

Date: 05/31/12



## Environmental Management Consolidated Business Center (EMCBC)

### Subject: EMCBC or Service Level Agreement (SLA) National Environmental Policy Act (NEPA) Environmental Impact Statements (EIS) Process

Implementing Procedure

APPROVED: \_\_\_\_\_  
EMCBC Director

ISSUED BY: Office of Technical Support &amp; Asset Management

#### 1.0 PURPOSE

The purpose of this procedure is to document the a systematic approach for the preparation, review, and approval of National Environmental Policy Act (NEPA) Environmental Impact Statements (EISs) and Records of Decision (RODs) for actions under the purview of the EMCBC or SLA Sites. An EIS should address all technical issues in an appropriate level of detail commensurate with potential impacts, in order to support issuance of a ROD.

#### 2.0 SCOPE

The scope of this procedure is to provide a systematic approach to prepare, review, approve, revise, and distribute an EIS.

#### 3.0 APPLICABILITY

This procedure is applicable to EMCBC/SLA personnel and contractors who deal with drafting, reviewing, or approving EISD, NOIs, EISs, MAPS, or RODs, for actions that are the responsible of EMCBC/SLA Sites.

#### 4.0 REQUIREMENTS and REFERENCES

- 4.1 DOE NEPA Compliance Program, DOE Order 451.1B, June 25, 2010.
- 4.2 NEPA, 1969 (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982).
- 4.3 Council on Environmental Quality (CEQ) "Regulations for Implementing NEPA," 40 CFR Parts 1500 through 1508.
- 4.4 DOE "NEPA Implementing Procedures," 10 CFR Part 1021.
- 4.5 DOE "Compliance with Floodplains and Wetlands Environmental Review Requirements," 10 CFR Part 1022.

- 4.6 “Implementation Guidance for the DOE Policy on Documentation and Online Posting,” Office of NEPA Policy and Compliance (May 25, 2010).

## 5.0 DEFINITIONS

- 5.1 Glossary of Terms used in DOE NEPA Documents dated September 1998, located at [http://energy.gov/sites/prod/files/NEPA\\_Glossary%2008\\_2011.pdf](http://energy.gov/sites/prod/files/NEPA_Glossary%2008_2011.pdf)
- 5.2 DOE “NEPA Implementing Procedures,” 10 CFR Part 1021.104 definitions, located at [http://ceq.hss.doe.gov/nepa/regs/nepa1021\\_rev.pdf](http://ceq.hss.doe.gov/nepa/regs/nepa1021_rev.pdf)

## 6.0 RESPONSIBILITIES

### 6.1 EMCBC / SLA DIRECTOR

EMCBC Director or SLA Federal Project Director has the responsibility for matters under their purview to:

- 6.1.1 Concur with EIS determinations.
- 6.1.2 Designate a DOE NEPA Document Manager (NDM) at the start of each environmental impact statement. Delegate NDM designation as appropriate.
- 6.1.3 When another agency is involved in preparation of an EIS, determine whether DOE should be a lead or cooperating agency.
- 6.1.4 Concur with Draft and Final EISs.
- 6.1.5 Concur with and sign ROD.
- 6.1.6 Coordinate with EM HQ NCO and Office of NEPA Compliance to receive appropriate HQ approvals.

### 6.2 NEPA Compliance Officer (NCO)

- 6.2.1 Starts the EIS process after a signed determination.
- 6.2.2 As delegated, designate a DOE NEPA Document Manager (NDM) at the start of each environmental impact statement. This shall be done in consultation with the Director of EMCBC and the site Federal Project Director or Program Manager of the program proposing the specific DOE action.
- 6.2.3 Notify the Office of NEPA Policy and Compliance promptly - generally, within two weeks of:

- (a) A determination to prepare an EIS.
- (b) The designation of a NDM.

6.2.4 Participate as a primary member of the NEPA Review Team along with the NDM and technical representative of the program sponsoring the proposed action. Determine the need to incorporate additional DOE representatives onto the Team.

6.2.5 Review and concur on Notices of Intent (NOIs), Notices of Availability (NOA), EISs, RODs, and Mitigation Action Plans (MAPs).

6.2.6 Participate in the review of contractor Task Order proposals and the selection of the successful offeror for the preparation of an EIS.

