



516 DM 1 – U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures

PART 0—PURPOSE AND POLICY

Section

0.1 Purpose and policy.

0.2 Applicability.

Section 0.1 Purpose and policy.

The purpose of these procedures is to integrate compliance with the National Environmental Policy Act (NEPA) into bureau decision-making processes. Specifically, the procedures: describe how bureaus determine what actions are subject to NEPA's procedural requirements and the appropriate level of NEPA review where applicable; ensure that relevant environmental information is identified and considered early in the process to ensure informed decision-making; enable bureaus to conduct coordinated, consistent, predictable and timely environmental reviews; reduce unnecessary burdens and delays; and implement NEPA's mandates regarding lead, joint-lead, participating Federal and cooperating agency roles and responsibilities, page and time limits, and preparation of environmental impact statements or environmental assessments by applicants or applicant-directed contractors under Federal agency supervision.

(a) *Procedural and Interpretive Guidance.* This document sets forth the Department of the Interior (DOI)'s procedures for implementing NEPA. It further explains the Department's interpretation of certain key terms in NEPA. It does not, nor does it intend to, govern the individual rights and obligations of either regulated entities or persons. It does, however, establish the procedures under which bureaus will fulfill their requirements under NEPA.

(b) *Consultation with the Council on Environmental Quality.* In addition to the process for establishing or revising categorical exclusions set forth in section 1.4(b) and (d), the Department will consult with the Council while developing or revising its NEPA implementing procedures, in accord with NEPA section 102(2)(B), 42 U.S.C. section 4332(B).

Section 0.2 Applicability.

(a) *Applicability.* This Handbook is applicable to bureaus in the Department of the Interior, as bureau is defined in 6.1.

(b) *Authority.* NEPA imposes certain procedural requirements on the exercise of the Department's legal authority in relevant circumstances. Nothing contained in these procedures

is intended or should be construed to abrogate or limit the Department's other authorities or legal responsibilities.

PART 1—NEPA AND AGENCY PLANNING

Section

- 1.1 Determining when NEPA applies.
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Section 1.1 Determining when NEPA applies.

(a) The Responsible Official may document a determination that NEPA does not apply to a proposed action when:

- (1) The activities or decision do not result in final agency action under the Administrative Procedure Act, *see* 5 U.S.C. section 704, or other relevant statute that also includes a finality requirement;
- (2) The proposed action is expressly exempted from NEPA by law;
- (3) Compliance with NEPA would clearly and fundamentally conflict with the requirements of another provision of law;
- (4) A statute has prescribed direction with sufficient completeness and precision that the bureau retains no residual discretion to take environmental factors into consideration when determining whether to take the proposed action;
- (5) The proposed action is an action for which another statute's requirements serve the function of agency compliance with NEPA; or
- (6) The proposed action is not a "major Federal action."
 - (i) The terms "major" and "Federal action," each have independent force. NEPA applies only when both criteria are met. Such a determination is bound up in the facts and circumstances of each individual situation and is thus reserved to the judgment of the bureau in each instance. See Appendix 1 for a list of actions that Interior and its bureaus have generally determined, based on experience, to be "major."
 - (ii) NEPA does not apply to non-Federal actions. Therefore, for example, under the terms of the statute, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project. NEPA section 111(10)(B)(i), 42 U.S.C. section 4336e(10)(B)(i). Control over only a small part of an action is generally not sufficient to make an action "Federal" such that a NEPA obligation attaches.

- (iii) In addition to the illustrative general categories set forth in NEPA section 111(10), 42 U.S.C. section 4336e(10), bureaus have determined that the following non-exhaustive list of activities are generally not subject to NEPA because they presumptively do not meet the definition of a “major Federal action”:
 - (A) All functions of the Office of Natural Resources Revenue including, but not limited to, such activities as: approval of royalty payment procedures, including royalty oil contracts; and determinations concerning royalty quantities and values, such as audits, royalty reductions, collection-procedures, reporting procedures, and any actions taken regarding royalty collections (including similar actions, relating to net profit and windfall profit taxes).
 - (B) All functions of the Bureau of Trust Funds Administration including, but not limited to, managing and disbursing the financial assets of American Indians held in trust by the Department, and maintaining the official archive of American Indian Records.
 - (C) Development of a National Outer Continental Shelf Oil and Gas Leasing Program by the Bureau of Ocean Energy Management and associated approval by the Secretary of the Interior. 43 U.S.C. section 1344.
 - (D) Certain decisions made by the U.S. Fish and Wildlife Service under the Endangered Species Act do not require NEPA compliance:
 - (a) Determinations whether a species should be listed as threatened or endangered;
 - (b) Determinations that a species should be delisted;
 - (c) Determinations that a species should be reclassified as threatened or endangered; and
 - (d) Determinations whether to designate, amend, or rescind critical habitat.
- (7) The issuance or update of the Department’s NEPA procedures is not subject to NEPA review.
- (b) In determining whether NEPA applies to a proposed agency action, the Department will consider only the proposed action only, not other actions or activities carried out by third parties.

Section 1.2 Determine the appropriate level of NEPA review.

- (a) If the Responsible Official determines under section 1.1 that NEPA applies to a proposed action, the Responsible Official will determine the appropriate level of NEPA review, exercising discretion as appropriate for its particular proposed action, in the following sequence and manner. At all steps in the following process, the Responsible Official will consider the proposed action and its effects.
 - (1) If the bureau has established, or adopted pursuant to NEPA section 109, 42 U.S.C. section 4336c, a categorical exclusion that covers the proposed action, the Responsible Official will apply the categorical exclusion, where determined appropriate, pursuant to section 1.4(e).

(2) If another agency has already established a categorical exclusion that covers the proposed action and the bureau has not yet adopted it pursuant to NEPA section 109, 42 U.S.C. section 4336c, the bureau will consider whether to adopt that exclusion pursuant to section 1.4(c) so that it can be applied to the proposed action at issue, and to future activities or decisions of that type, pursuant to section 1.4(e).

(3) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, pursuant to section 1.4(b), the bureau will consider whether to so establish or revise, and then may apply the categorical exclusion to the proposed action pursuant to section 1.4(e), if appropriate.

(4) If the Responsible Official cannot apply a categorical exclusion to the proposed action consistent with paragraphs (a)(1)-(a)(3), the Responsible Official will prepare an environmental assessment or environmental impact statement before issuing any decision to authorize the proposed action.

(5) When preparing an environmental assessment or an environmental impact statement, the bureau will analyze the reasonably foreseeable effects of the proposed action, consistent with the definition of “effects” in section 6.1(j), and reasonable alternatives consistent with paragraph (b), and will:

(i) if it is not reasonably foreseeable that the proposed action would have significant effects on the quality of the human environment or the significance of the reasonably foreseeable effects is unknown, develop an environmental assessment, as described in section 1.5; or

(ii) if it is reasonably foreseeable that the proposed action would likely have significant effects on the quality of the human environment, develop an environmental impact statement, as described in part 2 of this Handbook.

(b) When considering whether the reasonably foreseeable effects of the proposed action or action alternatives would be significant, the Responsible Official will focus only on adverse environmental effects and compare them to the potentially affected environment and evaluate the degree of the anticipated effects of the action. A Responsible Official may use any reliable data source and will not undertake new research unless it is essential to evaluating alternatives or the significance of the impact, and the cost and time of obtaining it are not unreasonable.

(1) In considering the potentially affected environment, the Responsible Official will consider, as appropriate to the proposed action, any connected actions, the scope of the affected area (national, regional, or local), reasonably foreseeable trends and planned actions within that area, and the affected area’s natural and cultural resources.

(2) In considering the degree of the effects, the Responsible Official shall also consider the following criteria, as appropriate to the proposed action:

(i) Both short- and long-term effects;

(ii) Both beneficial and adverse effects;

(iii) Effects on public health and safety;

(iv) Economic effects; and

(v) Effects on the quality of life of the American people.

Section 1.3 NEPA and agency decision-making.

(a) Responsible Officials must integrate the NEPA process with other planning, funding, permitting, and authorization processes at the earliest reasonable time to avoid delays and ensure that the bureau considers environmental effects in its planning and decisions.

(b) *Limitations on actions during the NEPA process.*

(1) While a NEPA review is ongoing, a bureau will take no action concerning the proposed action that:

(i) limits the choice of reasonable alternatives; or.

(ii) is not independently justified and accompanied by an adequate environmental review. During the preparation of an environmental impact statement or environmental assessment evaluating a program or plan, the Responsible Official may implement any major Federal action when that action is within the scope of, and analyzed in, an existing environmental impact statement or environmental assessment supporting the current plan or program, or can be approved in reliance on a categorical exclusion, so long as there is adequate environmental analyses and documentation to support the individual action.

(c) *Actions developed in response to third-party applications.* An applicant or a contractor directed by the applicant may prepare an environmental assessment or environmental impact statement under bureau supervision. Bureau procedures for applicant-prepared environmental assessments and environmental impact statements are included in part 5 of this Handbook. Where the proposed action consists of approval of an application for funding or implementation of a project, the Responsible Official will:

(1) coordinate with the applicant as early as reasonable to inform the entity what information the bureau requires to comply with NEPA, including to initiate the NEPA process.

(2) Establish a schedule for the applicant to provide information during the application process and the bureau to complete data collection and to establish milestone steps in the NEPA process, which are consistent with NEPA's statutory deadlines and any internal bureau NEPA schedule requirements; and

(3) determine whether NEPA applies, as described in section 1.1, and if it does, determine the appropriate level of NEPA review, as described in section 1.2, as soon as practicable after receiving the complete application.

(4) independently evaluate the environmental document and take responsibility for the contents.

(5) If a bureau is considering an application from a non-Federal entity and becomes aware that the applicant is about to take an action within the bureau's jurisdiction that would meet either of the criteria in section 1.3(b), the bureau will promptly notify the applicant that the bureau will take appropriate action to ensure that the objectives and procedures of NEPA are achieved. This section does not preclude development by applicants of plans or designs or performance of other activities necessary to support an application for Federal, State, Tribal, or local permits or assistance.

(d) *Rulemaking*. For informal rulemaking conducted pursuant to the Administrative Procedure Act, 5 U.S.C. section 553, unless the bureau determines that a categorical exclusion applies to the rulemaking, an environmental assessment or draft environmental impact statement will normally accompany the proposed rule.

(e) Mitigation

(1) *Authority for mitigation*. While NEPA requires bureaus to consider reasonable mitigation measures, it does not require bureaus to evaluate or select any specific form of mitigation. In addition, NEPA itself does not authorize bureaus to approve or implement mitigation; any such authority must be provided by other applicable laws.

(2) *Considering mitigation measures in NEPA reviews*.

(i) *Bureau proposed action*. The review of the proposed action and any alternatives must include review of the environmental effects of the proposed action and alternatives as well as the environmental effects of mitigation measures or best management practices considered. The environmental effects of mitigation measures can be reviewed either as elements of alternatives or in a separate discussion of mitigation.

(ii) *Bureau-proposed action regarding an application for Federal authorization*. An application presented to a bureau for NEPA review prior to any approval must include any elements (including stipulations, conditions, or best management practices) designed to reduce or preclude adverse environmental effects that are required to make the application conform to applicable legal requirements, as well as any such design elements the applicant may volunteer to include. Further, the environmental effect of any mitigation measures in addition to such elements designed to reduce or preclude adverse environmental effects that the applicant includes in the application whether by requirement or choice must also be subjected to NEPA review. This NEPA review can be structured as consideration of alternatives to approving the application or as consideration of separate mitigation measures to be imposed on any alternative selected for implementation.

Section 1.4 Categorical exclusions.

(a) *Generally*. This section describes the process that bureaus use for establishing and revising categorical exclusions, for adopting other agencies' categorical exclusions, and for applying categorical exclusions to a proposed action. Categorical exclusions available to bureaus—including CEs established and substantiated consistent with Department NEPA procedures, legislatively established or directed CEs, and CEs adopted from other agencies—are listed in 43 CFR 46.210 or in bureau-specific lists provided in Appendix 2.

(b) *Establishing and revising categorical exclusions*. See 43 CFR 46.205(h).

(c) *Adopting categorical exclusions from other Federal agencies*. Consistent with NEPA section 109, 42 U.S.C. § 4336c, a bureau may adopt a categorical exclusion listed in another agency's NEPA procedures. When adopting a categorical exclusion, the bureau will:

(1) Identify the categorical exclusion listed in another agency's NEPA procedures that covers the relevant category of proposed or related actions;

(2) Consult with the agency that established the categorical exclusion to ensure that the proposed adoption of the categorical exclusion is appropriate;

- (3) Provide public notification of the categorical exclusion that the bureau is adopting, including a brief description of the proposed action or category of proposed actions to which the bureau intends to apply the adopted categorical exclusion; and
- (4) Document the adoption of the categorical exclusion.
- (d) *Removal of categorical exclusions.* See 43 CFR 46.205(i).
- (e) *Applying categorical exclusions.* See 43 CFR 46.205.
- (f) *Documentation of categorical exclusion determinations.* When the Responsible Official relies on a categorical exclusion to fulfill bureau obligations under NEPA, the Responsible Official will document its evaluation of the applicability of a categorical exclusion if required by law or as specified in Department of the Interior or bureau policy.
- (g) *Reliance on categorical exclusion determinations of other agencies.* See 43 CFR 46.205(e).
- (h) *Applying multiple categorical exclusions.* See 43 CFR 46.205(f).
- (i) *List of categorical exclusions.* See 43 CFR 46.210.
- (j) Appendix 2 of this Handbook lists categorical exclusions that are available for use by each bureau.
- (k) Each bureau may rely on any categorical exclusion administratively established or adopted, under NEPA section 109, 42 U.S.C. § 4336c, by the Department or any bureau within the Department.

Section 1.5 Environmental assessments.

- (a) *Generally.* Bureaus must prepare environmental assessments for actions described in 1.2(a)(5)(i). Bureaus should be mindful of statutory direction that environmental assessments are to be “concise.” NEPA § 106(b)(2); 42 U.S.C. § 4336(b)(2).
- (b) *Elements.* To provide evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, environmental assessments will:
 - (1) Briefly discuss the:
 - (i) Purpose and need for the proposed action based on the bureau’s statutory authority. When the proposed action concerns the bureau’s duty to act on an application for authorization, the purpose and need for the proposed action will also be informed by the goals of the applicant;
 - (ii) The proposed action and alternatives to the extent required by NEPA section 102(2)(H), 42 U.S.C. § 4332(2)(H); and
 - (iii) The reasonably foreseeable effects of the proposed action and any action alternatives.
- (c) *Agency actions normally requiring an environmental assessment.* The following classes of actions normally require environmental assessments but likely do not require an environmental impact statement:

See Appendix 1 for examples listed by bureau.

(d) *Scope of analysis.*

- (1) In preparing the environmental assessment, the bureau will focus its analysis on whether the environmental effects of the proposed action are significant.
- (2) Similarly, the bureau will document in the environmental assessment where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the proposed action that extend outside the geographical territory of the project or might materialize later in time.
- (3) To the extent it assists in reasoned decision-making, the bureau may, but is not required to by NEPA, analyze environmental effects from other projects separate in time, or separate in place, or that fall outside of the bureau's regulatory authority, or that would have to be initiated by a third party. If the bureau determines that such analysis would assist it in reasoned decision-making regarding the proposed action, it will document this determination in the environmental assessment and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate projects.

(e) *Page limits.*

- (1) The text of an environmental assessment must not exceed 75 pages, not including citations or appendices.
- (2) Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the environmental assessment.
- (3) Environmental assessments will be prepared in an electronic or paper format with dimensions of 8.5"x11" with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5"x11," each such item will count as one page.
- (4) *Certification Related to Page Limits.* The breadth and depth of analysis in an environmental assessment will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the environmental assessment, a responsible official will certify (and the certification will be incorporated into the environmental assessment) that the bureau has considered the factors mandated by NEPA; that the environmental assessment represents the bureau's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects the bureau's expert judgment; and that any considerations addressed briefly or left unaddressed were, in the bureau's judgment, comparatively not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed.

(f) *Deadlines.* Bureaus will complete environmental assessments in a prompt and timely manner. Prompt and timely *completion* of environmental assessments requires, at a minimum, compliance with the statutory deadlines set by NEPA section 107(g), 42 U.S.C. § 4336a, subject only to the rare case where an extension of that deadline is warranted, as described below.

(1) For proposed actions initiated in response to a third-party application or proposal, bureaus will document their initial receipt of an application or other written proposal, or any initial meeting with the third party. No later than 60 days of that initial review or meeting, the bureau will request in writing any additional information that it needs from the third party to initiate the NEPA process. No later than 30 days of receiving that information, the bureau will initiate its NEPA process as described in paragraph (2) below.

(2) The bureau will complete the environmental assessment not later than the date that is 1 year after the earliest of the following dates:

- (i) the date on which the Responsible Official determine that NEPA requires preparation of an environmental assessment for the proposed action;
- (ii) the date on which the Responsible Official notifies an applicant that the application for a right-of-way (ROW) is complete; or
- (iii) the date on which the bureau issues a notice of intent (NOI) for the proposed action.

(3) The completion date for an environmental assessment is the issuance of the environmental assessment, or in the case of an environmental assessment issued for public review followed by a revised environmental assessment, the issuance date of the revised environmental assessment.

(4) The environmental assessment or revised environmental assessment in the case of an environmental assessment issued for public review, will issue (unless the deadline is extended pursuant to the provision below), at the latest, on the day the deadline elapses, in as substantially complete form as is possible.

(5) *Deadline extensions.* Bureaus should, to the maximum extent practicable, endeavor to meet the deadline prescribed by NEPA section 107(g)(1)(B), 42 U.S.C. § 4336a(g)(1)(B). To accomplish this goal, bureaus should develop schedules for their environmental assessments, monitor those schedules, and revise them as necessary. If a bureau finds, upon developing or revising its schedule, that it is unlikely to meet the statutory deadline, it must confer with the Office of the Solicitor to identify options for expediting its preparation of an environmental assessment. After conferring with the Office of the Solicitor, if a bureau concludes that it is essential to seek additional time, it must consult with the applicant, if any, pursuant to NEPA section 107(g)(2), 42 U.S.C. § 4336a(g)(2). After any such consultation, and for cause stated, the bureau may recommend a new deadline to the Office of the Deputy Secretary for review and approval. Cause for establishing a new deadline is only established if the environmental assessment is so incomplete, at the time at which the bureau determines it is not able to meet the statutory deadline, that issuance pursuant to subsection (4) above would, in the bureau's view, result in an inadequate analysis. Any such new deadline must provide only so much additional time as is necessary to complete the environmental assessment.

(6) *Certification Related to Deadline.* When the environmental assessment is published, a responsible official will certify (and the certification will be incorporated into the environmental assessment) that the resulting environmental assessment represents the bureau's good-faith effort to fulfill NEPA's requirements within the congressional timeline; that such effort is substantially complete; that, in the bureau's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the bureau's judgment,

the analysis contained therein is adequate to inform and reasonably explain bureau's decision regarding the proposed Federal action.

Section 1.6 Findings of no significant impact.

(a) The Responsible Official will prepare a finding of no significant impact if the Responsible Official determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed action would not have significant effects. The finding of no significant impact will:

- (1) Include the environmental assessment or incorporate it by reference;
- (2) State and document the reasons why the Responsible Official has determined that the selected alternative would not have a significant effect on the quality of the human environment;
- (3) State the authority for and describe any mitigation that the Responsible Official has adopted and any applicable monitoring or enforcement provisions. If the Responsible Official finds that the proposed action will not have significant effects due to mitigation, the mitigated finding of no significant impact will identify the mitigation measures that will be undertaken to avoid significant effects and the mechanisms to ensure their implementation.

(b) The bureau will make environmental assessments, any mitigation commitments, and findings of no significant impact available on a public website.

Section 1.7 Lead and cooperating agencies.

A proposed action may involve multiple Federal agencies (*e.g.*, where multiple Federal authorizations are required with respect to a project sponsor's overall purpose and goal). When multiple agencies are involved in a proposed action, the agencies shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA section 107(a)(1)(A), 42 U.S.C. § 4336a(a)(1)(A). When serving as the lead agency, a bureau is ultimately responsible for completing the NEPA process. When a joint lead relationship is established pursuant to NEPA section 107(a)(1)(B), 42 U.S.C. § 4336a(a)(1)(B), the bureau and the other joint lead agency or agencies are collectively responsible for completing the NEPA process.

(a) *How to designate lead agencies.*

- (1) In most cases, the Responsible Official should designate one Federal agency as the lead with the remaining Federal, State, Tribal, and local agencies assuming the role of cooperating agency. In this manner, the other Federal, State, Tribal, and local agencies can work to ensure that the environmental impact statement will meet their needs for adoption and application to any related decision.
- (2) In some cases, a non-Federal agency (including a State, Tribal, or local government) must comply with State, Tribal, or local requirements that are comparable to the NEPA requirements. In these cases, the Responsible Official may designate the non-Federal agency as a joint lead agency.
- (3) In some cases, the Responsible Official may establish a joint lead relationship among several Federal agencies. If there are joint leads for an environmental impact statement, then one Federal agency must be identified as the agency responsible for filing the environmental impact statement with the Environmental Protection Agency.

(4) Bureaus may allow joint lead agencies to cooperate in developing environmental assessments.

(b) How to select cooperating agencies.

(1) An “eligible governmental entity” is:

(i) Any Federal, State, Tribal, or local agency that is qualified to participate in the development of an environmental assessment or environmental impact statement by virtue of its jurisdiction by law, consistent with 42 U.S.C. § 4336a(a)(3);

(ii) Any Federal, State, Tribal, or local agency that is qualified to participate in the development of an environmental assessment or environmental impact statement by virtue of its special expertise.

(2) The Responsible Official for a lead bureau must invite eligible governmental entities to participate as cooperating agencies when the bureau is developing an environmental assessment and must invite eligible governmental entities to participate as cooperating agencies when the bureau is developing an environmental impact statement, subject to the exception described in subparagraph (b)(3) of this section.

(3) The Responsible Official for the lead bureau must consider any request by an eligible governmental entity to participate in a particular environmental impact statement or environmental assessment as a cooperating agency. Such request shall not be arbitrarily denied. If the Responsible Official for the lead bureau denies a request, or determines it is inappropriate to extend an invitation, he or she must state the reasons in the environmental impact statement. Denial of a request for cooperating agency status is not subject to any internal administrative appeals process, nor is it a final agency action subject to review under the Administrative Procedure Act, 5 U.S.C. § 701 et seq.

(4) Bureaus should work with cooperating agencies to develop and adopt appropriate documentation that includes their respective roles, assignment of issues, schedules, and staff commitments so that the NEPA process remains on track and within the time schedule. Such documentation must be used in the case of non-Federal agencies and must include a commitment to maintain the confidentiality of documents and deliberations during the period prior to the public release by the bureau of any environmental document, including drafts. However, no memorandum can require a cooperating agency to waive the right to judicial review.

(5) Bureaus within the Department will be cooperating agencies with other bureaus when requested.

(6) Bureaus may allow cooperating agencies to participate in developing environmental assessments.

Section 1.8 Notices of intent and scoping.

(a) As a preliminary step to determining whether, in connection with a proposed action that is not categorically excluded, the bureau will prepare an environmental assessment or an environmental impact, determining and documenting the proposed action’s scope of environmental effects.

(b) *Notice of intent.* As soon as practicable after determining that a proposal is sufficiently developed to allow for meaningful public comment and requires an environmental impact statement, the bureau will publish in the Federal Register a notice of intent to prepare an environmental impact statement. If the Responsible Official intends to prepare an environmental assessment for a proposed action, the bureau may publish a notice of intent to prepare an environmental assessment.

(1) The notice of intent to prepare an environmental impact statement will include a description of the purpose and need for the proposed action, a preliminary description of the proposed action and alternatives the environmental impact statement will consider, and a request for public comment on alternatives or effects and on relevant information, studies, or analyses with respect to the proposed agency action. NEPA section 107(c); 42 U.S.C. § 4336a(c).

(2) The notice of intent for any environmental impact statement or environmental assessment may include:

- (i) The purpose and need for the proposed action;
- (ii) A brief summary of expected effects;
- (iii) Anticipated permits and other authorizations (*i.e.*, anticipated connected actions);
- (iv) A schedule for the decision-making process;
- (v) A description of the public scoping process, including any scoping meetings;
- (vi) Contact information for a person within the bureau who can answer questions about the proposed action and the environmental document; and
- (vii) Identification of any cooperating and participating Federal agencies, and any information that such agencies require to facilitate their decisions or authorizations.

(c) *Scoping.* Bureaus should use an early and open process to determine the scope of issues for analysis in an environmental impact statement, including identifying substantive issues, which meaningfully inform the consideration of environmental effects and the resulting decision on how to proceed, and eliminating from further study non-substantive issues, and determining whether connected actions should be addressed in the same environmental document. Scoping may be used for an environmental assessment to identify issues that warrant assessment and issues that do not warrant assessment. Scoping should begin as soon as practicable after the proposal for action is sufficiently developed for consideration. Scoping may include appropriate pre-application procedures or work conducted prior to publication of the notice of intent, where applicable.

PART 2—ENVIRONMENTAL IMPACT STATEMENTS

Section

- 2.1 Preparation of environmental impact statements.
- 2.2 Purpose and need.
- 2.3 Analysis within the environmental impact statement.
- 2.4 Page limits.
- 2.5 Deadlines.
- 2.6 Publication of the environmental impact statements.

Section 2.1 Preparation of environmental impact statements.

(a) A bureau will prepare an environmental impact statement only with respect to proposed actions that require preparation of an environmental impact statement and that the bureau reasonably foresees would have a significant effect on the quality of the human environment. NEPA section 106(b)(1); 42 U.S.C. § 4336(b)(1). See Appendix 1 for a list of actions that the Department and its bureaus will presume, based on experience, generally “significantly affect” the quality of the human environment,” consistent with section NEPA section 102(2)(C), 42 U.S.C. § 4332(2)(C). Whether an impact rises to the level of “significant” is a matter for a bureau’s expert judgment.

(b) During the process of preparing an environmental impact statement, the Responsible Official:

(i) Will request the comments of:

- (A) Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact from the proposed action or is authorized to develop and enforce environmental standards that govern the proposed action;
- (B) Appropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards.
- (C) State, Tribal, or local governments that may be affected by the proposed action;
- (D) Any agency that has requested it receive statements on actions of the kind proposed; and
- (E) the applicant, if any.

(ii) May request the comments of the public, including by affirmatively soliciting comments in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action.

(c) This process of obtaining and requesting comments pursuant to (b) above may be undertaken at any time that is reasonable in the process of preparing the environmental impact statement and seek to provide 30 days, to the extent practicable. The bureau will ensure that the process of obtaining and request comments pursuant to (b) above, and the bureau’s analysis of and response to those comments, does not cause the bureau to violate the congressionally mandated deadline for completion of an environmental impact statement.

(d) *Addressing Comments.* The bureau will address any substantive comments received consistent with paragraph (b) of this section in the environmental impact statement.

(e) Bureaus will provide information about their NEPA practice and environmental review documents for public comment through the following websites:

- (i) Bureau of Ocean Energy Management
<https://www.boem.gov/environment/environmental-assessment/nepa/national-environmental-policy-act-nepa>
- (ii) Bureau of Safety and Environmental Enforcement <https://www.bsee.gov/what-we-do/environmental-compliance/environmental-programs/nepa-compliance>
- (iii) Bureau of Reclamation <https://www.usbr.gov/nepa/>
- (iv) Office of Surface Mining Reclamation and Enforcement
<https://www.osmre.gov/laws-and-regulations/nepa> and <https://www.osmre.gov/laws-and-regulations/nepa/projects>
- (v) National Park Service <https://parkplanning.nps.gov>
- (vi) Bureau of Land Management <https://eplanning.blm.gov>
- (vii) Indian Affairs <https://www.bia.gov/service/nepa-compliance>
- (viii) U.S. Geological Survey <https://www.usgs.gov/legal/nepa>
- (ix) U.S. Fish and Wildlife Service <https://fws.gov/program/national-environmental-policy-act>
- (x) Office of Native Hawaiian Relations <https://www.doi.gov/hawaiian>
- (xi) Office of Insular Affairs <https://www.doi.gov/oia/NEPA-documentation>

Section 2.2 Purpose and need.

The statement will include the purpose and need for the proposed action based on the bureau's statutory authority. When the proposed action concerns a bureau's duty to act on an application for authorization, the purpose and need for the proposed action will also be informed by the goals of the applicant.

Section 2.3 Analysis within the environmental impact statement.

- (a) The environmental impact statement will include a detailed statement on:
 - (1) reasonably foreseeable environmental effects of the proposed action;
 - (2) effects of any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;
 - (3) a reasonable range of alternatives to the proposed action, including an analysis of any positive or beneficial environmental impacts of implementing the proposed action or any reasonable alternatives, that, in the bureau's expert judgment, are technically and economically feasible, and meet the bureau's purpose and need for action and are within the bureau's legal authority to implement;

- (4) the relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity;
- (5) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action should it be implemented; and
- (6) Any means identified to mitigate adverse environmental effects of the proposed action. Bureaus are mindful that NEPA itself does not require or authorize a Responsible Official to impose any mitigation measures.

(b) *Scope of analysis.*

- (1) In preparing the environmental impact statement, the bureau will focus its analysis on whether the environmental effects of the proposed action are significant.
- (2) Similarly, the bureau will document in the environmental impact statement where and how it drew a reasonable and manageable line relating to its consideration of environmental effects from the proposed action that extend outside the geographical territory of the project or might materialize later in time.
- (3) To the extent it assists in reasoned decision-making, the bureau may, but is not required to by NEPA, analyze environmental effects from other projects separate in time, or separate in place, or that fall outside of the bureau's regulatory authority, or that would have to be initiated by a third party. If the bureau determines that such analysis would assist it in reasoned decision-making regarding the proposed action, it will document this determination in the environmental impact statement and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate projects.

(c) *Proportionate analysis.* Environmental impact statements will discuss effects in proportion to their significance. With respect to issues that are not significant, there will be no more than a brief discussion to explain why those issues are not significant and therefore do not warrant further analysis. Environmental impact statements will be analytic, concise, and no longer than necessary to comply with NEPA consistent with its page limits and deadlines.

Section 2.4 Page limits.

- (a) *Page limits.* Except as provided in paragraph (b), the text of an environmental impact statement will not exceed 150 pages, not including citations or appendices.
- (b) An environmental impact statement for a proposed action of extraordinary complexity may not exceed 300 pages, not including any citations or appendices. The Responsible Official will determine at the earliest possible stage of preparation of an environmental impact statement whether the conditions for exceeding the page limit in paragraph (a) are present.
- (c) Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the environmental impact statement.
- (d) Environmental impact statements will be prepared in an electronic or paper format with dimensions of 8.5"x 11" with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such

material do count towards the page limit. When an item of graphical material is larger than 8.5”x 11,” each such item will count as one page.

(e) *Certification Related to Page Limits.* The breadth and depth of analysis in an environmental impact statement will be tailored to ensure that the environmental impact statement does not exceed these page limits. In this regard, as part of the finalization of the environmental impact statement, a responsible official will certify that the bureau has considered the factors mandated by NEPA; that the environmental impact statement represents the bureau’s good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects the bureau’s expert judgment; and that any considerations addressed briefly or left unaddressed were, in the bureau’s judgment, comparatively unimportant or frivolous.

Section 2.5 Deadlines.

Bureaus will complete environmental impact statements in a prompt and timely manner. Prompt and timely completion of environmental impact statements requires, at a minimum, compliance with the statutory deadlines set by NEPA section 107(g), 42 U.S.C. § 4336a(g), subject only to the rare case where an extension of that deadline is warranted, as described below.

(a) For proposed actions initiated in response to a third-party application or proposal, bureaus will document their initial receipt of an application or other written proposal, or any initial meeting with the third party. No later than 60 days of that initial review or meeting, the bureau will request, in writing, any additional information that it needs from the third party to initiate the NEPA process. No later than 30 days of receiving that information, the bureau will initiate its NEPA process as described in paragraph (b) below.

(b) The bureau will complete and issue the environmental impact statement not later than the date that is 2 years after the earliest of the following dates:

- (1) the date on which the Responsible Official determines that NEPA requires preparation of an environmental impact statement for the proposed action,
- (2) the date on which the Responsible Official notifies an applicant that the application for a ROW is complete, or
- (3) the date on which the bureau issues a notice of intent (NOI) for the proposed action.

(c) The environmental impact statement will publish (unless the deadline is extended pursuant to the provision below) on the day the deadline elapses, in as substantially complete form as is possible.

(d) Bureaus should, to the maximum extent practicable, endeavor to meet the deadline prescribed by NEPA section 107(g)(1)(A), 42 U.S.C. § 4336a(g)(1)(A). To accomplish this goal, bureaus should develop schedules for their environmental impact statements, monitor those schedules, and revise them as necessary. If a bureau finds, upon developing or revising its schedule, that it is unlikely to meet the statutory deadline, it must confer with the Office of the Solicitor to identify options for expediting its preparation of an environmental impact statement. After conferring with the Office of the Solicitor, if a bureau concludes that it is essential to seek additional time, it must consult with the applicant, if any, pursuant to NEPA

section 107(g)(2), 42 U.S.C. § 4336a(g)(2). After any such consultation, and for cause stated, the bureau may recommend a new deadline to the Office of the Deputy Secretary for review and approval. Cause for establishing a new deadline is only established if the environmental impact statement is so incomplete, at the time at which the bureau determines it is not able to meet the statutory deadline, that issuance pursuant to subsection (d) above would, in the bureau's view, result in an inadequate analysis. Any such new deadline must provide only so much additional time as is necessary to complete the environmental impact statement.

(e) *Certification Related to Deadlines.* When the environmental impact statement is published, a responsible official will certify (and the certification will be incorporated into the environmental impact statement) that the resulting environmental impact statement represents the bureau's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the bureau's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the bureau's judgment, the analysis contained therein is adequate to inform and reasonably explain bureau's decision regarding the proposed Federal action.

Section 2.6 Publication of the environmental impact statement.

The Responsible Official will make the entire environmental impact statement available by publishing it on a public website and a notice in the Federal Register through the process managed by the Environmental Protection Agency (EPA), Office of Federal Activities.

PART 3—EFFICIENT ENVIRONMENTAL REVIEWS

Section

- 3.1 Reliance on Existing Environmental Documents
- 3.2 Programmatic environmental impact statements or environmental assessments and tiering.
- 3.3 Publishing Pre-Decisional Documents.
- 3.4 Combining documents.
- 3.5 Incorporation by reference.
- 3.6 Supplemental environmental impact statements.
- 3.7 Integrity and completeness of information.
- 3.8 Integrating NEPA with other environmental requirements.
- 3.9 Elimination of duplication with State, Tribal, and local procedures.
- 3.10 Proposals for regulations.
- 3.11 Unique identification numbers.
- 3.12 Emergencies.

Section 3.1 Reliance on existing environmental documents

If a proposed action has been adequately evaluated in an earlier environmental impact statement or environmental assessment, the Responsible Official may prepare a Determination of NEPA Adequacy (DNA), memorandum to file, or other writing to document that a proposed action is adequately analyzed in an existing environmental impact statement or environmental assessment. Before using existing NEPA analysis, the Responsible Official must reevaluate the analysis to

ensure the analysis and assumptions remain valid, considering whether any new and substantial information or circumstances not previously analyzed may result in substantially different environmental effects. The Responsible Official must document this reevaluation including the basis for the determination that the existing analysis adequately assesses the environmental effects of the new proposed action, and the analysis and assumptions remain valid.

(a) Generally. The bureau may rely on an environmental impact statement, environmental assessment, or portion thereof, provided that the statement, assessment, or portion thereof meets the standards for an adequate statement or assessment under these procedures. When relying on an environmental impact statement, environmental assessment, or portion thereof, the bureau will cite to the document, briefly describe the content and relevance to the environmental document, and may make modifications that are necessary to render the relied-upon document, or portion thereof, fit for fulfilling NEPA's analytic requirements for evaluating the environmental effects of the proposed action and reasonable alternatives.

(b) Substantial Similarity.

(1) If the actions covered by the original environmental impact statement or environmental assessment and the proposed action are substantially the same, the bureau may, and generally will, republish the relied-upon statement or assessment.

(2) If the previously analyzed and proposed actions are not substantially the same, the bureau may modify the statement or assessment as necessary to render the statement fit for fulfilling NEPA's analytic requirements for evaluating the environmental effects of the proposed action and reasonable alternatives, and publish the relied-upon statement or assessment, as modified. Where appropriate, the bureau may solicit comment to the extent that solicitation of comment will assist the bureau in expeditiously adapting the relied-upon statement or assessment so that it is fit for the bureau's purposes.

Section 3.2. Programmatic environmental impact statements or environmental assessments and tiering.

(a) Bureaus may prepare environmental documents for programmatic Federal actions, such as new agency programs. Bureaus may evaluate programmatic Federal actions in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) By type of action, including actions that have relevant similarities, such as common timing, effects, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development.

(b) A Responsible Official may rely on analysis included in a programmatic environmental impact statement or programmatic environmental assessment for which judicial review was available to support a decision on a new proposed action as follows:

(1) If the bureau initiates NEPA review of a proposed action fewer than five years after a bureau has issued a programmatic environmental impact statement or environmental assessment, the Responsible Official may rely on the analysis in the programmatic

environmental impact statement or environmental assessment without additional NEPA review if the Responsible Official determines there are no substantial new circumstances or information about the significance of adverse effects that bear on the analysis.

(2) If the bureau initiates NEPA review on a new proposed action more than five years after an agency has issued a programmatic environmental impact statement or environmental assessment, the Responsible Official may rely on the analysis in the programmatic environmental impact statement or environmental assessment after evaluating it and verifying that reliance on the analysis remains valid. When conducting such an evaluation, the Responsible Official may rely on previously completed reviews, if any, of the programmatic environmental impact statement or environmental assessment.

(c) Where a bureau's existing environmental document is relevant to a later proposed action, a bureau may employ tiering, whereby the bureau uses existing analysis from broader environmental documents, including programmatic reviews, in subsequent narrower reviews.

(1) When a bureau prepares a subsequent environmental document that tiers to analysis from a programmatic review, the Responsible Official should first determine whether the existing analysis adequately covers the new proposed action. The tiered document will discuss the relationship between the tiered document and the previous review; summarize and incorporate by reference the issues discussed in the broader document; concentrate on the issues specific to the subsequent action, analyzing site-, phase-, or stage-specific conditions and reasonably foreseeable effects; and identify where the earlier document is publicly available.

(2) Tiering is appropriate when the sequence from an environmental impact statement or environmental assessment is:

(i) From a programmatic, plan, or policy environmental impact statement or environmental assessment to a program, plan, or policy statement or assessment of lesser or narrower scope or to a site-specific statement or assessment; or

(ii) From an environmental impact statement or environmental assessment prepared to support a specific action at an early stage to a subsequent environmental impact statement or environmental assessment prepared to support a specific action at a later stage.

(3) An environmental assessment may be prepared, and a finding of no significant impact reached, for a proposed action with significant effects, if the environmental assessment is tiered to an environmental impact statement that fully analyzes those significant effects. Tiering to a broader-scoped environmental impact statement may allow for the preparation of an environmental assessment and a finding of no significant impact for the individual proposed action, so long as any previously unanalyzed effects are not significant. A finding of no significant impact other than those already disclosed and analyzed in the environmental impact statement to which the environmental assessment is tiered may also

be called a “finding of no *new* significant impact” or a “finding of no *additional* significant impact.”

Section 3.3 Publishing pre-decisional environmental documents.

During the process of preparing any environmental document provided for by these procedures, a bureau may publish such draft, pre-decisional materials as in the bureau’s judgment may assist in fulfilling its responsibilities under NEPA and these procedures.

Section 3.4 Combining documents.

Bureaus will combine, to the fullest extent practicable, any environmental document or other NEPA compliance document with any other bureau document to reduce duplication and paperwork, ensuring that any findings or other required determinations are clearly identified and set forth. The page limits for environmental assessments and environmental impact statements will apply to that portion of a jointly prepared Federal-state environmental compliance document that addresses NEPA compliance.

Section 3.5 Incorporation by reference.

(a) Bureaus may incorporate material, such as planning studies, analyses, or other relevant information, into environmental documents by reference when the effect will be to reduce the length of an environmental document without impeding bureau and public review of the action. When incorporating material by reference, the bureau will identify, briefly describe the content and relevance to the environmental document, cite (by specific page number where applicable), and make the materials reasonably available for review by potentially interested parties. Bureaus are encouraged to incorporate by reference wherever appropriate, including to shorten the length of environmental impact statements and environmental assessments.

(b) Though NEPA itself does not require cost-benefit analysis, other authorities may require a bureau to conduct such an analysis. To the extent that such cost-benefit analysis is relevant to any alternatives analysis a bureau is conducting pursuant to NEPA, the bureau will incorporate the cost-benefit analysis by reference or append it to the environmental document to avoid duplication in evaluating the environmental effects. In such cases, the environmental document will discuss the relationship between that analysis and any analyses of unquantified environmental effects, values, and amenities.

Section 3.6 Supplements to environmental impact statements.

(a) *When a supplement must be prepared.* A bureau will prepare supplements to environmental impact statements only if a major Federal action remains to occur, and:

- (1) The bureau makes substantial changes to the proposed action that are relevant to environmental concerns; or
- (2) The bureau determines, in its discretion, that there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its effects.

(b) When preparing supplements, bureaus have discretion concerning how they facilitate public participation. A supplement need not be published or circulated in the same manner as the document being supplemented; rather, the Responsible Official may publish or circulate a supplement as appropriate to the scope of the supplement and the proposed action.

Section 3.7 Integrity and completeness of information.

- (a) A bureau will not undertake new scientific and technical research to inform its analyses unless the bureau anticipates that the results of that research will be essential to a reasoned choice among alternatives and the overall costs and time frame of such undertaking are not unreasonable. Rather, the bureau will make use of reliable existing data and resources.
- (b) When a bureau is evaluating an action's reasonably foreseeable significant effects on the human environment, and there is incomplete or unavailable information that cannot be obtained at a reasonable cost or the means to obtain it are unknown, the bureau will make clear in the relevant environmental document that such information is lacking and the bureau has decided not to rely on such data or information.

Section 3.8 Integrating NEPA with other environmental requirements.

- (a) To the fullest extent possible, bureaus will prepare environmental documents or other NEPA compliance documents concurrently with and integrated with analyses and related surveys and studies required by other Federal statutes and regulations.
- (b) Bureaus will combine an environmental document or other document prepared in compliance with NEPA with any other agency document to reduce duplication and paperwork. Thus, bureaus may combine an environmental document or other NEPA compliance document with related plans, rules, or amendments as a single consolidated document. The consolidated document will contain and clearly identify the required sections of the environmental or other NEPA compliance document.
- (c) If comments on a notice of intent or other aspects of a scoping process identify consultations, permits, or licenses necessary under other environmental laws, the environmental document or other NEPA compliance document shall contain a section briefly listing the applicable requirements and how the bureau has met or will meet them (*e.g.*, permits applied for or received, consultations initiated or concluded).

Section 3.9 Elimination of duplication with State, Tribal, and local procedures.

- (a) Bureaus may cooperate with State, Tribal, and local agencies that are responsible for preparing environmental documents.
- (b) To the fullest extent practicable unless specifically prohibited by law, bureaus will coordinate environmental reviews and project approaches with State, Tribal, and local agencies to reduce duplication between NEPA and State, Tribal, and local requirements, including through use of studies, analysis, and decisions developed by State, Tribal, or local agencies. Such cooperation may include:
 - (1) Joint planning processes,
 - (2) Joint environmental research and studies,
 - (3) Joint public hearings (except where otherwise provided by statute), or
 - (4) Joint environmental documents.

Section 3.10 Proposals for regulations.

Where the proposed action is the promulgation of a rule or regulation, procedures and documentation pursuant to other statutory or Executive order requirements may satisfy one or

more requirements of this subchapter. When a procedure or document satisfies one or more requirements of this subchapter, a bureau may substitute it for the corresponding requirements in this subchapter and need not carry out duplicative procedures or documentation. Bureaus will identify which corresponding requirements in this subchapter are satisfied and consult with the Council on Environmental Quality to confirm such determinations.

Section 3.11 Unique identification numbers.

For all proposed actions requiring documented environmental review under NEPA, bureaus will provide a unique identification number for tracking purposes, which bureaus will refer to on all associated environmental review documents prepared for the proposed action and in any database or tracking system for such documents. Bureaus will coordinate with the Council on Environmental Quality concerning their use of identification numbers.

Section 3.12 Emergencies.

Procedures for emergency alternate arrangements for NEPA are addressed in the Department of the Interior's regulations at 43 CFR 46.150.

PART 4—AGENCY DECISION-MAKING

Section

- 4.1 Decision documents.
- 4.2 Filing requirements.

Section 4.1 Decision documents.

At the time of its decision on its proposed action, a bureau may prepare and timely publish a concise public decision document or joint decision document notifying the public that the Responsible Official has certified that the bureau has considered all relevant information raised in the NEPA process and that the NEPA process has closed. When making a decision, agencies have discretion to select from among or from a blend of the alternatives they have evaluated.

- (a) Bureaus will document a decision on a proposed action in a record of decision when the bureau has prepared an environmental impact statement to evaluate the proposed action.
- (b) Bureaus will document a decision on a proposed action in a decision record or other appropriate decision document when the decision relies on a documented categorical exclusion or a determination of NEPA adequacy or similar documentation of NEPA review. When the bureau has prepared an environmental assessment, the bureau's decision must be supported by a finding of no significant impact.

Section 4.2 Filing requirements.

Bureaus will file all environmental impact statements, including draft, final, or supplemental, together with any comments and responses with the Environmental Protection Agency, Office of Federal Activities for publication on their website and of a notice of availability in the *Federal Register*.

PART 5—PROCEDURES FOR APPLICANT-PREPARED AND CONTRACTOR-PREPARED ENVIRONMENTAL IMPACT STATEMENTS AND ENVIRONMENTAL ASSESSMENTS AND OTHER ENVIRONMENTAL DOCUMENTS

Section

- 5.1 Procedures for applicant-prepared environmental impact statements and environmental assessments.
- 5.2 Using a bureau-directed contractor to prepare environmental documents.

