting what has to be done under the specific regulations as they apply to Park Service planning and

compliance. Another beneficial information aid, called "40 Questions" and published by CEQ in the Federal Register, responds to the 40 most asked questions about the CEQ regulations; it too is available in the LCD office.

CEQ requires that each agency promulgate its own guidance to employees. This guidance is provided to the NPS in Part 516 of the "Departmental Manual." Part 516 is quite general since it is speaking to several bureaus, but its appendix 7 is reserved specifically for the National Park Service; it is necessary to use both in compliance work. Both part 516 and appendix 7 contain "categorical exclusions" describing projects on which environmental documents are not required, and part 516 contains exceptions to these exclusions. Appendix 7 is being revised to reflect the additional types of actions inherited from HCRS that may be excluded. The Service is currently developing NPS-12, "Guidelines for Environmental Compliance," which will include and expand these two documents.

NEPA is an umbrella. The CEQ regulations stipulate that the NPS is to comply with applicable environmental statutes and orders "insofar as possible" at the same time that it complies with NEPA. Then they define "insofar as possible" as being "if there isn't a law or regulation that prevents you from doing so." Thus, the NPS must comply with other statutes and orders while completing NEPA homework; consequently a NEPA analysis of alternatives and impacts considers such things as endangered species, floodplains, wetlands, clean air, clean water, the National Historic Preservation Act and all other statues and orders on the compliance checklist. It is not sufficient to promise in our documents that we <u>will</u> comply or to simply state that we are <u>in</u> compliance; the document must give the evidence of compliance.

NEPA requirements are relatively straightforward. If compliance for a project has been adequately covered as part of a more comprehensive plan, this should be documented in the 10-238 or task directive, and no further action is required unless new information on such things as cultural resources or endangered species invalidate the previous analysis. If the environmental analysis has not been adequate or if there is no covering environmental document, 516 DM and appendix 7 should be consulted to see if the project is listed as a categorical exclusion; it must be listed, not simply similar to the actions listed, to qualify as an exclusion. Then turn to 516 DM 2.3A(3) to see if the exclusion contains elements which are exceptions, thus requiring at least an environmental assessment. If the project is a categorical exclusion and not on the excepted list, documention of that fact in the project files completes compliance. If not, either an environmental assessment or environmental impact statement must be prepared.

An environmental assessment (EA) is the first level of work done on most projects. It is not the thorough analysis of all impacts that is found in an EIS; rather, an EA looks only at the major impacts of the action to see if they are significant enough to require an EIS. In "40 Questions," CEQ suggests that 10-15 pages of analysis should be sufficient to analyze the impacts of a proposed action and its alternatives: if not, the more lengthy analytical EIS is probably needed. Consequences that are not useful in determining if an EIS is needed but which are critical to the selection of

one alternative over another should be woven right into the description of the alternative. For example, the energy savings of locating on a south-facing slope are hardly significant enough to warrant discussion under impacts but may be critical to the selection of one alternative over another.

If a project is considered major and significant or highly controversial, an EIS will be needed. Some agencies have prepared lists to determine significance; if the project contains two or three elements on the list then an EIS is automatically done. In the NPS, the EA simply states the magnitude of the impacts and the decision maker, usually the regional director, decides whether the project is a major federal action causing significant changes in the human environment and needs an EIS. Assessment of controversiality of impacts has changed since NEPA passage: the original intent was to determine if professionals in the appropriate discipline disagreed over the type or degree of impact, but now, strong and divided public opinion can be grounds to define a project as controversial. Again, this is a matter of judgement by the decision maker.

A regional review of any environmental document is required. These reviews ensure that a reasonable range of alternatives has been presented and that the depth of environmental analysis is sufficient for making wise decisions. Final determination of the adequacy of environmental documentation for a project is handled by an environmental compliance officer (title varies), who forwards his recommendation to the regional director.

References for NEPA Compliance

"40 Most-Asked Questions"
CEQ Regulations 40 CFR Parts 1500-1508
NPS-12, "Guidelines for Compliance with the National Environmental Policy Act"
Departmental Manual: Part 516 and appendix 7

OTHER NATURAL RESOURCES-RELATED LEGISLATION

This section provides an overview of legislation, executive orders, and special directives related to NEPA and their effects on National Park Service operations. Those with minimal application will be described briefly while others with extensive compliance requirements will be treated in more detail.

