

National
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EIS and EA Distribution

Second Edition
October 2016 (Revised March 2018)

U.S. Department of Energy
Office of the General Counsel
Office of NEPA Policy and Compliance



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printed on recycled paper

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1. Introduction

This guidance contains recommendations for the efficient and effective distribution of a draft, final, or supplemental environmental impact statement (EIS) prepared pursuant to regulations implementing the National Environmental Policy Act (NEPA). In addition, environmental assessment (EA) requirements are discussed in Section 6, and depending on project circumstances, portions of the EIS guidance may also be useful for EAs. A well-managed EIS distribution process can improve the Department of Energy's (DOE's) relationship with its stakeholders (generally, those persons or organizations who may be interested or affected), maximize the information supporting DOE's decisionmaking process, and allow DOE to complete an EIS and implement actions on schedule.

As directed in the Council on Environmental Quality (CEQ) regulations implementing NEPA, "Federal agencies shall to the fullest extent possible . . . [e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment" (40 CFR 1500.2). CEQ's regulations also state that "NEPA procedures must [e]nsure that environmental information is available to public officials and citizens before decisions are made and before actions are taken" (40 CFR 1500.1(b)).

This guidance addresses the EIS distribution process in four phases:

- Creating and maintaining a distribution list (Section 2).
- Preparing to distribute an EIS (Section 3).
- Distributing an EIS (Section 4).
- Filing an EIS with the U.S. Environmental Protection Agency (EPA) (Section 5).

Section 6 discusses aspects of document distribution specific to EAs. In addition, this guidance provides excerpts from requirements concerning EIS distribution (Attachment 1), a timeline of EIS preparation and distribution activities (Attachment 2), and templates for EIS distribution communications (Attachment 3).

This guidance does not establish new legal requirements. DOE NEPA Compliance Officers and NEPA Document Managers should consider the circumstances of a particular EIS in applying this guidance. In addition, the processes described in this guidance may vary for Departmental Elements that have established their own approval processes for EISs and associated distribution letters, including coordination with program- or site-specific public affairs or communications offices.

This guidance, as appropriate, may also be applied to the distribution of other NEPA documents, such as notices of intent, records of decision (RODs), findings of no significant impact (FONSI), and supplement analyses (SAs). Consult related DOE NEPA guidance, available on the DOE NEPA Website at <http://energy.gov/nepa> under "Guidance and Requirements" (<http://energy.gov/node/289063>). Resources include: the *Directory of Potential Stakeholders for DOE Actions under NEPA (Stakeholders Directory*, updated annually), *Effective Public Participation under the National Environmental Policy Act*, and *The EIS Comment-Response Process*.

This guidance supersedes the October 1998 *NEPA Document Electronic Publishing Standards and Guidelines* and August 2008 *Procedures for Submitting Documents for Posting on the DOE NEPA Website*. This guidance, initially issued in 2016, was revised in 2018 to reflect the cancellation of DOE Order 451.1B Chg 3, National Environmental Policy Act Compliance Program (December 21, 2017), and the approval of DOE Policy 451.1, National Environmental Policy Act Compliance Program (December 21, 2017).

2. Creating and Maintaining a Distribution List

“Distribution list” refers to the list of individuals and organizations that will receive a copy of the EIS and related documents (e.g., notification of public meetings) or notification of their availability. This section provides recommendations for identifying the parties to include on a distribution list and what documents they are to receive. It also addresses, in Section 2.3, how to incorporate the distribution list into an EIS.

Consistent with CEQ and DOE NEPA regulations (40 CFR 1502.19 and 1506.6; and 10 CFR 1021.301(a) and (c), respectively), DOE must make its NEPA documents available to appropriate federal, state, and local agencies; the applicant (if any); American Indian tribes; interested groups; and those who submitted substantive comments or requested the EIS. DOE also makes EISs available to the general public, such as through posting them on the web.

Consider including in a distribution list:

- Contact information (e.g., name, organization, email address, mailing address).
- Preferred EIS format (e.g., download, compact disk (CD), printed copy). See Section 4.1 for discussion of format options.
- Other information that may be appropriate for a particular EIS (e.g., source for each name on the list, changes made such as deletions due to undeliverable mail or email).

2.1 Starting an EIS Distribution List

Start to compile the distribution list early in EIS planning. (See the sample timeline in Attachment 2.)

- The distribution list may start with a site’s existing stakeholder list or a list from a recent project of a similar type or in the vicinity of the proposed action or alternatives. Other sources could include lists developed for public reviews required for the proposed action under other laws and regulations (e.g., Section 106 of the National Historic Preservation Act).
- Include appropriate contacts from the *Stakeholders Directory* (<http://energy.gov/node/290935>). The directory identifies contacts in federal agencies, states, territories, state associations, and nongovernmental organizations.
- Involve interested DOE headquarters offices (e.g., Office of Congressional and Intergovernmental Affairs (CI), Office of Public Affairs, Office of NEPA Policy and Compliance) and potentially affected field offices in the development of a distribution list.
- Include on the distribution list staff from any cooperating agencies or agencies expected to be involved in review of the EIS (e.g., include the EPA Regional Office that will be responsible for reviewing the draft EIS). Also, cooperating agencies may provide their own contact lists to be used for the EIS.
- Include reading rooms and local libraries.

2.2 Building and Maintaining a Distribution List

Throughout the EIS process, provide opportunities for individuals to sign up for the distribution list or update their contact information, and to select their preferred document format (Section 4.1).

- Scoping meetings, hearings on the draft EIS, the EIS website, and *Federal Register* notices (e.g., notice of intent) can all include an opportunity for people to sign up for the EIS distribution list. In any distribution list solicitation, note that the EIS will include a list of names to whom a copy of the EIS is sent and identify the default format (e.g., CD) that will be used for distribution of the EIS to those who do not specify a preference.
- Include on the distribution list the names of individuals and organizations providing comments on the EIS during scoping or the comment period for a draft EIS.
- Add, change, or remove contacts in accordance with stakeholder requests or change of address information.
- Try to confirm contact information and continued interest in receiving the EIS, especially if there is a long interval between public scoping and distribution of a draft EIS, or between a draft EIS and final EIS. This can be done by sending a postcard or email prior to finalization of the draft or final EIS (Attachment 3).