6.2.7 Participate in the compliance with the Task Order Statement of Work (SOW) as it relates to completion of the EIS.

6.2.8 Provide the Office of NEPA Policy and Compliance, within two weeks of their availability, two hard copies and one electronic file of:

- (a) An approved draft or final environmental impact statement.
- (b) A record of decision for an environmental impact statement.
- (c) A mitigation action plan and corresponding annual mitigation report. The mitigation report may be submitted on the anniversary of a mitigation action plan or in a combined report; for example until mitigation is completed.
- (d) An environmental impact statement supplement analysis and any determination based on it.

6.2.9 Delegate responsibility to other NCOs, if appropriate.

6.2.10 Report to the Office of NEPA Policy and Compliance on lessons learned after completing each EIS.

### 6.3 Contracting Officer (CO)

6.3.1 Receives project – related deliverables.

6.3.2 Participates in the review of contractor Task Order proposals and the selection of the successful offeror for the preparation of an EA.

6.3.3 Ensures contractor compliance with the Task Order Statement of Work (SOW) through completion.

6.4 Contracting Officer's Representative (COR)

- 6.4.1 Develops NEPA Task Order SOW with NDM, NCO, and other NEPA Project team members.
- 6.4.2 Participates in the review of contractor Task Order proposals and the selection of the successful offeror for the preparation of an EIS.
- 6.4.3 Ensures contractors compliance with the Task Order SOW through completion.

6.5 NEPA Document Manager

- 6.5.1 Establish a team (NEPA Review Team), representing all necessary DOE Elements to plan, assist in preparing, and concurrently review EIS documents. The Team shall include the NDM, EMCBC NCO, and EMCBC/SLA representatives who are fully knowledgeable about the proposed action. The team may include additional staff per the EMCBC NCOs discretion.
- 6.5.2 Conduct an early internal scoping process.
- 6.5.3 Maintain tracking systems to monitor costs of and adherence to the schedule for the NEPA process.
- 6.5.4 Manage the EIS document preparation process, including the NEPA Review Team's review, of internal drafts for technical adequacy, controlling cost, and maintaining schedule.
- 6.5.5 Lead, encourage, and facilitate public participation through the NEPA process (see Appendix F – Public Participation Plan).
- 6.5.6 Prepare cover memorandum to accompany the EIS determination request document, NOI, ROD, NOA, and MAP through the EMCBC NEPA concurrence chain.
- 6.5.7 Prepare the NOI with support from the NEPA contractor.
- 6.5.8 Ensure that the EIS determination, ROD, and MAP contain the appropriate level of NEPA review, the description of the proposed action is accurate, and the document is otherwise adequate.
- 6.5.9 Participate in the review of contractor Task Order proposals and the selection of the successful offeror for the preparation or an EIS.
- 6.5.10 Develop "Lines of Inquiry" for potential post-NEPA monitoring.

6.6 Contractor

6.6.1 Prepares EISD when requested by the COR.

6.6.2 Submits an Organizational Conflict of Interest (OCI) statement to the CO prior to the awarding of the work. The contractor selected must not have an interest in the outcome of the project.

6.7 Office of Legal Services (OLS)

6.7.1 Reviews and concurs on the EAD and Environmental Questionnaire and identifies any potential legal issues.

6.7.2 Reviews and concurs on EIS

6.8 NEPA Project Team

6.8.1 Reviews and concurs on EISD request, EIS, RODs, and MAPs.

6.8.2 NEPA Project Team. The project team is assembled by the NDM. Members of the project team could include:

- EMCBC/SLA Program/Project Manager;
- EMCBC/SLA NCO or representative designated by NCO;
- EMCBC/SLA Counsel (OLS);
- EMCBC/SLA and/or Contractor Community/Public Relations Specialist;
- Site Contractor Program/Project Manager;
- Site Contractor Project/Design Engineer;
- NEPA Contractor Project Manager;
- Contractor Environmental / NEPA Specialist; and
- Other Environmental and Technical Specialist from EMCBC/SLA. Depending on the complexity, degree of public concern or the level of controversy regarding an action, the NDM may decide to include the HQ Program Manager as a representative on the project team.

## 7.0 PROCEDURE

### 7.1 Environmental Impact Statement / Record of Decision Process

An EIS is an assessment document that generally includes considerably more analysis and public review than an EA. The decision document resulting from an EIS is a ROD. The steps involved in the preparation of an EIS are shown in the flowchart.

