

**DEPARTMENT OF HOMELAND SECURITY
FEDERAL LAW ENFORCEMENT TRAINING CENTERS**

FLETC DIRECTIVE NO: 023-01 (Formerly 75-07)
DIRECTIVE TITLE: National Environmental Policy Act Compliance
EFFECTIVE DATE: August 9, 2017

I. POLICY: The Federal Law Enforcement Training Centers (FLETC) will comply with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4335) and the Council on Environmental Quality (CEQ) regulations for implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1508).

II. SCOPE: The directive applies to any action undertaken at all FLETC locations in the continental United States.

III. REFERENCES:

- A. The National Environmental Policy Act, 42 U.S.C. § 4321 et seq.
 - B. The National Historic Preservation Act, 16 U.S.C. § 470 et seq.
 - C. Council on Environmental Quality Regulations, 40 C.F.R. Parts 1500-1508.
 - D. Department of Homeland Security (DHS) Directive 0017.1, Historic Preservation in Asset Management and Operations, March 10, 2008.
 - E. DHS Directive 0023.1 REV01, Implementation of the National Environmental Policy Act, October 31, 2014.
 - F. 42 United States Code [U.S.C.] 4321-4335 (The National Environmental Policy Act of 1969).
 - G. 40 Code of Federal Regulations [CFR] Parts 1500-1508 (The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA).
 - H. 6 U.S.C. Section 112 (“Secretary, functions”).
 - I. 6 U.S.C. Subchapter VII (“Management”).
 - J. DHS Delegation 00002, Delegation to the Under Secretary for Management.
 - K. DHS Delegation 00500, Delegation for Administrative Services.
 - L. DHS Delegation 00501, Delegation for Environmental Management, Energy Management, and Environmental Planning and Historic Preservation.
- IV. CANCELLATION:** FLETC Directive Formerly 75-07, National Environmental Policy Act Compliance, dated July 27, 2015.
- V. ADDITIONAL GUIDANCE:** FLETC Manual 023-01 (Formerly 75-07), National Environmental Policy Act Compliance.

VI. OFFICE OF PRIMARY INTEREST: Environmental and Safety Division, Mission and Readiness Support Directorate.

Signature on File

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FLETC MANUAL 023-01 (Formerly 75-07)

National Environmental Policy Act Compliance

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I. INTRODUCTION:

A. This manual serves as the supplemental instructions to Department of Homeland Security (DHS) Management Directive (MD) 023-01, Revision 01, dated October 21, 2014 and the accompanying [DHS Instruction Manual 023-01-001-01, Revision 1](#). It sets forth the responsibilities and procedures for completing required environmental planning and coordination for projects/tasks/actions at the Federal Law Enforcement Training Centers (FLETC) in compliance with DHS MD 023-01, Revision 01 and as defined by the National Environmental Policy Act (NEPA) of 1969.

B. The National Environmental Policy Act requires Federal agencies to consider the impacts of their activities to human health and the environment prior to the commencement of any major action. All action taken at and on behalf of the FLETC shall be in conformance with the President's Council on Environmental Quality's policies and procedures for the proper implementation of NEPA. The National Historic Preservation Act (NHPA) requires agencies to coordinate with State Historic Preservation Offices (SHPO) for any activities that could adversely impact historic properties.

II. SCOPE:

A. This manual applies to all FLETC proposed actions and activities that NEPA applies to. An action by the FLETC is defined as any program, plan, policy, project, regulation, order, legislation, or applications for permits, grants, or licenses undertaken by or on behalf of the FLETC.

B. As an integral part of the decision making process for an action the FLETC shall:

- 1.** Consider all relevant NEPA documents in evaluating proposals for action;
- 2.** Make relevant NEPA documents, comments, and responses part of the record in formal rulemaking or adjudicatory proceedings;
- 3.** As a proposal for action is being developed, ensure that relevant NEPA documents, comments, and responses accompany the proposal through the appropriate formal project approval and decision-making processes to ensure that the NEPA analysis is considered in making a decision; and
- 4.** As a proposal for action is being developed, ensure that the range of reasonable business and operational alternatives being considered are appropriately analyzed under NEPA and, when evaluating a proposal for action, that only those alternatives discussed in the relevant NEPA documents are considered in the evaluation, unless the environmental documents are appropriately supplemented to examine a newly developed alternative.

III. FORMS: None.

IV. DEFINITIONS: The definitions contained in the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA (40 Code of Federal Regulations [CFR] Parts 1500-1508) apply to this Manual. Definitions from the CEQ regulations of some of the terms and phrases that are more commonly used in this Manual are provided below

for ease of reference. Additional terms and phrases not defined in the CEQ regulations are defined below. In some cases, the definitions have been changed to comply with the working structure of the FLETC.

A. Action: A plan, project, program, policy, rule, regulation, procedure, or legislative proposal, as discussed at 40 CFR §1508.18, subject to the FLETC control and responsibility. Projects include actions approved by permit or other regulatory decision as well as Federally-assisted activities (e.g., grants).

B. Best Management Practices: Generally accepted and applied measures or practices to lessen the adverse effects of actions on the human environment (e.g., control storm water flowing through a construction site to reduce impacts to water quality).

C. Categorical Exclusion (CATEX): As defined in 40 CFR §1508.4, activities that do not need to undergo detailed environmental analysis in an Environmental Assessment (EA) or Environmental Impact Statement (EIS) because the activities have been determined to normally not have the potential, individually or cumulatively, to have a significant effect on the human environment. Agencies can define categories of such activities as a way to reduce unnecessary paperwork and delay. CATEXs are defined by, and are unique to, each Federal agency; at DHS they may be established for the Department as a whole or for an individual Component. At DHS, certain CATEXs are denoted with an asterisk and require preparation of a Record of Environmental Consideration (REC); an asterisk denotes classes of actions that have a higher possibility of involving extraordinary circumstances. A special set of CATEXs has been approved for use only by the FLETC. A list of the CATEXs relevant to the FLETC as a DHS component and those applicable only to the FLETC can be found in Appendix A, Table 1, Sections A-G and J) of DHS Instruction Manual 023-01-001-01, Revision 1 or in the Environmental Planning and Historic Preservation Decision Support System.

D. Component: As defined in DHS Directive 252-01, Organization of the Department of Homeland Security, any organization which reports directly to the Office of the Secretary of DHS when approved as such by the Secretary. This is inclusive of both Operational Components and Support (also known as Headquarters) Components. For purposes of this Instruction, the Office of the Secretary also constitutes a Component. The list of major Components making up DHS is available on the DHS website at <https://www.dhs.gov/departments-components>.