Section 5.1 Procedures for applicant-prepared environmental impact statements and environmental assessments.

Procedures for applicant-prepared NEPA reviews are addressed in the Department of the Interior's regulations at 43 CFR 46.107.

Section 5.2 Using a bureau-directed contractor to prepare environmental documents.

Procedures for bureau-directed contractors preparing environmental documentation are addressed in the Department of the Interior's regulations at 43 CFR 46.105.

PART 6—DEFINITIONS

Section 6.1 Definitions.

As used in these implementing procedures, terms have the meanings provided in NEPA section 111, 42 U.S.C. section 4336e. In addition:

- (a) *NEPA* means the National Environmental Policy Act, as amended (42 U.S.C. section 4321, *et seq.*).
- (b) *Affected Environment* means the environmental conditions that would prevail in the absence of the implementation of the proposed action or action alternatives. It includes any reasonably foreseeable environmental trends and planned actions in the area to be affected by implementation of the proposed action or action alternatives.
- (c) *Applicant* means a project sponsor or other third party seeking an authorization from a bureau or the Department.
- (d) *Authorization* means any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law that may be the subject of a proposed action.
- (e) *Bureau* means bureau, office, or service within the Department of the Interior. The Department and its bureaus are "agencies" within the meaning of NEPA.
- (f) *Categorical Exclusion* (CE) means a category of actions that a Federal agency has determined normally does not significantly affect the quality of the human environment.
- (g) *Connected action* means a separate Federal action within the authority of a bureau that is closely related to the proposed action and should be addressed in a single environmental document because the proposed agency action:

(1) Automatically triggers the separate Federal action, which independently would require the preparation of additional environmental documents;

(2) Cannot proceed unless the separate Federal action is taken previously or simultaneously;
or

(3) Is an interdependent part of a larger Federal action that includes a separate Federal action, which mutually depend on the larger Federal action for their justification.

(h) *Cooperating Agency* means any Federal, State, Tribal, or local agency that has been designated as a cooperating agency under section 107(a)(3) of NEPA.

(i) *Determination of NEPA Adequacy (DNA)* means the Responsible Official's documentation of their evaluation as to whether the environmental effects of a proposed action lie within the scope of and have been analyzed in one or more existing environmental assessments or environmental impact statements and there are no new circumstances, new information, or potential for unanticipated or unanalyzed environmental effects that warrant new or supplemental analysis before the proposed action can be implemented. A determination of NEPA adequacy is not an environmental document; rather it confirms the existence of environmental documentation adequate to fulfill NEPA compliance requirements.

(j) *Effects* or *impacts* means changes to the human environment from the proposed action or action alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or action alternatives.

(1) Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, local custom and culture or health effects. Effects appropriate for analysis under NEPA may be either beneficial or detrimental, or both, with respect to these values.

(2) A "but for" causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to the limits of its regulatory authority, or that would occur regardless of the proposed action, or that would need to be initiated by a third party. *Environmental document* means an environmental impact statement, an environmental assessment, or a finding of no significant impact.

(k) *Human environment* means comprehensively the natural and physical environment and the relationship of Americans with that environment. (*See also* the definition of "effects" in paragraph (j) of this section.)

(l) *Jurisdiction by law* means agency authority to approve, veto, or finance all or part of the proposal.

(m) *Mitigation* means measures that avoid, minimize, or compensate for effects caused by a proposed action or alternatives as described in an environmental document or record of decision and that have a nexus to those effects. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation includes:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

- (2) Minimizing effects by limiting the degree or magnitude of the action and its implementation.
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (5) Compensating for the impact by replacing or providing substitute resources or environments.

(n) *NEPA process* means all measures necessary for compliance with the requirements of section 2 and title I of NEPA.

(o) *Notice of intent* means a public notice that an agency will prepare and consider an environmental impact statement or environmental assessment.

(p) *Page*. Page means: 1) an 8.5"x11" electronic or paper sheet with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced; or 2) a graphic, map, diagram, or table of any size. A page does not include citations or appendices.

(q) *Proposed Action* means a proposal or a recommendation for agency approval that is subject to NEPA. It includes agency-initiated and third party-initiated (e.g., applicant-initiated) proposals that exist at a stage when an agency, subject to NEPA, has a goal or is actively preparing to decide on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Proposed action includes a bureau's exercise of discretion over a non-Federal entity's planned activity that falls under a Federal agency's authority to issue permits, licenses, grants and cooperative agreements, rights-of-way, or other common Federal approvals, funding, or regulatory instruments. As the Supreme Court has explained, "'the 'proposed action' is 'the project at hand—not other separate projects.'" *Seven County*, 145 S.Ct. at 1504. As a unit of analysis, therefore, the "proposed action" excludes (1) other projects that are "separate in time"; (2) other projects that are "separate in ... place"; (3) other projects that "fall outside the [DOI's] authority"; and (4) other projects that "would be initiated, if at all, by third parties." *Id.* at 1515.

(r) *Publish* and *publication* mean methods found by the agency to efficiently and effectively make environmental documents and information available for review by interested persons, including electronic publication.

(s) *Related action* means an action undertaken by an agency, e.g., a permitting action, some other type of authorization action, an analysis required by statute, or the like, that bears a relationship to other actions undertaken by other agencies relevant to NEPA, e.g., that a set of related actions are all related to one overarching project.

(t) *Reasonable alternatives* means a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposed action, are within the jurisdiction of the bureau, and, where applicable, meet the goals of the applicant.

(u) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(v) *Record of Decision* means a concise public document that explains what the bureau decision is, describes the alternatives considered, discusses any preferences among alternatives

based on relevant factors including economic and technical considerations and bureau statutory missions, and states whether all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted, and, if not, why they were not. A record of decision may include any mitigation, monitoring, or enforcement plan as appropriate.

(w) *Responsible Official* is the bureau employee who is delegated the authority to make and implement a decision on a proposed action and is responsible for ensuring compliance with NEPA.

(x) *Scope* consists of the range of actions, alternatives, and effects to be considered in the NEPA process. The scope of an individual environmental impact statement or environmental assessment may depend on its relationships to other environmental impact statements or environmental assessments or the relationship between the proposed action and other agency actions.

(y) *Tiering* refers to the reliance on and incorporation by reference of discussions of general matters in broader environmental impact statements or environmental assessments (such as national program or policy statements) in subsequent narrower or environmental analyses (such as regional or basin-wide program environmental impact statements or environmental assessments or ultimately site -specific environmental impact statements or environmental assessments).

(z) *Tribe* means an Indian Tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

PART 7—Severability.

Section 7.1 Severability.

The sections of this Handbook are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is Interior's intention that the validity of the remainder of those parts will not be affected. The remaining sections, portions therein, and applications shall continue in effect.