7.1.1 EMCBC Director or SLA Federal Project Director in consultation with the EMCBC NCO shall identify an NDM to support the approved EIS determination. The NDM shall maintain an Administrative Record (AR) throughout the EA process (see Section 7.1.16).

#### 7.1.2 Conduct Internal Scoping

The purpose of internal scoping for an EIS is to identify the preliminary issues related to the proposed action and to establish the project team that will guide the preparation of the EIS. The scoping process should involve a team representing all necessary departmental elements. The NDM will conduct internal scoping early in the EIS process, following EMCBC Director/SLA Federal Project Director concurrence and signature of the EIS determination, and it should precede the public scoping process that begins with publication of an NOI.

7.1.2.1 The NDM shall form a NEPA Review Team to carry out the NEPA process from start to finish. This team should include the EMCBC NCO and EMCBC/SLA Project Manager who are fully knowledgeable about the proposed action. The team will include representatives of the EMCBC Office of Legal Service. The team will ensure that the project takes into account all relevant programmatic, policy, and legal considerations.

7.1.2.2 Develop a proposed schedule for the preparation of the EIS. Ensure that the schedule provides for the completion of a Final EIS within 15 months of the NOI posted in the Federal Register. Maintain a tracking system to monitor compliance with the schedule.

7.1.2.3 Identify reasonable alternatives to the proposed action. Develop a public participation plan to encourage and facilitate public participation throughout the NEPA process (see Appendix f – Public Participation Plan).

7.1.3 The EMCBC NCO will promptly notify, generally within two weeks, the Office of NEPA Policy and Compliance of the determination to prepare an EIS and request to obtain an official document ID (DOE/EIS) number.

7.1.4 The EMCBC NCO or designee shall notify the host state and host tribe of a determination to prepare an EIS, and may notify any other state or American Indian tribe that, in DOE's judgment, may be affected by the proposal.

7.1.5 Prepare and Issue NOI

The NDM (with support from NEPA contractor, if applicable) will submit an NOI to prepare an EIS for publication in the Federal Register. Guidance on preparing an NOI can be found in 10 CFR Part 1021, Section 311, "Notice of Intent and Scoping." After approval by EMCBC Director, in coordination with HQ NEPA it will be submitted to the Federal Register. A typical NOI contains the following sections:

- Agency
- Action: NOI to prepare an EIS
- Summary
- Invitation to Comment
- Address where to send comments or requests to speak at scoping meetings
- Date: Deadline for comments or requests
- Background Information
- Description of Proposed Action
- Alternatives Proposed for Consideration
- Identification of Environmental Issues
- Related Documentation
- Information regarding planned Scoping Meetings

7.1.6 Initiate Consultation Process

The NDM will consult, when necessary, with the U.S. Fish and Wildlife Service; the U.S. Army Corps of Engineers and appropriate state agencies under Section 404 of the Clean Water Act, and with the State Historic Preservation Offices under Section 106 of the National Historic Preservation Act consultations to identify potential environmental consequences of a proposed action. Depending on the scope of work and site location, other federal and state agencies may need to be consulted. Formal, government-to-government consultations are required with potentially impacted tribes, or if requested. NDM and NCO will seek the cooperation of other potentially interested agencies, including Federal, State, local tribal and non-governmental entities if they have jurisdiction under law or special expertise related to the evaluation of the proposal.

### 7.1.7 Public Scoping Process

The purpose of public scoping as part of the EIS process is to give the public the opportunity to provide input on the scope of issues to be addressed in the EIS and to identify significant issues related to the proposed action. The requirements and recommendations for the EIS public scoping process are presented in Appendix F, the Public Participation Plan.

7.1.7.1 Publication of the NOI in the Federal Register begins the scoping process for an EIS.

7.1.7.2 The scoping process for an EIS shall allow a minimum of 30 days from the date the NOI is published for the receipt of comments. DOE requires at least one scoping meeting for an EIS. At least 15 days must be allowed after public notification before a scoping meeting may be held.

7.1.7.3 The NDM, in consultation with NCO:

7.1.7.3.1 Ensures that at least one public scoping meeting is held and that the scoping process is in accordance with the CEQ regulations, and DOE NEPA rules (see Section 4 above).

7.1.7.3.2 Participates in community outreach and public information activities meetings with interested environmental groups and affected individuals. Ensures that the project is diligent in its effort to involve the public.

7.1.7.3.3 Ensures that a mailing list of all interested individuals and groups is started early in the EIS preparation process and maintained throughout the process.