E. Cooperating Agency: As defined in 40 CFR §1508.5, any Federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. A state or local agency of similar qualifications or a Tribe may by agreement with the lead agency also become a Cooperating Agency. Participation of Cooperating Agencies is not limited to the preparation of Environmental Impact Statements; it may also be appropriate for Cooperating Agencies to participate in the preparation of EAs.

F. CEQ: Title II of NEPA established a council in the Executive Office of the President to oversee implementation of the Act. The Council is appointed by the President with the advice and consent of the Senate. The President designates the Chairman. CEQ's responsibilities include appraising Federal Government programs and activities in light of the policy set forth in Title I of NEPA and formulating and recommending national policies to promote improvement of the quality

of the environment.

G. Cumulative Impact: As defined in 40 CFR §1508.7, the impact on the environment which results from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time

H. Decision-Maker: The FLETC employee that has the overall authority for approval of environmental actions and any required mitigations, as well as the financial authorization for any environmental action. The Deputy Assistant Director, Mission Readiness and Support Directorate (DAD, MRSD) serves as the decision-maker for the FLETC.

I. Department: The Department of Homeland Security, which, unless otherwise specified includes all components thereof.

J. Effects: As defined in 40 CFR §1508.8, effects of proposed actions includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects. “Effects” and “impacts” as used in the CEQ regulations and this Instruction Manual are synonymous.

K. Effects of National Concern: Effects that because of the high quality or function of the affected resource or because of the wide geographic range of effects (e.g. climate change) could create concern beyond the locale or region of a proposed action, as well as effects that may occur in multiple geographic regions of the U.S. from a program of proposed actions.

L. Emergency: A natural or man-made disaster or other phenomenon of an exceptional, inevitable, and irresistible character demanding immediate action for the protection of human life, public safety, public health, or the environment, and avoidance of significant loss of property if it relates to one of the other factors. This includes but is not limited to situations triggering emergency and major disaster declarations by the President under the Stafford Act. See also 40 CFR §1506.11.

M. Emergency Action: Any action needed to respond to or control the immediate impacts of an emergency. This definition does not include long-term recovery actions.

N. Environmental Assessment (EA): An EA is a concise public document prepared for proposed actions that have the potential for significant impacts on the quality of the human environment (40 CFR §1508.9). The EA process concludes with the determination on the environmental impacts of the proposed action. A Finding of No Significant Impact (FONSI) document is prepared if it is concluded that the proposed action would not have significant environmental impacts. All completed FONSI are to be made publically available. If during the preparation of an EA it is determined that significant impacts would result from implementation of the proposed action, an EIS is required.

O. Environmental Impact Evaluation: The process of determining the level of significance of a potential impact on the human environment. It includes all of the necessary studies, consultation, and public involvement needed to analyze the potential for environmental

impact of a proposed action, assign a value to the level of impact (e.g. minor, moderate, or major), consider mitigation, and determine the level of significance; whether significant or not. An environmental impact evaluation results in either the application of a Categorical Exclusion or documentation in the form of a final Environmental Assessment and Finding of No Significant Impact or a final Environmental Impact Statement. An environmental impact evaluation is a necessary and major part of the NEPA process (defined in 40 CFR §1508.21) but normally not fully inclusive of the NEPA process. “Environmental impact evaluation” and “environmental analysis” as used in this Manual are synonymous.

P. EIS: An EIS is prepared for major Federal actions significantly affecting the quality of the human environment (see 40 CFR §1502). Preparation of an EIS involves a more formal process to work collaboratively with other Federal, Tribal, State, local, and non-Federal interested parties, and provides a more formal opportunity for the public to understand the potential environmental impacts and to influence a Federal agency’s decision. The environmental impact evaluation documented in an EIS may be more extensive than that in an EA to appropriately reflect an evaluation of significant impacts to the quality of the human environment. No alternative, in whole or in part, that is the subject of an EIS process will be taken that would limit the choice of reasonable alternatives, involve a conflict in the use of available resources, or have an adverse environmental impact until the Record of Decision (ROD) has been made publically available. A ROD (or its Notice of Availability) is published in the Federal Register.

Q. Environmental Justice (EJ): Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations was issued in February 1994. Its purpose is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

R. Environmental Planning & Historic Preservation Decision Support System (EP&HP DSS): An automated system to standardize and improve the efficiency and effectiveness of NEPA analyses of proposed actions within DHS. The EP&HP DSS is owned and operated by Sustainability and Environmental Programs (SEP) in the DHS Office of the Chief Readiness Support Officer (OCRSO) for Department-wide utilization.

S. Environmental Planning Program Manager (EPPM): The senior FLETC official who is responsible for coordination with SEP on NEPA matters and who has the authority to oversee the implementation of DHS Directive 023-01, Revision 01 in their respective organization. The Chief, Environmental and Safety Division serves as the EPPM for the FLETC.

T. Environmentally Sensitive Area: An area designated by law, regulation, or executive order that merits special protection or stewardship because of its value as a natural, historic, or cultural resource. Examples include, but are not limited to: (1) proposed or designated critical habitat for threatened or endangered species; (2) properties listed or eligible for listing on the National Register of Historic Places; and (3) areas having special designation or recognition such as prime or unique agricultural lands, coastal zones, designated wilderness or wilderness study areas, wild and scenic rivers, 100 year floodplains, wetlands, sole source aquifers, Marine Sanctuaries, National Wildlife Refuges, National Parks, National Monuments, essential fish habitat, etc.

U. Extraordinary Circumstances: When evaluating whether or not to apply a CATEX to a proposed action, these are circumstances associated with the proposed action that might give rise

to significant environmental effects requiring further analysis and documentation in an EA or EIS.

V. Finding of No Significant Impact (FONSI): The final determination on the environmental impacts of a proposed action is required upon the completion of an EA. An EA process concludes with a FONSI when (1) the evaluation of the impacts of the proposed action on the human environment indicates that the environmental effects would not be significant, or (2) the FLETC commits to including measures in the proposed action that mitigate impacts to a level of insignificance. A FONSI is a separate document from an EA, but may be integrated into any other appropriate decision-making document that can be made publicly available, provided it includes the minimum content requirements in DHS Instruction Manual 023-01-001-01, Revision 1, Section V (DHS Instruction Manual 023-01-001-01, Revision 1).

