

## **PEP – ENVIRONMENTAL STATEMENT MEMORANDUM NO. ESM03-7**

To: Heads of Bureaus and Offices

From: Willie R. Taylor, Director  
Office of Environmental Policy and Compliance

Subject: Procedures for Implementing Consensus-Based Management in Agency Planning and Operations

The requirements in this Environmental Statement Memorandum (ESM) are being issued under the authority provided to the Office of Environmental Policy and Compliance (OEPC) by 381 Departmental Manual (DM) 4.5B, to convey instructions and guidance through its Environmental Memoranda Series, and by 516 DM 6.2, which authorizes OEPC to provide advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with NEPA, the CEQ regulations, and 516 DM 4.22, which authorizes OEPC to provide further guidance concerning NEPA.

### 1. Purpose and Scope

The purpose of this memorandum is to provide guidance to bureaus and offices on implementing consensus-based management in NEPA analyses.

### 2. Consensus-Based Management in Agency Planning and Operations

Consensus-based management incorporates direct community involvement in bureau activities subject to NEPA analyses, from initial scoping to implementation of the bureau or office decision. It seeks to achieve agreement from diverse interests on the goals, purposes, and needs of bureau plans and activities and the methods needed to achieve those ends.

### 3. Procedures

a. Bureaus should establish a network of communication with the diverse interest groups that represent the community<sup>1</sup> affected by a proposed project. Community-based training that precedes the NEPA process is useful in developing the network of communication. Training will also allow participants

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<sup>1</sup>Community, for this purpose, means those who are directly affected by or whose interests are affected by a bureau-proposed action and are represented by elected officials as well as locally-established or commonly recognized groups within the proposed action's reasonable area of impact.

the opportunity to understand the NEPA process and their roles. This also provides a focal point for assembling the diverse interest groups that make-up the relevant community.

b. Bureaus should initiate the scoping process with full and direct involvement by the community, identifying and evaluating issues and impacts of concern relating to the project or activity. This applies to any NEPA compliance document.

c. When feasible and practicable, one alternative evaluated in the NEPA analysis should be the community alternative if one exists.

d. When feasible and practicable, the community alternative should be designated as the bureau's preferred alternative in the NEPA process, so long as a consensus exists within the community for support of that alternative. This designation is also subject to statutory, regulatory and policy constraints. For the purpose of designating the community alternative as the preferred alternative, consensus exists when one or both of the following two conditions hold: (1) no locally established or commonly recognized group within the community has objections to the alternative that would undermine or nullify the action under consideration, or (2) in the judgment of the bureau decision maker, the community alternative clearly enjoys the broad support of a fair and representative cross-section of the community.

e. Bureaus should use various dispute resolution processes as necessary.

#### 4. Compliance with the Federal Advisory Committee Act (FACA)

a. The FACA, 5 U.S.C.A App. 2, was enacted to reduce narrow special-interest group influence on decision makers, to foster equal access to the decision-making process for the general public, and to control costs by preventing the establishment of unnecessary advisory committees.

b. The FACA applies whenever a statute or an agency official establishes or utilizes a committee, board, commission or similar group for the purpose of obtaining advice or recommendations on issues or policies within the agency official's responsibility.

c. The Department's managers and staff must understand the provisions of FACA when they are gathering public input for the decision-making processes and when working in collaborative efforts. To ensure that the Department's collaborative efforts comply with FACA, any time the Department establishes or uses a group for consultation or recommendations, that official should verify whether FACA applies and, if so, ensure that the FACA requirements are followed.

d. As a general rule, collaborative groups that are not initiated by the Department can avoid application of FACA and can continue to have active participation in Departmental activities by maintaining their independence from the DOI's management or control. Further, NEPA collaborative groups composed entirely of government representatives would not be subject to FACA. However, in making the determination as to whether FACA will apply, the official should consult with the Office of the Solicitor.

e. If FACA applies, bureaus should consult their Group Federal Officer (GFO) under FACA for assistance in document preparation.