

RECORD OF DECISION
POLICY FOR PUBLIC INVOLVEMENT

Prepared by
Bonneville Power Administration
U.S. Department of Energy
July 1986

BPA
BPA
2584
1986

c.1 P

TABLE OF CONTENTS

Background	2
Issues for Decision	3
Issue No. 1: General Comments on Public Involvement	3
Issue No. 2: Authority and Scope	4
Issue No. 3: Definitions	5
Issue No. 4: BPA Determinations of Major Regional Power Policies and Other Actions	6
Issue No. 5: Major Regional Power Policies--Public Notice	7
Issue No. 6: Major Regional Power Policies--Notice of Intent	9
Issue No. 7: Major Regional Power Policies--Notice of Policy Alternatives	10
Issue No. 8: Major Regional Power Policies--Public Comments	11
Issue No. 9: Major Regional Power Policies--Public Meetings	13
Issue No. 10: Major Regional Power Policies--Expedited Decisionmaking	14
Issue No. 11: Major Regional Power Policies--Documentation of Policy Development	15
Issue No. 12: Other BPA Actions	17
Issue No. 13: Public Involvement and NEPA	18

Introduction

This Record of Decision describes the decisionmaking process used by the Administrator of the Bonneville Power Administration (BPA) in developing the Policy for Public Involvement. The process involved careful consideration of all comments received on the proposed Policy for Public Involvement, and of policy options identified by BPA staff.

On March 12, 1986, BPA published a notice of its intent to develop a Policy for Public Involvement and issued a proposed policy for public review and comment (51 FR 8624). The proposed policy was a revision of the Procedure for Public Participation in Major Regional Power Policy Formulation (46 FR 26368, May 12, 1981).

The comment period on the proposed policy extended from March 12 through April 18, 1986, and was subsequently reopened on request to receive comments at a meeting of interest group leaders on April 22, 1986. Twenty written comments and 12 oral comments were received on the proposed policy from 29 organizations and individuals.

The Record of Decision is specified by the Procedure for Public Participation in Major Regional Power Policy Formulation. The record states the issues for decision, summarizes the proposed policy and alternatives identified by public comments and BPA staff, and describes the Administrator's decisions and the reasons for the decisions. The reasons for the decisions are generally based on the "Staff Evaluations" in the Staff Evaluation of the Official Record, Proposed Policy for Public Involvement. For a fuller discussion of the rationale behind the decisions, please see that document.

ISSUES FOR DECISION

Issue No. 1: General Comments on Public Involvement

a. Issue

Will the policy as proposed encourage meaningful involvement of the public? Should BPA conduct special early consultations with its customers, State and local governments, and other Federal agencies? Should standards be established for evaluating public comments? Should BPA provide funding to public interest groups to assist them in participating in BPA's decisionmaking processes? Should the policy include additional specific techniques for informing and involving the public?

b. Proposed Policy

The proposed policy contains general statements, specific requirements, and optional practices for involving the public in major regional power policies and other BPA actions.

c. Comments Received

A number of commenters offered general reactions to the proposed policy. Some felt that the proposed policy would provide effective opportunities for public participation. Others expressed the view that the proposed policy was too cautious and that it allowed the Administrator too much discretion.

Several commenters recommended that BPA provide special public involvement opportunities for its customers, other Federal agencies, and State and local governments. One expressed concern that special interests influenced BPA decisions disproportionately and that some measures should be established to prevent this.

A few commenters urged BPA to provide funds to public interest groups which participate in BPA's decisionmaking processes. One commenter stated that ratepayer funds should not be used for this purpose since those who have an interest in BPA's decisions will get involved without BPA funding.

A number of specific public involvement techniques were suggested by commenters. These techniques included: a regular summary of policy development plans and activities, issue forums and background seminars, improved notice of grant opportunities, periodic evaluations of public involvement processes, more efficient distribution of materials to persons outside of the region, more readable documents, and coordination of public comment periods.

d. Decision

Retain the language of the proposed policy except for modifications on specific issues.

e. Reason for the Decision

The policy strikes an appropriate balance between BPA's self-imposed requirements for involving the public and preservation of the Administrator's appropriate discretion to determine when and how the public should be involved in BPA's decisionmaking.

In its basic requirements for public involvement, the policy should not distinguish among the various groups of interested persons and organizations. Beyond the minimum requirements for public involvement, however, BPA strives to maintain appropriate contacts with its customers, other Federal agencies, State and local governments, and other interested parties and to provide opportunities for each group to participate in BPA's decisionmaking.

The issue of funding for public interest groups does not fall within the scope of the Policy for Public Involvement. As new information is presented on the issue, BPA will consider it outside of this policy development process.

Many of the suggestions for specific public involvement techniques are outside of the scope of the policy.

Issue No. 2: Authority and Scope

a. Issue

What legal authorities should be referenced as the basis for the policy? Should the stated purpose of the policy be expanded? Should additional types of actions be covered by or included in the policy?

b. Proposed Policy

The Proposed Policy for Public Involvement does not reference any laws which mandate or authorize the policy. The background information which introduces the policy does, however, list the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Pacific Northwest Power Act) and the National Environmental Policy Act of 1969, as amended, (NEPA) as containing directives or requirements upon which BPA's overall public involvement program is based.

The proposed policy states that its purpose is to affirm BPA's commitment to insure widespread public involvement in the formulation of regional power policies.

The proposed policy lists certain actions which are not covered by the policy. These are: interpretive rulemaking; rules of internal agency organization, procedure, or practice; and policies for which another exclusive procedure is required by law, or for which the Administrator has established alternative procedures that supersede the policy.

The proposed policy does not contain a procedure for evaluation and revision of the policy in the future.

c. Comments Received

Several comments addressed various aspects of the authority and scope of the policy. One suggested that other legal mandates for public involvement, besides the Pacific Northwest Power Act and NEPA should be listed as the basis for BPA's public involvement program. One requested that the purpose of the policy be expanded to include more than involvement of the public in regional power policies. One commenter stated that the policy should apply to interpretive rulemaking since many of BPA's final procedures are interpretive rulemaking and without this coverage important public involvement may not occur. Finally, one recommended that the policy should contain a procedure for evaluating the policy in the future and revising it if necessary.

d. Decision

Revise the Background to the policy to include an acknowledgement that other Federal statutes and Executive Orders may require BPA to conduct some kind of public involvement.

Revise the policy's statement of purpose to include "other appropriate actions" in addition to the formulation of regional power policies.

Maintain the same basic public involvement procedural requirements for all groups of interested persons.

e. Reasons for the Decision

In addition to the Pacific Northwest Power Act, NEPA, and the Administrative Procedure Act, BPA has some responsibilities for public involvement under the Intergovernmental Cooperation Act of 1968, Executive Order 11988, (for actions in a floodplain) and Executive Order 11990, (actions in wetlands). Other Federal statutes may also require public involvement depending upon the particular circumstances.

The statement in the proposed policy that its purpose is to affirm BPA's commitment to widespread public involvement in the formulation of regional power policies was not intended to limit public involvement opportunities to specific policy statements.

The proposed policy does not apply to interpretive rulemaking because such rulemaking is specifically exempted by the Administrative Procedure Act.

A specific procedure for evaluation and revision is not necessary. If problems or inadequacies become apparent they can be brought to the attention of the official responsible for the policy, and the policy can then be revised.

Issue No. 3: Definitions

a. Issue

Should the definition of "customer" be revised? Should certain definitions be added?

b. Proposed Policy

The proposed policy defines "customer" as: "a person or entity having a direct relationship with BPA as the result of contractual arrangements for the purchase, transfer, assignment, or sale of electric power and energy, related services, or transmission capability to, with, or from BPA." The Procedure for Public Participation in Major Regional Power Policy Formulation defines "customer" as: "A person or entity having a direct relationship with BPA as the result of contractual arrangements for the purchase, exchange (underlining added), transfer, assignment, or sale of electric power and energy, related services, or transmission capability to, with, or from BPA."

Many other phrases, which do not have a meaning different from ordinary usage, are not defined in the proposal.

c. Comments Received

One commenter recommended that the word, "exchange," be restored to the list of identifying characteristics of a customer.

Another commenter suggested that definitions for "alternative means of providing notice," "reasonable time," and "emergency situation" be added to the policy.

d. Decision

Revise the definition of the term, "customer," to include the word, "exchange," as used in the same definition in the Procedure for Public Participation for Major Regional Power Policy Formulation.

Definitions for the terms, "alternative means of providing notice," "reasonable time," and "emergency situation" should not be added to the policy.

e. Reasons for the Decision

The word, "exchange," was inadvertently omitted from the definition of "customer" in the proposed policy.

"Alternative means" has no special meaning except "other than the usual ways." This could include telephone conversations, personal contacts, or any other method of communication that accomplishes the goal set by the policy.

The terms, "reasonable time" and "emergency situation," are not used in the final policy and so definitions are not necessary.

Issue No. 4: BPA Determination of Major Regional Power Policies and Other Actions

a. Issue

Should the policy include criteria by which the Administrator determines whether actions are major regional power policies or other BPA actions?

b. Proposed Policy

The proposal states that the Administrator determines when an agency statement of future effect and general applicability, generic agreement, contract, or other instrument constitutes a major regional power policy. No criteria are included for this determination. Similarly, the policy includes a general description of the types of activities which may fall under the category of other BPA actions but does not define criteria for determining which actions are other BPA actions.

c. Comments Received

A number of commenters stated that BPA should adopt specific guidelines for determining when actions are major regional power policies or other BPA actions. Without such criteria, they felt that the Administrator's decisions could be arbitrary and that the public would not have adequate information. Two of these commenters suggested some standards for the determination. These standards covered financial, operational, general economic, environmental, and contractual impacts on BPA and its customers in the Northwest and other regions. Two other commenters identified two types of actions that should always be considered major regional power policies. These actions were contracts of a significant nature and sales of major blocks of power. There were several recommendations for BPA to solicit public comment on its determination of what is and is not a major regional power policy and for the policy to contain an appeal procedure to this determination and some mechanism for BPA reconsideration.

d. Decision

Criteria by which the Administrator determines whether actions are major regional power policies or other BPA actions should not be added to the policy language. However, explanatory language to the policy should be revised to indicate the general types of considerations which typically guide these decisions.

e. Reasons for the Decision

The adoption of specific guidelines for determining which actions are major regional power policies and which are other BPA actions would complicate and limit the factors that BPA could take into account in making this determination.

Issue No. 5: Major Regional Power Policies--Public Notice

a. Issue

What method should BPA use to notify the public of actions in regard to major regional power policies? What period of time should BPA allow for the public to submit written recommendations or comments and for notice of public comment forums and public meetings? Who should be notified of BPA issues and actions?

b. Proposed Policy

The proposed policy requires or allows, depending on the action, the Administrator to publish notices of policy-related actions or activities in the FEDERAL REGISTER or elsewhere if that is determined to be more appropriate. The proposed policy also provides alternate methods that can be used to notify the public.

In the proposed policy, BPA states that whenever practicable, the Administrator shall allow at least 30 days for the public to submit written recommendations or comments and allow at least 15 days advance notice of public comment forums and public meetings.

The proposed policy expresses a commitment "to insure widespread public involvement" in its general statement of purpose and in Additional Methods of Public Notification and Contact states that written announcements may be sent to "persons who have previously expressed an interest in the development of a major regional power policy, or . . . could be reasonably expected to have such an interest." Other sections of the policy that deal with public notice do not discuss particular segments of the public which should be notified.

c. Comments Received

Those who commented on the methods that BPA should use to notify the public generally recommended that BPA use other methods in addition to publication in the FEDERAL REGISTER and that some guidelines should be provided on what forms of notice BPA would use in specific situations.

Comments on the length of time which BPA will strive to allow for notice of comment opportunities and meetings were mixed. Some stated that the 30- and 15-day periods were helpful minimums; others requested longer periods or flexibility in the length of time depending on the issue.

One commenter stated that public participation in issues affecting local governments should be limited to those local governments whose jurisdictions are served by BPA customers.

d. Decision

Retain the policy language as proposed regarding the methods of public notice that will be used, the time periods allowed for notice, and the persons who will be notified of various issues and actions.

e. Reasons for the Decision

Because of the variety of situations requiring public notice, it would be impractical to create specific guidelines on when BPA should use the FEDERAL REGISTER, direct mail, newspapers, personal contact, etc.

The 30 and 15-day time periods for notice of comment opportunities and meetings, respectively, are minimums that BPA hopes to allow to the extent possible. In most cases, BPA will try to provide longer periods of time. In addition, BPA would consider requests for extensions of these time periods in special situations.

Limitation of public participation in issues affecting local governments to those local governments which are served by BPA customers would not fulfill BPA's mandate "to insure widespread public involvement in the formulation of regional power policies . . ." Where an issue has a special effect on a particular local government, BPA will assure that the public and BPA customers within the jurisdiction of that local government are given full notice and effective opportunities to participate in any decisionmaking process.

Issue No. 6: Major Regional Power Policies--Notice of Intent

a. Issue

What information should be contained in the notice of intent? Should the notice of intent be combined with the notice of proposed policy?

b. Proposed Policy

The proposed policy states that when a decision has been made to develop a major regional power policy, the Administrator is to publish a notice of the intent to develop such a policy. The required contents of the notice include: the subject of the policy, an explanation of the need for and likely effect of the policy, the legal authority for developing the policy, information on the effect which the policy may have on other existing policies, a request for written recommendations, and the time limit and address for submitting recommendations. The proposed policy also contains a provision for combining the contents of the notice of intent and the notice of proposed policy.

c. Comments Received

Only two commenters addressed the notice of intent. One suggested that the notice should identify who is likely to be affected by the policy so that they can recommend alternatives to the policy. This commenter also suggested that the risks in implementing a policy should be identified early in the policy development process. Finally, this same commenter expressed concern that combining the notice of intent and the notice of proposed policy could reduce the time allowed for involvement of the public at the "front end" of the process. Another commenter requested that the policy retain the requirement in the Procedure for Public Participation in Major Regional Power Policy Formulation that a notice of intent include a description of available information on the subject of the policy.

d. Decision

Revise the required contents of the notice of intent to include: "an explanation of the need for and the probable effect of the policy with a statement of available information on these issues."

Retain the policy provision for combining the notice of intent and the notice of proposed policy.

e. Reasons for the Decision

Information on who is likely to be affected by the policy, the risks of implementing the policy, and available information on the subject of the policy are already covered by the proposed policy's requirement that the notice include "an explanation of the need for and the probable effect of the policy."

A "statement of available information on the need for and the probable effect of the policy" could be useful to the public and was not intended to be excluded from the notice of intent.

Certain policies may not require separate opportunities to respond to the notice of intent and to the notice of proposed policy. Combining these notices does not imply that adequate opportunities for the public to participate will not be provided.

Issue No. 7: Major Regional Power Policies--Notice of Policy Alternatives

a. Issue

Should the policy contain a provision for a notice of policy alternatives?

b. Proposed Policy

The proposed policy contained a new section on an optional notice of policy alternatives.

c. Comments Received

Only a few commenters addressed this issue. All but one supported the use of a notice of policy alternatives. They felt that the practice would encourage creative suggestions from the public at a stage when BPA would be most receptive to them. One commenter expressed a preference for BPA developing its preferred alternative for the policy and then submitting it to the public for their evaluation. The commenter was concerned that an array of alternatives would be less than honest if BPA really had a preferred alternative.

d. Decision

Retain the proposed policy provision for an optional notice of policy alternatives.

e. Reasons for the Decision

The use of a notice of policy alternatives can provide useful information to BPA for the development of a proposed policy.

Issue No. 8: Major Regional Power Policies--Public Comments

a. Issue

How many public comment forums should be held on a proposed policy, and where should they be held? Who should make comments at public comment forums, and what procedures should they follow? Should BPA arrange for persons who cannot attend a public comment forum to review the transcript or summary of the forum before written comments on the proposed policy are due? Should there be more opportunities for the public to review comments which have been submitted to BPA? Should the policy include a standard for determining when a summary, rather than a verbatim transcript, may be prepared for a public comment forum? Should persons who speak at a public comment forum have an opportunity to review the summary or transcript of the forum before it becomes part of the record? Should the official who is responsible for developing the policy be required to be present at public comment forums?

b. Proposed Policy

According to the proposed policy, at least one public comment forum should be held on a major regional power policy which has been proposed. Additional forums may be held if it is determined that they are appropriate.

The proposed policy states that public comment forums are held to give interested persons the chance to present their views in person. Persons who wish to comment at a forum are encouraged to notify the local BPA manager before the forum so that a schedule of commenters can be prepared. The proposal notes that BPA may establish time limits for individual commenters to ensure that all who wish to comment can do so. In addition, the proposal states that commenters with similar views, data, and arguments may be required to consolidate their presentations.

The proposed policy states that a verbatim transcript is ordinarily prepared for public comment forums but when a transcript is not prepared, a detailed summary is made instead.

c. Comments Received

Two commenters discussed the number and location of public comment forums. One recommended that forums be held in each State which may be affected by a policy and that additional forums should be held upon request or the reasons for denying the request provided. The other commenter encouraged BPA to hold more than the one required public comment forum if requested.

One commenter stated that public testimony should be limited to the people that are served by a utility that purchases at least one-half of its power requirements from BPA. Several other comments discussed procedures for commenters at public comment forums. Two supported the proposed elimination of the previous 3-day notice requirement for oral presentations at comment forums. One recommended that persons who wish to speak should be able to arrange an allotment of time in advance. This would ensure that those who must travel long distances to a comment forum will have an opportunity to comment. Two commenters expressed concern that requiring persons with similar views to consolidate their presentations could discourage public participation.

One commenter was concerned with making written comments from persons outside of the region, who cannot attend comment forums, more meaningful. The recommendation was to extend the deadline for written comments so that transcripts or summaries of comment forums can be sent to these persons before written comments are due to BPA. Another commenter urged BPA to provide more opportunities for the public to review and comment on comments submitted to BPA.

Several suggestions were made regarding the documentation of public comment forums and the participation of the official who is responsible for developing the policy. One of these recommended that a standard be provided for deciding when a summary rather than a verbatim transcript would be prepared for a comment forum. Two others requested that participants in a comment forum be given an opportunity to review a summary for accuracy before it is made part of the record. One recommended that the official responsible for a policy attend the public comment forums and chair them as often as possible.

d. Decision

Retain the proposed policy language on public comments and public comment forums.

e. Reasons for the Decision

In practice, BPA often exceeds the minimum of one required public comment forum. In addition, BPA would consider requests for additional forums or forums in particular locations.

Restricting comment at public comment forums to persons who are served by certain utilities would not respond to BPA's responsibility to insure widespread public involvement in the development of major regional power policies.

The elimination of the 3-day notice provision for persons who wish to speak at public comment forums should encourage public participation in these forums. Persons who wish to speak are still urged to notify the local BPA manager some time before the start of the forum in order to help arrange an efficient meeting. The provision in the policy that BPA may require persons with similar views to consolidate their comments is appropriate to permit the full range of comments to be heard in situations where a large number of persons wish to speak and many of these would have similar comments.

The situations which could result in a summary of a public comment forum being prepared instead of a transcript are likely to be infrequent and difficult to predict; therefore, a standard for making this determination is not practical.

While there is value to the public and to the official responsible for developing a policy for that official to attend public comment forums, this may not always be possible.

Issue No. 9: Major Regional Power Policies--Public Meetings

a. Issue

Should public meetings be held to exchange technical information? How can public meetings be made more convenient and effective?

b. Proposed Policy

The proposed policy provides that BPA may hold public meetings in addition to public comment forums. These meetings may serve a number of purposes.

c. Comments Received

One commenter requested that the policy include among the purposes for public meetings the exchange of technical information. Several other commenters made suggestions regarding the scheduling of meetings. These were: that there be fewer meetings but that these cover more than one issue, that BPA try to avoid scheduling meetings on different issues at the same time, and that different levels of government should work together on meetings that concern common issues. On the conduct of the meetings, commenters recommended less formal arrangements for the meeting rooms, brief but effective presentations by BPA staff, and efficient use of BPA staff at public meetings.

d. Decision

Revise the purposes for which public meetings may be held to include the exchange of technical information.

e. Reasons for the Decision

The exchange of technical information is one appropriate reason for holding a public meeting.

Details for scheduling and planning public meetings do not need to be included in the policy.

Issue No. 10: Major Regional Power Policies--Expedited Decisionmaking

a. Issue

Under what circumstances should BPA use an expedited procedure to make decisions, and what should be the characteristics of such a procedure?

b. Proposed Policy

The proposed policy permits the Administrator to make an interim or final decision without fulfilling all public involvement procedures for major regional power policies when completing these procedures would be impractical, unnecessary, or contrary to the public interest. Before adopting an interim policy, BPA is to provide whatever opportunities for public involvement are feasible. The interim policy must specify the length of time that it will remain in effect. When a final policy is developed after the adoption of an interim policy, all procedural requirements must be followed.

c. Comments Received

Many commenters expressed concern that the policy did not provide specific criteria or examples of when expedited procedures might be used. It was their belief that the procedures should be employed only in rare and compelling situations when irreparable harm would be done to the public or when the need for action could not be foreseen. The commenters appeared to fear that without controlling criteria, BPA might abuse the expedited procedures and make significant decisions with little or no public consultation.

Some of the commenters suggested ways that the expedited procedures could be modified to make them more acceptable. These suggestions included: explaining the reasons for using expedited procedures in detail rather than briefly as proposed, soliciting public comment on the decision to use an expedited procedure, limiting the amount of time that an interim policy can remain in effect, requiring complete or partial fulfillment of public involvement procedures before a final policy is issued, and adding a procedure for the public to appeal the use of an expedited procedure. One commenter suggested that the term, "good cause shown," be defined.

d. Decision

Revise the explanatory material on the policy to make it clear that expedited procedures are intended to be used only in rare situations.

For situations in which a final policy is adopted immediately, add language to the policy to require BPA to be guided by the goals of completing public involvement procedures that are practicable and, where possible, to use alternative means of providing notice and public involvement opportunities.

Revise the language describing how the decision to use expedited procedures is made to more clearly express the intent of the policy.

Replace the term, "impractical," with "impracticable."

e. Reasons for the Decision

Specific criteria for expedited decisions would be difficult to formulate, would require interpretation in individual circumstances, and could hamper the appropriate use of expedited procedures.

The use of the term, "brief statement," to describe the reasons for using expedited procedures is taken from the Administrative Procedure Act and does not imply that necessary information will not be included in the statement. The suggestion that BPA should announce and solicit comment on its intention to use an expedited procedure would negate the purpose of the procedures, namely, to permit a speedy decision. Also, the establishment of a maximum length of time that an interim decision could remain in effect would be difficult to do in advance of the particular situation.

A requirement that some public involvement be required before a final policy is issued under expedited procedures would also negate the purpose of the procedures. However, it is appropriate for BPA to attempt to fulfill those public involvement procedures that are practicable or seek to use alternative means of informing and involving the public before a final policy is issued. Finally, an appeal procedure for expedited procedures would be impractical since a final policy would most likely be issued only when an interim policy would not be appropriate and in such cases the decision could not be reversed.

The term, "for good cause shown," is used in the section of the proposed policy which describes how a decision is made to use an expedited procedure. The term, "for good cause shown," is unclear and should be revised to better express the intent that the Administrator, when there is a good reason, may conclude that all normal public involvement procedures should not be fulfilled. In addition, the term, "impractical," should be replaced by "impracticable," to be more consistent with the corresponding language of the Administrative Procedure Act.

Issue No. 11: Major Regional Power Policies--Documentation of Policy Development

a. Issue

What should the record of major regional power policy development be called? How and within what time frame should the record be completed? What should be the contents of the record? Should the Staff Evaluation of the Official Record and the Record of Decision be combined into one document?

b. Proposed Policy

The proposed policy requires that a "public record" of materials documenting the development of a major regional power policy should be created. The public record is to contain all notices provided for by the policy; any transcripts or summaries of public comment forums; any summaries of public meetings; written comments, data, and questions of record and BPA's replies; the decision document; and any other relevant information. The decision document is a document which describes how and why a decision was made on a major regional power policy. The decision document includes a description of the proposed action, a summary of the public comments on the proposal, an evaluation of the proposal and other identified alternatives, the Administrator's decision, and a concise summary of the reasons for the decision.

c. Comments Received

One commenter recommended that the name of the record not be changed from "official record" to "public record" since "public" record might imply that the record was not judicially reviewable.

Two commenters made recommendations on the process of preparing the record and the decision document. One urged that the policy include a statement that BPA will try to complete its decision documents and arrive at final decisions within a reasonable period of time. Another suggested that the policy require the circulation of draft decision documents for public comment.

Regarding the content of the record, one commenter stated that the record should include every document seen and every contact made by the decisionmaker. Another comment was that the decision document should provide detailed summaries of public comments and indicate in adequate detail whether or not they were accepted and the reasons for the decision. There was also a comment that where transcripts of public comment forums or public meetings exist, they should automatically become part of the record. Similarly, one commenter pointed out that the reference to "any" transcripts or summaries of public comment forums should be changed to "the" transcripts or summaries since one or the other is required for public comment forums.

Several comments supported the combination of the evaluation of the official record and the record of decision as a change that would save time and money. One commenter advised against the combined document stating that it would create the appearance that the Administrator may not consider some alternative courses of action and that it would deny the public access to staff recommendations.

d. Decision

Retain the proposed name, "Public Record," for the record of the policy development process.

Revise the description of the contents of the public record to include:

"2. The transcript or summary of oral comments taken at public comment forums;" and "3. Any transcripts or summaries prepared for the record of oral comment taken at public meetings."

e. Reasons for the Decision

In regard to the name of the record, there is no intent to imply that the "public record" is not judicially reviewable in the same way that the "official record" has been.

A requirement to complete decision documents and final decisions within a reasonable period of time would have little precise meaning since, depending on the magnitude of the policy, the length of time that would be reasonable could vary widely. Requiring that all draft decision documents be circulated for comment could be impracticable or unnecessary for some policies.

Since the proposed policy requires that the record include specific policy-related documents and "any other information that is determined by the Administrator to be relevant," it is not necessary to add an additional requirement that every document seen and every contact made, that is related to the policy under development, be included or documented in the record. Likewise, the policy already requires that the decision document contain a summary of public comments, an evaluation of those comments, and BPA's decision on whether to adopt them or not. In addition, the complete text of all public comments can be obtained from BPA.

The suggestion to refer to "the" rather than "any" transcripts or summaries of public comment forums is a useful clarification since either a transcript or a summary must be prepared for such forums.

Combining the evaluation of the official record and the record of decision will expedite preparation of the decision document and completion of the policy development process. It will not limit the alternative courses of action considered by the Administrator since the evaluation of all of these alternatives would be included in the decision document presented to the Administrator for approval.

Issue No. 12: Other BPA Actions

a. Issue

What type of public involvement procedures should be used for other BPA actions, and what actions should fall into this category?

b. Proposed Policy

The proposed policy describes general categories of other BPA actions for which public involvement may be conducted. Eight factors are listed to illustrate the type of factors that may be considered in determining the kind of public involvement opportunities that may be appropriate for Other Actions.

c. Comments Received

Only a few commenters addressed the issue of Other BPA Actions by itself. Of those who did, one expressed general agreement with the extension of the policy to cover other BPA actions. Another commented that the procedures for other BPA actions should be more like those for major regional power policies. Two other commenters stated that BPA should establish a regular and timely public review process on its budget. Many other commenters dealt with the issue of public involvement on other BPA actions in terms of their recommendations for identifying when procedures for major regional power policies would apply. See Issue No. 4. These commenters generally expressed a preference for the detailed major regional power policy procedures over the flexible procedures for other BPA actions.

d. Decision

Retain the policy language as proposed for Other BPA Actions.

e. Reasons for Decision

Adoption of a procedure for Other BPA Actions that resembles the procedure for Major Regional Power Policies would restrict flexibility in designing appropriate public involvement activities for a wide range of actions that are not Major Regional Power Policies. The fact that detailed procedures are not specified for Other BPA Actions does not imply that extensive public involvement may not be conducted on a wide range of issues if called for by the nature of the action.

Issue No. 13: Public Involvement and NEPA

a. Issue

What should the policy require regarding the National Environmental Policy Act of 1969, as amended (NEPA)?

b. Proposed Policy

The proposed policy requires BPA to coordinate the implementation of the policy with procedures required by NEPA to the maximum extent possible. The purpose of the requirement is to minimize impacts on the public's resources.

c. Comments Received

Two comments discussed the policy's relationship to NEPA. One stated that NEPA requirements should always be implemented, and one requested that the policy clarify when BPA had the lead agency role or the role of cooperator in fulfilling NEPA requirements.

d. Decision

Retain the policy language as proposed.

e. Reasons for the Decision

The policy does not imply that NEPA requirements should not be fulfilled in all cases, only that public involvement activities and NEPA requirements should be coordinated "to the maximum extent practicable." The determination of lead and cooperating agencies for NEPA is made on the basis of specific policies and is not appropriate for this policy which is applicable to all public involvement procedures covered by the policy and to all related NEPA procedures.

JUL 18 1986

Date



Peter T. Johnson
Administrator



31110000012145

P BPA c.1
BPA2584 1986
Policy for public involvemen
: record of decision /
United States. Bonneville Po

BONNEVILLE POWER ADMIN



31110000012145

RECEIVED IN LIBRARY

JAN 2 1999