W. Human Environment: As defined in 40 CFR §1508.14, the natural and physical environment and the relationship of people with that environment.

X. Impacts: See effects.

Y. Indian Tribe or Native American Tribe or Tribe: Any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska native entity, which is Federally-recognized by the Secretary of the Interior through listing by the Bureau of Indian Affairs.

Z. Jurisdiction by Law: As defined in 40 CFR §1508.15, an agency's authority to approve, veto, or finance all or part of a proposal.

AA. Lead Agency: As defined in 40 CFR §1508.16, the agency or agencies preparing or having taken primary responsibility for preparing an EA or EIS.

BB. Major Federal Action: As defined in 40 CFR §1508.18, actions with effects that may be major and which are potentially subject to Federal control and responsibility. Major reinforces but does not have a meaning independent of significantly (40 CFR §1508.27). Actions include the circumstance where the responsible officials fail to act and that failure to act is reviewable by courts or administrative tribunals under the Administrative Procedure Act or other applicable law as agency action. See 40 CFR §1508.18 for the full definition.

CC. Mitigation: An action or series of actions, which may be ongoing and sustained, to reduce the probability of, or lessen the impact of an adverse effect on the quality of the human environment. The following examples of ways to mitigate impacts to the human environment are provided in 40 CFR §1508.20: (a) avoiding the impact altogether by not taking a certain action or parts of an action; (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (c) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; (e) compensating for the impact by replacing or providing substitute resources or environments. Mitigation may also include the utilization of best management practices and adaptive management approaches.

DD. National Environmental Policy Act (NEPA): Public Law 91-190, as amended, declares a national policy which encourages productive and enjoyable harmony between humans and the environment. NEPA requires Federal officials to consider environmental values alongside technical and economic considerations in their decision-making.

EE. NEPA document: A DHS REC, EA, FONSI, Notice of Availability (NOA), Notice of Intent (NOI), EIS, ROD, or any other document prepared pursuant to a requirement of NEPA, the CEQ Regulations, DHS Directive 023-01, Revision 1, or this Manual. This includes environmental documents as defined in 40 CFR §1508.10.

FF. NEPA process: The effort required to systematically address the environmental stewardship and compliance requirements set forth in NEPA during program and project planning, development, and design; and prior to execution of a proposed action for the purpose of protecting, sustaining, or restoring the quality of the human environment. This process consists wholly or in part of scoping, development, and consideration of the proposed action and alternatives, environmental impact evaluation, consideration of mitigation and monitoring its success, consultation, and public involvement. This includes the NEPA Process as defined in 40 CFR §1508.21.

GG. NOA: A formal notice published in the Federal Register announcing the issuance and public availability of a draft or final EIS and ROD. The EPA published NOA is the official public notification of an EIS.

HH. Notice of Intent (NOI): As defined in 40 CFR §1508.22, a notice that an environmental impact statement will be prepared and considered.

II. Office of the Chief Readiness Support Officer (OCRSO): Office that supports the Departmental CRSO, which is organizationally located in the Management Directorate at DHS Headquarters (HQ), as defined in DHS Directive 0100, Organization of the Office of the Under Secretary for Management, and DHS Directive 0004, Administrative Services Line of Business Integration and Management, and any successions to these Directives.

JJ. Office of the General Counsel (OGC): Office that supports the General Counsel (defined in DHS Directive 252-01), who is the chief legal officer and the final legal authority within DHS, and has the authority to participate in and decide any legal matter within DHS (except for matters within the scope of the Inspector General's authorities). OGC includes DHS Headquarters attorneys together with the attorneys in all Component legal offices, whether denominated Office of Chief Counsel, Office of Principal Legal Advisor, Office of the Judge Advocate General, or otherwise.

KK. Proponent: A DHS Federal employee or office who is the identified program or project manager for a proposed action that is subject to NEPA review. The Proponent is responsible for defining the reason why a proposed action is needed, and has the immediate authority to decide a course of action or has the authority to recommend a course of action, from among options, to the next higher organizational level (e.g., district to region, region to headquarters) for approval. The Proponent also normally has authority to establish the total estimate of resource requirements for the proposed action or, in the execution phase, has the authority to direct the use of resources.

LL. Record of Decision (ROD): The concise public record described in 40 CFR §1505.2 that is prepared to conclude the process of preparing an EIS. A ROD (or Notice of its Availability) is published in the Federal Register. The ROD need not be a unique or separate document, when a formal public record of a decision is otherwise issued, as long as the formal public record meets the requirements of 40 CFR §1505.2. For example, grant award documents or permits may suffice for a ROD if they meet the requirements of 40 CFR §1505.2.

MM. Record of Environmental Consideration (REC): An internal DHS administrative document that records the application of a DHS CATEX to a specific proposal. A REC is required for the application of any CATEX identified with an asterisk in the EP&HP DSS or Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Revision 1. RECs are normally prepared and maintained electronically in the EP&HP DSS.

NN. Secretary: The Secretary of the Department of Homeland Security.

OO. Significantly: As used in the NEPA process, an evaluation of significance requires consideration of both context and intensity. Context means that the significance of an action must be analyzed in several contexts such as society as a whole, the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. Intensity refers to the severity of impact. See 40 CFR §1508.27 for the full definition.

PP. Special expertise: As defined in 40 CFR §1508.26, an agency's statutory responsibility, mission, or related program experience.

QQ. Sustainability and Environmental Programs (SEP): A program management area organizationally located in OCRSO, Management Directorate, and DHS Headquarters. SEP is responsible for oversight of the implementation of NEPA across DHS.

V. RESPONSIBILITIES:

A. The Deputy Assistant Director, Mission Readiness and Support Directorate (DAD, MRSD), is the delegated NEPA approving authority for the FLETC and is responsible (with support of FLETC's NEPA specialist) for reviewing, and approving or rejecting all NEPA related documents prepared by the FLETC. The DAD, MRSD also serves at the decision-maker for FLETC for all NEPA activities.

