



**EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
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**White House Council on Environmental Quality Issues Mitigation and
Monitoring Guidance under NEPA**

WASHINGTON, DC – To promote sound governmental decision-making and transparency in Federal environmental reviews, the Council on Environmental Quality (CEQ) today released final guidance on the “Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact” under the National Environmental Policy Act (NEPA). The guidance outlines best practices for agencies when making mitigation commitments and sets forth guidelines for agencies when adopting a mitigated Finding of No Significant Impact. The guidance was developed as part of CEQ’s broad effort to modernize and reinvigorate Federal agency implementation of NEPA, initially announced in February 2010.

“When the Federal Government commits to actions to protect the environment, it should be able to show it is following through on those commitments for the American people,” said Nancy Sutley, Chair of the White House Council on Environmental Quality. “This guidance will help agencies ensure their environmental reviews are credible, thorough and open to the public.”

NEPA requires Federal Agencies to perform environmental analyses to determine the environmental consequences of their proposed actions. Mitigation and monitoring are important tools agencies use to avoid, minimize, or compensate for potential adverse environmental impacts associated with their actions. When Federal Agencies conduct Environmental Assessments (EA) and Environmental Impact Statements (EIS), they often commit to mitigating the environmental impacts of a proposed action.

This new guidance emphasizes that when agencies base their environmental analysis on a commitment to mitigate the environmental impacts of a proposed action, they should adhere to those commitments, monitor how they are implemented, and monitor the effectiveness of the mitigation. The guidance indicates that agencies should also publicly report these efforts.

Specifically, the guidance affirms that agencies should:

- commit to mitigation in decision documents when they have based environmental analysis upon such mitigation (by including appropriate conditions on grants, permits, or other agency approvals, and making funding or approvals for implementing the proposed action contingent on implementation of the mitigation commitments);
- monitor the implementation and effectiveness of mitigation commitments;
- make information on mitigation monitoring available to the public, preferably through agency web sites; and
- remedy ineffective mitigation when the Federal action is not yet complete.

The guidance encourages agencies to develop internal processes for post-decision monitoring to ensure the implementation and effectiveness of the mitigation. It also states that agencies may use adaptive management as part of an agency's action. Adaptive management, when included in the NEPA analysis, allows for the agency to take alternate mitigation actions if mitigation commitments originally made in the NEPA and decision documents fail to achieve projected environmental outcomes.

The guidance also sets forth guidelines for agencies when adopting a mitigated Finding of No Significant Impact. When conducting an environmental review, an agency may find that a proposed action has the potential for significant environmental impacts, but that those impacts may be mitigated so that they are no longer significant and do not require more comprehensive environmental review. This guidance clarifies that agencies may adopt a mitigated Finding of No Significant Impact based on an EA that includes sufficient mitigation to avoid significant environmental impacts. When the FONSI depends on successful mitigation, however, such mitigation requirements should be made public and be accompanied by monitoring and reporting.

A draft version of the guidance was released for a 90-day public comment period beginning February 18, 2010. CEQ received, reviewed, and responded to comments representing a broad range of views from private citizens, corporations, environmental organizations, and state agencies, before finalizing the guidance.

The guidance is available at: www.whitehouse.gov/ceq/initiatives/nepa and www.nepa.gov.

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