7.1.7.3.4 Reviews the qualifications of the Community Relations or Public Information Specialist the contractor assigns to the task of organizing meetings.

7.1.7.3.5 Reviews the scoping meeting locations for adequate room and security.

7.1.7.3.6 Reviews the task descriptions of each person involved in holding the meeting, ensuring that there are media coordinators, speaker sign-up attendants, information table attendants, a meeting moderator, a recorder or court reporter, setup assistance, and an overall meeting manager in charge of all aspects of the meeting.

- 7.1.7.3.7 Provides liaison support between the EIS contractor and DOE project personnel in scheduling the scoping meetings.
- 7.1.7.3.8 Attends the scoping meetings and/or participates as a panel member accepting comments on the proposed project.
- 7.1.7.4 The results of the scoping process are reviewed after the close of the scoping period. The NEPA Review Team will:
  - 7.1.7.4.1 Review all written and oral public comments submitted from the scoping period.
  - 7.1.7.4.2 Participate in resolving public comments and in developing the scope of the EIS and the alternatives that will be addressed in the EIS.

#### 7.1.8 Preparation of a Preliminary Draft EIS

The NDM will manage preparation of the Preliminary Draft EIS that provides a complete analysis of all data, impacts of the proposed action and alternatives, and recommended mitigation, if necessary, in compliance with CEQ and DOE NEPA Implementing Regulations (40 CFR 1500 through 1508 and 10 CFR Part 1021). The Preliminary Draft EIS should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by DOE and the public. The EIS should also address all technical issues in an appropriate level of detail commensurate with potential impacts (i.e., A graded approach), in order to determine whether a ROD can be issued.

The Preliminary Draft EIS should include a description of the location of the action, figures depicting project location, the proposed action and alternatives, identification of the preferred alternative or alternatives, if one or more exists, a succinct description of the environment of the area(s) to be affected or created by the alternatives under consideration, and a discussion of the environmental impacts of the alternatives including the proposed action. The EIS should also include appropriate mitigation measures not already included in the proposed action or alternatives.

The EIS should be prepared in accordance with the Recommendations for the Preparation of Environmental Assessments and Environmental Impact Statements, second edition, December 2004, [greenbook.pdf](#)

### 7.1.9 Conduct Internal Review of Preliminary Draft EIS

Upon completion of a Preliminary Draft EIS, the NDM shall forward the document to the NEPA Review Team for internal review. The NDM will oversee the internal review process. As applicable, the Preliminary Draft EIS should also be provided to cooperating agencies for review and comment. The document is reviewed to ensure the following elements are included:

- A clear statement of DOE's Purpose and Need, a complete description of the Proposed Action, and a project description which includes any relevant background information;
- A description of reasonable alternatives to the proposed action under consideration, and a description of alternatives considered and rejected;
- A description of the No Action alternative;
- A description of the existing/affected environment at the location of the action;
- An analysis of any potential environmental impacts associated with the proposed action and the alternatives;
- A section on permit compliance that identifies any permits that will be required in order to perform the action;
- A listing of agencies and persons consulted; and
- Review for grammar, spelling, and format;
- Review comments are returned to the NDM.

### 7.1.10 Prepare Concurrence Draft EIS

The NDM will manage preparation of the Concurrence Draft EIS. The Concurrence Draft EIS will incorporate all NEPA Review Team and cooperating/interagency comments received on the Preliminary Draft EIS and address any outstanding data or analysis issues within the Preliminary Draft EIS. After a thorough review to ensure that all comments and/or outstanding issues were addressed the NDM will prepare a Draft EIS package for distribution to the public, including transmittal letters and the Concurrence Draft EIS, and shall forward the package to the Project Manager, EMCBC OLS, and EMCBC Director/SLA Federal Project Director for review and/or approval. Any comments shall be reviewed with the NCO prior to finalizing the Concurrence Draft. As necessary, the NCO

shall lead discussions with commenters to resolve any disagreements over recommended edits. EMCBC Director/SLA Federal Project Director and OLS shall provide written approval (via e-mail or other written correspondence) to the NDM indicating its concurrence with the EIS prior to it being distributed for public comment.