B. The Chief, Environmental and Safety Division (ESD), has overall responsibility for implementing the provisions of this manual and for reporting compliance to the DHS, Office of Safety and Environmental Programs. The Chief, ESD, manages all NEPA activities and maintains all files, including completed CATEXs, RECs, EAs, FONSIIs or EISs. Due to the potential for increased mission activities, the Chief, ESD is responsible for the periodic review of the overall EAs for each of the four sites to ensure that they are still relevant and applicable. In applicable cases, the Chief, ESD, is also responsible for planning and coordination with the appropriate SHPO and/or Tribal Historic Preservation Offices (THPO). For FLETC-only projects, the Chief, ESD funds the preparation of all NEPA documents. For projects involving partnering organizations (POs)/cooperating agencies, the source of the funding for NEPA projects will be negotiated at the initial phase of the project. The Chief of ESD serves as the Environmental Planning Program Manager.

C. The Chief, Procurement Division, is responsible for educating procurement personnel on the requirements of this directive and obtaining evidence of NEPA and NHPA compliance and/or approval from the DAD, MRSD, prior to issuing a contract for an action that falls within the scope of this directive.

D. The Chief, Facilities Management Division (FMD) and Chiefs, Administration Division of the field sites, are responsible for educating facilities and engineering personnel on the requirements of this directive and ensuring that NEPA and NHPA requirements are coordinated

prior to commencing a project.

E. Project or Program Managers are responsible for familiarizing themselves and complying with the requirements of this directive. Managers shall ensure that all NEPA requirements are coordinated with their respective Environmental Protection Specialists prior to commencing a project and are adhered to during performance.

F. The Office of Chief Counsel (OCC) provides legal reviews for CATEXs, EAs, FONSIIs, EISs, and RODs and advises proponents, in coordination with the Chief, ESD on the applicability of NEPA's procedural requirements.

G. The designated Environmental Protection Specialist in ESD and at the Field Sites are responsible for initiating required NEPA action once notified in writing of a proposed project. For CATEXs, this process is initiated in the EP&HP DSS. For all other NEPA actions, the relevant data is forwarded to the designated NEPA specialist in ESD to begin the contractual process for the preparation of the required NEPA document.

H. The NEPA Specialist in ESD is responsible for overall administration of the EP&HP DSS at the FLETC. This person serves the Environmental Reviewer for all FLETC NEPA projects. The NEPA Specialist will be the primary point of contact with DHS environmental planning and historic preservation personnel and will perform required coordination, ensure completion of legal and senior environmental reviews on completed actions, and maintain records of all completed actions.

VI. PROCEDURES:

A. General:

1. The NEPA process helps the FLETC decision-makers systematically identify and evaluate the potential environmental effects of proposed actions and make informed decisions. Therefore, the NEPA process must be completed before the FLETC makes a final decision on a proposed action.

2. NEPA applies to the majority of actions taken by the FLETC. If there is any doubt as to the applicability of NEPA, the proponent or the Environmental Specialist from ESD should consult with the FLETC MRSD EPPM to determine whether NEPA applies to a proposed action. Examples of situations in which NEPA is not triggered are very few and include cases of statutory exemption, executive branch waiver of compliance when such waiver authority has been granted by Congress and properly exercised, or when the action does not constitute a major Federal action significantly affecting the quality of the human environment as that term has been interpreted in regulations and court decisions.

3. When NEPA applies to a proposed action, one of three levels of evaluation (CATEX, EA, or EIS) is necessary. These levels correspond to the increasing potential for proposed actions to have significant environmental effects. NEPA documents such as EAs and EISs are not merely a summary of an environmental impact evaluation; they are also a way to communicate that information to the FLETC decision-makers and the public in an easily understandable form. The EPPM advises the FLETC on the appropriate level of NEPA analysis and documentation for proposed actions. To help facilitate the NEPA process, the Proponent (Project Managers, etc.) shall use the NEPA checklist included in Attachment 2 and provide as

much of the requested information as they have available.

4. Evaluation and documentation requirements under NEPA are summarized in the following section and Attachment 1 with particular attention to those types of actions conducted by FLETC most frequently- real estate activities. The process for other activities should be carried out in the same manner, should they be ripe for analysis and decision (see Attachment 1). Specific instructions for the two most common NEPA actions at the FLETC are outlined below.

B. Land Acquisition

1. For land acquisition (including both lease and purchase), the Project Manager or planning personnel are potentially required to initiate three separate environmental actions through the FLETC ESD NEPA Specialist. The first is an Environmental Baseline Study (EBS) to identify whether the property under consideration has pre-existing environmental issues. The EBS is an effort to protect the government from acquiring property that has been previously contaminated with dangerous chemicals or products from past activities on the property. In effect, this is a backward looking study.

2. In addition to the EBS, the Project Manager, in conjunction with the FLETC ESD NEPA Specialist, is responsible for requesting an environmental study pursuant to NEPA, typically an EA, so that the potential future impact on the environment can be determined if the property is acquired and utilized in the manner anticipated by the proponent. This is a forward looking study.

3. Finally, any acquisition that involves potential historic property requires Section 106 coordination with the SHPO in the state where the property is located. The SHPO coordination will normally occur in conjunction with the EA process. If a property qualifies as a historic property, the SHPO is the sole party who will decide whether the FLETC proposed action can proceed as planned, or perhaps proceed with some mitigation action.

4. The Project Manager/proponent is responsible for informing their site's Environmental Protection Specialist to commence the appropriate EBS, EA and Section 106 coordination processes. The site Environmental Protection Specialist, in turn, is responsible for initiating these activities with the FLETC NEPA Specialist. These NEPA documents are normally prepared via contract vehicle and will require from six to nine months to complete; assuming there are no complications. The presence of contractor names and logos in NEPA documents prepared for the FLETC should be minimized or avoided, unless otherwise specified in the terms of a particular contract. Proprietary information used by contractors in performance of NEPA activities is subject to public disclosure and should be avoided. If proprietary information must be included in a NEPA document, the proprietary information is not normally presented in the main body of the document, but is segregated in an appendix where its distribution may be more carefully controlled.

5. Once the EA and FONSI are completed, the FLETC NEPA Specialist will complete an environmental review of the environmental planning files. After the initial environmental review, the environmental planning files are electronically forwarded to OCC for legal review and to the Chief, ESD for senior environmental review.

6. Upon completion of the OCC and ESD reviews, the environmental planning files are electronically forwarded to the DAD, MRSD for final review as the EPPM, with the delegated authority from SEP to approve and sign environmental planning files.

7. A land acquisition contract may not be issued until the DAD, MRSD, has approved the environmental planning files and signed all required documentation.

8. Upon the approval and signature of the environmental planning files by the DAD, MRSD, the FLETC NEPA Specialist will upload the files to the EP&HP DSS.