2.3 Publishing an EIS Distribution List

Each draft and final EIS shall include a “[l]ist of agencies, organizations, and persons to whom copies of the statement are sent” (40 CFR 1502.10(i)). This list is usually published in an appendix.

- List only the names and organizational affiliation of people who were sent the EIS.
 - Do not include email address, mailing address, or other contact information in the published distribution list.
 - Do not include in the published distribution list the names of individuals and organizations who submit comments anonymously, or who ask that their personally identifiable information be withheld. Do not include the names of DOE staff and EIS preparation contractor staff that receive the EIS.
- Arrange contacts from the distribution list in groups (e.g., U.S. Congress, federal agencies, state government, state agencies, organizations, individuals, libraries and public reading rooms). Within each group, order names alphabetically.
 - Alphabetize names of individuals who represent organizations (or agencies, businesses, etc.) by the organization’s name. This generally includes individuals who submitted a request or comment on the organization’s letterhead or official email.
 - For individuals who identify an affiliation with an organization but are representing themselves, alphabetize by the individual’s name. This includes individuals who submit “campaign” or copied comments.

- Do not indicate the party affiliation of Members of Congress. List congressional staff under the name of their Member.
- If an individual did not provide a name (e.g., only an email or mailing address), attempt to contact him/her to get a name to include on the published distribution list. If this attempt is not successful, do not include the contact information on the published list. Instead, acknowledge those individuals with a statement on the published distribution list (e.g., “The EIS was also distributed to [number] individuals that did not provide names.”).

3. Preparing to Distribute an EIS

Distributing a draft or final EIS includes the steps below, as also shown in the timeline in Attachment 2. The requirements for EIS distribution are the same for a supplement to a draft or final EIS, unless CEQ has approved alternative procedures (40 CFR 1502.9(c)(4)).

- Consult with CI and the Office of Public Affairs early for assistance in preparing a Communication Plan (see text box, page 5). Consultation with other Departmental Elements may also be necessary.
- Prepare a distribution version of the draft or final EIS.
- Write, coordinate, and sign the EIS distribution emails and letters. See template in Attachment 3.
- Ensure distribution of the EIS to congressional offices via CI. Working with CI, consider whether to expedite distribution to other elected officials (e.g., governors, tribal leaders).
- Distribute the EIS to all contacts on the distribution list (Section 4).
- Announce EIS availability through the DOE NEPA Website (see Section 3.2), project website, and/or social media account(s) (see Section 4.1). See Section 5 to learn more about the EPA Notice of Availability (NOA) and optional DOE NOA.
- File the EIS with EPA (Section 5).

The subsections below address the contents of a distribution letter, concurrence and signature on the letter, and EIS distribution schedule and methods.

3.1 Preparing a Distribution Letter

A “distribution letter” is a cover letter (sometimes called a “Dear Reader letter”) that accompanies an EIS. See the text box “Common Elements of an EIS Distribution Letter/Email” on page 6. Attachment 3.A contains a table indicating how to address distribution letters to various contacts.

- Involve all affected DOE offices in the review of the distribution letters. As appropriate, coordinate with and obtain the concurrence of the:

- Involved Departmental Element(s) (including NEPA Compliance Officer(s))
 - Involved Field Element(s) (including NEPA Compliance Officer(s))
 - CI (required on letters to key government officials)
 - Field or Headquarters Counsel, Tribal Affairs, and Public Affairs Offices.
- The process described in this section may vary for Departmental Elements and Field Elements that have established their own approval processes for EISs and associated distribution letters, including coordination with Departmental Element and Field Element public affairs or communications offices.

EIS Communication Plan

The purpose of an EIS Communication Plan is to identify the messages to be communicated and the audiences to be addressed; coordinate the schedule, timing, and individuals responsible for release of the EIS documents and related notifications; and inform cognizant Departmental Elements.

The NEPA Document Manager prepares the EIS Communication Plan in close coordination with CI and Public Affairs staff and cognizant Headquarters and Field Element staff, including the NEPA Compliance Officer(s). Prepare the plan at least 2-4 weeks before EIS distribution with updates as needed.

Additional information or elements may be necessary, but at a minimum, the basic information included in this guidance should be included in the EIS Communication Plan.

An EIS Communication Plan addresses five key questions. The Plan should be specific to an EIS and concise (generally no more than 5 pages plus attachments). The Plan should include talking points and questions and answers; it may also include a draft press release, one-page EIS summary (including any preferred alternative, programs and sites involved, significant impacts and mitigation, and areas of controversy), and other documents.

- **WHAT** is being announced?
Include the information above. For a draft EIS, also include information on the opportunity to comment.
- **WHO** makes the announcement **TO WHOM**?
Identify the audiences (e.g., congressional, state, and tribal officials; news media; stakeholders including organizations and general public) and the appropriate messenger for each.
- **WHERE** will the announcement be made?
Identify each applicable Headquarters and Field Element.
- **WHEN** will the announcement be made?
Identify date(s) and time sequence, including due dates and persons responsible for critical steps.
- **HOW** will the announcement be made?
Specify the means that will be used (e.g., meetings, email notification) to distribute which products to which audiences and by whom.

Common Elements of an EIS Distribution Letter/Email

- EIS title and document number.
- Identification of any cooperating agencies.
- Brief description of the proposed action and alternatives, including the preferred alternative(s), if one or more exists (40 CFR 1502.14(e)).
- For a draft EIS, the schedule for public hearings and the commenting deadline. State that DOE will consider all comments received by the deadline. Also state that DOE will consider late comments to the extent practicable.
- For a final EIS, brief description of major changes since the draft EIS and a statement that all comments received during the comment period on the draft EIS were considered. Also state whether comments received after the deadline were considered.
- For a final EIS, a statement that DOE will issue a record of decision no sooner than 30 calendar days after the publication date of the EPA NOA of the final EIS.
- DOE contact information (e.g., name, address, telephone number (toll-free, if available), fax number, email address).
- Information on how to obtain any volume of the EIS that is not enclosed (e.g., the full EIS if only the summary is enclosed, or any EIS appendix that is not being distributed).
- Web addresses where the EIS is posted (DOE NEPA Website (www.energy.gov/nepa), EIS-specific website, or Departmental Element or Field Element website). Note that information on public comment opportunities is available on the website.
- Location and phone number of reading rooms and libraries where the EIS is available.
- For a draft EIS, indicate that a commenter may request to have his/her name and address withheld from public view.
- Specify the number and nature of enclosures at the bottom of a distribution letter.

