

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., P. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Bryan, OH [Revised]

Bryan, Williams County Airport, OH
(Lat. 41°28'03"N., long. 84°30'24"W)

Bryan NDB

(Lat. 41°28'47"N., long. 84°27'58"W)

Community Hospitals of Williams County, Inc., OH

Point in Space Coordinates

(Lat. 41°27'47"N., long. 84°33'28"W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Williams County Airport and within 1.7 miles each side of the 068° bearing from the Bryan NDB, extending from the NDB to 7.0 miles east of the NDB, and within a 6.0-mile radius of the Point in Space serving Community Hospitals of Williams County, Inc., excluding the airspace within the Defiance, OH, Class E airspace area.

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Issued in Des Plaines, Illinois on June 16, 1999.

David B. Johnson,

Acting Manger, Air Traffic Division.

[FR Doc. 99–18822 Filed 7–22–99; 8:45 am]

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PRESIDIO TRUST**36 CFR Part 1010**

RIN 3212-AA02

Management of the Presidio: Environmental Quality

AGENCY: The Presidio Trust.

ACTION: Proposed rule.

SUMMARY: The Presidio Trust (Trust) was created by Congress in 1996 to manage a portion of the former U.S. Army base known as the Presidio, in San Francisco, California. Pursuant to law, administrative jurisdiction of approximately 80 percent of this property was transferred from the National Park Service (NPS), Department of the Interior (DOI), to the Trust as of July 1, 1998. By publication in the **Federal Register** on June 30, 1998 (63 FR 35694), the Trust adopted a final interim rule for interim management of the area under its administrative jurisdiction. This proposed rule would supplement those requirements with regulations implementing the National Environmental Policy Act of 1969 (NEPA) and would replace the Trust's interim procedures and guidelines for implementing NEPA, the availability of which was noticed in the **Federal Register** on September 14, 1998 (63 FR 49142). Public comment is invited on this proposed rule and will be considered by the Trust in promulgating a final rule.

DATES: Comments on this rulemaking must be received by September 21, 1999.

ADDRESSES: Written comments on this proposed rule must be sent to Karen A. Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052.

FOR FURTHER INFORMATION CONTACT: Karen A. Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129–0052, Telephone: 415–561–5300.

SUPPLEMENTARY INFORMATION:**Background**

The Presidio Trust is a wholly-owned government corporation created pursuant to Title I of the Omnibus Parks and Public Lands Act of 1996, Public Law 104–333, 110 Stat. 4097 (the Trust Act). Pursuant to section 103(b) of the Trust Act, the Secretary of the Interior transferred administrative jurisdiction to the Trust of all of Area B of the former Presidio Army Base, as shown on the map referenced in the statute, on July 1, 1998.

Section 104(j) of the Trust Act authorizes the Trust, “in consultation

with the Secretary [of the U.S. Department of the Interior], to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities” under the Trust Act. Consistent with that authority as well as regulations of the Council on Environmental Quality (CEQ) at 40 CFR 1507.3(a), the Trust has adopted interim procedures and guidelines for implementing NEPA, in consultation with CEQ. These interim procedures and guidelines consist of those of the National Park Service, to the extent they do not conflict with the Presidio Trust Act or regulations of the Presidio Trust. Notice of the Trust's adoption of these interim procedures was published in the **Federal Register** on September 14, 1998 (63 FR 49142). These interim procedures and guidelines will remain in effect until the Trust adopts final procedures and guidelines, as proposed herein, which will replace the interim procedures and guidelines in their entirety.

Prior to proposing these regulations, the Trust consulted with CEQ pursuant to its regulations, 40 CFR 1507.3(a). The Trust has also consulted with officials of the Department of the Interior and the National Park Service designated by the Secretary of the Interior to facilitate such consultation. The Trust anticipates that consultation with these and other interested entities will continue during the comment period on these proposed regulations.

The Trust is providing for a public comment period of 60 days on these regulations. All comments, including names and addresses, when provided, will be placed in the public record and made available for public inspection and copying. The Trust will consider each comment received within this period and then publish final regulations in the **Federal Register**. That promulgation will include a discussion of any comments received and any amendments made to these proposed regulations as a result of the comments.

Foundations of This Rulemaking

In drafting these proposed regulations, the Trust primarily consulted the NEPA procedures and guidelines of the National Park Service, the Department of Housing and Urban Development (HUD), and the former Pennsylvania Avenue Development Corporation (PADC), a wholly-owned government corporation that had responsibility for administering projects and property along the corridor from the White House to the Capitol in Washington, D.C. Although parts of the

NEPA procedures of each of these federal entities are incorporated into the Trust's proposed regulations, the Trust relied on the PADC regulations as the primary model for their structure and format. These regulations of the PADC are found at 36 CFR part 907.

The Trust chose the PADC regulations as its model for a number of reasons. First, there are many similarities between the Trust and the PADC. Both were created to manage a relatively large area of property of national interest in an urban locale. Like the PADC, the Trust is a wholly-owned federal government corporation and is expected to make use of private sector resources and approaches in meeting its goals on behalf of the public. Both the Trust and the PADC were designed to be directed by a Board of Directors including private individuals and public officials, and their statutory authorities are similar. Second, the Trust found the PADC regulations to be appropriately concise and flexible for an organization of the Trust's size that is involved to a great extent in planning, land use, construction, and leasing activities. Third, the PADC regulations were published in the **Federal Register** following notice, public comment, and CEQ review, and they have been formally promulgated as regulations in the Code of Federal Regulations. Finally, like the PADC at the time that its NEPA regulations were adopted, the Trust is in a position to refer to and build upon significant planning and environmental review work that has already been completed for the area under its administrative jurisdiction, undergone public review, and been approved by appropriate agencies. This work has been documented in the Final General Management Plan Amendment (July 1994) for the Presidio of San Francisco (the "Plan"), prepared by the NPS, and in the Final Environmental Impact Statement (July 1994) (the "Plan EIS") prepared in conjunction with the Plan by the NPS. The Trust is required to exercise many of its authorities in accordance with the general objectives of the General Management Plan Amendment. Trust Act, section 104(a).

Although the Trust did not rely on them as a model for the structure of its NEPA regulations, the Trust also looked both to the NEPA regulations of the Department of Housing and Urban Development (HUD) and to the NPS procedures and guidelines to provide substantive content in certain areas, particularly concerning categorical exclusions from further NEPA review. The current HUD regulations are found at 24 CFR part 50 and contain a categorical exclusion that is potentially

applicable to the anticipated activities of the Trust with respect to the residential structures in the area under its administrative jurisdiction. The current NPS procedures and guidelines are found in "NPS-12: National Environmental Policy Act Guidelines," which was originally adopted in 1982 and, while advisory, serves as a permanent directive to the NPS. NPS is in the process of developing a Director's Order and NPS Handbook 12 to replace the 1982 NPS-12. A draft of the handbook is currently available on the Internet at <http://www.nps.gov/planning/nepa/!nps12.pdf>. It is to this draft that the Trust has referred in drafting its proposed NEPA regulations. Although the scope and structure of this 129-page draft is beyond what is necessary for the Trust's purposes, and although it interweaves guidance on certain authorities that are inapplicable to the Trust, a number of categorical exclusions identified in the NPS draft are potentially applicable to the anticipated activities of the Trust and therefore have been incorporated into these proposed regulations.

Section-by-Section Analysis

Although these regulations adopt the general structure of the PADC regulations, they have been reorganized in order to more clearly describe the usual order in which NEPA issues are considered. Specifically, the PADC regulations first describe "actions that normally require an EIS," then "actions that do not require an EA or an EIS," and then "actions that normally require an EA." In the normal course, the responsible agency official first determines whether an action is one that normally does not require either an EA or an EIS, i.e., one that is categorically excluded. If it is not such an action, the responsible agency official then considers whether the action is one that normally requires an EIS, and if so, an EIS is usually prepared. If the action is not one that is categorically excluded and also not one that normally requires an EIS, then an EA is usually prepared, following which a determination is made as to whether an EIS should be prepared or a finding of no significant impact (FONSI) should be made. These regulations have been reordered to parallel this customary course of decision-making.

Section 1010.1 Policy

This section is adapted almost verbatim from § 907.1 of this title. Paragraph (d) of this section has been revised slightly to recognize that the Trust has a broader mission than the PADC.

Section 1010.2 Purpose

This section is adapted almost verbatim from § 907.2 of this title and has been revised simply to be applicable to the Trust and to provide a precise reference to the CEQ regulations implementing NEPA.

Section 1010.3 Definitions

In modeling these proposed regulations on the existing regulations of the NPS and DOI, the Trust consistently changed a variety of terms used in the existing regulations as appropriate to the Trust and its separate mission, organization and statutory authority. First, references to the "Corporation" were changed to the "Trust." Second, the term "development area" was replaced by "Presidio Trust Area," as defined in § 1001.4 of the Trust's proposed regulations. Third, the definitions of "Plan" and "Final EIS" were changed to reflect the full titles of the management plan (referred to herein as the "Plan") and environmental impact statement (referred to herein as the "Plan EIS") that apply to the Presidio Trust Area as opposed to the PADC area. (Although these documents were prepared by the NPS, the Trust is a successor in interest to the NPS with respect to compliance with NEPA and other environmental compliance statutes. Trust Act, section 104(c).) Fourth, definitions for the authorizing statute and governing body are unnecessary in this section, since they already appear in § 1001.4 of this chapter. Fifth, other definitions were eliminated because they appear infrequently in the body of the regulations.

More substantive changes were made to the definitions as follows:

- The term "Private Developer" was changed to "project applicant," since projects that may be proposed for the Presidio Trust Area are likely to encompass a wider variety of work than simply development by private parties. The definition was also expanded to include partnerships and corporations, in order to make clear that the form of organization is immaterial to its status as a project applicant.
- The acronyms "EIS" for environmental impact statement and "EA" for environmental assessment were used in order to make the regulations more concise and easier to read. These acronyms are in common usage today among agencies, public interest groups, courts, and the media.
- The definition of "decision-maker" was shortened to simply "the Board or its designee" in order to be

consistent with other Trust regulations and practices.

Section 1010.4 Responsible Trust Official

This section combines the provisions of §§ 907.4 and 907.5 of this title in order to keep the regulations concise. The provisions of § 907.4 of this title are included in paragraph (a), and the provisions of § 907.5 are included in paragraph (b). Minor modifications to these provisions include the following:

- A sentence has been added at the end of paragraph (a) to clarify that ultimate responsibility and authority for implementation of NEPA with respect to the Trust’s activities continues to rest with the Executive Director and the Board of Directors. Under current Trust practice, the Executive Director is entitled to overrule or alter decisions of any Trust employee, and the Board is entitled to overrule or alter decisions of the Executive Director.
- In paragraph (b)(6), the term “with the assistance of the Office of the General Counsel” has been changed to “in consultation with the General Counsel” to reflect that the responsible Trust official should cooperatively consult with and seek the advice of the General Counsel and not simply be provided with the General Counsel’s assistance.
- In paragraph (b)(8), the phrase concerning submittal of EIS’s with proposed legislation has been removed since this issue is dealt with elsewhere in the regulations.
- In paragraph (b)(10), the reference to the Paperwork Reduction Act has been removed because it is unnecessary. The Trust intends to fulfill the requirements of this law, but need not restate it in the Code of Federal Regulations.
- A provision has been added, at paragraph (b)(12), allowing the responsible Trust official to designate other Trust employees to execute these duties under his or her supervision. This is necessary for the sake of administrative flexibility.

Section 1010.5 Major Decision Points

This section is based on § 907.6 of this title but has been revised for clarity. Most significantly, paragraph (b)(2) now makes clear that (1) A determination on whether to require an EA or EIS must be made prior to moving beyond the

conceptual or preliminary study stage if the proposed action or project is not categorically excluded, and (2) A determination on whether to require an EIS can be made either with or without the completion of an EA.

Section 1010.6 Determination of Requirement for EA or EIS

This section is adapted from § 907.7 of this title and has been revised to reflect the usual order in which environmental review determinations are made, as discussed above. When appropriate, the Trust anticipates that this determination will be documented and made available to the public.

Section 1010.7 Actions That Do Not Require an EA or an EIS

This section is adapted from § 907.10 of this title and Appendix A to part 907 of this title. Paragraph (a) restates the general rule provided in the first paragraph of § 907.10. Paragraph (b) restates the criteria set by § 907.10(a). For the sake of clarity and ease of use, paragraph (c) provides the list of categorical exclusions without reference to an appendix. In accordance with 40 CFR 1508.4, paragraph (d) provides criteria for determining that an otherwise applicable categorical exclusion should not be utilized because of extraordinary circumstances.

The first criterion in paragraph (b) has been drafted in light of section 104(c) of the Trust Act, which provides that the Trust is considered a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act, 42 U.S.C. sec. 4321 *et seq.* and other environmental compliance statutes. In preparation for the transfer of the Presidio from the Army, the NPS undertook an extensive planning effort, which culminated in the Plan and the Plan EIS. The Trust Act (section 104(a)) requires the Trust to use its key authorities in accordance with the general objectives of the Plan, among other things. The Trust therefore anticipates that the environmental effects of many of the actions it considers will have already been analyzed in the Plan EIS. Similarly, the Trust anticipates that, in accordance with 1010.9(c) and guidance provided by CEQ, proposed actions whose environmental effects may not have already been adequately analyzed in the Plan EIS will be considered in a NEPA

document that will tier off of the Plan EIS. The criterion in the PADC regulations concerning estimated cost of the project has been removed in recognition of the fact that even inexpensive actions may have the potential for significant environmental impacts. In its place are inserted two additional criteria (at (b)(2) and (b)(4)) concerning whether additional analysis is necessary.

Most of the categorical exclusions listed in paragraph (c) were derived from the PADC regulations and the draft NPS-12 guidelines. The PADC regulations contain ten categorical exclusions (identified herein as PADC-i through PADC-x); the draft NPS-12 guidelines contain 17 categorical exclusions for which no formal documentation is necessary (identified herein as letters NPS-A through NPS-Q in section 3.3 of the draft NPS-12 guidelines) and 54 categorical exclusions for which minimal documentation is necessary (identified herein as NPS-A1 through NPS-A10, NPS-B1 through NPS-B8, NPS-C1 through NPS-C19, NPS-D1 through NPS-D4, NPS-E1 through NPS-E7, and NPS-F1 through NPS-F6 of section 3.4 of the draft NPS-12 guidelines). In addition, because the Trust has administrative jurisdiction of a variety of residential housing units, one of the categorical exclusions was derived from the NEPA regulations of the Department of Housing and Urban Development (HUD), found at 24 CFR 50.20. These HUD regulations contain six categorical exclusions (identified herein as HUD-1 through HUD-6).

These categorical exclusions of other agencies were combined and reorganized in order to read more clearly and apply more precisely to the types of actions that are likely to be undertaken in the Presidio Trust Area without significant environmental effects. The introductory paragraph also clarifies that these exclusions apply regardless of whether the Trust is undertaking the action, is participating in the action with an outside entity or entities, or is approving the action to be undertaken by an outside entity or entities. The following chart identifies the source of and discusses each categorical exclusion included in these proposed regulations:

| Proposed categorical exclusion | Source(s) and discussion |
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| (1) Personnel actions and investigations and personal services contracts. | This categorical exclusion was taken directly from NPS-A. In addition, PADC-i covers “personnel actions.” |

| Proposed categorical exclusion | Source(s) and discussion |
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| (2) Administrative actions and operations directly related to the operation of the Trust (e.g., purchase of furnishings, services, and space acquisition or conversion for the Trust offices or maintenance facilities). | This categorical exclusion was taken from PADC-ii, adapted to the Trust, and modified to include maintenance facilities. |
| (3) Internal organizational changes and facility and office expansions, reductions, and closings. | This categorical exclusion was taken from NPS-B and modified to include expansions of the Trust's facilities and offices. |
| (4) Routine financial transactions, including such things as salaries and expenses, procurement, guarantees, financial assistance, income transfers, audits, fees, bonds and royalties. | This categorical exclusion was taken from NPS-C and modified to include procurement of all sorts and not simply procurement contracts, since the Trust by law operates under different procurement requirements than does the NPS. |
| (5) Management, formulation, allocation, transfer and reprogramming of the Trust's budget. | This categorical exclusion was taken from NPS-G. |
| (6) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, and replacement activities having limited context and intensity (limited size and magnitude or short-term effects). | This categorical exclusion was taken directly from NPS-F. |
| (7) Preparation, issuance, and submittal of publications and routine reports. | This categorical exclusion combines NPS-L and NPS-N. Although NPS-N applies only to routine reports required by law or regulation, that limitation has been dropped here in recognition of the fact that the Trust will likely prepare routine reports from time to time at its own initiative, but that will nevertheless have no significant environmental impacts. |
| (8) Activities which are educational, informational, or advisory (including interpretive programs), or otherwise in consultation with or providing technical assistance to other agencies, public and private entities, visitors, individuals, or the general public. | This categorical exclusion combines the categorical exclusions of NPS-J, NPS-M, NPS-Q, and NPS-B3. |
| (9) Legislative proposals of an administrative or technical nature, including such things as changes in authorizations for appropriations or financing authority, minor boundary changes and land transactions; or having primarily economic, social, individual or institutional effects, as well as and comments and reports on legislative proposals. | This categorical exclusion was taken almost verbatim from NPS-H. |
| (10) Promulgation of regulations and requirements, or amendments thereto, provided such actions do not: (i) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it; (ii) introduce non-compatible uses which might compromise the nature and characteristics of the area or cause physical damage to it; (iii) conflict with adjacent ownerships or land uses; or (iv) cause a nuisance to adjacent owners or occupants. | This categorical exclusion was taken from NPS-A8 and modified to make clear that it covers both promulgation of new regulations and requirements and modification of existing regulations and requirements. |
| (11) Proposal, adoption, revision, and termination of policies, directives, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, the environmental effects of which are too broad, speculative, or conjectural to lend themselves to meaningful environmental analysis. | This categorical exclusion was taken from NPS-I. The words "proposal, adoption, revision, and termination" were included to describe actions related to the items listed in NPS-I. In addition, this categorical exclusion does not include the restriction in NPS-I concerning such policies, etc., being subject to later review under NEPA, either collectively or on a case-by-case basis. If such policies, etc., do have environmental effects that lend themselves to meaningful environmental analysis in the future, then those effects will be reviewed under NEPA at that time. |
| (12) Preparation, approval, coordination, and implementation of plans, including priorities, justifications, and strategies, for non-manipulative and non-destructive research, monitoring, inventorying, and information gathering. | This categorical exclusion is derived primarily from NPS-B4 and includes language from NPS-B5 and NPS-E6. In addition, the terms "preparation, approval, coordination, and implementation" were added in order to cover the type of items listed in NPS-B5 (i.e., "statements for management, outlines of planning requirements, and agreements between NPS offices for plans and studies"). The term "non-destructive" was added from NPS-E6. |
| (13) Identification, nomination, certification, and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs. | This categorical exclusion is derived from NPS-E5. The term "biosphere reserves" was removed because it is unlikely to be applicable in light of the fact that the Golden Gate National Recreation Area is already a part of a biosphere reserve. Similarly, the term "development of standards" was removed because the Presidio Trust does not anticipate engaging in such activities. |
| (14) Minor or temporary changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection, minor changes in programs or regulations pertaining to visitor activities, and approval of permits for special events or public assemblies and meetings, as well as leases for use of real property for no more than three months, provided such events, assemblies, meetings and leases entail only short-term or readily mitigated environmental disturbance. | This categorical exclusion combines NPS-D1, NPS-D2, and NPS-D3 into a single item. It adds the concept of "temporary" changes in amounts or types of visitor use. It also includes within its ambit short-term leases of no longer than three months, provided that such leases entail only short-term or readily mitigated environmental disturbance. |
| (15) Designation of environmental study areas and research areas, including those closed temporarily or permanently to the public, provided there is no environmental impact. | This categorical exclusion is derived from NPS-E7. |

| Proposed categorical exclusion | Source(s) and discussion |
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| (16) Land and boundary surveys and minor boundary adjustments or land acquisitions or exchanges resulting in no significant change in land use. | This categorical exclusion combines NPS-K, NPS-A2, and NPS-C2. |
| (17) Archaeological surveys and permits involving only surface collection or small-scale test excavations. | This categorical exclusion is derived from NPS-E1. |
| (18) Promulgation of development guidelines that are in accordance with the general objectives of the Plan as covered by the Plan EIS. | This categorical exclusion was taken from PADC-v. The term "development general and square guidelines" was changed to simply "development guidelines" in light of the non-urban nature of much of the Presidio Trust Area. |
| (19) Implementation of a proposal or plan which was covered by a previously prepared EA and/or EIS or categorically excluded, or changes to such a proposal or plan when such changes would cause no environmental impact. | This categorical exclusion combines PADC-x, NPS-A1, and NPS-B1. Although PADC-x was restricted to "development proposal[s] identical to the requirements of the" PADC's development plan, a proposal need not be absolutely "identical" to a previously considered proposal in order to be covered by the EA and/or EIS for a very similar proposal. |
| (20) Contracts, work authorizations, or procurement actions directly related to and implementing proposals, programs, and master agreements for which an EA and/or an EIS have been prepared, or which were categorically excluded, or which are related to administrative operation of the Trust. | This categorical exclusion was taken from PADC-vi. The words "or which were categorically excluded" have been added to make clear that the criteria here is that the proposal, program, or master agreement have gone through the NEPA process to the extent that it was required. |
| (21) The leasing, permitting, sale, or financing of, or granting of non-fee interests regarding, real or personal property in the Presidio Trust Area. | This categorical exclusion is based on PADC-vii, which uses the term "[a]cquisition/disposal by lease, easement, or sale of real and personal property owned by the Corporation.* * *" The term "permitting" was added to recognize this form of legal agreement, which has been used by the NPS in the past and may continue to be used by the Trust. The PADC-vii exclusion also refers to such actions "implementing a prior decision of the Board of Directors." The Trust anticipates that all such actions will be implementing prior decisions of or direction provided by the Board, and therefore has eliminated this requirement as superfluous. The Trust is barred from selling fee interests in real property under its administrative jurisdiction, and the wording of this categorical exclusion is in no way intended to add to the Trust's authority under law. |
| (22) Extension, reissuance, renewal, renegotiation, modification, conversion in form, or termination of agreements for use of real property (including but not limited to leases, permits, licenses, concession contracts, use and occupancy agreements, easements, and rights-of-way) that were in force as of the date the Trust received administrative jurisdiction of the underlying real property, so long as such agreements were previously subject to NEPA, do not involve new construction or new or substantially greater environmental impacts, and new information of substantial importance or changed circumstances relevant to environmental conditions do not come into play. | This categorical exclusion combines NPS-A3, NPS-A4, NPS-A5, and NPS-A6. The term "conversion in form" is intended to cover the situation in NPS-A4 regarding "conversion of existing permits to rights-of-way" as well as other conversions in form (e.g., from a concession contract to a lease). The Trust has inherited a variety of agreements from the NPS in a variety of forms and may wish to standardize these through such conversion. |
| (23) Issuance of permits relating to minor development activities (sign approval, interior modifications, minor exterior changes to facade, etc.) that are consistent with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR Part 68, as applicable. | This categorical exclusion comes from PADC-iv, which was modified (1) to cover "issuance of permits," which entails a decision, rather than "review of permit applications," and (2) to add a requirement of consistency with the Secretary's Standards as they may apply to the Presidio, since the Presidio is a National Historic Landmark. The restriction to the PADC "Development Area" was also removed as it was relevant only to the PADC. |
| (24) Rehabilitation, modification, or improvement of historic properties in conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR Part 68. | This categorical exclusion is intended to cover work on structures and other properties that will not have the potential for significant environmental effect. Work undertaken in conformance with similar standards at 36 CFR 67.7 is considered not to harm historic structures under regulations of the Advisory Council on Historic Preservation at 36 CFR 800.9(c)(2). |
| (25) Rehabilitation, modification, or improvement of non-historic properties when the following conditions are met: (i) In the case of residential buildings, the unit density is not changed more than 20 percent (ii) The project does not involve changes in land use (from non-residential to residential or from residential to non-residential); and (iii) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation | This categorical exclusion is taken from HUD-2, but has been restricted to apply only to non-historic structures and other properties, since historic structures and other properties are covered by the preceding categorical exclusion. |
| (26) Removal, reduction, or restraint of resident individuals of species that are not threatened or endangered which pose dangers to visitors, residents, or neighbors or immediate threats to resources of the Presidio Trust Area. | This categorical exclusion is derived from NPS-E3 and has been modified to cover dangers to residents and neighbors of the Presidio Trust Area and also to cover reduction (e.g., trimming of vegetation) and restraint (e.g., impoundment of animals). |

| Proposed categorical exclusion | Source(s) and discussion |
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| (27) Removal of non-historic materials and structures in order to restore natural conditions when such removal has no potential for adverse environmental impacts, including impacts to cultural landscapes or archaeological resources. | This categorical exclusion comes directly from NPS-E4. |
| (28) Installation, construction, removal, permitting, maintenance, replacement-in-kind, relocation, operation, or modification of signs, displays, kiosks, traffic control devices, pedestrian and traffic safety features, trails, trailside camping zones, fencing, landscaping, sanitary facilities, comfort stations, utility facilities, parking lots, and other minor structures and facilities. | This categorical exclusion combines NPS-C5, NPS-C8, NPS-C9, NPS-C10; NPS-C11; NPS-C12, NPS-C17, NPS-C18, NPS-C19, and NPS-D4, which cover such minor structures. The restriction in NPS-C17 and NPS-C18 on "areas showing clear evidence of recent human disturbance" has been removed as unnecessary in light of the centuries of human occupation of the Presidio Trust Area and the developed state of much of the Presidio Trust Area. Likewise, the restriction in NPS-C19 on construction of fences "posing no effect on wildlife migrations" has also been removed in light of the lack of existing wildlife migration in the Presidio Trust Area that would be hindered by fences. |
| (29) Routine maintenance, property management, resource management, and research or educational activities with no potential for environmental impact or non-conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR Part 68, as applicable. | This categorical exclusion comes primarily from NPS-O. PADC-iii also covers "property management," and that term was added here to reflect the breadth of the Trust's authorities in the Presidio Trust Area. Also added was the reference to the Secretary's Standards, in light of the Presidio's status as a National Historic Landmark. |
| (30) Issuance of rights-of-way for and installation, maintenance, or repair of overhead or underground utility lines (e.g., power, water, irrigation, telecommunications, etc.) not involving placement of poles or towers outside of existing traffic and utility corridors and not involving vegetation clearance (other than for placement of poles), and not resulting in visual intrusion in the Presidio Trust Area or non-conformance with the Secretary's "Standards for the Treatment of Historic Properties" at 36 CFR Part 68, as applicable; and. | This categorical exclusion combines NPS-C13, NPS-C14, NPS-C15, and NPS-C16 concerning utilities and utility rights-of-way. The restriction in NPS-C16 on "areas showing clear evidence of recent human disturbance" has been modified to require conformance with the Secretary's Standards, in light of the developed state of much of the Presidio Trust Area. |
| (31) Experimental testing of no longer than 180 days of mass transit systems, and changes in operation of existing systems with no potential for adverse environmental impact. | This categorical exclusion is derived from NPS-C7. The limitation in NPS-C7 is for "testing of short duration (no more than one season)," but this categorical exclusion sets a more precise (and longer) limit of 180 days, both for the sake of clarity and for the sake of necessary and appropriate testing under real-world conditions in an area that interacts with mass transit systems of neighboring jurisdictions. |

The provisions of § 907.10(c) of this title concerning changes to the list of categorical exclusions have not been included in these regulations. Nevertheless, the Trust anticipates that this list of categorical exclusions will be reviewed and refined as additional categories are identified and as experience is gained in the categorical exclusion process. Changes to this list—like any changes to the wording of these proposed regulations—will be made only after consultation with CEQ and public notice and opportunity for comment.

Section 1010.8 Actions That Normally Require an EIS

This section is adapted from § 907.8 of this title and has generally been revised for clarity and simplicity. In particular, the specific criteria in paragraph (b) have been replaced by a reference to the criteria enumerated in the CEQ regulations at 40 CFR 1508.27.

In paragraph (c), the reference to amendments to the PADC Plan in the PADC regulations has not been included. Paragraphs (c)(1) and (2) are derived from § 907.8(b)(3) and (4) of this title, respectively. Paragraph (c)(2) has been revised to remove any implication that the Trust might approve, fund, or

construct a building that is not in accordance with the general objectives of the Plan, since such action would not be authorized by the Trust Act. Paragraph (c)(3) has been added.

Section 1010.9 Preparation of an EIS

This section is adapted from § 907.9 of this title. The second sentence of paragraph (a), while not included in the PADC regulations, is specifically authorized by 40 CFR 1507.3(e), and the Trust believes it is necessary to include this provision in order to provide for circumstances in which there may be a lengthy delay between the decision to prepare an EIS and the actual preparation of the EIS.

In paragraph (b), the Trust believes the sentence referencing the CEQ regulations is unnecessary and so has omitted it.

Paragraph (c) is likely to be invoked by the Trust in preparing NEPA documents that tier off of the Plan EIS for proposed actions that are in accordance with the Plan's general objectives, but whose environmental effects may not have been adequately analyzed in the Plan EIS.

Section 1010.10 Actions That Normally Require an EA

This section is adapted from § 907.11 of this title. The most significant changes were made to the categories of action in paragraph (c), which are based on § 907.11(b) of this title. The first item in this list—which is derived from § 907.11(b)(2) of this title—has been modified slightly to use terms more applicable to the Presidio Trust Area. As noted in the introductory phrase of § 1010.10(c), regulations that would be categorically excluded under § 1010.7(c)(11) are not required to undergo an EA. The second item has been revised to use a broader term than "development proposals"—the term used in § 907.11(b)(3) of this title—for proposals that may be submitted by project applicants. The third item on the list is derived from § 907.11(b)(6) and revised to cover more broadly all significant alterations to public access. The items listed in §§ 907.11(b)(1), (4), (5), (7), and (8) of this title have not been included, as they are either dealt with more precisely under the section on categorical exclusions or they are not applicable to the Presidio Trust Area.

Section 1010.11 Preparation of an EA

The first three paragraphs of this section are adapted almost verbatim from § 907.12 of this title. Paragraph (b) has been shortened by not listing all areas possibly covered by an EA, but instead noting that only those resources that are relevant need to be addressed in the EA. Paragraph (d) has been added to allow the use of "mitigated FONSI's" in which the original proposal is revised so as to avoid impacts that would otherwise require the preparation of an EIS.

Section 1010.12 Public Involvement

This section is based on § 907.13 of this title, but has been expanded to specify specific means by which the Trust will provide for public involvement.

Section 1010.13 Trust Decision-making Procedures

This section is based on § 907.14 of this title.

Section 1010.14 Review of Proposals by Project Applicants

This section is adapted from § 907.15 of this title. Throughout these regulations, care has been taken to revise the PADDC regulations to clarify that, consistent with CEQ regulations and this § 1010.14, in certain circumstances the Trust is not the entity that will be performing the actual work to prepare the initial EA or EIS. For example, in § 1010.8(a) (based on § 907.8 of this title), the phrase "PADDC shall perform or have performed an environmental assessment" has been changed to read "the Trust shall require the preparation of an EA." Similarly, the phrase "PADDC will immediately begin to prepare or have prepared the environmental impact statement" has been changed to read "the Trust will prepare or direct the preparation of an EIS * * * ."

In forming the Trust, Congress required that the Trust become financially self-sufficient within fifteen complete fiscal years. Trust Act section 105(b). If the Trust does not achieve this goal, the property under its administrative jurisdiction will be transferred to the General Services Administration for disposal in accordance with the Defense Authorization Act of 1990. Trust Act section 104(o). As a result, it is necessary for the Trust to recover from project applicants, to the greatest appropriate extent, the costs of environmental review of their proposals.

Under the CEQ Regulations at 40 CFR 1506.5(b), the Trust may require that a

project applicant complete the EA (as opposed to the EIS) regarding its project on behalf of the Trust, so long as the Trust makes its own evaluation of the environmental issues and takes responsibility for the scope and content of the final EA. This provision has been incorporated herein at paragraph (d).

The CEQ Regulations contemplate that an EIS, in contrast to an EA, will be completed by the reviewing agency or its contractor, and not by the project applicant. Such an undertaking can require significant resources and cost in the tens or hundreds of thousands of dollars. Given the Trust's statutory obligation to become financially self-sufficient, the Trust believes it is appropriate in most circumstances to require the project applicant to cover these substantial costs. For similar reasons, the Trust likewise believes it is appropriate in most circumstances to require the project applicant to cover the costs of any applicable historic preservation review, including review under section 106 of the National Historic Preservation Act.

The Trust is mindful of the need—as expressed in the CEQ Regulations—for the EIS to be prepared independently by either the Trust or a contractor to the Trust with no financial or other interest in approval of the project. In light of the Trust's mandate to become self-sufficient, the Trust therefore has the option of recovering the costs of preparing EIS's either in the form of higher rents or other charges to the project applicant or its tenants, or in the form of an upfront charge on the project applicant. The Trust has rejected the former option, since it places the Trust in the position of not being able to recover its environmental review costs from an applicant whose project is ultimately rejected (e.g., for reasons identified in the environmental review process), and therefore in the position of potentially being viewed as having an interest in a less searching or independent environmental review that would encourage the ultimate approval of the project and recoupment of the Trust's environmental review costs. This would be contrary to the spirit of NEPA and the Trust Act.

As a result, the Trust has opted to charge most project applicants an upfront, non-refundable fee sufficient to cover the anticipated costs of project review in the EIS stage. Paragraph (e) has been added in order to specify procedures for the Trust to cover these costs. Should an amendment or supplement to the EIS be required, the Trust may require an additional non-refundable fee to cover some or all of the anticipated costs of this work. In

order to provide greater certainty for project applicants, encourage careful estimation and control of costs, and avoid any appearance that the Trust is acting at the direction of a project applicant because the applicant is making regular payments to the Trust during the review process, the Trust alone will bear the risk that its estimate of anticipated costs proves too low as a result of unforeseen circumstances (other than the need to prepare an amendment or supplement to the EIS). Likewise, in order to avoid any potential pressure for the Trust to cut corners in its environmental review, no portion of the fee will be refundable. In this way, appropriate resources will be devoted to preparation of EIS's, without threatening the Trust's goal of self-sufficiency and without jeopardizing the independence of the environmental review process.

Furthermore, section 1010.14(e) also provides that fees paid by project applicants will also include costs associated with review under other applicable laws. Key among such other applicable laws is Section 106 of the National Historic Preservation Act. Although section 1010.14(e) is not applicable unless an EIS is to be prepared, the Trust intends to require applicants to bear the full cost of reviewing proposals under Section 106 of the National Historic Preservation Act, while the Trust will remain responsible for the final decision on such proposals, consistent with regulations of the Advisory Council on Historic Preservation at 36 CFR 800.1(c)(1)(i).

Because the Trust believes that in many circumstances it will be appropriate to require project applicants to prepare EA's and to cover the anticipated costs of preparing EIS's on their projects, the Trust has considered the potential effects that such requirements might have on the number of potential applicants for projects in the Presidio Trust Area. The Trust has concluded that such requirements will be financially acceptable in the marketplace among project applicants. First, the Presidio Trust Area is a remarkably desirable location with features that are unique, both in the Bay Area and elsewhere in the country. Second, project applicants under the California state counterpart to NEPA, the California Environmental Quality Act, are almost uniformly required by relevant state and local agencies in proximity to the Presidio to prepare the relevant environmental documentation at their own expense (and at the risk that the project will not be approved in an economically viable form). Third, the

Trust anticipates that the economics of most projects that may be proposed will support an upfront investment for environmental review. In any event, these proposed regulations would provide the Trust with the discretion not to apply these requirements with respect to certain projects or applicants where such a waiver would be appropriate.

Section 1010.15 Actions Where Lead Agency Designation is Necessary

This section is adapted from § 907.16 of this title. As a practical matter, the Trust anticipates that NPS will be its most likely partner for consultation purposes, but the regulations allow for consultation with other agencies (such as the U.S. Fish and Wildlife Service) where appropriate.

Regulatory Impact

This proposed rulemaking will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, prices, the environment, public health or safety, or State or local governments. This proposed rule will not interfere with an action taken or planned by another agency or raise new legal or policy issues. In short, little or no effect on the national economy will result from adoption of this proposed rule. Because this proposed rule is not "economically significant," it is not subject to review by the Office of Management and Budget under Executive Order 12866. Furthermore, this proposed rule is not a "major rule" under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 *et seq.*

The Trust has determined and certifies pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this proposed rule will not have a significant economic effect on a substantial number of small entities.

The Trust has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this proposed rule will not impose a cost of \$100 million or more in any given year on local, State, or tribal governments or private entities.

Environmental Impact

The Presidio Trust has prepared an Environmental Assessment (EA) in connection with this proposed rule. The EA determined that this proposed rule will not have a significant effect on the quality of the human environment because it is neither intended nor expected to change the physical status

quo of the Presidio in any significant manner.

As a result, the Trust has issued a Finding of No Significant Impact (FONSI) concerning these final interim regulations and has therefore not prepared an Environmental Impact Statement concerning this proposed action. The EA and the FONSI were prepared in accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA), and regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA, 40 CFR parts 1500–1508.

Both the EA and the FONSI are available for public inspection at the offices of the Presidio Trust, 34 Graham Street, The Presidio, San Francisco, CA 94129, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Other Applicable Authorities

The Presidio Trust has drafted and reviewed these proposed regulations in light of Executive Order 12988 and has determined that they meet the applicable standards provided in secs. 3(a) and (b) of that order.

List of Subjects in 36 CFR Part 1010

Administrative practice and procedure, Environmental impact statements, National parks, Public lands, Recreation and recreation areas.

Dated: July 16, 1999.

Karen A. Cook,
General Counsel.

Accordingly, the Presidio Trust proposes to add 36 CFR Part 1010, as set forth below:

CHAPTER X—PRESIDIO TRUST

Part
1010 Environmental quality

PART 1010—ENVIRONMENTAL QUALITY

- Sec.
- 1010.1 Policy.
 - 1010.2 Purpose.
 - 1010.3 Definitions.
 - 1010.4 Responsible Trust official.
 - 1010.5 Major decision points.
 - 1010.6 Determination of requirement for EA or EIS.
 - 1010.7 Actions that do not require an EA or EIS.
 - 1010.8 Actions that normally require an EIS.
 - 1010.9 Preparation of an EIS.
 - 1010.10 Actions that normally require an EA.
 - 1010.11 Preparation of an EA.
 - 1010.12 Public involvement.
 - 1010.13 Trust decision-making procedures.
 - 1010.14 Review of proposals by project applicants.
 - 1010.15 Actions where lead agency designation is necessary.

- 1010.16 Actions to encourage agency cooperation early in the NEPA process.
- 1010.17 Actions to eliminate duplication with State and local procedures.

Authority: Pub. L. 104–333, 110 Stat. 4097 (16 U.S.C. sec. 460bb note); 42 U.S.C. sec. 4321 *et seq.*; 40 CFR 1507.3.

§ 1010.1 Policy.

The Presidio Trust's policy is to:

(a) Use all practical means, consistent with the Trust's statutory authority, available resources, and national policy, to protect and enhance the quality of the human environment;

(b) Ensure that environmental factors and concerns are given appropriate consideration in decisions and actions by the Trust;

(c) Use systematic and timely approaches which will ensure the integrated use of the natural and social sciences and environmental design arts in planning and decision-making which may have an impact on the human environment;

(d) Develop and utilize ecological, cultural, and other environmental information in the management of the Presidio Trust Area pursuant to the Trust Act;

(e) Invite the cooperation and encourage the participation, where appropriate, of Federal, State, and local authorities and the public in Trust planning and decision-making processes that affect the quality of the human environment; and

(f) Minimize any possible adverse effects of Trust decisions and actions upon the quality of the human environment.