C. Construction and Remodeling, or Significant Relocation of Training.

1. For new construction or for remodeling of an existing structure or redesign of a road or parking lot, the Project Manager is required to request an environmental study pursuant to NEPA. For properties, the Section 106 process may also be required for Construction, Remodeling, or Significant Relocation of Training. New construction will most likely require an EA, while a CATEX may be applicable for a remodeling or redesign project, so long as the property is not a historic property.

2. The Project Manager of the construction, remodeling or redesign proposal is responsible for contacting their site's Environmental Protection Specialist to commence the environmental planning process and, if applicable, the Section 106 process. The site Environmental Protection Specialist, in turn, is responsible for initiating these activities with the FLETC NEPA Specialist. These NEPA documents are normally prepared via contract vehicle and will require from six to nine months to complete; assuming there are no complications. The presence of contractor names and logos in NEPA documents prepared for the FLETC should be minimized or avoided, unless otherwise specified in the terms of a particular contract. Proprietary information used by contractors in performance of NEPA activities is subject to public disclosure and should be avoided. If proprietary information must be included in a NEPA document, the proprietary information is not normally presented in the main body of the document, but is segregated in an appendix where its distribution may be more carefully controlled.

3. Once the EA and FONSI are completed, the FLETC NEPA Specialist will complete an environmental review of the environmental planning files. After the initial environmental review, the EA is electronically forwarded to OCC for legal review and to the Chief, ESD for senior environmental review.

4. Upon completion of the OCC and ESD reviews, the EA and FONSI are electronically forwarded to the DAD, MRSD for final review as the EPPM with the delegated authority from SEP to approve and sign environmental planning files.

5. Upon the approval and signature of the EA and FONSI by the DAD, MRSD, the FLETC NEPA Specialist will upload the files to the EP&HP DSS.

6. If a CATEX can be applied, the project's Environmental Protection Specialist will enter the project data into the EP&HP DSS and assign the FLETC NEPA Specialist as the Environmental Reviewer.

7. During the environmental review process, the NEPA Specialist will assign the appropriate CATEX to the project. If the selected CATEX is notated with an asterisk, the NEPA Specialist will prepare a REC. If the CATEX is not notated with an asterisk, once the NEPA Specialist has completed the environmental review, no further review is required and the NEPA review is complete. If the CATEX required a REC to be prepared, the NEPA Specialist creates the project team in the EP&HP DSS to include legal review from OCC, senior environmental review

from the Chief, ESD and final review and approval of the CATEX and REC from the DAD, MRSD as the NEPA delegated authority.

8. After approval of the CATEX and/or REC, the approved documents are forwarded to the applicable Project Manager.

9. A construction or remodeling contract may not be awarded until the DAD, MRSD has approved the environmental planning file and signed all required documentation.

10. For all construction or remodeling contracts, including purchase orders under an Indefinite Delivery, Indefinite Quantity (IDIQ) contract, the Project Manager will provide ESD with copies of all scopes of work, drawings and blueprints so that the project can be reviewed for compliance with environmental and safety laws and regulations. All such documents will be provided in a timely manner so as to allow changes to be made, if required.

11. A contract or decision to relocate training should not be made or issued until the DAD, MRSD has approved the EA, FONSI or REC, as applicable.

12. If a significant relocation of training is required, Training Management will contact ESD for the appropriate NEPA and/or Section 106 coordination.

D. Adoption of Existing Environmental Impact Statements and Environmental Assessments.

1. Reliance on or adoption of an existing EIS or EA improves efficiency in the NEPA process and avoids unnecessary use of time and resources. In some instances, the FLETC may adopt an existing EIS or the draft or final EA of another DHS Component or Federal agency provided that the FLETC follows the guidance provided in DHS Instruction Manual 023-01-001-01, Revision 1, Section V.

E. Public Involvement Process Involving an EA.

1. The CEQ regulations and the DHS Instruction Manual 0023-01-001-01, Revision 1 require public involvement in the NEPA process for proposed DHS actions. Public involvement requirements may be met during scoping at the start of an evaluation and/or by distributing a draft EA and draft FONSI for public review. The FLETC normally uses the services of a contractor for the preparation of an EA, which includes the required public notification.

2. When an EA has been drafted without opportunity for public involvement or when public input received during EA development indicates the need for further public review of the environmental impact evaluation, the FLETC shall make the draft EA available to the public, via its Public Affairs Office, for review and comment for a minimum of 30 calendar days (<https://www.fletc.gov/public>). If public comments reveal the potential for significant impact to the human environment, the EPPM determines whether it is appropriate to complete a FONSI, revise or supplement the EA, or prepare an EIS. If the EPPM decides a FONSI is appropriate, public comments are incorporated into the completed FONSI, and the FONSI is made available to the public. A synopsis of the public comments received and how the FLETC addressed those comments is prepared and shall be included as an appendix in the final EA. After the FONSI is made publicly available on the FLETC public website, the FLETC may take immediate action, unless there is another environmental planning requirement that requires a waiting period before an action can proceed.

3. If a proposed action is unprecedented or one that normally requires an EIS or is closely similar to one that normally requires an EIS, the FLETC shall, whenever practicable, provide an opportunity for public involvement in the drafting of the EA and makes the draft EA and draft FONSI available for public review, as described in 40 CFR §1501.4(e) (2).

4. For proposed actions with environmental effects of national concern (see Section 4 for definition), or at FLETCs discretion, the FLETC shall publish a public notice in the Federal Register as required by 40 CFR §1506.6, and submit to SEP draft and final EAs and FONSI, or a hyperlink to the documents posted on a FLETC public webpage, for posting on the DHS NEPA webpage, in accordance with Section IV, Part G (2) of the DHS Instruction Manual 023-01-001-01, Revision 1.

F. Mitigation and Monitoring.

1. Mitigation measures reduce otherwise anticipated adverse impacts of a proposed action on the quality of the human environment. The FLETC shall commit to appropriate, practical, and implementable mitigation measures (reasonably expected to achieve their intended purpose) identified in a FONSI or ROD that they have sufficient legal authority to implement or impose on applicants. Implementable mitigation measures require not only that the FLETC have the appropriate legal authority, but also that it can reasonably foresee the availability of resources for performing the mitigation. Normally, monitoring of the mitigation measures would be the responsibility of the FLETC Environmental and Safety Division, but other FLETC divisions would be called upon as required.

2. Prior to commencement of or during implementation of an action, if a mitigation measure that is committed to cannot be implemented or conditions have changed such that the mitigation measure may no longer be appropriate, the FLETC determines if other practical mitigation measures can be implemented or are necessary, in coordination with Federal, Tribal, State, or local government agencies as appropriate. If the conclusion of the NEPA analysis was predicated in whole or in part on the mitigation in question, the NEPA decision must be evaluated to determine whether the action can proceed without the identified mitigation. The EPPM then considers whether the NEPA document needs to be revised to reflect the new circumstances. If it does, the FLETC provides appropriate public notice of the revision. After that, the action may proceed.

3. The EPPM shall monitor implemented actions for effectiveness of mitigation, following the guidance in CEQ's Memorandum for Heads of Federal Departments and Agencies: Appropriate Use of Mitigation and Monitoring and Appropriate Use of Mitigated Findings of No Significant Impact, 14 January, 2011. The EPPM shall also respond to inquiries from the public or other agencies regarding the status of mitigation measures and the results of monitoring. If post-action monitoring finds that mitigation has been ineffective in mitigating the adverse impacts of the action, the EPPM/Proponent shall consult promptly to determine the necessary course of action, and follow DHS Instruction Manual 023-01-001-01, Revision 1, Section IV, Part C for circumstances requiring notification to SEP.

4. Failure to implement, document, and/or monitor mitigation may undermine the integrity of the NEPA analysis, and may compromise the adequacy of the NEPA compliance effort. The FLETC shall document all mitigation monitoring efforts in accordance with the data from the FONSI or ROD.

5. Once the FLETC has committed to mitigation measures, all decisions to modify or suspend those measures are made in consultation with the EPPM/Proponent, NEPA staff, Project Managers, and OGC.

G. Record Keeping Process. Proper and adequate recordkeeping is paramount throughout the entire NEPA process. All documents including email and meeting minutes must be retained to detail the decision-making and analysis process for all actions. The action EPPM/Proponent and NEPA specialist must provide for proper archival of documents, emails, and notes for the administrative record. Categorical Exclusions and RECs must be completed within the EP&HP DSS. All completed EAs are uploaded into the EP&HP DSS. At the FLETC all completed NEPA actions and supporting documentation are stored electronically on the Environmental and Safety Division (ESD) SharePoint® Site and hardcopies are stored in secured, fire safe cabinets at the ESD library.

H. Emergency Actions. The FLETC would not initiate an emergency action as defined by Instruction Manual 023-01-001-01, Revision 1, but the FLETC may be called upon to support an emergency action undertaken by DHS or one of the components. In this situation, the FLETC would follow any guidance issued by SEP as to the correct actions to be undertaken. The following four phases of an emergency action shall be considered when performing NEPA activities during an emergency. The FLETC will follow these general provisions for emergency actions in consultation with the EPPM and OGC, and SEP when appropriate.

1. Secure Lives and Protect Property. Do not delay immediate actions needed to secure lives and safety of employees and citizens, or to protect property. The FLETC shall consider the probable environmental consequences of the proposed actions and minimizes environmental damage to the maximum degree practical, consistent with protecting human life, property, and national security.

2. Determine Applicability of NEPA. The FLETC shall determine, upon the advice and counsel of OGC, if NEPA applies to the emergency action.

3. Notification to SEP. The FLETC shall follow the criteria in Instruction Manual 023-01-001-01, Revision 1, Section IV, Part C, for when to notify or seek approval from Director SEP for NEPA activities during an emergency.

4. Determine Level of NEPA Evaluation. When NEPA applies to a proposed emergency action, the FLETC shall determine the appropriate level of NEPA evaluation using the criteria detailed in this Manual.

I. Public Involvement.

1. During the NEPA process, information and documents are made available to the public in conformance with CEQ regulations at 40 CFR §1506.6. Public involvement starts early and continues throughout the NEPA process. The FLETC EPPM shall schedule sufficient time and make diligent efforts to ensure that potentially interested parties are identified and notified and have an opportunity to provide input in a manner that could have a practical influence on proposed FLETC actions before decisions are made. The FLETC shall make information on NEPA activities available to the public through a variety of notification methods including, but not limited to, the Federal Register, newspaper notices, website postings, and other media as appropriate, and the FLETC public website (<https://www.fletc.gov/public>). Specifically for a draft or final EIS, a NOA)

is published in the Federal Register (see Section V, Part D (8)).

2. In general, collaboration and public involvement in NEPA activities include the following three key elements: (1) seeking information from outside parties to help identify relevant issues; (2) presenting the results of an environmental impact evaluation for public review or comment, including a description of how the identified relevant issues were considered in the evaluation; and (3) providing a public notice of the FLETC's final decision, including consideration of relevant public comments.

J. Public Involvement Requirements.

1. Projects at the FLETC are normally confined to our campuses and the effects to the surrounding area, if any, are minimal. Public involvement efforts are tailored to the nature of the proposed action, the environmental impact issues of concern, and the characteristics of the individuals and communities to be reached.

2. The FLETC shall consider the following factors to determine the appropriate nature and extent of public involvement efforts for proposed actions:

- a. The size and type of the proposed action.
- b. Whether the proposed action is of international, national, regional, or local interest.
- c. The potential environmental impacts of the proposed action.
- d. Extent of previous environmental analysis for the proposed action and/or the geographical location where the action would occur.
- e. Extent of anticipated controversy over the potential environmental effects of the proposed action, based on the FLETC and DHS experience with similar proposed actions.
- f. Urgency of the proposed action.
- g. National security classification of the proposed action.
- h. The presence of Tribal, minority, or low-income populations that may be impacted by the proposed action.
- i. Other laws and requirements to protect the environment that may require public review; for example, a determination of conformity with a state air quality implementation plan may require public review.

K. Use of EP/HP Decision Support System (DSS).

1. It is the policy of DHS and the FLETC that the DSS is the System of Record for NEPA documentation to include CATEX, RECs, EAs, EISs, FONSIIs, and RODs, as well as associated documents.

L. Activities Requiring Notification to SEP. Consultation with SEP for any EP/HP activities undertaken by or for the FLETC is encouraged. In particular, actions involving other Federal or state agencies, local or county governments would benefit from advice and guidance from SEP. Notification to SEP on coordination activities with CEQ or the Advisory Council on Historic Preservation (ACHP) should be automatic as part of the process. The FLETC shall notify

SEP if any NEPA actions meet any of the criteria listed in DHS Instruction Manual 023-01-001-01, Revision 1, Section IV, Part C.