#### 7.1.11 Publish Draft EIS

The NDM is responsible for distribution of the Draft EIS once GC concurs with the Draft EIS. The NDM must use appropriate means to publicize the availability of the DEIS. The NDM may distribute Notice of Availability (NOA) postcards advising of the availability of the Draft EIS, identifying the website where the document can be reviewed, specifying the comment period, and providing the NDMs contact information. Also upon OLS concurrence, the Director of the EMCBC will sign the transmittal letters approving the DEIS for release for public comment and forward a copy of the DEIS along with the NOA to the U.S. Environmental Protection Agency (EPA) for publication in the Federal Register.

#### 7.1.12 Public Meeting

The public and interested agencies will have at least 45 days to review and comment on the DEIS. Regulatory requirements and recommendations for public participation activities related to the DEIS are presented in Appendix E, the Public Participation Plan and Section 5 of Effective Public Participation under the National Environmental Policy Act.

7.1.12.1 CEQ regulations require that at least one public meeting be held during the public review period for EISs. Comments from this (ese) meeting(s) must be considered along with any written comments received on the DEIS.

7.1.12.2 If the EIS is for a proposed rule, DOE will normally combine any public hearings required for that proposed rule with the public meetings required for a draft EIS.

#### 7.1.13 Consider Public Comments and Prepare Final EIS Concurrence Package

7.1.13.1 Upon receipt of comments from States, American Indian tribes, and other interested members of the public, whether written or oral, the NDM shall revise the document to respond to the comments. A summary of all of the comments and how they were

resolved must be prepared and incorporated into the Final EIS (FEIS). The Program Manager's designee and NCO should provide whatever assistance is requested.

7.1.13.2 The revised EIS should be forwarded to the NEPA Review Team. The Review Team will ensure the Concurrence FEIS incorporates public comments and includes a section containing a response to public comments.

7.1.13.3 When the NEPA Review Team is satisfied with the revised EIS, the EMCBC NCO will forward it to EMCBC Director for approval, along with the draft ROD. If OLS has comments or questions during its final approval process, OLS will work with the NDM and EMCBC NCO to finalize the documents. In certain cases, approval by the Secretary of Energy may be required prior to sending the EIS and ROD to EPA.

#### 7.1.14 Publish and Distribute Final EIS

The NDM will make the FEIS available to the regulatory agencies and appropriate Stakeholders through the distribution of NOA postcards (normally within two weeks of approval) advising where the documents can be accessed. Hard copies of the FEIS should be distributed only if requested.

7.1.14.1 The NDM will coordinate with EPA to ensure that the NOA for the FEIS will be published in the Federal Register

7.1.14.2 The NDM will provide electronic versions of the FEIS to the Office of NEPA Policy and Compliance for posting on the DOE's NEPA Website.

#### 7.1.15 Prepare Record of Decision

30-days after the FEIS NOA is published in the Federal Register, EMCBC in consultation with OLS will issue the ROD in the Federal Register.

The NDM in consultation with NCO:

7.1.15.1 Ensures that a ROD is prepared for publication in the Federal Register.

7.1.15.2 Participates in community outreach and public information activities such as meetings with interested environmental groups and exhibits. Ensure that the project is diligent in its effort to involve the public.

7.1.15.3 Ensures that a mailing list of all interested individuals and groups is maintained throughout the process and submitted into the administrative record.

7.1.15.4 Reviews the ROD to ensure compliance with the CEQ Regulations and the DOE NEPA Rule.

7.1.15.5 Reviews the ROD for overall quality and to ensure that it accurately summarizes the facts contained in the FEIS about the proposed action, alternatives, and decisions made concerning the alternatives.

7.1.16 The Project Manager in consultation with the EMCBC NCO will complete the “HQ Post Action NEPA Process Confirmation” form for signature by the EMCBC NCO and submittal to the Office of NEPA Policy and Compliance.

7.1.17 Develop Post-NEPA Lines of Inquiry

The NDM shall review any project proponent committed measures (whether or not included as part of the proposed project) or mitigation measures developed for the EA/Mitigation Action Plan to develop lines of inquiry that could be used to evaluate the proponent’s adherence to the commitments as part of any post-NEPA monitoring that could be conducted.

7.1.18 Compile Administrative Record (AR)

The NDM or EIS contractor will maintain an AR throughout the EIS preparation process. The AR should include, at a minimum:

- Correspondence with cooperating and consulting agencies,
- Documents related to key decisions,
- Meeting records,
- Input from the public,
- Written technical direction from EMCBC/SLA Federal POCs to contractors,
- Documentation on assumptions associated with alternatives,
- Data sources or data used to make assumptions for analysis,
- Personal communications that were used in the EA,
- Memoranda or rationale for any major changes to the EA or supporting analysis,
- Response letters to commenters,
- Public notices,
- Copies of all postal or delivery services records of delivery, and
- The decision document.