Clean Air Act

The Clean Air Act prevents the NPS (and industries) from taking actions that would degrade ambient air quality. Section 118 requires us to conform to all federal, state, and local air pollution control requirements. The 10-238 for any proposed new construction or development project

must identify and take into account the need for compliance with section 118 of the Clean Air Act, and the environmental document must describe that compliance. In any case of a violation or a potential violation in an NPS area, the regional air coordinator should be notified and appropriate action taken.

NPS Special Directive 79-7, "Air Quality Policy and Procedures and Responsibilities," may affect DSC programs. It directs the NPS to monitor air sheds and air quality-related values of certain parks, monuments, and wilderness areas. Air quality values are defined as visibility itself and those scenic, cultural, biological, and recreational resources of an area that are affected by, or dependent upon, air quality.

For instructions on compliance, see NPS Special Directive 79-7, "Air Quality Policy and Procedures and Responsibilities."

Water Quality Laws

Responsibilities under the Federal Water Pollution Control Act/Clean Water Act are outlined in a Memorandum of Understanding among the Department of Interior, the National Park Service, and the Environmental Protection Agency. Every fiscal year a work plan is established to implement the MOU; the most recent one is dated February 10, 1981. It states that "where violations of State water quality standards exist in units of the Park Service, superintendents have to make certain that action is initiated to correct the violations as soon as possible." As with the Clean Air Act, the NPS must comply with state, regional and local planning under this law.

Management of solid waste under the Resource Conservation and Recovery Act of 1976 is outlined in Staff Directive 76-20 (revised March 13, 1981). The act covers disposal of all types of solid wastes--garbage, refuse, sludge. Its main application relates to state, local, and regional solid waste disposal plans, and, thus, has implications concerning disposal of solid waste on Park Service property.

Two acts apply to projects that impact navigable waters or their tributaries (defined in 33 CFR 322 and several court interpretations). Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), which deals with the Army Corps of Engineers permit for structures in or work affecting navigable waters, applies to any attempt to directly place any obstruction into a navigable body of water. Section 404 of the Federal Water Pollution Control Act and its regulations (33 CFR 323) require permits for discharging or putting fill into a body of water that is, or could be, a tributary to a navigable waterway.

For instructions on compliance, see "NPS Workplans for Implementation of November 1, 1978 Memorandum of Understanding Between the National Park Service and Environmental Protection Agency."

Staff Drective 76-9, "Water Supply Systems"
Staff Directive 76-20, "Solid Waste Management"
33 CFR 322 et. seq. regarding sections 10 and 404 permits

Coastal Zone Management

The Coastal Zone Management Act directs agencies to be informed about a state's Coastal Zone Management Plan and show that federal actions will not prevent the state from accomplishing its goals. The NPS has to be in conformity with the approved state plan, and must notify the appropriate state CZM board and allow it to comment prior to initiating actions which may affect the coastal zone.

For instructions on compliance see 15 CFR 930-30.

Floodplains and Wetlands

Floodplains and wetlands are regulated by executive orders 11988 and 11990. The Water Resources Council (WRC) and the Federal Emergency Management Agency (FEMA) have issued guidelines to implement them and the "Departmental Manual" gives additional guidance by saying that WRC and FEMA directives will be followed except where they interfere with, or are contrary to, DOI guidelines and regulations. The NPS has published final procedures (45 Fed. Reg. 35916) that augment all of these other guidelines but do not repeat them.

The executive order directs the Park Service to avoid locating projects in a floodplain or a wetland whenever possible. If this is impossible, then flash flood and coastal hazard zones and the threat of a mudslide must be avoided and some mitigating steps must be taken to protect people and resources.

Refer to National Park Service Procedures for Floodplain and Wetlands Management 45 Fed. Reg. 35916, for information on compliance procedures.

Threatened and Endangered Species

If endangered or threatened species could be affected by a project, section 7 compliance procedures described in the Endangered Species Act must be accomplished. Before initiating the formal process, the NPS normally makes informal contact with the Fish and Wildlife Service (FWS) to find out if there is truly a "may affect" situation. If the FWS and NPS agree, based on a simple biological assessment, that the proposed action won't affect threatened or endangered species, further resort to the formal process is not necessary. Proposed species must be treated as if they were officially listed. Note that the law reads "may affect" rather than "adversely or beneficially affect." So the environmental document on a clear project it should state that there will be "no effect" rather than "no adverse effect" to satisfy the law.