M. DHS Component Collaboration. Because the training mission of the FLETCs is unlike the other components within DHS, collaboration with other DHS components is rare. When collaboration is necessary, for example the need for Family Housing at the Artesia FLETC, the collaboration is initiated and directed through SEP. If collaboration is not initiated by SEP then the FLETC EPPM should advise SEP and request assistance and/or guidance. Occasionally the FLETC EPPM or staff may be requested to review component NEPA documentation.

N. Review Process for Other Agency NEPA Documents.

1. The FLETC EPPM shall, when requested, review and comment on NEPA documents provided by non-DHS agencies (Federal, Tribal, State, or local) when the proposed action may impact the FLETC mission, operations, or facilities, or when the FLETC or DHS has subject matter expertise or legal authorities relevant to the proposed action. When such requests are received, the EPPM shall provide written notification to SEP prior to issuing any comments to the requesting agency.

2. Comments are confined to matters within the jurisdiction or expertise of the FLETC. These include homeland security, law enforcement training, and facilities/emergency management. DHS components normally do not comment on aspects of a NEPA document provided by a non-DHS agency other than what is needed to appropriately reflect DHS and the FLETC authorities or mission interests.

3. Components notify SEP of requests for comment on NEPA documents from non-DHS agencies that meet the criteria in Instruction Manual 023-01-001-01, Revision 1, Part C.

O. Dispute Resolution. Dispute resolution between the FLETC and another Federal agency, Tribal, State or local government or the public is a very rare occurrence. Well over 99 percent of all NEPA actions undertaken by the FLETC since implementation of DHS MD 023-01 have been actions uniquely and singularly by and for the FLETC. Should a dispute arise that would require resolution, the DHS Management Directive and Instruction Manual have very specific guidance that shall be followed (Instruction Manual 023-01-001-01, Revision 1, Section IV, Part E).

P. Compliance Monitoring.

1. FLETC will monitor and assess compliance with this Directive and the DHS Directive 023-01 Rev 1 and Instruction Manual 023-01-001 Rev 1, including reporting of NEPA performance to Director SEP.

2. As discussed previously the FLETC is a diverse organization both geographically and structurally and assurance of capturing all of the EP/HP activities to verify compliance requires a multifaceted approach. The Environmental Specialist at each FLETC facility is relied upon to maintain a situational awareness of all new and on-going programs, initiatives, and actions at their respective base of operation. This network along with the EPPM and the Chief and Assistant Chief of ESD shall insure a presence at meetings, planning sessions, and discussions regarding the day-to-day activities and future plans.

3. A second method in this faceted approach is a requirement for the project managers and proponents across the FLETC to complete a request for Environmental Consideration

for each action or task as part of their internal protocols and procedures. These requests are forwarded to the NEPA Specialist in ESD for consideration and action.

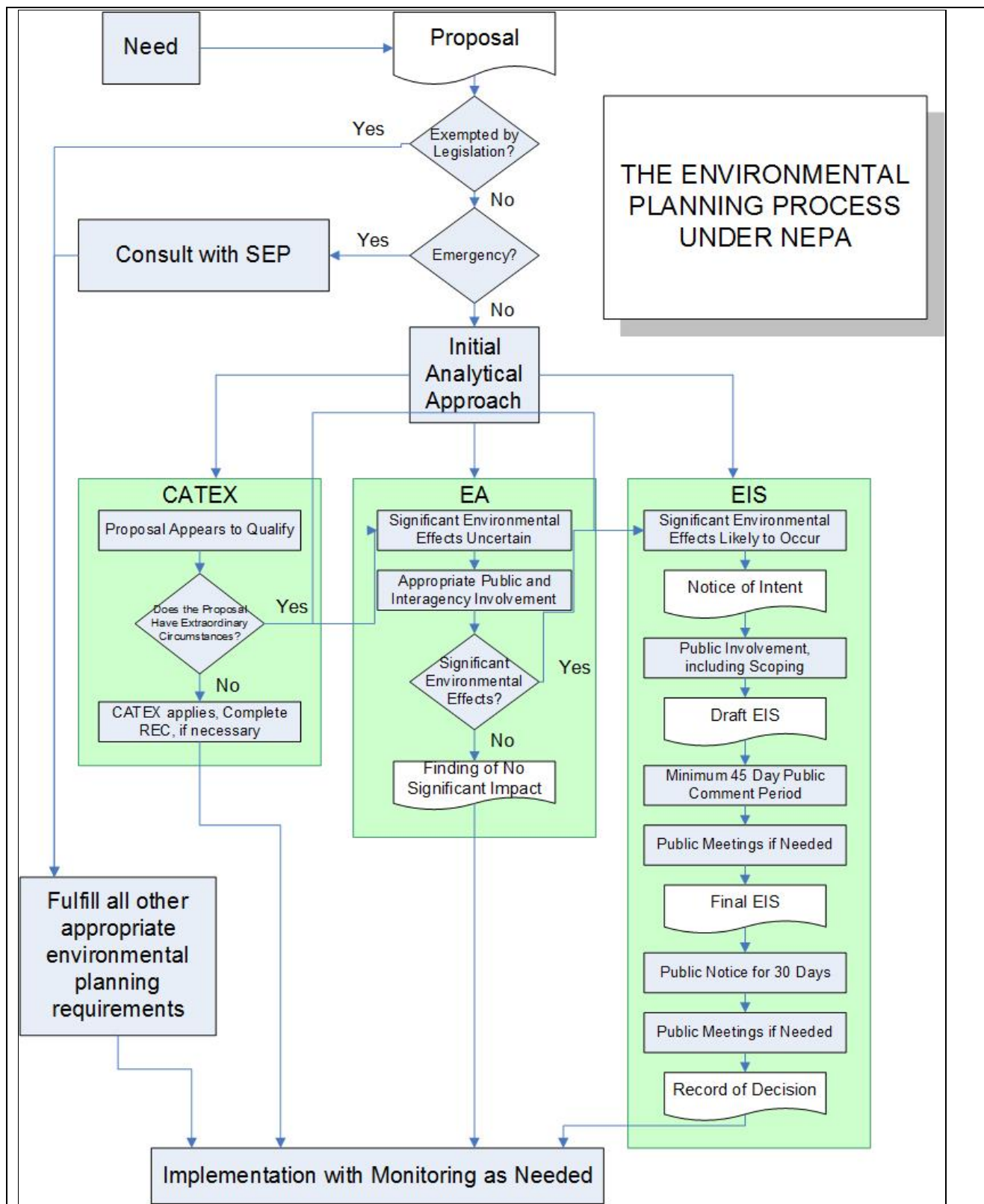
4. A third facet is the Procurement Division Checklist. Before any real estate action or construction award will be processed, a checklist must be completed as part of the procurement process. An integral portion of the checklist addresses the requirement for documentation of EP/HP consideration for each action. It is the policy of the FLETC and Procurement Division that no procurement action of these types will be completed until the checklist is finalized.

