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(e) This part contains AFRH's general policy regarding NEPA implementation and sets out AFRH procedures that supplement the CEQ regulations for meeting NEPA requirements. It also assigns responsibilities to the Chief Operating Officer (COO) for the AFRH and the Master Planner. These regulations provide further detail regarding the conduct of NEPA impact analyses.

§ 200.3 Responsibilities.

(a) The COO is the AFRH NEPA official responsible for compliance with NEPA for AFRH actions. The COO also provides the AFRH's views on other agencies' environmental impact statements (EIS).

(b) The Master Planner is the point of contact for information on: AFRH NEPA documents; NEPA oversight activities; and review of other agencies' EISs and NEPA documents.

(c) The AFRH's assigned counsel is the point of contact for legal questions involving environmental matters.

§ 200.4 Implementation of NEPA and related authorities.

(a) *Classification of AFRH actions.* (1) All AFRH proposed actions typically fall into one of the following three classes, in terms of requirements for review under NEPA: Categorical exclusions, environmental assessments, and environmental impact statements.

(2) The Master Planner, is responsible for classifying proposed actions and undertaking the level of analysis, consultation, and review appropriate to each.

(b) *Categorical Exclusions (CATEX).* (1) A categorical exclusion (CATEX) is a category of actions which do not individually or cumulatively have a significant effect on the human environment, except under extraordinary circumstances (42 CFR 1508.4). Because they lack the potential for effect, they do not require detailed analysis or documentation under NEPA.

(i) Determining when to use a CATEX (screening criteria). To use a CATEX, the proponent must satisfy the following three screening conditions:

(A) The action has not been segmented. Determine that the action has

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not been segmented to meet the definition of a CATEX. Segmentation can occur when an action is broken down into small parts in order to avoid the appearance of significance of the total action. An action can be too narrowly defined, minimizing potential impacts in an effort to avoid a higher level of NEPA documentation. The scope of an action must include the consideration of connected, cumulative, and similar actions.

(B) No exceptional circumstances exist. Determine if the action involves extraordinary circumstances that would preclude the use of a CATEX (*see* paragraphs (b)(1)(ii)(A) through (xiv) of this section).

(C) One (or more) CATEX (*See* appendix A to part 200) encompasses the proposed action. Identify a CATEX (or multiple CATEXs) that potentially encompasses the proposed action. If no CATEX is appropriate, and the project is not exempted by statute or emergency provisions, an EA or an EIS must be prepared, before a proposed action may proceed.

(ii) Extraordinary circumstances that preclude the use of a CATEX are:

(A) Reasonable likelihood of significant effects on public health, safety, or the environment.

(B) Reasonable likelihood of significant environmental effects (direct, indirect, and cumulative).

(C) Imposition of uncertain or unique environmental risks.

(D) Greater scope or size than is normal for this category of action.

(E) Reportable releases of hazardous or toxic substances as specified in 40 CFR part 302.

(F) Releases of petroleum, oils, and lubricants, application of pesticides and herbicides, or where the proposed action results in the requirement to develop or amend a Spill Prevention, Control, or Countermeasures Plan.

(G) When a review of an action reveals that air emissions exceed de minimis levels or otherwise that a formal Clean Air Act conformity determination is required.

(H) Reasonable likelihood of violating any Federal, State, or local law or requirements imposed for the protection of the environment.

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(I) Unresolved effect on environmentally sensitive resources, as defined in paragraph (b)(1)(iii) of this section.

(J) Involving effects on the quality of the environment that are likely to be highly controversial.

(K) Involving effects on the environment that are highly uncertain, involve unique or unknown risks, or are scientifically controversial.

(L) Establishes a precedent (or makes decisions in principle) for future or subsequent actions that are reasonably likely to have a future significant effect.

(M) Potential for degradation of already existing poor environmental conditions. Also, initiation of a degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

(N) Introduction/employment of unproven technology.

(iii) If a proposed action would adversely affect “environmentally sensitive” resources, unless the impact has been resolved through another environmental process (e.g., CZMA, NHPA, CWA, *etc.*) a CATEX cannot be used. Environmentally sensitive resources include:

(A) Listed or proposed Federally listed, threatened, or endangered species or their designated or proposed critical habitats.

(B) Properties listed or eligible for listing on the National Register of Historic Places.

(C) Areas having special designation or recognition such as prime or unique agricultural lands; coastal zones; designated wilderness or wilderness study areas; wild and scenic rivers; National Historic Landmarks (designated by the Secretary of the Interior); 100-year floodplains; wetlands; sole source aquifers (potential sources of drinking water); National Wildlife Refuges; National Parks; areas of critical environmental concern; or other areas of high environmental sensitivity.

(iv) The use of a CATEX does not relieve the proponent from compliance with other statutes, such as RCRA, or consultations under the Endangered Species Act or the NHPA. Such consultations may be required to deter-

mine the applicability of the CATEX screening criteria.