See Attachment 3.C for letter templates incorporating these elements.

3.2 Coordinating with Other DOE Offices

- Work with the cognizant security offices whenever an EIS will rely on classified, Official Use Only, or otherwise restricted information and consult DOE's NEPA regulations at 10 CFR 1021.340, as well as applicable DOE directives on protecting information (e.g., DOE Order 471.3, *Identifying and Protecting Official Use Only Information*, and the associated Manual, DOE M 471.3-1). To the fullest extent possible, segregate information that is exempt from public disclosure requirements in a separate appendix to allow public review of the remainder of the EIS. Distribute that appendix only under appropriate conditions to stakeholders, as appropriate.
- Coordinate press releases with all offices involved in the review of the distribution letters. Allow two weeks to obtain CI and Public Affairs concurrence on the text of a press release. These offices will inform, and may consult, the Office of the Secretary, as appropriate.
- CI requests that program offices provide information for congressional and intergovernmental notifications at least 3 business days in advance of issuance (when the document is made public, e.g., via a website) of a draft or final EIS or a record of decision. This notification provides timely information to allow CI to plan for announcements and inquiries on matters likely to be of significant interest to Congress, governors, and local and tribal governments. Whenever possible, particularly if an EIS has or is expected to receive significant attention, it is strongly recommended to involve CI and Public Affairs early in the process.

The Priority Congressional and Intergovernmental Notification (PCIN) form and instructions are available at (https://powerpedia.energy.gov/wiki/Congressional_Notifications_Resources, accessible to DOE staff). Email the form to CI.Notifications@hq.doe.gov and copy the CI Congressional Liaison (<http://www.energy.gov/node/930031>) and Departmental Element (and, if applicable, Field Element) contact. The submission should include a concise nontechnical description of the subject, a Portable Document Format (PDF) file or web link for the EIS or ROD, and a draft press release (if one is being coordinated with the Office of Public Affairs). The NNSA Office of External Affairs is the lead for NNSA congressional and intergovernmental activities and may be reached at 202-586-7332.

- Posting to the DOE NEPA Website may be the sole online distribution of a document, or may be done along with posting to Departmental Element and/or Field Element websites. Provide one set of electronic files for posting on the DOE NEPA Website of each approved draft and final EIS to the Office of NEPA Policy and Compliance. If posting on the DOE NEPA Website is part of the distribution process, ensure that electronic files are provided to the NEPA Office in time to allow posting before the EIS is filed with EPA (Section 5). While the NEPA Office may create postings from publically available information (e.g., a *Federal Register* notice) the document may not be posted at the same time as it is otherwise distributed without contact from the preparing Departmental Element or Field Element. When it becomes available, also provide one printed copy for inclusion in the DOE archive.

- Electronic files should be PDF files less than 50 MB (divide into as few files as possible while keeping the largest file below 50 MB) and Section 508 compliant.¹ They should also meet EPA’s submission requirements (e.g., use of metadata and bookmarks) (see the EPA NEPA website for more details: <http://www2.epa.gov/nepa>).
- For a draft EIS, provide notice of the dates, times, and locations of public hearings, along with contact information and the address of any EIS-specific website, to:
 - The Office of NEPA Policy and Compliance for listing public participation opportunities on the DOE NEPA Website, and
 - Those responsible for updating appropriate Departmental Element or Field Element websites.
- If online distribution is mentioned in public notices or distribution letters, confirm that the EIS is available on the DOE NEPA Website and/or EIS-specific website before sending notification that the EIS is available for download or filing with EPA.

4. Distributing an EIS

CEQ’s NEPA regulations (40 CFR 1502.19) require that agencies distribute the entire draft and final EIS, except for:

- Certain appendices if they are readily available upon request (40 CFR 1502.18(d)),
- Unchanged draft EISs (40 CFR 1503.4(c))², or
- Unusually long EISs, except that the entire EIS shall be given to those identified in 40 CFR 1502.19 (Attachment 1).

CEQ’s regulations do not specify how to distribute the document, so DOE has discretion to use appropriate means to distribute the EIS. Common formats and methods of distribution are described below.

EIS transmittal is complete only when all EIS copies have been transmitted (e.g., a complete EIS posted online, notification sent via email, and printed copies delivered to the U.S. Postal Service or delivery service). It is not necessary to confirm receipt of the EIS by those on the distribution list.

¹ Section 508 of the Rehabilitation Act of 1973 (as amended) requires that federal agencies provide disabled employees and members of the public access to information that is comparable to the access available to others. This includes ensuring accessibility to online and electronic NEPA documents by using metadata, alternative text for graphics, and proper tagging of document elements. See www.section508.gov for more information. It is recommended that Section 508 compliance be included in any NEPA contracts and that NEPA Document Managers work with document preparers to ensure compliance.

² In this situation, DOE distributes a “Comment-Response Addendum” containing comments received on a draft EIS, DOE’s responses to the comments, and an errata sheet listing changes to the draft EIS.

4.1 Format Options

The options involve trade-offs in timing, cost, and risk of schedule extension. Clearly state the default format when accepting requests to be added to the EIS distribution list, but allow individuals to request another format. CDs and downloading from a website have been the most popular formats in recent years. Printed copies must be available for and distributed to those requesting them.

Electronic files, whether online or on CD, should be Section 508-compliant PDF files (Section 3.2). EIS websites and CDs should include instructions on how to download a PDF reader.

If DOE does not initially distribute the entire EIS, and receives a timely request for the entire EIS and for additional time to comment, the comment period for that requestor only shall be extended by at least 15 calendar days (40 CFR 1502.19(d)).

