



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

IN REPLY REFER TO:  
MR&E (850)

30 BIAM, Release 2

Nov. 17, 1980

## Memorandum

To: Holders of 30 BIAM, Environmental Quality  
From: Chief, Management Research and Evaluation  
Subject: Corrections to Release 1

30 BIAM, Release 1, dated July 10, 1980, was inadvertently printed without the proper identification in the lower left hand corner of each page. Please correct your copy by following the filing instructions below.

Chief, Management Research and Evaluation

### Filing Instructions:

- (a) Remove superseded material:  
30 BIAM 1.1 ( undated) ( 1 sheet)
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30 BIAM 1.1 (dated 11-17-80) ( 1 sheet)
- (c) Pen and ink changes:  
Add to lower left corner of each page  
of 30 BIAM, Release 1: "30 BIAM, Release 1,  
7-10-80"

BUREAU OF INDIAN AFFAIRS  
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DEC - 4 1980

ALBUQUERQUE AREA OFFICE  
OFFICE SERVICES

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ENVIRONMENTAL QUALITY  
General

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1. GENERAL

1.1 Purpose. The purpose of this manual part is to incorporate into the Bureau of Indian Affairs Manual the policies and procedures for the protection and enhancement of environmental quality which have been established by Acts of Congress, Executive orders, the President's Council on Environmental Quality, the Departmental Manual, and regulations issued by other Federal agencies. These authorities are referenced in paragraph 1.3 and set forth in Chapter 3. Of principal importance are the regulations issued by the Council on Environmental Quality (CEQ) implementing the National Environmental Policy Act (NEPA) and the Department's procedures to implement the CEQ's regulations. The Department's procedures, which are promulgated in 516 DM 1-7, govern Bureau compliance with NEPA. The purpose of this chapter is to set forth policies and authorities in addition to NEPA and to establish the responsibilities of Bureau officials.

1.2 Policy. In addition to the policies expressed in the authorities referenced in paragraph 1.3 and in the Departmental Manual at 516 DM 1.2, it is the policy of the Bureau of Indian Affairs to:

- A. Provide advice and support to the Indian people in preserving and enhancing the quality of their environment.
- B. Seek and obtain tribal participation in the BIA decision-making process involving environmental concerns.
- C. Integrate environmental considerations into the initial stage of all planning processes.
- D. Include in environmental analyses the cultural values of the particular tribe(s) and the relationship between environment and culture.
- E. Assist other Federal agencies in their environmental review of projects and programs affecting the environment of the Indian people.
- F. Consult and cooperate with the Administrator of the U.S. Environmental Protection Agency and with State, interstate, local, and tribal agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1.3 Authority. This Manual Part is based upon the authorities referenced below.

- A. NEPA. (See 516 DM 1-7, included in Supplement 1 of this Part, NEPA Handbook.)

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## General

B. Environmental Review and Consultation Requirements. Numerous acts of Congress and Executive orders establish environmental review and consultation requirements which are concerned with particular aspects of environmental quality. The authorities which establish these requirements are listed in 516 DM 4, Appendix 1, and in Chapter 3 of this manual part. The determination as to whether any of these requirements apply to a particular action proposed to be taken by the Bureau is independent from the determination as to whether NEPA requires the preparation of an environmental impact statement (EIS). However, if any of these requirements do apply to a particular proposed action, the CEQ regulations require that these requirements be addressed in the draft EIS, if one is prepared (40 CFR § 1502.25). Supplemental guidance for Bureau personnel regarding compliance with these environmental review and consultation requirements is provided in manual Supplements which are described in Chapter 3.

C. Pollution Control Standards. Some of the Acts of Congress which address specific aspects of environmental quality have established regulatory programs to control environmental pollution, which include the setting of standards for activities which discharge pollutants into the environment. These standards are normally set by Federal agencies or by state agencies pursuant to Federal statute. It is within the retained sovereign authority of Indian tribes to set more stringent standards. Executive Order 12088, "Federal Compliance with Pollution Control Standards," (October 13, 1978), mandates Federal agency compliance with applicable pollution control standards, including those established pursuant to certain listed authorities. This listing is included in Chapter 3 of this manual part at 3.2H. Executive Order 12088 is included in this part in Supplement 8, Pollution Control Standards. Pursuant to this Executive Order, the Bureau is required to develop an annual plan for pollution control at its facilities, including Federal lands, and to request the necessary funds in its annual budget request. Supplemental guidance for Bureau personnel regarding implementation of this Executive Order is provided in Supplement 8 to this manual part. Some of the listed statutes are also included in 516 DM 4, Appendix 1, and are accordingly addressed in other supplements to 30 BIAM as well as in Supplement 8.

D. Trust Responsibilities. The Bureau's responsibilities for protection and enhancement of environmental quality pursuant to the authorities referenced in 1.3A, B, and C are augmented by its responsibilities pursuant to the Federal trust responsibility to Indians. The trust responsibility is based upon numerous treaties and agreements between the Federal Government and the tribes, acts of Congress, and decisions of Federal courts. The underlying purpose of the trust relationship is to make it possible for the tribes to survive as distinct cultural and political entities. In matters involving lands held in trust, the Federal Government is held to high



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
WASHINGTON, D. C. 20245

IN REPLY REFER TO:

Environmental Services  
Staff (204)

30 BIAM, Release 1

JUL 10 1980

Memorandum

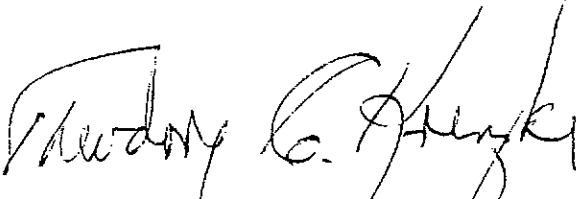
AMC 6 1980

To: Holders of 30 BIAM, Environmental Quality  
Acting Deputy  
From: Commissioner of Indian Affairs

Subject: Transmittal of the new Part 30 BIAM, Environmental Quality

This is a new part which establishes the Bureau's policies and responsibilities for protection and enhancement of environmental quality, pursuant to Federal statutes, Executive Orders, and other authorities.

Part 30 includes a number of supplements which have not yet been issued. These supplements will be issued within the next several months. Following issuance of each of these, comments will be received for a period of 120 days. The supplements will then be revised, if necessary, and issued in final form. Prior to the issuance of the supplements, guidance on compliance with some of the statutes and Executive Orders may be provided through the issuance of manual bulletins. Comments should be directed to the Environmental Services Staff, Central Office Code 204, phone FTS 343-8248.

  
Commissioner of Indian Affairs

Filing Instructions:

- (a) Remove superseded material:  
Environmental Quality Interim Guidelines (45 sheets)  
(Not issued through Bureau Directives System)
- (b) Insert new material transmitted:  
30 BIAM, Release 1 (Dated July 10, 1980) ( 7 sheets)
- (c) Pen and ink changes:  
None

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Supplements to 30 BIAM

<u>No.</u>	<u>Title</u>
1.	NEPA Handbook (To be issued later)
2.	Cultural Resources (To be issued later)
3.	Water and Related Land Resources (To be issued later)
4.	Fish and Wildlife (To be issued later)
5.	Air Quality (To be issued later)
6.	Pesticides, Toxic Substances, and Solid Waste (To be issued later)

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7. Miscellaneous (To be issued later)
8. Pollution Control Standards (To be issued later)
9. Tribal Environmental Protection Requirements  
(To be issued later)

## ENVIRONMENTAL QUALITY

## General

## 1. GENERAL

1.1 Purpose. The purpose of this manual part is to incorporate into the Bureau of Indian Affairs Manual the policies and procedures for the protection and enhancement of environmental quality which have been established by Acts of Congress, Executive orders, the President's Council on Environmental Quality, the Departmental Manual, and regulations issued by other Federal agencies. These authorities are referenced in paragraph 1.3 and set forth in Chapter 3. Of principal importance are the regulations issued by the Council on Environmental Quality (CEQ) implementing the National Environmental Policy Act (NEPA) and the Department's procedures to implement the CEQ's regulations. The Department's procedures, which are promulgated in 516 DM 1-7, govern Bureau compliance with NEPA. The purpose of this chapter is to set forth policies and authorities in addition to NEPA and to establish the responsibilities of Bureau officials.

1.2 Policy. In addition to the policies expressed in the authorities referenced in paragraph 1.3 and in the Departmental Manual at 516 DM 1.2, it is the policy of the Bureau of Indian Affairs to:

- A. Provide advice and support to the Indian people in preserving and enhancing the quality of their environment.
- B. Seek and obtain tribal participation in the BIA decision-making process involving environmental concerns.
- C. Integrate environmental considerations into the initial stage of all planning processes.
- D. Include in environmental analyses the cultural values of the particular tribe(s) and the relationship between environment and culture.
- E. Assist other Federal agencies in their environmental review of projects and programs affecting the environment of the Indian people.
- F. Consult and cooperate with the Administrator of the U.S. Environmental Protection Agency and with State, interstate, local, and tribal agencies concerning the best techniques and methods available for the prevention, control, and abatement of environmental pollution.

1.3 Authority. This Manual Part is based upon the authorities referenced below.

- A. NEPA. (See 516 DM 1-7, included in Supplement 1 of this Part, NEPA Handbook.)

## ENVIRONMENTAL QUALITY

## General

B. Environmental Review and Consultation Requirements. Numerous acts of Congress and Executive orders establish environmental review and consultation requirements which are concerned with particular aspects of environmental quality. The authorities which establish these requirements are listed in 516 DM 4, Appendix 1, and in Chapter 3 of this manual part. The determination as to whether any of these requirements apply to a particular action proposed to be taken by the Bureau is independent from the determination as to whether NEPA requires the preparation of an environmental impact statement (EIS). However, if any of these requirements do apply to a particular proposed action, the CEQ regulations require that these requirements be addressed in the draft EIS, if one is prepared (40 CFR § 1502.25). Supplemental guidance for Bureau personnel regarding compliance with these environmental review and consultation requirements is provided in manual Supplements which are described in Chapter 3.

C. Pollution Control Standards. Some of the Acts of Congress which address specific aspects of environmental quality have established regulatory programs to control environmental pollution, which include the setting of standards for activities which discharge pollutants into the environment. These standards are normally set by Federal agencies or by state agencies pursuant to Federal statute. It is within the retained sovereign authority of Indian tribes to set more stringent standards. Executive Order 12088, "Federal Compliance with Pollution Control Standards," (October 13, 1978), mandates Federal agency compliance with applicable pollution control standards, including those established pursuant to certain listed authorities. This listing is included in Chapter 3 of this manual part at 3.2H. Executive Order 12088 is included in this part in Supplement 8, Pollution Control Standards. Pursuant to this Executive Order, the Bureau is required to develop an annual plan for pollution control at its facilities, including Federal lands, and to request the necessary funds in its annual budget request. Supplemental guidance for Bureau personnel regarding implementation of this Executive Order is provided in Supplement 8 to this manual part. Some of the listed statutes are also included in 516 DM 4, Appendix 1, and are accordingly addressed in other supplements to 30 BIAM as well as in Supplement 8.

D. Trust Responsibilities. The Bureau's responsibilities for protection and enhancement of environmental quality pursuant to the authorities referenced in 1.3A, B, and C are augmented by its responsibilities pursuant to the Federal trust responsibility to Indians. The trust responsibility is based upon numerous treaties and agreements between the Federal Government and the tribes, acts of Congress, and decisions of Federal courts. The underlying purpose of the trust relationship is to make it possible for the tribes to survive as distinct cultural and political entities. The most basic manifestation of the trust relationship between the Federal Government and the Indians is the fact that the United States holds legal title to Indian lands, while the Indians hold the beneficial or equitable title. In matters involving lands held in trust, the Federal Government is held to the highest



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standards of care and good faith. The courts have applied the principles of the common law of trusts to determine the appropriateness of the actions of the Federal trustee. The duties of a trustee include:

(1) The duty to exercise such care and skill as a person of ordinary prudence would exercise in dealing with his or her own property, Restatement (Second) of Trusts (1959) (hereinafter Trusts) §174;

(2) The duty to preserve trust assets and to make them productive, Trusts §181; and

(3) The duty of loyalty to the beneficiary, Trusts §170.

E. Tribal Environmental Laws. In its programs and activities affecting any reservation, the Bureau will comply with all applicable environmental protection laws enacted by that reservation's tribal government, unless compliance is prohibited by some other legal requirement. Whenever the Bureau proposes to take any action which would threaten to violate any tribal environmental protection law, an environmental assessment will be prepared (516 DM 2.3 A (3)(i)). Supplemental guidance to Bureau personnel regarding compliance with tribal environmental protection requirements is provided in Supplement 9 to this manual part.

1.4 Responsibility. All line officials of the Bureau are responsible for ensuring that all necessary actions are taken so that facilities and activities under their supervision are in compliance with the authorities referenced in 1.3. Each Area Director and Central Office Director will submit an annual report to the Commissioner in accordance with guidelines to be developed by the Environmental Services Officer.

A. NEPA. (See 516 DM 16, included in Supplement 1 of this part, NEPA Handbook.)

B. Other Environmental Review and Consultation Requirements. Line officials are responsible for ensuring that actions within their authority are in compliance with the authorities listed in 516 DM 4, Appendix 1. Supplements to this manual part provide guidance for compliance with these requirements. When an environmental assessment (EA) or environmental impact statement (EIS) is being prepared on a proposed action, compliance with these other requirements will be addressed concurrently.

C. Pollution Control Standards. All line officials are responsible for taking all necessary action to ensure that all Bureau facilities, including Federal lands, under their supervision are in compliance with applicable pollution control standards, as mandated by Executive Order 12088. Guidance on achieving compliance is provided in Supplement 9. Briefly, the responsibilities of line officials are as follows:

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(1) Commissioner. The Commissioner has overall responsibility for compliance with pollution control standards. The Commissioner shall direct the preparation of the Bureau's annual plan for the control of environmental pollution and for ensuring that the Bureau's budget request includes sufficient funds for compliance with applicable pollution control standards, as required by sections 1-401 and 1-501 of Executive Order 12088. (See Supplement 9 to this part.)

(a) Environmental Services Officer. The Environmental Services Officer in the Office of Trust Responsibilities is delegated the responsibility for coordinating the preparation of the Bureau's annual plan for the control of environmental pollution including the budget request for the funds needed to carry out the annual plan.

(b) Chief, Facilities Engineering Staff. The Chief, Facilities Engineering Staff is responsible for the development and implementation of the Bureau's annual plan for the control of environmental pollution as it applies to Bureau facilities. The Chief will designate a staff member to carry out this responsibility. This staff member will work in close consultation with the Central Office Environmental Services Officer and with Area Office environmental services personnel.

(2) Area Directors. Area Directors and the Project Officer of the Flagstaff Administrative Office are responsible for the development and implementation of an annual plan for the control of environmental pollution in their areas of responsibility, including the formulation of budget requests for this purpose. This annual plan shall be developed in consultation with the Facilities Engineering Staff and the Central Office Environmental Services Officer. Each Area Director and the Project Officer of the Flagstaff Administrative Office shall designate a staff member to carry out this responsibility.

1.5 Organization. This section describes the relationship between Environmental Services Staff and other organizational units.

A. Central Office. The Environmental Services Staff in the Central Office is organizationally located within the Office of Trust Responsibilities (See 130 DM 5), and is under the supervision of the Environmental Services Officer. The Environmental Services Staff has interdisciplinary capabilities as required by section 102 (2)(A) of NEPA in that:

(1) The disciplines of the natural and social sciences and the environmental design arts are represented within the Environmental Services Staff; and

(2) These interdisciplinary capabilities are enhanced through requests that appropriate staff specialists throughout the Bureau assist in

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the preparation and review of environmental documents. Cooperative arrangements with other agencies also serve to enhance interdisciplinary capabilities.

B. Area Offices and Other Field Units. The Environmental Staff in each Area Office and other field units with environmental responsibilities is located organizationally so that it is not under the supervision of an official with direct responsibilities for program implementation. Upon request, the Central Office staff will assist in enhancing the interdisciplinary capabilities of field Environmental Services Staff units, through the use of Bureau personnel and through arrangements with other agencies.

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ENVIRONMENTAL QUALITY  
Involvement of Tribal Governments

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## 2. INVOLVEMENT OF TRIBAL GOVERNMENTS

2.1 Purpose. The purpose of this chapter is to provide guidance to Bureau personnel regarding the Bureau's role in facilitating the involvement of tribal governments in the Bureau's environmental quality program. In addition, this chapter provides guidance to Bureau personnel on how the Bureau's program can be utilized by tribal governments to support their own environmental quality programs. Further guidance on tribal governmental involvement in particular programs is provided in the supplements to this part.

2.2 Tribal Involvement in NEPA. The CEQ regulations and the Departmental procedures contain several provisions for tribal involvement in the NEPA process. Supplement 1 to this part, the Bureau's NEPA Handbook, provides guidance for Bureau personnel on assisting tribes to become involved in the NEPA process.

2.3 Tribal Environmental Programs. The Bureau recognizes that the protection and enhancement of environmental quality is within the retained sovereign authority of the Indian tribes. The Bureau encourages the tribes to exercise their authority, through the establishment of tribal programs and agencies and other appropriate means. The Bureau can assist tribes through:

A. Self-Determination Act Contracts. Tribes may utilize Self-Determination Act (P.L. 93-638) contracts to conduct certain governmental activities regarding the environment. (See 25 CFR 271.32.)

B. Self-Determination Act Grants. In order to prepare for contracting pursuant to the Self-Determination Act, tribes may apply for grants pursuant to section 104 of the Self-Determination Act to develop their governmental capabilities regarding environmental matters. These grants may be used to provide the non-Federal matching share required by the assistance programs administered by other Federal agencies (25 U.S.C. 450h).

C. Other Bureau Programs. Pursuant to the policy of Self-Determination, tribes may direct other Bureau programs to support their environmental quality programs.

D. Procurement Contracts. Tribal agencies and tribally controlled educational institutions may become involved in the Bureau's environmental program through contracting to perform environmental analyses and prepare environmental documents which the responsible Bureau official determines are needed.

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ENVIRONMENTAL QUALITY  
Supplemental Guidance

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### 3. SUPPLEMENTAL GUIDANCE

**3.1 Purpose.** The purpose of this chapter is to list the Supplements to this manual part which provide supplemental guidance to Bureau personnel on compliance with NEPA and other authorities and to summarize the coverage of each supplement. In addition to providing guidance, the Supplements also include reference copies of the statutes, Executive Orders, and regulations which establish requirements applicable to the Bureau.

#### 3.2 Summary of Supplements.

A. Supplement 1, NEPA Handbook. This supplement provides guidance on the NEPA process.

B. Supplement 2, Cultural Resources. This supplement provides guidance on how to comply with:

Archeological Resources Protection Act of 1979  
16 U.S.C. § 470aa et seq.

Archeological and Historic Preservation Act of 1974  
16 U.S.C. § 469a-1

National Historic Preservation Act of 1966 (Sec. 106)  
16 U.S.C. § 470f

Antiquities Act of 1906  
16 U.S.C. § 431

Executive Order 11593 (Protection and Enhancement of the Cultural Environment)

American Indian Religious Freedom Act  
92 Stat. 469

C. Supplement 3, Water and Related Land Resources. This supplement provides guidance on how to comply with:

Marine Protection, Research and Sanctuaries Act of 1972  
(Sec. 102, 103, 301)  
16 U.S.C. § 1431 et seq.

Ocean Dumping Act  
33 U.S.C. §§ 1401, 1412, 1413, 1414

Coastal Zone Management Act of 1972  
16 U.S.C. § 1451, 1456

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Estuary Protection Act  
16 U.S.C. § 1221

Executive Order 11988 (Floodplain Management)

Executive Order 11990 (Wetlands Protection)

Flood Disaster Protection Act of 1973  
12 U.S.C. § 24, 17101-1 Supp.  
42 U.S.C. § 4001 et seq.

Clean Water Act (§§ 208, 303, 401, 402, 404, 405, 511)  
33 U.S.C. §§ 1288, 1314, 1341, 1342, 1344

Safe Drinking Water Act of 1974  
42 U.S.C. § 300f

Rivers and Harbors Act of 1899 (§ 9 and § 10)  
33 U.S.C. § 401 et seq.

Wild and Scenic Rivers Act of 1969 (§ 7)  
16 U.S.C. § 1274 et seq.

Federal Power Act  
16 U.S.C. § 797

Water Resources Planning Act of 1969  
42 U.S.C. § 1962 et seq.

Federal Water Project Recreation Act (§ 6(a))  
16 U.S.C. § 4601-17

Water Resources Council's Principles and Standards

D. Supplement 4, Fish and Wildlife. This supplement provides guidance on how to comply with:

Endangered Species Act (Sec. 7)  
16 U.S.C. § 1531 et seq.

