

NEW HAMPSHIRE
INTERGOVERNMENTAL REVIEW PROCESS MANUAL

New Hampshire Department of Energy

21 South Fruit Street, Suite 10

Concord, New Hampshire 03301-3834

Telephone 603-271-3670

nhs poc@energy.nh.gov

April 2023

Table of Contents

SUMMARY

PART 1 - FEDERAL ACTIVITIES REVIEW

1. Programs and Activities Included
2. Clearinghouse Notification
3. Single Point of Contact Responsibilities
4. Review Agency Responsibilities
5. Review Comments
6. Federal Agency Responsibilities

PART 2 - DEVELOPMENT AND REVIEW OF FEDERALLY REQUIRED STATE PLANS

APPENDICES

- I. Executive Order 12372
- II. Executive Order 12416
- III. The Intergovernmental Cooperation Act of 1968 - Section 401
- IV. The Demonstration Cities and Metropolitan Development Act of 1966 Section 204
- V. Executive Order 83-10

FORMS

1. [Catalog of Federal Domestic Assistance](#)
2. [OMB Circular A-102](#)
3. Application for Federal Assistance – [SF 424](#)
4. Budget Information – Non-construction Programs – [SF 424A](#)

SUMMARY

The New Hampshire Department of Energy's (Department) responsibility for the Intergovernmental Review Process (IRP) originates from President Ronald Reagan's 1982 Executive Orders 12372 and 12416 (Appendices I and II) and Governor John H. Sununu's 1983 Executive Order 83-10 (Appendix V). The IRP provides a method and opportunities for state and local governments to review and comment on federally funded programs and activities during the planning stages. The process is intended to:

- (a) To provide each state the opportunity to design and implement a system, which allows the state to offer written input on federally funded programs and development during the planning stages.
- (b) To enable each state to select those programs and activities which should be subjected to state and local scrutiny.
- (c) To make federal agencies more sensitive to the desires of state and local governments prior to approving federally funded programs or development, which have significant impacts on state or local government interests.
- (d) To foster coordination of views between adjoining states which have common interests because of interstate metropolitan areas.

The process applies to federally funded programs or development which would involve state or local government contribution of non-federal funds, or which would directly affect state or local government interests.

The Department serves as the Single Point of Contact (SPOC) for the IRP. As the SPOC, the Department receives requests for review from public or private applicants for federal funding or development within the state. Those requests are then provided for review and response to any state or local government agency or entity with an interest in the planning of the proposed, federally funded program or development. Any comments received from those potentially impacted state or local agencies or entities are communicated to the federal agency administering the funding. New Hampshire's nine Regional Planning Commissions (RPCs), as Regional Clearinghouses, assist and coordinate local governments with responses to proposed, federally funded programs and development subject to the IRP.

PART 1 - FEDERAL ACTIVITIES REVIEW

This section explains the procedures to receive, evaluate, and formulate recommendations on federally funded programs and development subject to the IRP.

1. PROGRAMS AND ACTIVITIES INCLUDED

Federal activities subject to review under New Hampshire's IRP include all those listed in the current [Catalog of Federal Domestic Assistance](#).

2. CLEARINGHOUSE NOTIFICATION

A. REVIEW CYCLE

Any public or private applicant for federal funding of a program of development within the state must submit a request for review to the Department. Public entities include any department, board, commission, agency, advisory council, interstate compact, corporate body, or instrumentality of the state. Federal funding includes loans, grants, and other forms of assistance.

IRP requests are due to the Department prior to or simultaneous with the filing of an application for federal funding.

The Department will complete the review of each IRP request within thirty (30) days of receipt unless the request does not contain sufficient information to allow review.

B. INTERGOVERNMENTAL REVIEW PROCESS

IRP Requests must be sent to the Department using the following email address: nhs poc@energy.nh.gov. **PAPER COPIES AND FAXES WILL NOT BE ACCEPTED.**

IRP Requests include the following components:

1. A cover letter, addressed to the Department's designee to receive IRPs, including the name of and contact information for the applicant(s), and any state or federal program or project manager;
2. A detailed description of the program or project. This narrative should be provided as a Word or PDF document, separate from the cover letter;
3. A signed copy of [Standard Form 424](#), the standard cover sheet for all federal assistance applications;
4. A budget sheet; and
5. If applicable, a map of the location of the proposed project.

So long as a review has been requested consistent with this manual, an applicant may submit its request for funding to the federal agency administering the funding before the review is completed. The Department will send an acknowledgement letter upon receipt of an IRP request. The acknowledgement letter can be used as proof of submission for the SF 424 form, and the date of the letter can be used as the IRP submission date.