- **Option 1 – Download:** Provide an email with a link to the EIS to contacts who provided an email address, and distribute a postcard or letter with the link to others. Direct contacts to PDF file(s) posted on the EIS website or DOE NEPA Website, but do not attach files to the email. Announce the EIS availability and relevant dates on the project website and social media accounts.
- **Option 2 – Hard Copy Summary Distribution with CD or link to full document:** Provide a printed copy of the EIS summary with a CD or link to the entire EIS.
- **Option 3 – CD-only Distribution:** Provide a CD with the entire EIS.
- **Option 4 – Hard Copy Distribution:** Provide a printed copy of the entire EIS.

If preferences are unknown, send contacts an email or postcard well in advance of EIS distribution (a) inquiring about volume and format preferences, (b) confirming addresses, and (c) stating what DOE will provide if it receives no reply by the due date. See Attachment 3.A for postcard template language, which can be adapted to an email message.

4.2 Additional Considerations for Distribution

- **Members of Congress:** Hand deliver EISs to Members of Congress before other EISs are delivered to the Post Office or other delivery service and before email notifications are sent. CI staff may help with congressional distribution electronically.
- **DOE reading rooms and local libraries:** In the distribution letter to the reading room administrator or librarian, state how long to keep the EIS publicly available, and include the distribution letter used for the general public (Attachment 3.C).

5. Filing an EIS with EPA

- Federal lead agencies, or agencies adopting another agency’s EIS for which they were not a cooperating agency, must electronically file a draft, final, or supplemental EIS (hereafter, EIS) with EPA.³
 - This does not replace distributing the EIS to regional EPA offices for the purpose of reviewing the EIS, which should be done concurrently with distribution to the public.
- A complete EIS, including appendices but not including classified or Official Use Only material, must be filed no earlier than it is transmitted to commenting agencies and made available to the public. See Section 4 for information on transmittal requirements. This approach should allow all interested parties to receive the EIS by the time the EPA’s NOA appears in the *Federal Register* the Friday of the following week, which starts the clock for the public comment and waiting periods for, respectively, a draft and final EIS.
 - If comments required only minor changes, an errata sheet may be prepared and attached to the statement instead of rewriting the draft EIS. Only the comments, the responses, and the changes (not the final statement) need to be circulated. The entire document, with a new cover sheet, must be filed as the final statement (40 CFR 1503.4(c)).
- If EPA discovers that an EIS had not been distributed before it was filed, EPA will issue a notice retracting the EIS from public review until the transmittal process is completed. All EISs must be filed through EPA’s *e-NEPA* filing system.⁴
 - At DOE, the Departmental Element or Field Element may file an approved draft, final or supplemental EIS, or the Office of NEPA Policy and Compliance can file it, at the request of the Departmental Element or Field Element.
 - A complete list of requirements for filing an EIS is available on the EPA NEPA website (<http://www2.epa.gov/nepa>) under “Filing an EIS.”
- EPA publishes an NOA each Friday (or Thursday, if Friday is a federal holiday) in the *Federal Register* for all EISs filed before 5:00 PM Eastern Time on the previous Friday.
 - Publication of the EPA NOA marks the official beginning of the public comment period for a draft EIS and the waiting period for a final EIS. Agencies must provide a public comment period of no less than 45 calendar days for a draft EIS, and a waiting period of no less than 30 calendar days after publication of a final EIS before making a decision and issuing a ROD (40 CFR 1506.10(b), (c), and (d); 10 CFR 1021.315(a) and (d)).

³ If an agency adopts an EIS for which it was a cooperating agency, the EIS does not need to be refiled, but EPA should still be notified by email at EIS-Filing@epa.gov.

⁴ Guidance is available at: <http://www2.epa.gov/nepa/environmental-impact-statement-filing-guidance>.

- If the time period would end on a non-working day (weekend or holiday), the time period will instead end on the next working day.
- DOE should ensure that any “comment by” dates it uses in public notices are based on the date of publication of EPA’s NOA in the *Federal Register*.
- The DOE office preparing the EIS may publish its own NOA of an EIS. Doing so provides the Department an opportunity to describe the context of an EIS and provide information that may not have been provided in the distribution letter (e.g., information on public hearings that was not available at the time of printing of the draft EIS). Offices should aim to publish any DOE NOA on the same day as the EPA NOA. Publication of any DOE NOA does not affect the time periods established by the EPA NOA.
- The responsible Departmental Element or Field Element should notify EPA of any decision to withdraw, delay, extend, or reopen a comment period for an EIS. EPA will reflect these updates in its published weekly NOAs in the *Federal Register*. Notifications can be sent by email to EIS-Filing (EIS-Filing@epa.gov). Also notify the DOE NEPA Office, which will update the DOE NEPA Website and associated records.
 - When reopening EIS comment periods, DOE should also “notify EPA of the measures that will be taken to ensure that the EIS is available to all interested parties” (*Amended Environmental Impact Statement Filing System Guidance for Implementing 40 CFR 1506.9 and 1506.10 of the Council on Environmental Quality's Regulations Implementing the National Environmental Policy Act* (<https://federalregister.gov/a/2012-20914>)). Examples of these measures could include a notice in public media, email, or *Federal Register* notice.

6. Distributing an EA

The DOE NEPA regulations at 10 CFR 1021.301 require DOE to make its NEPA documents, EAs included, available to stakeholders, in accordance with CEQ NEPA regulations, 40 CFR 1506.6, except for classified, confidential, or otherwise exempt information as provided in 10 CFR 1021.340. There are a number of specific requirements related to the distribution of EAs.

- Notify any host state and host tribe of a DOE determination to prepare an EA. DOE may notify any other state or tribe that may be affected (10 CFR 1021.301(c)).
 - DOE may provide early public notice of DOE’s intent to prepare an EA whenever possible and concurrent with state/tribal notification.
- Provide any host state and host tribe with an opportunity to review and comment on any DOE EA prior to approval of the EA. At DOE’s discretion, this review period shall be from 14 to 30 calendar days (10 CFR 1021.301(d)).
 - DOE may provide opportunity for interested parties to review the EA (concurrent with state/tribal review) prior to DOE approval.