8.0 RECORDS MAINTENANCE

8.1 Records generated as a result of implementing this document are identified as follows and maintained in accordance with the Office of Technical Support and Asset Management File Plan:

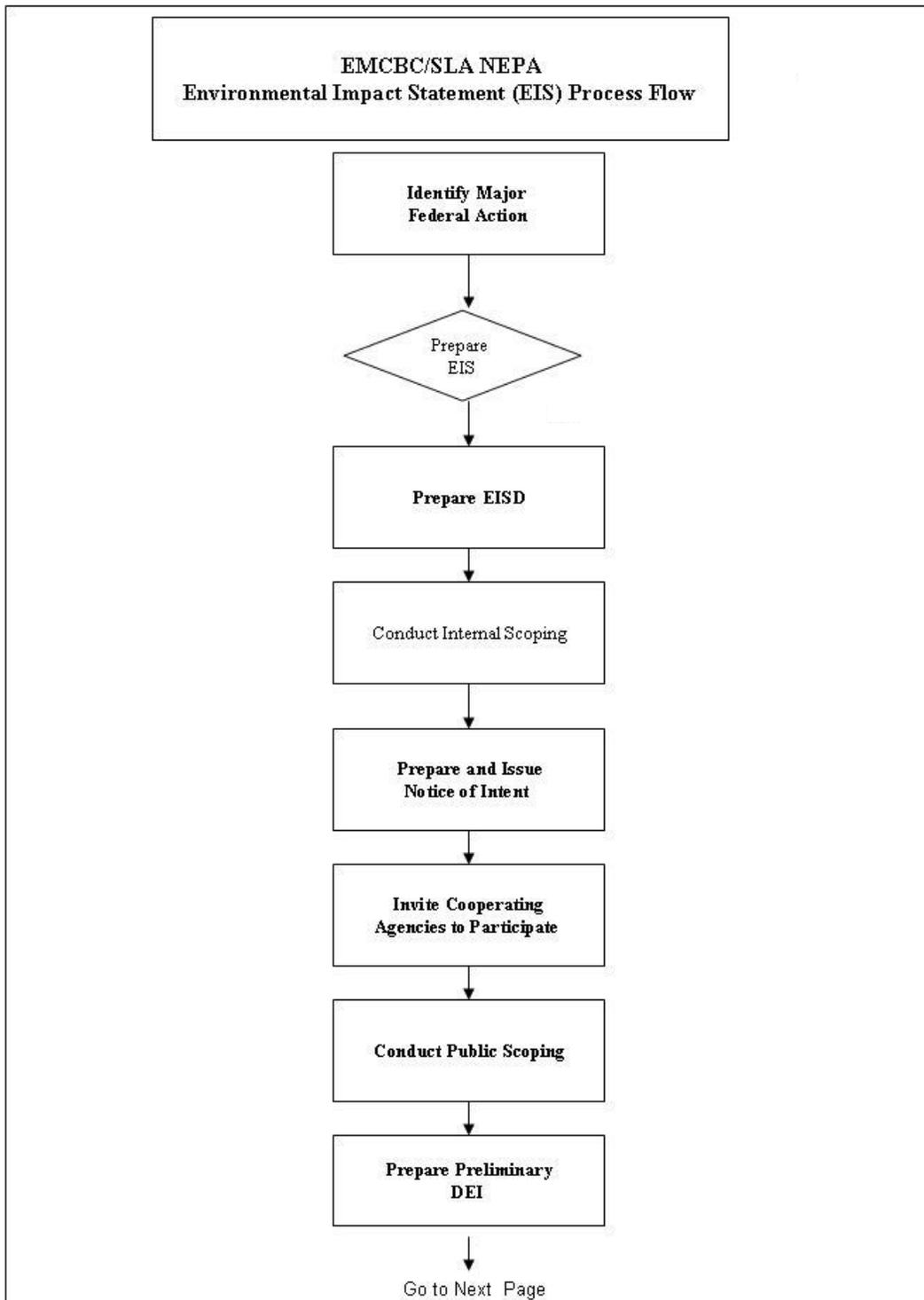
8.1.1 ENV 02-F-01C – National Environmental Policy Act - Environmental Impact Statement – Final Published Version