Fish and Wildlife Coordination Act  
16 U.S.C. § 661, 662

Fish and Wildlife Conservation at Small Watershed Projects  
16 U.S.C. § 1001, 1005(4), 1008

E. Supplement 5, Air Quality. This supplement provides guidance on how to comply with the Clean Air Act, 42 U.S.C. § 7401 et seq.

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ENVIRONMENTAL QUALITY  
Supplemental Guidance

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F. Supplement 6, Pesticides, Toxic Substances, and Solid Waste. This supplement provides guidance on the implementation of:

Federal Insecticide, Fungicide and Rodenticide Act,  
7 U.S.C. § 136 et seq.

Toxic Substances Control Act  
15 U.S.C. § 2601 et seq.

Solid Waste Disposal Act  
42 U.S.C. § 6901 et seq.

Resources Conservation and Recovery Act of 1976  
42 U.S.C. § 3251 et seq.

G. Supplement 7, Miscellaneous. This supplement provides guidance on how to comply with:

Federal Land Policy and Management Act  
43 U.S.C. §§ 1701, 1761-1771

Mineral Leasing Act Amendments of 1973  
30 U.S.C. § 185

Forest and Rangeland Renewable Resources Act  
16 U.S.C. § 1601 et seq.

Land and Water Conservation Fund Act of 1965 (Sec. 6(f))  
16 U.S.C. §§ 4601-8(f)

Open Space Lands  
42 U.S.C. § 1500a(d)

Urban Park and Recreation Recovery Act  
16 U.S.C. § 2501 et seq.

National Trails System Act  
16 U.S.C. § 1241

Deepwater Port Act  
33 U.S.C. §§ 1501, 1503-1505

Department of Transportation Act of 1966 (Sec. 4(f))  
49 U.S.C. § 1653(f)

Federal Aid Highway Act of 1958  
23 U.S.C. §§ 128, 138

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Urban Mass Transportation Act of 1964  
49 U.S.C. §§ 1602, 1610

Airport and Airway Development Act of 1970  
49 U.S.C. § 1716

Federal Aviation Act  
49 U.S.C. § 3334

Intergovernmental Coordination Act of 1969  
42 U.S.C. §§ 4201, 4231, 4233  
(A-95 review process, including urban impact analysis)

Demonstration Cities and Metropolitan Development Act of 1966  
42 U.S.C. § 3334

Surface Mining Control and Reclamation Act of 1977  
30 U.S.C. § 1201 et seq.

Noise Control Act of 1972, as amended  
42 U.S.C. § 4901 et seq.

H. Supplement 8, Pollution Control Standards. This supplement provides guidance on how to comply with the mandate of Executive Order 12088 and the authorities listed therein. Some of these authorities also establish review and consultation requirements which are addressed in other Supplements. This Supplement focuses on the preparation and implementation of the required annual plan for pollution control at Federal facilities, including lands, and the preparation of the budget request for this activity. Authorities which establish pollution control standards and which are listed in Executive Order 12088 are:

Toxic Substances Control Act  
15 U.S.C. § 2601 et seq.

Federal Water Pollution Control Act, as amended  
33 U.S.C. § 1251 et seq.

Public Health Service Act, as amended by the Safe Drinking Water Act  
42 U.S.C. § 300f et seq.

Clean Air Act, as amended  
42 U.S.C. § 7401 et seq.

Noise Control Act of 1972  
42 U.S.C. § 4901 et seq.



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Solid Waste Disposal Act, as amended  
42 U.S.C. § 6901 et seq.

Radiation guidance pursuant to Section 274(h) of the Atomic  
Energy Act of 1954, as amended  
42 U.S.C. § 2021(h)

Marine Protection, Research, and Sanctuaries Act of 1972, as  
amended  
33 U.S.C. §§ 1401, 1402, 1411-1421, 1441-1444  
16 U.S.C. §§ 1431-1434

Federal Insecticide, Fungicide, and Rodenticide Act as amended  
7 U.S.C. § 136 et seq.

I. Supplement 9, Tribal Environmental Programs. Most of the supplements provide guidance on how the Bureau's environmental program can lend support to tribal environmental activities. This supplement provides further guidance on this subject and also provides a list, updated annually, of environmental laws enacted by tribal governments.