- When an office makes a draft EA available for public comment, posting to the DOE NEPA Website may be the sole online distribution of a document, or may be done along with posting to Departmental Element, Field Element, or project websites. If online distribution is mentioned in public notices or distribution letters, ensure the draft is posted before the start of the public review period. See Section 3.2 for information on posting to the DOE NEPA Website.

If the proposed action is similar to one that normally requires an EIS, or is without precedent, DOE shall make a proposed FONSI “available for public review (including state and areawide clearinghouses) for 30 days before the agency makes its final determination” (40 CFR 1501.4(e)(2), (i) and (ii)).

In addition, depending on project circumstances, portions of this overall guidance may also be useful for EAs (e.g., Section 2.2 Building and Maintaining a Distribution List).

Attachment 1. Excerpts from the National Environmental Policy Act and CEQ and DOE Regulations Related to EIS Distribution

Sections of the National Environmental Policy Act (NEPA) and CEQ and DOE regulations implementing NEPA are reproduced below. The complete statute and regulations are available on the DOE NEPA Website (*energy.gov/nepa*).

A. Excerpt from the National Environmental Policy Act

Following is an excerpt from Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 USC 4332).

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code [i.e., the Freedom of Information Act], and shall accompany the proposal through the existing agency review process[.]

B. Excerpts from CEQ Regulations

Following are excerpts from the CEQ “Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act” (40 CFR Parts 1500-1508).

Part 1500–PURPOSE, POLICY, AND MANDATE

§ 1500.1 Purpose.

...

- (b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. . . .

...

§ 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

...

- (d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

...

Part 1502–ENVIRONMENTAL IMPACT STATEMENT

§ 1502.9 Draft, final, and supplemental statements.

...

- (c) Agencies:

...

- (4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

§ 1502.10 Recommended format.

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

- ...
- (i) List of Agencies, organizations, and persons to whom copies of the statement are sent.
- ...

§ 1502.18 Appendix.

If an agency prepares an appendix to an environmental impact statement the appendix shall:

- ...
- (d) Be circulated with the environmental impact statement or be readily available on request.

§ 1502.19 Circulation of the environmental impact statement.

Agencies shall circulate the entire draft and final environmental impact statements except for certain appendices as provided in Sec. 1502.18(d) and unchanged statements as provided in Sec. 1503.4(c). However, if the statement is unusually long, the agency may circulate the summary instead, except that the entire statement shall be furnished to:

- (a) Any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved and any appropriate Federal, State or local agency authorized to develop and enforce environmental standards.
- (b) The applicant, if any.
- (c) Any person, organization, or agency requesting the entire environmental impact statement.
- (d) In the case of a final environmental impact statement any person, organization, or agency which submitted substantive comments on the draft.

If the agency circulates the summary and thereafter receives a timely request for the entire statement and for additional time to comment, the time for that requestor only shall be extended by at least 15 days beyond the minimum period.

Part 1503–COMMENTING

§ 1503.1 Inviting comments.

- (a) After preparing a draft environmental impact statement and before preparing a final environmental impact statement the agency shall:
 - (1) Obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards.
 - (2) Request the comments of:
 - (i) Appropriate State and local agencies which are authorized to develop and enforce environmental standards;
 - (ii) Indian tribes, when the effects may be on a reservation; and
 - (iii) Any agency which has requested that it receive statements on actions of the kind proposed.

Office of Management and Budget Circular A-95 (Revised), through its system of clearinghouses, provides a means of securing the views of State and local environmental agencies. The clearinghouses may be used, by mutual agreement of the lead agency and the clearinghouse, for securing State and local reviews of the draft environmental impact statements.

 - (3) Request comments from the applicant, if any.
 - (4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

...

§ 1503.4 Response to comments.

- ...
- (c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a)(4) and (5) of this section [factual corrections and comments that do not warrant further agency response], agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated (Sec. 1502.19). The entire document with a new cover sheet shall be filed as the final statement (Sec. 1506.9).

Part 1506—OTHER REQUIREMENTS OF NEPA

§ 1506.3 Adoption.

- ...
- (b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).
- (c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.
- ...

§ 1506.6 Public involvement.

Agencies shall:

- ...
- (b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected.
- (1) In all cases the agency shall mail notice to those who have requested it on an individual action.
- (2) In the case of an action with effects of national concern notice shall include publication in the *Federal Register* and notice by mail to national organizations reasonably expected to be interested in the matter and may include listing in the 102 Monitor. An agency engaged in rulemaking may provide notice by mail to national organizations who have requested that notice regularly be provided. Agencies shall maintain a list of such organizations.
- (3) In the case of an action with effects primarily of local concern the notice may include:
- (i) Notice to State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).
- (ii) Notice to Indian tribes when effects may occur on reservations.
- (iii) Following the affected State's public notice procedures for comparable actions.
- (iv) Publication in local newspapers (in papers of general circulation rather than legal papers).
- (v) Notice through other local media.
- (vi) Notice to potentially interested community organizations including small business associations.
- (vii) Publication in newsletters that may be expected to reach potentially interested persons.
- (viii) Direct mailing to owners and occupants of nearby or affected property.
- (ix) Posting of notice on and off site in the area where the action is to be located.
- (c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is:

- (1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.
- (2) A request for a hearing by another agency with jurisdiction over the action supported by reasons why a hearing will be helpful. If a draft environmental impact statement is to be considered at a public hearing, the agency should make the statement available to the public at least 15 days in advance (unless the purpose of the hearing is to provide information for the draft environmental impact statement).

...

- (f) Make environmental impact statements, the comments received, and any underlying documents available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552), without regard to the exclusion for interagency memoranda where such memoranda transmit comments of Federal agencies on the environmental impact of the proposed action. Materials to be made available to the public shall be provided to the public without charge to the extent practicable, or at a fee which is not more than the actual costs of reproducing copies required to be sent to other Federal agencies, including the Council.

§ 1506.9 Filing requirements.

[As of October 1, 2012, (a) and (b) of this section are superseded by the Environmental Protection Agency, Office of Federal Activities, environmental impact statement filing instructions, posted at www.epa.gov/compliance/nepa/submiteis/.]

...