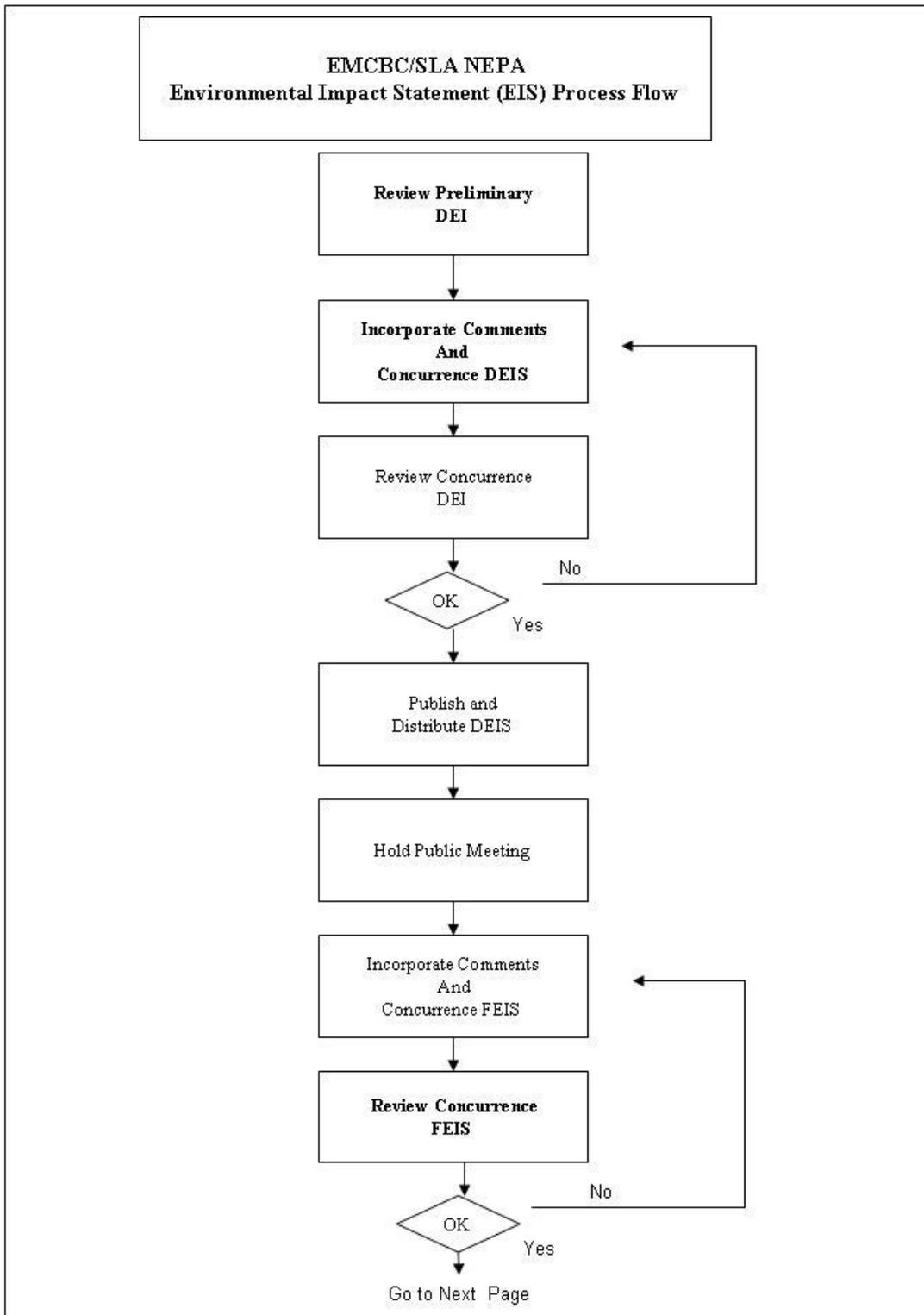
8.1.2 ENV 02-F-04 - National Environmental Policy Act Support Documentation