Refer to 50 CFR 402 for instructions on compliance procedures.

Other

The Wild and Scenic Rivers, National Trails System, and Wilderness acts require the NPS to study wilderness, wild and scenic rivers, and trails for addition to the three systems. A study resulting in a recommendation to Congress for legislation requires a full EIS. Occasionally small areas may be covered by EA's with permission from the Office of Environmental Quality in Washington.

Compliance instructions on these laws are found in:

Staff Directive 76-14, "Wilderness Studies"
Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory, 45 Fed. Reg. 59189.

ACTS APPLYING TO THE CULTURAL ENVIRONMENT

The 1969 National Environmental Policy Act, described in the preceding chapter, includes cultural resources as a part of the environment. This inclusion is strengthened further by the implementing CEQ guidelines integrating the National Historic Preservation Act and Executive Order 11593 (see below) into the NEPA process. Thus several cultural resources-related acts must be taken into account in every project.

Although several historic properties were set aside for preservation early in the nation's history, such as Ford's Theater in 1866, Casa Grande in 1889, and a number of the military battlefields and cemeteries in the 1890s, the first far-reaching legislation is the Antiquities Act of 1906. The Antiquities Act gives the President the power to set aside lands and monuments of scientific and historic interest; sets up a mechanism of permits for scientific research on federal lands; and establishes penalties for unauthorized exploration, appropriation, or destruction of archeological resources on those lands.

The National Park Service Organic Act of 1916 gives the NPS responsibility for preservation of historic properties owned by the government, except for military cemeteries which came into the Park Service in 1933 by executive order.

The 1935 Historic Sites Act makes preservation of historic properties the policy of the federal government. It sets up the Historic American Building Survey (now under NPS juridiction) to record historic buildings and archeological properties for preservation purposes. It also sets up a system of National Historic Landmarks, which are properties of national (as opposed to state or local) significance.

The 1949 National Trust Act establishes the National Trust for Historic Preservation as a nonprofit, charitable, and educational corporation. Its purpose is to accept or buy properties of national significance for

interpretation to the public. This act does not affect NPS projects but is important to the preservation movement.

In 1960 Congress enacted the "Reservoir Salvage Act," which requires federal or federally licensed reservoir or dam projects to have archeological and historical inventories completed prior to the loss of those resources. Compliance procedures are in 43 CFR 422 and 33 CFR 305.

The National Historic Preservation Act of 1966 initiated a broader program of historic preservation for the country. It expanded the concept of the National Landmark Program into the National Register of Historic Places to include sites of state and local, as well as national, significance. All national landmarks, and all historic units of the National Park System, are automatically listed on the National Register of Historic Places. The act also established the Advisory Council on Historic Preservation to advise the President and the Congress regarding historic preservation. Most important to the NPS is section 106 of this act, which requires that Service take into account how a project may affect a National Register property and afford the Advisory Council an opportunity to review its analysis and comment on it. A 1976 amendment expanded the properties covered to include those eligible to be included on the National Register as well as those already included. 1980 amendments to the act expanded the roles of the federal, state, local, and private sectors and provided important new mandates for federal land managers in the area of historic preservation. Section 106, 36 CFR 800, and NPS-28 "Guideline for Cultural Resources Management" should be consulted for compliance instructions.

In 1971 President Nixon signed Executive Order 11593 requiring an inventory of all archeological and historic resources on federal lands so that the properties on or eligible for the National Register are not inadvertently lost or destroyed due to government action. The full significance of this act to federal agencies was not fully realized when the order was signed: it was thought that agencies could use previously recorded lists of historic properties under their jurisdiction to meet this obligation. However, those existing lists were generally incomplete and full archeological and historical surveys have been needed to insure that historic properties are identified, evaluated, and adequately considered in the project planning process. The text of the executive order includes instructions for compliance.