- (c) Statements shall be filed with the EPA no earlier than they are also transmitted to commenting agencies and made available to the public. EPA shall deliver one copy of each statement to the Council, which shall satisfy the requirement of availability to the President. EPA may issue guidelines to agencies to implement its responsibilities under this section and Sec. 1506.10.

§ 1506.10 Timing of agency action.

- (a) The Environmental Protection Agency shall publish a notice in the *Federal Register* each week of the environmental impact statements filed during the preceding week. The minimum time periods set forth in this section shall be calculated from the date of publication of this notice.

...

C. Excerpts from DOE NEPA Regulations

Following are excerpts from “DOE NEPA Implementing Procedures” (10 CFR Part 1021).

§ 301 Agency review and public participation.

- (a) DOE shall make its NEPA documents available to other Federal agencies, states, local governments, American Indian tribes, interested groups, and the general public, in accordance with 40 CFR 1506.6, except as provided in § 1021.340 of this part.

...

- (c) DOE shall notify the host state and host tribe of a DOE determination to prepare an EA or EIS for a DOE proposal, and may notify any other state or American Indian tribe that, in DOE’s judgement, may be affected by the proposal.
- (d) DOE shall provide the host state and host tribe with an opportunity to review and comment on any DOE EA prior to DOE’s approval of the EA. DOE may also provide any other state or American Indian tribe with the same opportunity if, in DOE’s judgement, the state or tribe may be affected by the proposed action. At DOE’s discretion, this review period shall be from 14 to 30 days. . . .

...

§ 310 Environmental impact statements.

DOE shall prepare and circulate EISs and related RODs in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart. DOE shall include in draft and final EISs a disclosure statement executed by any contractor (or subcontractor) under contract with DOE to prepare the EIS document, in accordance with 40 CFR 1506.5(c).

§ 313 Public review of environmental impact statements.

...

- (c) ... The Final EIS shall respond to oral and written comments received during public review of the Draft EIS, as provided at 40 CFR 1503.4.
- (d) DOE shall use appropriate means to publicize the availability of draft and final EISs and the time and place for public hearings on a draft EIS. The methods chosen should focus on reaching persons who may be interested in or affected by the proposal and may include the methods listed in 40 CFR 1506.6(b)(3).

§ 314 Supplemental environmental impact statements.

...

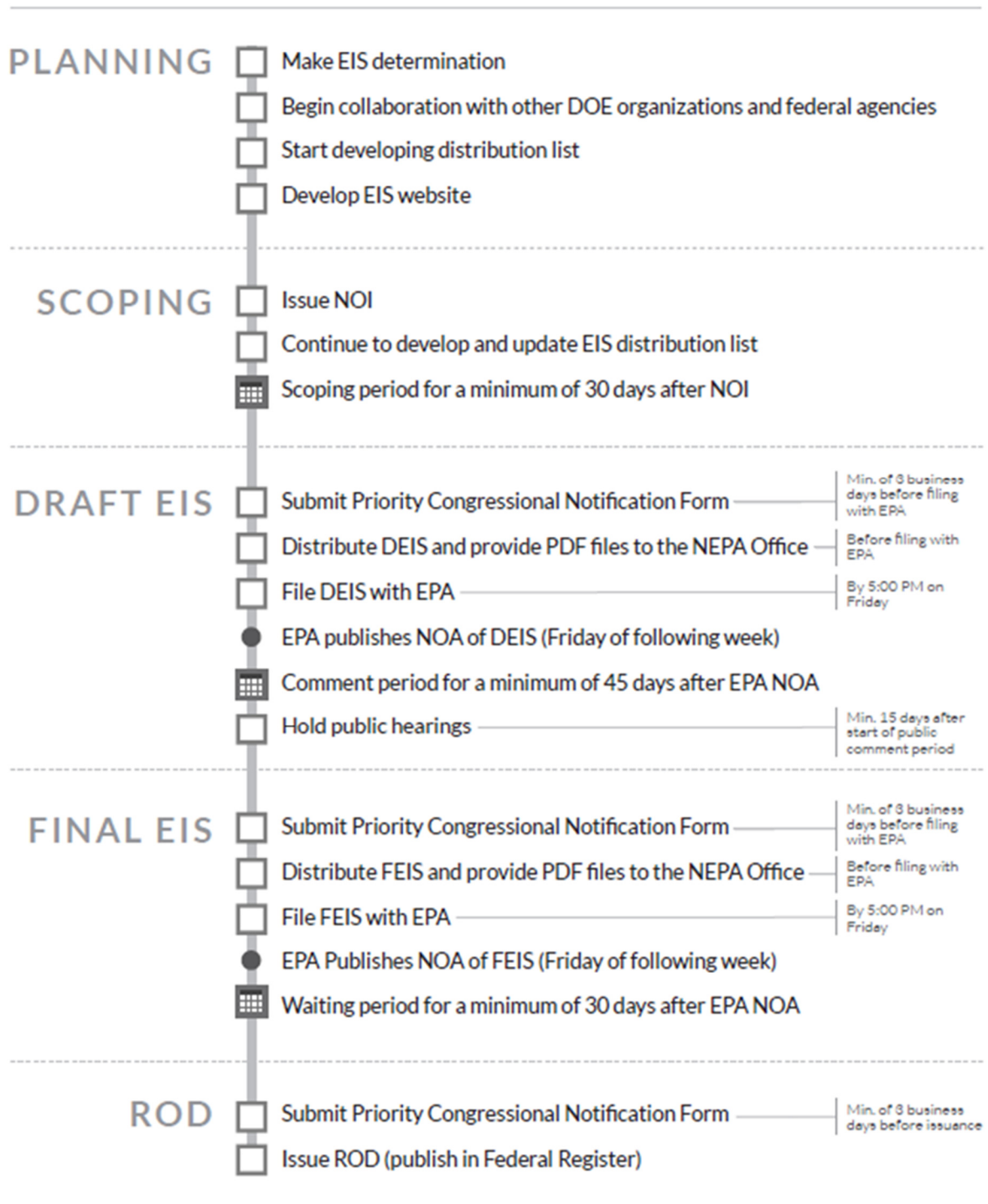
- (d) DOE shall prepare, circulate, and file a supplement to a draft or final EIS in the same manner as any other draft and final EISs, except that scoping is optional for a supplement. If DOE decides to take action on a proposal covered by a supplemental EIS, DOE shall prepare a ROD in accordance with the provisions of §1021.315 of this part.

