

PolicyTrack Shooting Range Planning

The National Environmental Policy Act: Compliance Issues for Range Projects

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Introduction

The National Environmental Policy Act (NEPA) of 1969 established goals for the protection, maintenance and enhancement of the environment. NEPA requires all federal agencies, including the Department of Interior, to examine the environmental consequences of major proposed actions, such as building a new facility, and to incorporate public input into the decision-making process.

When using federal funds, NEPA requires the use of a systematic planning process to provide environmental impact information to federal, state, local, and Indian Nation officials, as well as citizens, before decisions are made to take major actions that may significantly affect the environment.

NEPA—Understanding the Process

Many laws, rules and regulations govern the use of federal money, including Wildlife Restoration funds generated by excise taxes on firearms, ammunition and archery equipment through passage of the Pittman-Robertson Act. Most Wildlife Restoration funds are granted to state wildlife agencies for approved purposes, such as land acquisition, wildlife research and management. States may use a portion of the funds for hunter education and shooting range projects, and in some cases, states provide these funds to third parties.

NEPA and other compliance requirements apply to federal funds, even when they are granted to states or third parties. In addition to NEPA, entities that use these funds must comply with all applicable and ancillary statutes and regulations, including but not limited to historic preservation laws, the Endangered Species Act, floodplain and wetland regulations, and non-discrimination laws. In this paper we will discuss NEPA in a broader sense, inclusive of these additional regulations.

The NEPA process is a planning tool for Federal Aid grant managers in regional Federal Aid offices and for state and third-party grant recipients. Preparation of NEPA documents is a cooperative process between the state and Federal Aid offices. When the process is finished, the documents become a decision tool for grant managers in the regional offices of the U.S. Fish and

During a 20-year career with the Ohio Division of Wildlife, Jim was involved with the construction, management and operation of numerous shooting ranges. During that time, he gained a working knowledge of federal aid and the National Environmental Policy Act. Mr. Wentz presently is a multimedia producer and consultant for numerous groups, including the National Shooting Sports Foundation, International Hunter Education Association, Tread Lightly!, Future Fisherman Foundation and U.S. Fish and Wildlife Service. Silvertip Productions is a focused company, serving the professional needs of resource managers and the outdoor recreation community.

Wildlife Service (Service). NEPA does not prevent the approval of projects that may have environmental impacts, but does ensure a process for making informed decisions with public input.

Three Methods of Complying With NEPA

There are three ways to comply with NEPA: Categorical Exclusions, Environmental Assessments, and Environmental Impact Statements. Each method will be discussed as it relates to hunter education and shooting ranges.

Categorical Exclusions (CE) include routine operations that do not individually or cumulatively have a significant impact on the human environment. The types of actions that normally qualify for CE include hunter education programs, the purchase of training aids (including firearms, ammunition, bows, targets, etc.), range rental and shooting simulators. Portable ranges and range improvements also may qualify.

Examples of range improvements that may qualify for CE include:

- adding handicapped accessible ramps, restrooms, benches or paths;*
- constructing new shooting benches; and*
- replacing firing line covers.*

Obtaining approval for a project to proceed as a CE is a deliberative process, aided by the use of a check-off form to ensure that all questions related to impacts are answered.

Range construction or expansion projects do not qualify for CE. These projects normally begin with the Environmental Assessment (EA) process. This paper considers range expansions to include projects that add additional types of ranges, or projects that expand capacity. Examples of range expansions include:

- adding a rifle range to a facility that currently includes only trap and skeet ranges;*
- adding firing points or additional trap and skeet fields to an existing facility; and*
- adding lights to a facility to allow nighttime shooting.*

The formal EA process starts with a proposed action. Internal planning occurs, followed by the EA planning and documentation process. In cooperation with the Service, the grantee prepares the EA for Federal Aid review and decision of finding. If appropriate, a finding of no significant impact (FONSI) is issued, and the project is allowed to proceed. If there are significant impacts associated with the project or if the project is controversial, the Service will require the preparation of an Environmental Impact Statement (EIS). An EIS is a more detailed document that follows more stringent procedures. Large projects, such as the development of a new national wildlife refuge, normally require an EIS.

Ultimately, an EA or EIS is a Service document, even if it is prepared by the grant recipient, and a Service decision is required before the project can be approved.

Speeding Up the Process

Past experience tells us the Environmental Assessment process can take two years, sometimes much more, for a shooting range project. There are a number of issues that can affect this.

First, range projects often are undertaken by personnel who have little previous experience with NEPA. It can be a steep learning curve. Initially, people may find guidance and procedures that appear contradictory. Two major causes for this are confusion over requirements meant for an EIS versus compliance requirements for an EA, and the interaction between state procedures and federal procedures for compliance and public review. These situations make it possible for a project leader to spend time on EIS requirements that are not necessary for an EA, or to overlook procedures, such as state intergovernmental reviews, that may later interrupt the compliance process. Project leaders can learn a lot by reviewing previously completed EAs, and by talking to grant managers in the Regional Federal Aid offices. People within the state agency who have worked on other NEPA projects are valuable sources of help as well.

