CHAPTER 23-1 ENVIRONMENTAL REVIEWS

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23-1.1 INTRODUCTION

A. Purpose

The purpose of this chapter is to assist Indian Health Service (IHS) and tribal staff in the preparation of environmental documentation for IHS health care facilities and quarters, and tribal health care facilities. Environmental concerns that are addressed by the agency early in the planning and budgeting stages usually do not result in costly time and/or financial penalties later in the construction process.

B. Background

The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321), as amended, establishes policy and requirements governing all Federal Departments and agencies with respect to protecting the environment. Also, the Department of Health and Human Services (HHS) General Administration (GAM), Part 30 "Environmental Protection," supplements specific requirements established by NEPA and by the associated implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR 1500-1508). NEPA requires all Federal Departments and agencies to take into account all potential environmental consequences of their activities prior to initiation of these activities. Specifically, Section 102(2)(c) of NEPA requires all agencies of the Federal Government to include an environmental impact statement (EIS) "in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment."

C. Applicability

Categorical exclusions may be used if there are no extraordinary or exceptional circumstances (please note that you will not be able to know of any extraordinary circumstances unless you perform an environmental review). IHS is responsible for reviewing all proposed construction actions for environmental

effects; the size or cost of a project do not necessarily matter, e.g., a small project could have significant or major effect on the environment. The agency categorical exclusion regulations should be carefully reviewed during the environmental review of construction actions to see if they may be applicable. Generally, the agency should prepare an environmental assessment for each proposed action not categorically excluded and, as a result, prepare a Finding Of No Significant Impact (FONSI) or an Environmental Impact Statement (EIS).

The IHS Division of Facilities and Environmental Engineering, Environmental Review Manual dated March 1993, was prepared to assist IHS program managers in ensuring that IHS construction programs comply with the National Environmental Policy Act, and the requirements of other related environmental statues and subsequent regulations and administrative policies and procedures.

23-1.2 ENVIRONMENTAL LAWS AND EXECUTIVE ORDERS

Listed below are the major environmental laws that deal with potential environmental effects from the IHS construction program including health care facilities and quarters construction projects. A partial list of applicable laws and executive orders is contained in HHS, GAM Chapter 30-00-30 (refer to the latest revisions or editions) and the Environmental Engineering Review Manual:

A. The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321);

- Establishes a comprehensive policy for protection and enhancement of the environmental by the Federal government,
- Creates the CEQ, and
- Directs Federal agencies to carry out the policies and procedures of the Act.

B. The Safe Drinking Water Act (42 U.S.C. 300f et seq), authorizes Environmental Protection Agency (EPA) to determine if an action which will have an environmental effect on a sole or principal drinking water source would also contribute a significant hazard to a human population and, if so, to prohibit such an action.

C. The Clean Air Act (42 U.S.C. 1857 h-7), requires EPA to review

and comment on a Federal agency action which would create a significant environmental Impact.

D. The Endangered Species Act (16 U.S.C. 1536), directs Federal agencies to conserve endangered and threatened species and their critical habitats.

E. The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), directs heads of Federal agencies to preserve cultural heritage, particularly with respect to sites on/or eligible for listing on the National Register of Historic Places.

F. The Archeological and Historic Preservation Act (16 U.S.C. 469 a-1 et seq.), directs Federal agencies to preserve significant scientific, prehistorical, historical and archeological data.

G. The Coastal Zone Management Act (16 U.S.C. 1456 et seq.), directs Federal agencies to conduct activities consistent with an approved State coastal zone management program.

H. The Wild and Scenic Rivers Act (16 U.S.C. 1278), directs Federal agencies to consider and preserve the values of wild and scenic areas in the use and development of water and land resources.

I. Toxic Substance Control Act (15 U.S.C. 2601), requires Federal agencies to develop plans to insure ultimate safe disposal of toxic substances.

J. Solid Waste Disposal Act (42 U.S.C. 4901, et seq.), sets responsibilities with the originator for proper handling and disposal of solid wastes.

K. Executive Order 11990, May 24, 1977, directs heads of Federal agencies to avoid; a.) the long and short term adverse impacts associated with the destruction or modification of wetlands, and b.) direct or indirect support of new construction in wetlands whenever there is a practical alternative.

L. Executive Order 11988, May 24, 1977, directs Federal agencies to take action to avoid; a.) the occupancy or modification of floodplains, and b.) direct or indirect support of development in floodplain areas whenever there is a practical alternative.

M. Executive Order 12088, October 13, 1978, directs Federal agencies to comply with local, state, and Federal pollution control standards for facilities operation. This means that IHS

facilities and sites are subject to numerous State and other environmental laws.

23-1.3 REFERENCE STANDARDS

A. HHS General Administration Manual (GAM) Section 30-60-20; In determining whether a proposed construction action will or will not "significantly affect the quality of the human environment," IHS should evaluate the expected environmental consequences of a proposed action by means of the steps (steps one, two, three, and four) contained in GAM Section.

B. Finding of No Significant Impact (FONSI); For the purposes of National Environmental Policy Act (NEPA), a FONSI documents IHS decision that a proposed construction action will not significantly affect the quality of the human environment. A FONSI should meet the criteria described in GAM Section 30-60-20 and, in addition include a list of agencies and persons to whom distributed, briefly present why the proposed action will not significantly affect the human environment, and be made available to the public and other interested parties.

C. Environmental Impact Statement (EIS); The Area office or the Engineering Services (ES) - Dallas and Seattle responsible for carrying out a specific action is charged with preparation of the EIS associated with the construction action. Subsequent to preparing an EIS, and prior to undertaking project construction, the Area Office or ES shall prepare a public record of decision including synopsis of the following:

(1) The decision,

(2) Alternative considered,

(3) A discussion of salient factors which were involved in the decision,

(4) A discussion of measures or safeguards to be adopted to minimize potential environmental harm, and

(5) A public record of decision pursuant to 40 CFR 1502.2.