5. The recurring, external environmental audits are an independent method of evaluating the accuracy and completeness of this faceted approach. The audits review the FLETC NEPA compliance as well as the overall environmental programs at each facility.

6. A general NEPA/EPHP training program will be created for FLETC personnel such as contracting officer and project managers, with a requirement of the initial training and bi-annually, thereafter. Organizational supervisors are responsible for obtaining the necessary initial and continuing education training for their employees, to allow them to perform their duties.

Q. NEPA Related Reporting. It is the responsibility of the FLETC EPPM and the NEPA Specialist in ESD to respond in a timely fashion to any data calls and request from SEP, CEQ, or ACHP. The NEPA Specialist shall attend all SEP EP/HP and Environmental Justice meeting either in-person or by teleconference, if available. The NEPA Specialist will monitor and compile EP/HP workflow and make the data available as requested. The EPPM is responsible for the complete and timely completion of the quarterly performance metrics as related to EP/HP.

R. Delegation of NEPA Approval Authority. The DAD, MRSD has been given the delegated authority by SEP to approve and sign NEPA documents on behalf of the FLETC. When the DAD, MRSD is on TDY or leave, an acting DAD is appointed through the MRSD Order of Succession and is notified by email. In the event that a NEPA document REC requires approval and signature prior to the return of the DAD, the acting DAD, MRSD would be added to the project team in DSS and notified of the requested approval.



NEPA CHECKLIST

INSTRUCTIONS	
Information to complete this form is needed from both the proponent office and environmental protection specialists. The environmental impact information provided in this checklist must include the full life-cycle of the Proposed Action, to the extent that the stages of the life-cycle are reasonably foreseeable and sufficiently developed to make an environmental analysis possible at this time. Any connected or related activities that are needed for the Proposed Action to be effective, or that need this Proposed Action to be effective, must also be included in the environmental impact evaluation. Provide quantitative information where appropriate; discuss alternatives, if appropriate; and provide relevant supporting documents (e.g., maps, photographs, correspondence, reports, etc.). For questions about this checklist and/or the NEPA process, please contact your Site's Environmental and Safety Specialist.	
SECTION I – Description of Proposed Action	
1. Name of Component and Program/Office Authorizing the Proposed Action:	
2. Title of Proposed Action:	
3. Identifying Number of Proposed Action (if available):	
4. Estimated Start Date and Useful Life of Proposed Action:	
5. Location of Proposed Action:	
6. Description of Proposed Action, including its purpose and need and any related or connected actions. You may include as attachments, maps, photographs, diagrams, or other information that may assist with the description.	
SECTION II – Analysis of Extraordinary Circumstances	
7. <input type="checkbox"/> Proposed Action is not a piece of a larger action. <input type="checkbox"/> Proposed Action a piece of a larger action.	
8. For A through K, check the appropriate box and provide an explanation when appropriate. Include a summary of any coordination or consultation that occurred with a resource or regulatory agency, if relevant.	
<input type="checkbox"/> Yes	<input type="checkbox"/> No A. Will the Proposed Action have a potentially significant effect on public health or safety? Remarks:
<input type="checkbox"/> Yes	<input type="checkbox"/> No B. Will the Proposed Action have a potentially significant effect on species or habitats protected by the Endangered Species Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, or Magnuson-Stevens Fishery Conservation and Management Act?

Remarks:

<input type="checkbox"/> Yes <input type="checkbox"/> No	C. Will the Proposed Action have a potentially significant effect on a district, highway, structure, or object that is listed or eligible for listing on the National Register of Historic Places (NRHP)? Will the Proposed Action have a potentially significant effect on a historic or cultural resource, traditional or sacred site, or result in the destruction of a significant scientific, cultural, or historic resource?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	D. Will the Proposed Action have a potentially significant effect on an environmentally sensitive area?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	E. Will the Proposed Action result in the potential violation of a Federal, State, or local law or requirement imposed to protect the environment?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	F. Will the Proposed Action have an effect on the quality of the human environment that is likely to be highly controversial in terms of scientific validity, likely to be highly uncertain, or likely to involve unique or unknown environmental risks?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	G. Will the Proposed Action employ new or unproven technology that is likely to involve unique or unknown environmental risks, where the effect on the human environment is likely to be highly controversial in terms of scientific validity?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	H. Will the Proposed Action establish a precedent for future actions that have significant effects?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	I. Is the Proposed Action significantly greater in scope or size than normally experienced for its particular category of action?

Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	J. Will the Proposed Action employ new or unproven technology that is likely to involve unique or unknown environmental risks, where the effect on the human environment is likely to be highly controversial in terms of scientific validity?
Remarks:	
<input type="checkbox"/> Yes <input type="checkbox"/> No	K. Is the Proposed Action related to other actions with individually insignificant but cumulatively significant impacts.
Remarks:	
L. Provide the Alternatives to the Proposed Action that were considered in the planning process. The No Action Alternative must be included.	
Remarks:	
SECTION III – Conditions	
9. The following conditions are required to implement this Proposed Action: <ul style="list-style-type: none"> Any change to the Proposed Action requires re-evaluation for compliance with NEPA before the action can proceed. This review addresses NEPA and requirements under other environmental planning requirements that are integrated into the NEPA process. This review may identify the need for additional Federal, State, and/or local permits, approvals, etc. required for the Proposed Action. However, this review may not satisfy those requirements and the Proponent is responsible for ensuring that all appropriate Federal, State, and/or local permits, approvals, etc. have been obtained. [Add action-specific conditions as necessary, e.g.,: If ground disturbing activities occur during action implementation, the Proponent will monitor ground disturbance and if any potential archeological resources or human remains are discovered, will immediately cease work in that area and notify _____.] 	