In 1978 Congress passed the American Indian Religious Freedom Act, which reaffirms the First Amendment rights of Native Americans. It directs federal agencies to evaluate their policies and procedures in consultation with Native American traditional religious leaders so that Native American religious rights and practices are protected and preserved. NPS guidelines for this act are in Special Directive 78-1.

The Archeological Resources Protection Act of 1979 is written to help government agencies protect archeological resources by augmenting the Antiquities Act, which is difficult to enforce because it lacks specificity.

This 1979 act defines archeological resources, designates a system of permits for excavation on federal properties, and establishes civil and criminal penalties for illegal disturbance of archeological resources. Final guidelines are pending; check with the LCD for current procedures for compliance.

DENVER SERVICE CENTER--LEGISLATIVE COMPLIANCE LOG

Date _____

Park _____ Region _____

Developed Area _____ Package No. _____ Project Type _____

Project Title _____

Description _____ Account No. _____

Project Manager _____ Phone No. _____

Remarks _____

_____

_____

_____

Statutes, executive orders, regulations, and policies may impose compliance requirements for all DSC planning, design, historic preservation, or construction projects. Such applicable regulatory material includes but is not limited to the following. All items must be initiated and checked as either complete or not required by each team's designated environmental or cultural resources compliance specialists. Legislation which may be critical for particular projects will be identified on the form by either the team specialists or project manager.

A. PLANNING

☐ General Management (or Master) Plan (Date approved) _____

☐ Development Concept Plan (Date approved) _____

☐ Other: _____ (Date approved) _____
(Title)

	Surname	Date
☐ Project not in approved plan		
☐ Project in approved plan _____ (Title)		
Date of EA or FEIS on approved plan		
Other: _____ (e.g., wilderness)		

COMMENTS:

B. NATIONAL ENVIRONMENTAL POLICY ACT

	Compliance Completed	
	Surname	Date
☐ Categorical Exclusion		
Citation to NPS/DOI NEPA regulations establishing this action as a categorical exclusion and reasons therefor: _____		
_____		
_____		
Documented in: _____		
☐ Environmental Assessment _____ (Date issued)		
☐ Finding of No Significanct Impact _____ (Date issued)		
☐ Notice of Intent _____ (Date published)		
☐ Draft Environmental Impact Statement _____ (Date approved)		
☐ Final Environmental Impact Statement _____ (Date approved)		
☐ Record of Decision _____ (Date published or made available to public)		
☐ Prime or Unique Farmlands in Project Area _____		

COMMENTS:

				Compliance Completed	
				Surname	Date

C. ENDANGERED SPECIES ACT AND RELATED LAWS

- ☐ Biological assessment not required
  - ☐ No species in area
  - ☐ Not significant Federal action in terms of Endangered Species Act
- ☐ Biological assessment
  - ☐ NEPA document (Date approved) _____
  - ☐ Separate document (Date approved) _____
  - ☐ No effect
  - ☐ May affect (formal consultation required)
    - ☐ Beneficial ☐ Adverse
    - Formal consultation completed (Date) _____
- ☐ Species list rechecked for new entries prior to construction

COMMENTS:

Required					
Yes	No	Uncertain			
☐	☐	☐	Fish and Wildlife Coordination Act as amended		
☐	☐	☐	Marine Mammal Protection Act		
☐	☐	☐	Executive Order 11987: Exotic Organisms		
☐	☐	☐	Executive Order 11870: Environmental		
☐	☐	☐	Safeguards on Activities for Animal		
☐	☐	☐	Damage Control on Federal Lands		

D. FLOODPLAINS AND WETLANDS

- ☐ Executive Order 11988: Floodplain Management
- ☐ Executive Order 11990: Wetlands Management
  - ☐ No actions in wetlands, 100-year floodplain, 500-year floodplain for "critical" actions, or in "high hazard" areas
  - ☐ Action is located in
    - ☐ wetlands
    - ☐ 100-year floodplain
    - ☐ 500-year floodplain and is a "critical" action
  - ☐ Excepted action
  - ☐ Alternatives considered
  - ☐ Statement of findings (Date approved) _____
  - ☐ Compliance completed _____
- ☐ Corps of Engineers Permits (Sec. 10, 404, etc.)
  - ☐ Application Made (Date)_____ Permit Granted (Date) _____

COMMENTS:

E. NATIONAL HISTORIC PRESERVATION ACT

☐ Cultural Resources Identification
- ☐ SHPO consulted (Date) _____
- ☐ Archeological survey (Date) _____
- ☐ Archeological clearance (Date) _____
- ☐ Architectural survey (Date) _____
- ☐ LCS structures ☐ Yes ☐ No
- ☐ Other Historic Properties ☐ Yes ☐ No
- ☐ Register property ☐ Yes ☐ No

☐ Programmatic Memorandum of Agreement
Program, Activity, or Planning Document Covered (Title and Date) _____

☐ Scoping in accordance with Staff Directive 80-3 and NPS-28
ACHP _____ (Date Notified) SHPO _____ (Date Notified)

☐ Concurrence Letters (ACHP Date: _____) (SHPO Date: _____)

☐ Stipulations: _____
- ☐ Assessment of Effects on Cultural Resources (XXX form) approved (Date) _____

☐ Separate 106 compliance required on action or implementation
- ☐ Assessment of Effects on Cultural Resources (XXX form) approved (Date) _____

☐ No effect
SHPO concurrence (Date) _____

☐ No adverse effect
SHPO concurrence (Date) _____
ACHP concurrence (Date) _____

☐ Adverse effect
Memorandum of Agreement _____ (Date ratified by ACHP Chairman)

	Surname	Date

F. AMERICAN INDIAN RELIGIOUS FREEDOM ACT

☐ Contact regional office			
_____ (Date and name of region official contacted)			
☐ Sites in project area _____			
☐ Consultation _____			
☐ No sites in project area			

G. LAND, AIR AND WATER LAWS

Required				Compliance Completed	
Yes	No	Uncertain		Surname	Date
☐	☐	☐	Clean Air Act as amended		
☐	☐	☐	Clean Water Act		
☐	☐	☐	Coastal Zone Management Act of 1972		
☐	☐	☐	Estuary Protection Act		
☐	☐	☐	Marine Protection, Research and Sanctuaries Act of 1972		
☐	☐	☐	Safe Drinking Water Act		
☐	☐	☐	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970		
☐	☐	☐	Water Resources Planning Act of 1965 and Water Resources Council's Principles and Standards		
☐	☐	☐	Executive Order 11989 and 11644: Offroad Vehicles on Public Lands		
☐	☐	☐	The Wilderness Act		
☐	☐	☐	Wild and Scenic Rivers Act		
☐	☐	☐	National Trails System Act		
☐	☐	☐	Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory		
☐	☐	☐	Executive Order 12088: Federal Compliance with Pollution Control Standards		
☐	☐	☐	Federal Environmental Pesticide Control Act of 1972		
☐	☐	☐	Noise Control Act of 1972 as amended		
☐	☐	☐	Resources Conservation and Recovery Act of 1976		
☐	☐	☐	Energy Supply and Environmental Coordination Act of 1974		
☐	☐	☐	Executive Order 12003: Energy Policy and Conservation		
☐	☐	☐	Executive Order 11991: Protection and Enhancement of Environmental Quality		

H. NATIONAL PARK SERVICE

Required				Compliance Completed	
Yes	No	Uncertain		Surname	Date
☐	☐	☐	Concessions Policy Act of 1965		
☐	☐	☐	National Park Service Organic Act		
☐	☐	☐	Specific Park Enabling Legislation		
☐	☐	☐	An Act to Improve the Administration of the National Park System		
☐	☐	☐	General Authorities Act of 1970 as amended		
☐	☐	☐	National Park System Mining Activity		
☐	☐	☐	Land and Water Conservation Fund Act of 1965		

COMMENTS:

I. OTHER

Required					
Yes	No	Uncertain			
☐	☐	☐	Department of Transportation Act of 1966		
☐	☐	☐	Airport and Airway Development Act of 1970		
☐	☐	☐	Intergovernmental Coordination Act of 1968		
☐	☐	☐	OMB Circular A-95: Evaluation, Review and Coordination of Federal and Federally Assisted Projects		
☐	☐	☐	Payment in Lieu of Taxes Act		
☐	☐	☐	Freedom of Information Act		
☐	☐	☐	OMB Circular A-18: Policies on Construction of Family Housing		
☐	☐	☐	Architectural Barriers Act of 1968 and Rehabilitation Act of 1973		

COMMENTS: