

**VA NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTATION**

1. **REASON FOR ISSUE.** This directive prescribes the policies, roles and responsibilities, and major requirements for Administration and staff office implementation of the National Environmental Policy Act (NEPA) within the Department.
2. **SUMMARY OF CONTENTS.** This directive outlines the principles, policies, and other key elements necessary to facilitate the implementation of NEPA throughout VA.
3. **RESPONSIBLE OFFICE.** Assistant Secretary for Management (004), Office of Asset Enterprise Management (044), Green Management Program Service (044E).
4. **RELATED DIRECTIVES.**
  - a. VA Directive 0057, Environmental Management Program.
  - b. VA Directive 0062, Environmental Compliance Management Program
5. **RESCISSION.** None.

**CERTIFIED BY:**

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS:**

*/s/*  
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## VA NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) IMPLEMENTATION

**1. PURPOSE.** This directive establishes VA policy and roles and responsibilities with respect to the National Environmental Policy Act (NEPA), 42 USC §4321-4370f, VA's NEPA Implementing Regulations (38 CFR Part 26), and the programmatic policies of VA Directive 0057 - VA Environmental Management Program. This directive also facilitates development of uniform internal procedures across the Administrations and staff offices.

### 2. SCOPE

a. This directive applies to all VA Administrations and staff offices. Each Administration and staff office shall ensure that all subordinate organizations are aware of and comply with this directive.

b. This directive applies to any VA action with the potential to affect the quality of the environment of the United States, its territories, or its possessions. VA actions include, but are not limited to: VA operations; promulgation of regulations; acquisitions and procurements; construction, renovation, and asset management; research and development; and grants programs.

**3. POLICY.** In all decision making, VA will carefully consider the National Environmental Policy set forth in Section 101 of NEPA. VA decision makers will use the NEPA analysis as a practical planning tool integrated into the decision-making process in an efficient, cost-effective manner. The NEPA analysis, as applicable, will be initiated at the earliest possible stage in planning any VA action, and will be carried forward in coordination with other planning activities. Decision makers will ensure that they have reviewed and fully understand the environmental impacts of each decision and will be accountable for being knowledgeable about and attendant to the requirements of NEPA.

**4. RESPONSIBILITIES.** Ensuring that all appropriate staff are aware of their role in the NEPA process is an ongoing responsibility. This section outlines the responsibilities and business processes for specific key offices/officials.

a. **Secretary of Veterans Affairs.** The Secretary has the ultimate responsibility to ensure VA's compliance with NEPA by considering the environmental effects of his/her decisions regarding policies, programs, activities, and operations of VA.

b. **Assistant Secretary for Management.** The Assistant Secretary for Management establishes the overall policy and guidelines to implement environmental programs within the Department, and is responsible for:

(1) Establishing a strong expectation that NEPA analyses are completed for all proposed applicable VA actions; and

(2) Ensuring that formal business practices are in place to execute NEPA consistently across the Department.

c. **Director of Office of Asset Enterprise Management (OAEM).** The Director of OAEM provides policy guidance and oversight regarding the development and implementation of NEPA at the Department level, which includes the following duties:

- (1) Serving as the VA Senior Sustainability Officer;
- (2) Developing and issuing policies to ensure Department-wide compliance with NEPA;
- (3) Overseeing the development and implementation of procedures related to NEPA reporting;
- (4) Working with counterparts in other VA organizations to ensure NEPA issues are addressed in all programs; and
- (5) Resolving policy differences among organizations regarding NEPA issues, strategies, or procedures.

d. **NEPA Policy Officer.** The OAEM NEPA Policy Officer is responsible for:

- (1) Developing and providing, as needed, supplemental policy to enable the effective implementation of the requirements of NEPA across all VA offices and Administrations;
- (2) Informing key environmental staff and Under Secretaries, Assistant Secretaries and other key officials about current developments in NEPA policy;
- (3) Serving as the primary point of contact for review and comment on environmental documents of other Federal agencies, States, and local entities that affect VA programs, plans, and projects; and
- (4) Serving as the primary point of contact for preparing Departmental NEPA reports in accordance with applicable Federal environmental laws, regulations, executive orders, and VA directives.

e. **Principal Executive Director, Office of Acquisition, Logistics, and Construction (OALC).** The Principal Executive Director of OALC establishes the overall procedures and guidelines to execute NEPA for acquisition and construction/renovation of facilities, and is responsible for:

- (1) Developing and implementing NEPA compliance policies to ensure procurement and acquisition processes incorporate required NEPA analysis;
- (2) Ensuring the NEPA analysis is complete prior to contract award and prior to making any irreversible commitments of resources that would limit alternatives or result in environmental impacts; and
- (3) Developing and implementing NEPA compliance policies for the design, construction, and property acquisition processes.

**f. Director, Construction and Facilities Management (CFM).** The Director of CFM provides Department-wide NEPA implementation guidance, and oversight of NEPA implementation for planning and construction of major projects and real property actions, and is responsible for:

- (1) Ensuring all appropriate NEPA analysis and environmental requirements are incorporated at an early stage into all planning, design, and construction projects managed by CFM;
- (2) Ensuring all appropriate NEPA and environmental requirements are incorporated at an early stage into all VA real property procurement, acquisition, disposition, and land management actions;
- (3) Ensuring master specifications, standards, and design guides incorporate all appropriate environmental requirements, including NEPA; and
- (4) Ensuring the National Historic Preservation Act (NHPA) requirements relating to NEPA are fulfilled, through the VA Historic Preservation Officer.

**g. NEPA Implementation Officer.** The CFM NEPA Implementation Officer is responsible for:

- (1) Developing and promulgating Department-wide implementation guidance and procedures to enable effective implementation of NEPA environmental planning requirements;
- (2) Assisting VA Administrations and staff offices in identifying appropriate training opportunities for VA NEPA practitioners, program managers, and management decision-makers;
- (3) Providing technical expertise and guidance for specific proposed plans, programs, and activities throughout VA;
- (4) Advising proponents, decision-makers, and procurement officials on the status and requirements for the NEPA analysis of VA actions;
- (5) Promoting early outreach and solicitation of environmental information for NEPA analysis;
- (6) Coordinating cooperating agency or joint lead agency status with State and local agencies, and tribal agencies as needed;
- (7) Coordinating with VA Historic Preservation Officer to satisfy NHPA requirements under NEPA as appropriate;
- (8) Promoting the involvement of the public and other non-Federal entities in the NEPA analysis of VA actions with respect to completion of the NEPA process;
- (9) Submitting Draft Environmental Impact Statements (EIS) to the Environmental Protection Agency; and
- (10) Co-signing Records of Decision (ROD) for technical adequacy.

**h. Under Secretaries, Assistant Secretaries, and Other Key Officials.** Under Secretaries, Assistant Secretaries, and other key officials are responsible for the following:

- (1) Implementing NEPA and ensuring the quality of the NEPA analysis and documentation in coordination with the environmental specialists;
- (2) Responding to VA data calls to provide information needed for Department-level consolidated reports related to the contents of this directive.
- (3) Ensuring assessment of environmental and historic preservation consequences of proposed regulations, procedures, policies, programs, or projects within their respective organizational units;
- (4) Ensuring integration of environmental and historic preservation considerations related to NEPA into their decision-making;
- (5) Designating a single point of contact within their office for matters pertaining to NEPA;
- (6) Ensuring appropriate outreach and communication with Federal, State, local and tribal governments, private entities, and public interests in coordination with the environmental specialists;
- (7) Ensuring applicants for VA funding (e.g., State Nursing Home or Cemetery Grant programs) are provided with technical guidance regarding VA's NEPA process, including the appropriate level of analysis;
- (8) Ensuring, to the extent practicable, that applicants and sub-applicants complete required environmental or historic preservation monitoring or mitigation programs as approved in the Finding of No Significant Impact (FONSI) or ROD;
- (9) Ensuring adequate funding, resources, and time necessary to complete all appropriate NEPA environmental analysis and documentation are available;
- (10) Ensuring adequate funding and resources are available to execute prescribed mitigation measures and monitoring;
- (11) Ensuring, as part of the NEPA analysis, all applicable Federal, State, tribal, and local environmental and historic preservation permits -- such as Section 402 and Section 404 CWA permits, Coastal Zone Management Act (CZMA) consistency determinations, and floodplain building permits -- for all VA actions are obtained; and
- (12) Developing Administration directive(s) to address Administration-specific NEPA requirements, including NEPA signature authorities for both technical sufficiency and management approval. The minimum management approval signature levels for Administrations are:
  - (a) Veterans Health Administration (VHA): Categorical Exclusion (CATEX) – Chief Engineer (or equivalent); Environmental Assessment/Finding of No Significant Impact (EA/FONSI) – Medical Facility Director; Environmental Impact Statement/Record of Decision (EIS/ROD) – VISN Director

(b) National Cemetery Administration (NCA): CATEX – Cemetery Director; EA/FONSI - MSN Director; EIS/ROD – Under Secretary for Memorial Affairs

(c) Veterans Benefits Administration (VBA) – CATEX and EA/FONSI – Regional Office Director; EIS/ROD – Under Secretary for Benefits

(13) Staff offices shall consult with the NEPA Implementation Officer for the appropriate level of management approval signature level.