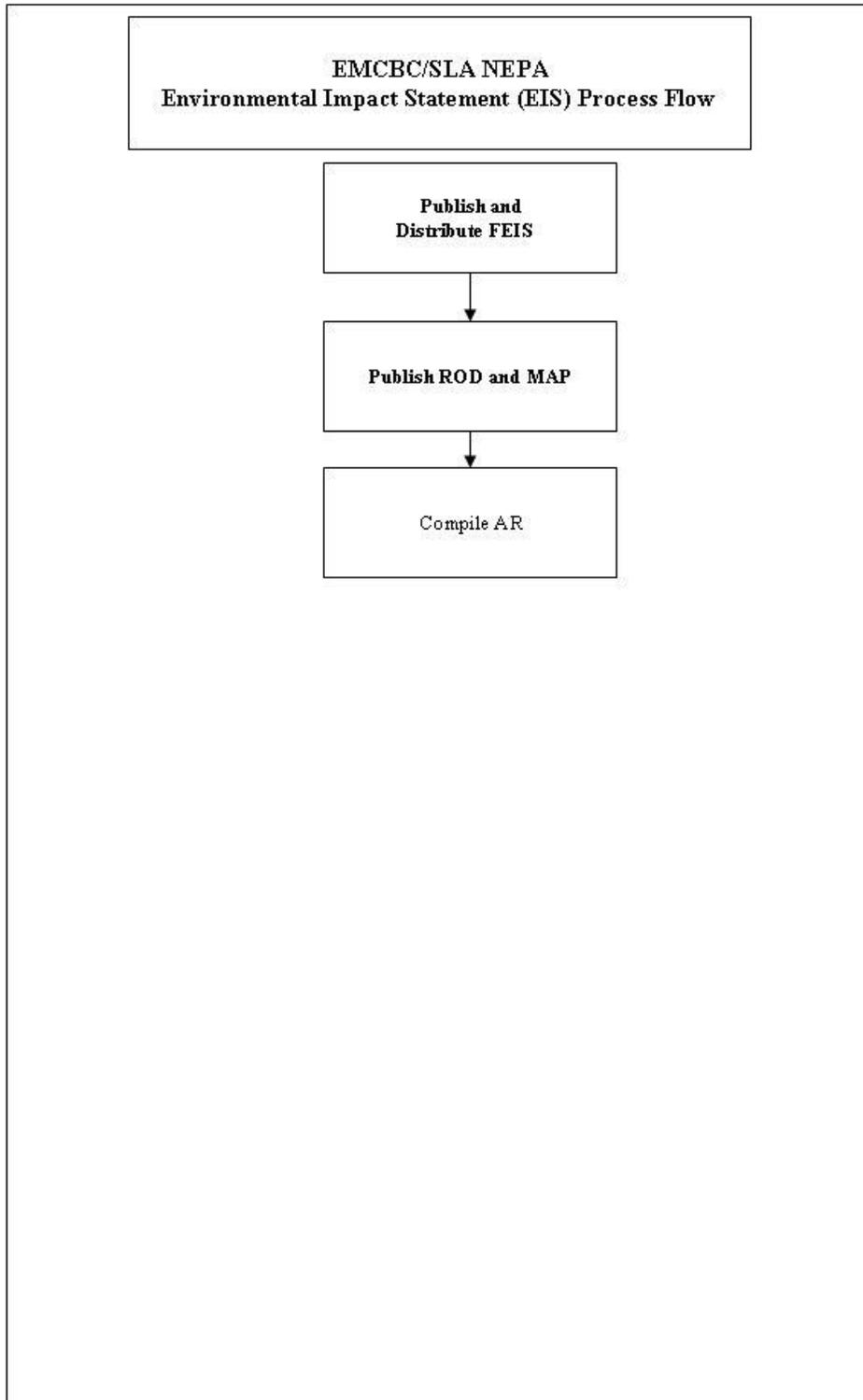
9.0 FORMS USED – N/A

10.0 FLOWCHART – EMCBC/SLA NEPA Environmental Impact Statement (EIS) Process

10.0 FLOWCHART







**EMCBC RECORD OF REVISION**

DOCUMENT - EMCBC or Service Level Agreement (SLA) National Environmental Policy Act (NEPA) Environmental Impact Statements (EIS) Process IP-451-05 Rev 2

If there are changes to the controlled document, the revision number increases by one. Indicate changes by one of the following:

- I Placing a vertical black line in the margin adjacent to sentence or paragraph that was revised.
- I Placing the words GENERAL REVISION at the beginning of the text.

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<b>Rev. No.</b>	<b>Description of Changes</b>	<b>Revision on Pages</b>	<b>Date</b>
1	Initial Procedure	All	06/02/08
2			xx/xx/12