3. SINGLE POINT OF CONTACT RESPONSIBILITIES

A. RECEIPT AND DISSEMINATION OF APPLICATIONS FOR REVIEW

After the Department receives an IRP request, it forwards the request to, and requests comments from, state agency heads or designated agency coordinators. Agency responsibilities are delineated in Section 4A of the manual. The Department also requests comments from designated Regional Clearinghouses, to ensure local input for each proposal received. Regional Clearinghouse responsibilities are delineated in Section 4B of the manual.

B. ADDITIONAL RESPONSIBILITIES

For each IRP request, the Department takes the following additional steps:

1. Assigning a State Application Identifier (SAI) number to each proposal. This is necessary to identify the funding for further tracking and to assure the correct assignment of the state process recommendation;
2. Providing public agencies charged with enforcing or furthering the objectives of State or local civil rights laws with the opportunity to participate in the review process;
3. Providing state agencies, which are authorized to develop and enforce environmental standards, the opportunity to comment on the environmental impact of federal or federally funded programs within the state; and
4. Providing designated interstate metropolitan planning agencies with the opportunity to provide input on proposals that affect their areas of jurisdiction.

C. STATE PROCESS RECOMMENDATION TO THE FEDERAL FUNDING AGENCY

The Department is responsible for filing a recommendation with the federal agency administering funds for the proposals it receives for review. The recommendation incorporates state statutes, regulations, state policy, and comments from state agencies and Regional Clearinghouses.

The Department's recommendation includes any comments received from local elected officials, which disagree with any state agency comments. The Department reconciles disagreements between state and local governments whenever possible. If there is no state agency recommendation, the Department is not required to submit local government comments. In this event, the Department will notify local elected officials wishing to provide input that their comments may be sent directly to the applicant and the appropriate federal funding agency for consideration pursuant to Section 401 of the Intergovernmental Cooperation Act of 1968 (Appendix III). This law requires the federal government to consider local concerns before deciding to fund a program or project.

D. FEDERAL AGENCY RESPONSE

Federal agencies are required to either accommodate the Department's recommendation or explain to the Department why its recommendation is not adopted. Except in special cases when waivers are invoked, the federal agency must wait ten (10) days after providing a verbal explanation, or fifteen (15) days if the explanation is provided in writing, before a decision about the funding is implemented. In instances of non-accommodation, the Department will notify the any interested

state agency or local official of the federal agency's decision on the recommendation. A state agency or local official may then seek other remedies.

4. REVIEW AGENCY RESPONSIBILITIES

The Presidential and Gubernatorial Executive Orders establishing the IRP prescribe the responsibilities of state agencies or local governments, from which the Department seeks review of, and input about, federally funded programs or development.

A. STATE AGENCY RESPONSIBILITIES

A state agency shall fulfill the following responsibilities to participate in the IRP:

1. Designate a coordinator who is responsible for ensuring the proper and timely flow of information between the agency and the Department;
2. Identify those activities it wishes to review, which have a potential impact on its jurisdiction. This identification may be updated on a routine basis and must be on file at the Department;
3. Develop an internal review procedure to evaluate and provide agency comments on proposals within the time limits imposed by the IRP process;
4. Ensure that comments are transmitted to the Department and comply with the guidelines in Section 5 of the manual; and
5. Ensure that its response to the Department's request for review is signed by the agency head or the designated agency coordinator.

B. LOCAL GOVERNMENT RESPONSIBILITIES

A local government shall fulfill the following responsibilities to participate in the IRP:

1. Coordinate with a Regional Planning Agency (RPA), to respond to a Department IRP review request; and
2. Ensure that comments comply with the guidelines in Section 5 of the manual.

Each RPC shall fulfill the following responsibilities to participate in the IRP:

1. Develop an internal review procedure to assist local governments within the RPA's jurisdiction in responding to a Department IRP review request;
2. Ensure that comments comply with the guidelines in Section 5 of the manual;
3. Ensure that any local government response is filed with the Department within the prescribed IRP deadlines.

5. REVIEW COMMENTS

As explained in Section 6 of the manual, the federal agency administering funding for a program or development is required to accommodate, to the extent possible, the concerns of state and local governments, as communicated through the IRP. To facilitate that accommodation, state agency and local government comments shall be substantiated by statute, regulations, adopted plans or policies, or other established criteria utilized to evaluate the proposed activity.