(14) The signature authority for management approval shall remain with the decision-makers as defined within Title 38 for such programs as, but not limited to, Homeless Grants, State Cemetery Grants, and State Nursing Home Grants. VA may delegate completion of NEPA analysis to Grant applicants; however, VA retains responsibility for NEPA compliance for VA actions.

**i. Office of General Counsel.** The Office of General Counsel is responsible for:

(a) Advising VA, in consultation with the NEPA Policy and Implementation Officers, on compliance with NEPA as part of the planning and decision making process;

(b) Assisting in establishing or revising VA's NEPA procedures and guidance documents, including appropriate CATEXs; and

(c) Providing VA with legal sufficiency reviews on NEPA analyses, interagency agreements, and consultations with other Federal agencies.

## 5. REFERENCES

- a. Executive Orders. The Executive Orders with significant implications to environmental management in effect at the time this Directive was drafted are: EO 13423, Strengthening Federal Environmental, Energy, and Transportation Management; EO 13514, Federal Leadership in Environmental, Energy, and Economic Performance; and EO 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations.
- b. Other Environmental Laws and Regulations. There are a multitude of environmental regulations and requirements that apply to facilities, operations, and locations within VA. A complete listing of all the applicable environmental regulations is too expansive to enumerate here. Most environmental-related regulations are found in the Code of Federal Regulations, the most commonly applicable of which can be found in Title 29, "Labor"; Title 40, "Protection of the Environment"; and Title 49, "Transportation". Additionally, interaction with various state and local agencies may be applicable through delegation of authority for Federal regulations or individual regulations to which VA is subject.
- c. Other Laws and Regulations. Other VA Title 38 Parts impose requirements applicable to this directive. Examples include: State Nursing Home Grant (Part 59), State Cemetery Grant (Part 39), Homeless Veteran Grant (Part 61) programs.
- d. VA Environmental Directives and Handbooks
  - (1) VA Directive 0057, "Environmental Management Program"
  - (2) VA Directive and Handbook 0062, "Environmental Compliance Management"
  - (3) VA Directive and Handbook 7545, "Cultural Resource Management"
- e. VA Guidance. VA provides guidance documents, standards, and master specifications for a variety of project related topics, these are available on the Technical Information Library (TIL).
  - (1) Cultural Resources Management Checklist (December 2009)
  - (2) NEPA Interim Guidance for Projects PG18-17
- f. 38 CFR Part 26, "VA Implementing Regulations"
- g. 40 CFR 1500, "National Environmental Policy Act"

**6. DEFINITIONS.** All definitions of words and phrases in the CEQ Regulations at 40 C.F.R. § 1508 apply to this directive. Additional VA specific terms used in this Directive are:

- a. **Action.** A discretionary activity proposed or taken by a Federal agency with potentially significant impacts and is synonymous with "major Federal action" defined by CEQ regulations (40 C.F.R. § 1508.18). VA actions include projects, programs, plans, grants, benefits, policies,



and other decisions that are subject to VA's control and responsibility. Actions do not include activities for which VA does not exercise any discretion or control over the activity.

b. **Applicant.** A non-Federal entity applying for Federal assistance from VA for funding or another type of benefit. Applicants include States, local and tribal governments, individuals, and non-profit and private entities. Applicant does not include individual Veterans applying for entitlements (these are subject to NEPA analysis on a program-wide basis).

c. **Decision-maker.** An entity or individual with the authority to decide whether to proceed on a proposed action or alternative.

d. **Environmental Specialist.** A technical specialists in VA for matters relating to NEPA. Examples of these may include: a facility Green Environmental Management System (GEMS) Coordinator, a VISN GEMS Consultant, an Environmental Engineer within an Administration or staff office, or other designated person.

e. **Proponent.** The VA element, employee, or representative responsible for planning and initiating the proposed action with the authority to make decisions about how the action is implemented.