...

§ 340 Classified, confidential, and otherwise exempt information.

- (a) Notwithstanding other sections of this part, DOE shall not disclose classified, confidential, or other information that DOE otherwise would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) and 10 CFR 1004.10(b) of DOE's regulations implementing the FOIA, except as provided by 40 CFR 1506.6(f).
- (b) To the fullest extent possible, DOE shall segregate any information that is exempt from disclosure requirements into an appendix to allow public review of the remainder of a NEPA document.
- (c) If exempt information cannot be segregated, or if segregation would leave essentially meaningless material, DOE shall withhold the entire NEPA document from the public; however, DOE shall prepare the NEPA document, in accordance with the CEQ Regulations and this part, and use it in DOE decisionmaking.

Attachment 2: EIS Preparation and Distribution Timeline



See EPA EIS Filing Guidance (<http://www2.epa.gov/nepa/environmental-impact-statement-filing-guidance>) for exceptions to filing deadlines and Federal Register posting dates (e.g., when Friday is a Federal Holiday).

Attachment 3. Templates for EIS Distribution-Related Communications

A. Postcard Template for Draft or Final EIS Distribution List (Side A)

NO POSTAGE
NECESSARY IF
MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. [permit number] [city, state]
POSTAGE WILL BE PAID BY ADDRESSEE



[DOE Address]

[Note: Business Reply Mail guidance is available on the U.S. Postal Service website at <http://pe.usps.com/text/qsg300/q505.htm>.]



[EIS Title]

The Department of Energy (DOE) will soon issue the [EIS title (DOE/EIS-####)] for public comment. On the other side of this postcard you will find a list of several different ways we can provide the EIS to you. Please let us know your preference.

Information on public hearings and the public reading rooms where the EIS will be available will be announced in local newspapers [include other forms of notification]. Also, the EIS will be available on the Internet at <http://energy.gov/nepa> under NEPA Documents [and URL of EIS-specific website, if available].

Please help us update our distribution information by using one of the methods listed below. **If you do not respond by [due date], we will** [state the action DOE will take: (a) email you a link to the document, (b) provide a printed copy of the summary with a CD or link to the entire document, (c) provide a CD with the entire document, or (d) provide a printed copy of the entire EIS].

This Postcard

1. Please check the materials you would like mailed to you.
2. Make any corrections to your address.
3. Fold on the dotted line so that this side is on the outside and tape shut.
4. Drop in the mail by [date]. You do not need to add a stamp.

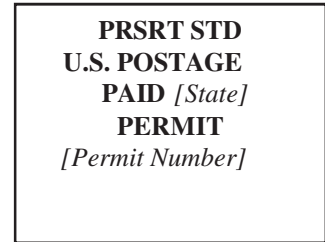
E-Mail or Toll-Free Telephone

- Send an e-mail message to [EIS-specific e-mail address] or call [toll-free telephone number]. Please provide your name, address, and preferred volumes and format for the draft EIS. Also indicate any other information you need (e.g., reading room locations).

A. Postcard Template for Draft or Final EIS Distribution List (Side B)

[DOE return address]

Address Service Requested



[Stakeholder name]
[Address]

Stakeholder: Fold here so that this side is on the inside and tape.

This postcard concerns the distribution of the *[EIS title]*. Please tell us your preference by selecting from the following:

- Notification letter that provides the Web address for accessing the EIS online
 - by mail
 - by e-mail; please provide your e-mail address below
- Printed copy of the summary and compact disk (CD) of the entire EIS
- CD of the entire EIS
- Printed copy of the
 - entire EIS *[anticipated number of pages]*
 - *[provide option for each individual volume, indicate anticipated number of pages for each]*
- None of the above but keep me on the mailing list for future announcements regarding this EIS
- Please remove my name from the mailing list for this EIS

If the address on this postcard is not correct, please print your correct address below.

Name
Organization
Street Address
City/State/Zip Code
E-mail address (for EIS-related information only)

B. Addresses and Salutations for EIS Distribution Letters

Addressee	Envelope and Inside Address	Salutation
United States Senator	The Honorable Jane Doe United States Senate Washington, DC 20510	Dear Senator Doe:
United States Representative	The Honorable John Doe U.S. House of Representatives Washington, DC 20515	Dear Congressman Doe: [or Dear Congresswoman Doe:]
Chairman, Committee of Congress	The Honorable Jane Doe Chairman Committee on Armed Services United States Senate Washington, DC 20510	Dear Madam Chairman: [or Dear Mr. Chairman:]
Ranking Minority Member, Committee of Congress	The Honorable John Doe Ranking Minority Member Committee on Armed Services United States Senate Washington, DC 20510	Dear Senator Doe:
Governor	The Honorable Jane Doe Governor of <i>[State]</i> <i>[Capital, State Zip code]</i>	Dear Governor Doe:
Tribal Leaders, including Heads of Tribal Associations	Check with tribal point of contact listed in the <i>Stakeholders Directory</i>	
Federal Agency Official	Mr. John Doe <i>[Title]</i> <i>[Agency]</i> <i>[Address]</i>	Dear Mr. Doe:
National Organizations	Ms. Jane Doe <i>[Title]</i> <i>[Organization]</i> <i>[Address]</i>	Dear Ms. Doe:
Regional Federal Offices, including EPA Regional Offices	Mr. John Doe <i>[Title]</i> <i>[Agency]</i> <i>[Address]</i>	Dear Mr. Doe:
Lieutenant Governor	The Honorable Jane Doe Lieutenant Governor of <i>[State]</i> <i>[Address]</i>	Dear Ms. Doe:
State Senator	The Honorable John Doe The Senate of <i>[State]</i> <i>[Address]</i>	Dear Senator Doe:
State Representative	The Honorable Jane Doe <i>[State]</i> House of Representatives <i>[Address]</i>	Dear Ms. Doe:

Mayor of a City	The Honorable John Doe Mayor of <i>[City]</i> <i>[Address]</i>	Dear Mayor Doe:
Other State, Tribal, and Local Government Offices	Check with a knowledgeable DOE office	
Trade Associations, Local and Regional Organizations, General Public	Ms. Jane Doe <i>[Title]</i> <i>[Organization]</i> <i>[Address]</i>	Dear Ms. Doe: or Dear Interested Party: or Dear Reader:

C. Templates for EIS Distribution Letters

Adapt the following templates to the circumstances of each particular EIS.