(v) For those CATEXs that require documentation, a brief (one to two sentences) presentation of conclusions reached during screening should be included with the checklist. Checklists may be obtained from the Master Planner at 3700 North Capitol Street, NW., Washington, DC 20011.

(2) AFRH recognizes two types of CATEX:

(i) CATEX—does not require documentation unless the Master Planner determines that an extraordinary circumstance may exist, whereupon a CATEX—requires documentation must be prepared (*see below*). The likelihood of such a circumstance is judged to be so low that no specific environmental document is typically required.

(ii) CATEX—requires documentation that involves a cursory review to ensure that no extraordinary circumstances exist. For an action falling into such a category, a CATEX requiring documentation is completed to support a determination by the Master Planner, as to whether the action needs further review under NEPA. A CATEX documentation is developed and maintained by the Master Planner.

(3) CATEXs requiring and not requiring documentation are listed in Appendix A of these regulations.

(c) *Environmental Assessment (EA)*. (1) An Environmental Assessment (EA) is a concise public document prepared by or on behalf of AFRH that assists AFRH in deciding whether or not there may be significant effects requiring a more detailed Environmental Impact Statement. Actions typically requiring preparation of an EA are found in appendix B to part 200.

(2) The analysis required for an EA leads either to a Finding of No Significant Impact (FONSI) or a Notice of Intent (NOI) to prepare an Environmental Impact Statement. AFRH will prepare a FONSI in accordance with 40 CFR 1508.13, if the agency determines on the basis of the EA that there are no significant environmental effects and therefore, there is no need to prepare an Environmental Impact Statement. AFRH shall make the FONSI available to the affected public as specified in

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§1506.6. Under certain limited circumstances, AFRH shall make the finding of no significant impact available for public review for 30 days before the agency makes its final determination whether to prepare an environmental impact statement and before the action may begin. The circumstances are:

(i) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement;

(ii) The nature of the proposed action is one without precedent; or

(iii) There is controversy associated with the environmental effects of the proposed action.

(d) *Environmental Impact Statement (EIS)*. (1) An Environmental Impact Statement (EIS) is a detailed analysis and report, that presents the environmental effects of a proposed action and its reasonable alternatives. An EIS is prepared for any AFRH action that may have significant effects on the quality of the human environment. A Notice of Intent will be prepared and published in the FEDERAL REGISTER as soon as practicable after deciding to prepare an EIS. When a lengthy period of time will elapse between the decision to prepare the EIS and preparation of the EIS, the notice of intent should be published at a reasonable time prior to preparing the EIS.

(2) Certain AFRH actions are likely to have significant effects on the quality of the human environment, and hence typically require an EIS. These classes of action are listed in appendix C to part 200.

(3) When it appears that the action is likely to have significant effects on the quality of the human environment, AFRH will prepare an EIS. An action that typically requires an EIS is found in appendix C to part 200. An EA may be prepared to aid in deciding whether an EIS is needed, or the responsible official may decide to prepare an EIS without preparing an EA.

(4) Direction for preparing, circulating, finalizing, and using an EIS in decision making is found in the CEQ Regulations (40 CFR Parts 1500–1508).

(e) *Supplemental statements*. If an EA or an EIS has been completed and the AFRH goes to implement the action,

but no action has been taken within four years of the completion of the EA or EIS, the AFRH will review the document to determine if circumstances have changed that would warrant a supplement to the original document. A supplemental statement will be provided to the decision maker to inform the decisions on whether and how to proceed with the proposed action and be maintained with the previous EA or EIS and related records for the proposed action.

(f) *Using NEPA in decision making*. (1) Compliance with NEPA and related authorities will begin at the earliest point in planning any action, when the widest reasonable range of alternatives is open for consideration.

(2) The NEPA review process will be carried out in coordination with continued planning.

(3) All personnel involved in planning actions should view NEPA review as part of effective planning, not as a mere documentation requirement.

(4) Outside agencies, State and local governments, Indian Tribes, and the public will whenever practicable be afforded reasonable opportunities to participate in the NEPA process.

(5) The results of NEPA review will be fully considered by each AFRH decision-maker before making a decision on an action subject to such review and the alternatives considered by the decision-maker will be encompassed within the range of alternatives for the action.

(6) AFRH will ensure relevant environmental documents, comments, and responses are part of the record in formal rulemaking or adjudicatory proceedings.

(7) Executives and other employees responsible for aspects of NEPA review will be held accountable for the performance of such responsibilities, through performance reviews and other administrative mechanisms.

§200.5 Coordination with other authorities.

(a) To the maximum extent feasible, NEPA review shall be coordinated with review of proposed actions under other environmental legal authorities, including but not limited to the Comprehensive Environmental Response,