It is vitally important to coordinate the NEPA process with Service personnel in the Regional Federal Aid office. Service personnel can provide technical assistance and guidance to help make the compliance process more effective and efficient.

Format for an Environmental Assessment

The Service has standardized formats for NEPA documents. The following sections are those needed for documenting an EA.

Purpose and Need for Action

This section defines what problem, need or opportunity is to be addressed by the project.

Alternatives

This section describes options for meeting the need described in the first section. An EA will contain at least two alternatives: the preferred action, and the no-action or null alternative. Shooting range projects may examine any number of additional alternatives, such as building ranges at different locations.

Affected Environment

This section briefly describes existing environmental conditions at the site(s).

Environmental Consequences

This is an important part of the EA. This section provides a scientific basis for the comparisons of impacts of each alternative. Project leaders must evaluate the direct, indirect and cumulative impacts. Direct impacts are caused by the action and occur at the same time and place. Indirect impacts are foreseeable but further removed in time or distance from the action. Cumulative impacts result from individually minor but collectively significant actions taken over a period of time. Deficiencies in this part of the process are common causes for litigation.

Summary of Impacts by Alternative

This section is presented in table format for an easy comparison of each alternative and the related impacts.

Maps and Illustrations

This section normally contains topographic maps, and maps showing property boundaries, regional roads and highways.

List of Agencies and People Involved

This section is self-explanatory.

Public Involvement and Public Review

Effective public involvement is critical to the NEPA process and may include public notices, posters in the vicinity of the proposed range, targeted mailings, news releases and public meetings. Project personnel should obtain comments from all potentially affected interests, including people who live near the proposed facility, local politicians and others. The method of informing the public and inviting comments sometimes has created controversy about projects in the past. One key is for project personnel to make personal contact with nearby residents before they have a chance to hear about the proposal from other sources. Once the people who are most likely to be affected have been notified, the other methods can be employed (e.g., public notices, posters in the vicinity of the proposed range, targeted mailings and news releases).

Public involvement helps to identify potential impacts, sources of controversy and possible solutions for negative impacts. This is an essential part of an effective planning process. Shooting range issues that generate the most public concern include sound, safety, environmental concerns over lead management and traffic.

Public review is a process for reviewing documents and plans at the local, state and national levels. State procedures vary, but may involve two or more 90-day review periods for various planning commissions and government entities. At the federal level, there normally is a 30-day public review period for the EA. There may be another 30-day review period for a FONSI if there is significant controversy, the action is without precedent or the work is located in a wetland or floodplain.

Budgets, Project Proposals and Project Agreements

Budgets are another source of delays. Projects may be delayed at various points because the project leader does not have a source of funds for studies, such as sound testing, archeological surveys, traffic studies or environmental consultants.

Range projects also must be covered by a project proposal to qualify for Federal Aid reimbursements. Project proposals sometimes are submitted separately for ranges, but they also may be included as part of a larger hunter education project or statewide range development project. It can take many months to determine the correct strategy, write the proposal, have it reviewed at

the state and local levels, and then have it approved through the federal process. The amount of time it takes can vary greatly from state to state.

Once a range project proposal is approved, money for reimbursement must be obligated in a project agreement. Project agreements normally are prepared on an annual basis.

Working with Other Agencies

During the planning process, project leaders must work cooperatively with other government agencies or organizations to obtain information about historic or cultural resources, floodplains, rare plants, soils and other matters. Some states have their own statutory review requirements, similar to the federal NEPA process, and each agency has its own procedures and response periods. Cooperation sometimes is difficult to obtain for various reasons which may include inexperienced staff, reluctance to work on something other than their routine, a lack of understanding about NEPA or indifference to your project.

As stated earlier in this paper, grant recipients must comply with all applicable and ancillary statutes and regulations, including historic preservation laws, the Endangered Species Act, floodplain and wetland regulations, and non-discrimination laws.

Finding Assistance

Range development project leaders can find assistance from various sources. Other Federal Aid project leaders can be a big help in explaining the process. The state Federal Aid coordinator and regional U.S. Fish and Wildlife Service Federal Aid grant managers are essential contacts.

The National Association of Shooting Ranges (NASR), a division of the National Shooting Sports Foundation, has developed a series of publications and a comprehensive web site to help with many of the issues. Project leaders may want to review Facility Development Series Number 7, State Agency Shooting Range Programs—Case Studies, in particular. This document contains an actual EA for an approved range construction project. NASR also may be reached by calling (203) 426-1320.