1. Template for Draft EIS Distribution Letter

To: Parties interested in the [EIS title (DOE/EIS-####)]

The Department of Energy (DOE) has completed the Draft [EIS title (DOE/EIS-####)]. This letter requests your comments on the Draft EIS and invites you to public hearings. [If applicable: Agency #1, Agency #2, etc. participated as cooperating agencies in the preparation of this EIS.]

DOE is proposing to [state proposed action, including location(s) – use text from the EIS cover sheet].

DOE is considering [number] alternatives for the proposed action, as well as the No Action Alternative. [Name and give a one sentence description of each alternative. Note the preferred alternative, if one or more exists, or state that CEQ regulations require that it be identified in the Final EIS (40 CFR 1502.14(e)).].

Draft EIS

The Draft EIS describes the alternatives, discusses potential environmental impacts, and identifies mitigation measures that would help avoid or minimize impacts.

We invite your comments on the Draft EIS, available at [project website]. If you have any questions, please call our toll-free document request line at [phone number]. Please leave a message with the project name, your name, complete mailing address, phone number, and preferred method of receipt of the Draft EIS [insert format options].

Public Hearings

We have scheduled [number] public hearing[s] to answer questions and accept comments about the potential environmental impacts identified in the Draft EIS:

[Provide logistics for each hearing – date, time, facility, city (this could be in an enclosure) – or explain how this information will be provided at a later date.]

How to Comment

Comments should be received by [comment period end date and, as applicable, time]. DOE will also consider late comments to the extent practicable. All comments will be posted in their entirety on the project website. Any personally identifiable information, such as names, addresses, and email addresses included in a comment will automatically be made available to the public. If you wish for the Department to withhold your name and/or other personally identifiable information, please state this prominently at the beginning of your comment or check the appropriate box on the comment form. Additionally, the Department will accept comments submitted anonymously.

There are several ways to comment:

- Email: [EIS-specific email address]
- Website: [EIS-specific URL]
- FAX: [fax number]
- Mail: [name, title (usually the NEPA Document Manager), full address, including mail stop]. [If applicable: Note that mail to DOE Headquarters is delayed by security screening.]

We will consider all comments received during the comment period and provide responses to comments in the final EIS, which is expected to be available [FEIS estimated date if available].

For More Information

The Draft EIS is available at public reading rooms and libraries: [list locations and operating hours and phone number]. It is on [If posted to the DOE NEPA website: the Department of Energy's NEPA Website at <http://energy.gov/nepa> under NEPA Documents and on] the EIS's Website at [URL].] For further information on the [EIS title] or to request additional copies [or other volumes or formats], please contact [me or name] at the above address, call [phone number], or e-mail [EIS-specific e-mail address]. For information on the Department of Energy's NEPA program, please contact the Office of NEPA Policy and Compliance at askNEPA@hq.doe.gov or 202-586-4600.

Thank you for your interest in our work.

Sincerely,

[Name (normally the senior responsible program official)]
[Title]

Enclosure: [List enclosures]

2. Template for Final EIS Distribution Letter

To: Parties interested in the [EIS title (DOE/EIS-####)]

The Department of Energy (DOE) has completed the Final [EIS title (DOE/EIS-####)]. This document has been prepared in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations. [If applicable: Agency #1, Agency #2, etc. participated as cooperating agencies in the preparation of this EIS.]

DOE is proposing to [state proposed action, including location(s) – use text from the EIS cover sheet].

DOE considered [number] alternatives for the proposed action, as well as the No Action Alternative. [Name and give a one sentence description of each alternative. Note the preferred alternative.].

The Final EIS describes the alternatives, discusses potential environmental impacts, and identifies mitigation measures that would help avoid or minimize impacts.

Public Participation

DOE issued the Draft EIS for public comment on [date of EPA’s Notice of Availability]. The [xx-day] public comment period extended through [end date], with [number] public hearings held [state date or date range and location(s), if not numerous]. DOE also considered late comments to the extent practicable. DOE has considered all comments received as of [time and date of last considered comments] in preparing this EIS and incorporated both the comments and DOE’s responses in the document.

Major changes between the Draft and Final EIS include [briefly summarize].

Record of Decision

DOE will issue a Record of Decision for this Final EIS no sooner than 30 days after the Environmental Protection Agency publishes its Notice of Availability of this Final EIS in the *Federal Register*.

For More Information

The Final EIS is available at public reading rooms and libraries: [list locations and phone number]. It is on [If posted to the DOE NEPA website: the Department of Energy’s NEPA Website at <http://energy.gov/nepa> under NEPA Documents and on] the EIS’s Website at [URL]. For further information on the [EIS title] or to request additional copies [or other volumes or formats], please contact [me or name] at the above address, call [phone number], or e-mail [EIS-specific e-mail address]. For information on the Department of Energy’s NEPA program, please contact the Office of NEPA Policy and Compliance at askNEPA@hq.doe.gov or 202-586-4600.

Thank you for your interest in our work.

Sincerely,
[Name (normally the senior responsible program official)]
[Title]

Enclosure: [List enclosures]

D. Template for Memorandum to Reading Room or Library

DATE: [Date]

REPLY TO

ATTN OF: [Name]

SUBJECT: [EIS title (DOE/EIS-####)]

TO: [Freedom of Information Public Reading Room]

Please make the enclosed copy of [EIS title (DOE/EIS-####)] available in the reading room through [date (usually after the expected issuance of a record of decision)].

Any inquiries concerning this document may be directed to me at:

[Name]

[Title]

[Address]

or leave a message at [toll-free telephone number] or send electronic mail to [EIS-specific e-mail address].

Thank you for your assistance.

[Name]

NEPA Document Manager