A. TYPES OF COMMENTS ACCEPTED

The following is a non-inclusive list of concerns which may be included:

1. The degree to which the development is compatible with state, area, or local comprehensive planning efforts;
2. The potential of the proposal to duplicate or negate the efforts of similar ongoing programs;
3. Technical changes in program or development design which might increase its effectiveness or efficiency;
4. The extent to which the development contributes to the achievement of state, regional, or local objectives and priorities relating to natural and human resources and economic development, including:
 - (a) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes;
 - (b) Wise development and conservation of natural resources, including land, water, mineral, wildlife, and others;
 - (c) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other modes for the movement of people and goods;
 - (d) Adequate outdoor recreation and open space;
 - (e) Protection of areas of unique natural beauty, historical and scientific interest;
 - (f) Properly planned community facilities, including utilities for the supply of power, water, and communications, for the safe disposal of wastes, and for other purposes; and
 - (g) Concern for high standards of design;
5. Any adverse environmental impacts associated with the development;
6. Effects of the development on energy resource supply and demand;
7. The extent to which people or businesses will be displaced by the development and the availability of relocation resources;
8. The extent to which the development contributes to more balanced patterns of settlement and delivery of services to all sections of the area population, including minority groups; and
9. In the case of development for which assistance is being sought by a special purpose unit of local government, whether the unit of general local government having jurisdiction over the area in which the project is to be located has applied, or plans to apply, for assistance for the same or a similar type of project.

B. TYPE OF COMMENTS NOT ACCEPTED

The following types of comments do not coincide with the intent or purpose of this process and will not be accepted:

1. Value judgments as to what priorities should receive federal aid;
2. The acceptability of the existing legislation that fosters the program or development; or
3. The abilities of the funding agency to fairly administer the program or development.

6. FEDERAL AGENCY RESPONSIBILITIES

The Presidential and Gubernatorial Executive Orders establishing the IRP describe the responsibilities of federal agencies administering funding of programs or development, including:

- A. Utilizing a state's IRP process administered by the Department as the Single Point of Contact, to determine official views of state and local elected officials;
- B. Communicating with state and local elected officials as early in the program or development planning cycle as is reasonably feasible, to explain specific plans and actions;
- C. Accommodating state and local government concerns about proposed federally funded programs or development or explaining, within ten (10) working days, why those concerns cannot be accommodated;
- D. Allowing a state to simplify and consolidate existing federally required state plan submissions. New Hampshire has a state plan submission process;
- E. Seeking coordination of multiple states, when a proposed federally funded program or development may impact an interstate metropolitan urban center, see Appendix IV; and
- F. Discouraging the re-authorization or creation of any federally-funded planning organization, which has a federally prescribed membership, and is established for a limited purpose and not adequately representative of, or accountable to, state or local elected officials.

APPENDIX I**EXECUTIVE ORDER 12372 INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS**

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 401 (a) of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231 (a)) and Section 301 of Title 3 of the United States Code, and in order to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for the State and local government coordination and review of proposed Federal financial assistance and direct Federal development, it is hereby ordered as follows:

SECTION 1. Federal agencies shall provide opportunities for consultation by elected officials of those State and local governments that would provide the non-Federal funds for, or that would be directly affected by, proposed Federal financial assistance or direct Federal development.

SECTION 2. To the extent the States, in consultation with local general purpose governments, and local special purpose governments they consider appropriate, develop their own processes or refine existing processes for State and local elected officials to review and coordinate proposed Federal financial assistance and direct Federal development, the Federal agencies shall, to the extent permitted by law:

- (a) Utilize the State process to determine official views of State and local elected officials.
- (b) Communicate with State and local elected officials as early in the program planning cycle as is reasonably feasible to explain specific plans and actions.
- (c) Make efforts to accommodate State and local elected officials concerns with proposed Federal financial assistance and direct Federal development that are communicated through the designated State process. For those cases where the concerns cannot be accommodated, Federal officials shall explain the bases for their decision in a timely manner.
- (d) Allow the State to simplify and consolidate existing Federally required State plan submissions. Where State planning and budgeting systems are sufficient and where permitted by law, the substitution of State plans for Federally required State plans shall be encouraged by the agencies.
- (e) Seek the coordination of views of affected State and local elected officials in one State with those of another State when proposed Federal financial assistance or direct Federal development has an impact on interstate mechanisms that are redesignated as part of the State process may be used for this purpose.
- (f) Support State and local governments by discouraging the reauthorization or creation of any planning organization which is Federally-funded, which has a Federally-prescribed membership, which is established for a limited purpose, and which is not adequately representative of, or accountable to, State or local elected officials.

SECTION 3.

(a) The State process referred to in Section 2 shall include those where States delegate, in specific instances, to local elected officials the review, coordination, and communication with Federal agencies.

(b) At the discretion of the State and local elected officials, the State process may exclude certain Federal programs from review and comment.

SECTION 4. The Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development. The Office of Management and Budget shall disseminate such lists to the Federal agencies.

SECTION 5.

(a) Agencies shall propose rules and regulations governing the formulation, evaluation, and review of proposed Federal financial assistance and direct Federal development pursuant to this Order, to be submitted to the Office of Management and Budget for approval.

(b) The rules and regulations which result from the process indicated in Section 5 (a) above shall replace any current rules and regulations and become effective April 30, 1983.

SECTION 6. The Director of the Office of Management and Budget is authorized to prescribe such rules and regulations, if any, as he deems appropriate for the effective implementation and administration of this Order and the Intergovernmental Cooperation Act of 1968. The Director is also authorized to exercise the authority vested in the President by Section 401 (a) of that Act (42 U.S.C.42331 (a)), in a manner consistent with this Order.

SECTION 7. The Memorandum of November 8, 1968, is terminated (33 Fed. Reg. 16487, November 13, 1968). The Director of the Office of Management and Budget shall revoke OMB Circular A-95, which was issued pursuant to that Memorandum. However, Federal agencies shall continue to comply with the rules and regulations issued pursuant to that Memorandum, including those issued by the Office of Management and Budget, until new rules and regulations have been issued in accord with this Order.

SECTION 8. The Director of the Office of Management and Budget shall report to the President within two years on Federal agency compliance with this Order. The views of State and local elected officials on their experiences with these policies, along with any suggestions for improvement, will be included in the Director's report.

THE WHITE HOUSE

July 14, 1982

Ronald Reagan

APPENDIX II

EXECUTIVE ORDER 12416 OF APRIL 8, 1983 INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to allow additional time for implementation by State, regional and local governments of new Federal regulations which foster an intergovernmental partnership and strengthened federalism, it is hereby ordered as follows:

SECTION 1. The preamble to Executive Order No. 12372 of July 14, 1982, is hereby amended by inserting, after words "42 U.S.C. 4231 (a)", the following phrase: ", Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334)".

SECTION 2. Section 5 (b) of Executive Order No. 12372 is amended by deleting "April 30, 1983" and inserting in its place "September 30, 1983."

SECTION 3. Section 8 of Executive Order No. 12372 is amended by deleting "within two years" and inserting in its place "by September 30, 1984."

Ronald Reagan

THE WHITE HOUSE

April 8, 1983

APPENDIX III**THE INTERGOVERNMENTAL COOPERATION ACT OF 1968****SECTION 401****6506. Development Assistance**

(a) The economic and social development of the United States and the achievement of satisfactory levels of living depend on the sound and orderly development of urban and rural areas. When urbanization proceeds rapidly, the sound and orderly development of urban communities depends to a large degree on the social and economic health and the sound development of smaller communities and rural areas.

(b) The President shall prescribe regulations governing the formulation, evaluation, and review of United States Government programs and projects having a significant impact on area and community development (including programs and projects providing assistance to State and localities) to serve most effectively the basic objectives of subsection (a) of this section. The regulations shall provide for the consideration of concurrently achieving the following specific objectives and, to the extent authorized by law, reasoned choices shall be made between the objectives when they conflict:

(1) Appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes.

(2) Wise development and conservation of all natural resources.

(3) Balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other means to move people and goods.

(4) Adequate outdoor recreation and open space.

(5) Protection of areas of unique natural beauty and historic and scientific interest.

(6) Properly planned community facilities (including utilities for supplying power, water and communications) for safely disposing of wastes, and for other purposes.

(7) Concern for high standards of design.

(c) To the extent possible, all national, regional, State, and local viewpoints shall be considered in planning development programs and projects of the United States Government or assisted by the Government. State and local government objectives and the regional organizations shall be considered within a framework of national public objectives expressed in laws of the United States. Available projections of future conditions in the United States and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(d) To the maximum extent possible and consistent with national objectives, assistance for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(e) To the maximum extent practicable, each executive agency carrying out a development assistance program shall consult with and seek advice from all other significantly affected executive agencies, in an effort to ensure completely coordinated programs. To the extent possible, systematic planning required by

individual United States Government programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and area wide development planning.

(f) When a law of the United States provides that both a special-purpose unit of local government and unit of general local government are eligible to receive a loan or grant, the head of an executive agency shall make the loan or grant to the unit of general local government instead of the special-purpose unit of local government in the absence of substantial reasons to the contrary.

(g) The President may designate an executive agency to prescribe regulations to carry out this section.

APPENDIX IV**THE DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966****SECTION 204****3334. Coordination of Federal aides in metropolitan areas.**

(a) All applications made after June 30, 1967, for Federal loans or grants to assist in carrying out open-space land projects or for the planning or construction of hospitals, airports, libraries, water supply and distribution facilities, sewerage facilities and waste treatment works, highways, transportation facilities, law enforcement facilities, and water development and land conservation projects within any metropolitan area shall be submitted for review:

- (1) To any areawide agency which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and which is, to the greatest practicable extent, composed of or responsible to the elected officials of a unit of areawide government or of the units of general local government with whose jurisdiction such agency is authorized to engage in such planning, and
- (2) If made by a special purpose unit of local government, to the unit or units of general local government with authority to operate in the area within which the project is to be located.

(b) (1) Except as provided in paragraph (2) of this subsection, each application shall be accompanied (A) by the comments and recommendations with respect to the project involved by the areawide agency and governing bodies of the units of general local government to which the application has been submitted for review, and (B) by a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application. Such comments shall include information concerning the extent to which the project is consistent with the comprehensive planning developed or in the process of development for the metropolitan area or the unit of general local government, as the case may be, and the extent to which such project contributes to the fulfillment of such planning. The comments and recommendations and the statement referred to in this paragraph shall, except in the case referred to in paragraph (2) of this subsection, be reviewed by the agency of the Federal Government to which such application is submitted for the sole purpose of assisting it in determining whether the application is in accordance with the provisions of Federal law which govern the making of the loans or grants.

(2) An application for a Federal loan or grant need not be accompanied by the comments and recommendations and the statement referred to in paragraph (1) of this subsection, if the applicant certifies that a plan or description of the project, meeting the requirements of such rules and regulations as may be prescribed under subsection (c) of this section, or such application, has lain before an appropriate areawide agency or instrumentality or unity of general local government for a period of sixty days without comments or recommendations thereon being made by such agency or instrumentality.

(3) The requirements of paragraphs (1) and (2) shall also apply to any amendment of the applicant which, in light of the purposes of this subchapter, involves a major change in the project covered by the application prior to such amendment.

(c) The Office of Management and Budget, or such other agency as may be designated by the President, is hereby authorized to prescribe such rules and regulations as are deemed appropriate for the effective administration of this section.

APPENDIX V

STATE OF NEW HAMPSHIRE

CONCORD, 03301

EXECUTIVE ORDER 83-10

EXECUTIVE ORDER DESIGNATING THE OFFICE OF STATE PLANNING AS THE SINGLE POINT OF CONTACT UNDER NEW HAMPSHIRE'S INTERGOVERNMENTAL REVIEW PROCESS.

WHEREAS, President Reagan on July 14, 1983, signed Executive Order 12372; and

WHEREAS, Executive Order 12372 is intended to expand and strengthen the system of intergovernmental consultation being carried out under OMB Circular A-95; and

WHEREAS, Concurrent with the issuance of Executive Order 12372 OMB, Circular A-95 was rescinded effective on September 30, 1983; and

WHEREAS, Executive Order 12372 enables and encourages states to establish their own review mechanism; and

WHEREAS, the New Hampshire Office of State Planning, offering consultation with local elected officials, has proposed an Intergovernmental Review Process which is consistent with the objectives of Executive Order 12372;

NOW, THEREFORE, I, JOHN H. SUNUNU, Governor of the state of New Hampshire, by virtue of the authority vested in me under Part 2, Article 41 of the New Hampshire Constitution;

Do hereby designate the New Hampshire Intergovernmental Review Process as the official state system by which state and local governments can provide input into federal programs and activities; and

Do further designate the Director, Office of State Planning, or his designee as the official single point of contact under the review process with responsibility for reviewing all requests, applications and agreements relating to participation in any federal program from which federal funds may be received, including proposed direct activities by federal agencies.

Given under my hand and seal at the Executive Chamber in Concord this nineteenth day of October, in the year of Our Lord one thousand nine hundred eighty-three and of the Independence of the United States of America, the two hundred and eighth.

JOHN H. SUNUNU
Governor of New Hampshire