§ 1010.2 Purpose.

The regulations in this part are prepared to supplement Council on Environmental Quality regulations at 40 CFR parts 1500 through 1508 for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (NEPA), and otherwise to describe how the Trust intends to consider environmental factors and concerns in the Trust's decision-making process.

§ 1010.3 Definitions.

(a) The following terms have the following meanings as used in this part: *Decision-maker* means the Board or its designee.

EA means an environmental assessment, as defined at 40 CFR 1508.9.

EIS means an environmental impact statement, as defined at 40 CFR 1508.11.

The Plan means the Final General Management Plan Amendment (July 1994) for the Presidio of San Francisco,

prepared by the National Park Service, U.S. Department of the Interior.

The *Plan EIS* means the Final Environmental Impact Statement (July 1994) prepared in conjunction with the Plan by the National Park Service. The term "previously prepared EIS" includes the Plan EIS.

Project applicant means an individual, firm, partnership, corporation, joint venture, or other public or private entity other than the Trust (including a combination of more than one such entities) which seeks to demolish, construct, reconstruct, develop, preserve, rehabilitate, or restore real property within the Presidio Trust Area.

(b) If not defined in this part or in this chapter, other terms used in this part have the same meanings as those provided in 40 CFR part 1508.

§ 1010.4 Responsible Trust official.

(a) The Executive Director shall designate an employee of the Trust as the official responsible for implementation and operation of the Trust's policies and procedures on environmental quality and control. The delegation of this responsibility shall not abrogate the responsibility of the Executive Director and the Board to ensure that NEPA and other applicable laws are followed, or the right of the Executive Director and the Board to overrule or alter decisions of the responsible Trust official in accordance with the Trust's regulations and procedures.

(b) This responsible Trust official shall:

(1) Coordinate the formulation and revision of Trust policies and procedures on matters pertaining to environmental protection and enhancement;

(2) Establish and maintain working relationships with relevant government agencies concerned with environmental matters;

(3) Develop procedures within the Trust's planning and decision-making processes to ensure that environmental factors are properly considered in all proposals and decisions in accordance with this part;

(4) Develop, monitor, and review the Trust's implementation of standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations;

(5) Monitor processes to ensure that the Trust's procedures regarding consideration of environmental quality are achieving their intended purposes;

(6) Advise the Board, officers, and employees of the Trust of technical and

management requirements of environmental analysis, of appropriate expertise available, and, in consultation with the Trust's General Counsel, of relevant legal developments;

(7) Monitor the consideration and documentation of the environmental aspects of the Trust's planning and decision-making processes by appropriate officers and employees of the Trust;

(8) Ensure that all EA's and EIS's are prepared in accordance with the appropriate regulations adopted by the Council on Environmental Quality and the Trust;

(9) Consolidate and transmit to appropriate parties the Trust's comments on EIS's and other environmental reports prepared by other agencies;

(10) Acquire information and prepare appropriate reports on environmental matters required of the Trust;

(11) Coordinate Trust efforts to make available to other parties information and advice on the Trust's policies for protecting and enhancing the quality of the environment; and

(12) Designate other Trust employees to execute these duties under the supervision of the responsible Trust official, where necessary for administrative convenience and efficiency. As used in this chapter, the term "responsible Trust official" includes any such designee.

§ 1010.5 Major decision points.

(a) The possible environmental effects of a proposed action or project within the Presidio Trust Area must be considered along with technical, financial, and other factors throughout the decision-making process. For most Trust projects there are three distinct stages in the decision-making process:

(1) Conceptual or preliminary study stage;

(2) Detailed planning or final approval stage;

(3) Implementation stage.

(b) Environmental review will be integrated into the decision-making process of the Trust as follows:

(1) During the conceptual or preliminary study stage, the responsible Trust official shall determine whether the proposed action or project is one which is categorically excluded under § 1010.7 or requires further NEPA review (i.e., an EA or an EIS).

(2) If the proposed action or project is not categorically excluded, then prior to the Trust's proceeding beyond the conceptual or preliminary study stage, the responsible Trust official must determine whether an EIS is required.

(3) An EIS, if determined necessary, must be completed and circulated at the

earliest point at which meaningful analysis can be developed for the proposed action or project, and in any event prior to the Trust's final approval of the proposed action or project.

§ 1010.6 Determination of requirement for EA or EIS.

In deciding whether to require the preparation of an EA or an EIS, the responsible Trust official will determine whether the proposal is one that:

(a) Normally does not require either an EA or an EIS (i.e., qualifies for a categorical exclusion under § 1010.7);

(b) Normally requires an EIS; or

(c) Normally requires an EA, but not necessarily an EIS.

§ 1010.7 Actions that do not require an EA or EIS.

(a) *General rule.* Pursuant to 40 CFR 1508.4, neither an EA nor an EIS is required for actions that do not individually or cumulatively have a significant effect on the human environment.

(b) *Criteria.* The criteria which were used to determine those categories of action that normally do not require either an EA or an EIS, and which are therefore covered by the categorical exclusions listed in paragraph (c) of this section, include:

(1) Implementation of the action or proposal is in accordance with the general objectives of the Plan and with the Trust Act, and the environmental effects have been adequately analyzed in the Plan EIS, or in a supplement thereto, or in an EA and/or an EIS; or

(2) No additional analysis or public input is necessary to determine whether there is a potential for significant impact; or

(3) The action or proposal is related solely to internal administrative operations of the Trust; or

(4) Preliminary analysis indicates that no potential significant impact would occur.

(c) *Categorical exclusions.* The categories of action identified in this paragraph have been determined by the Trust to have no significant effect on the human environment and are therefore categorically excluded. Such actions (whether approved by the Trust or undertaken by the Trust directly or indirectly) do not require the preparation of an EA or an EIS:

(1) Personnel actions and investigations and personal services contracts;

(2) Administrative actions and operations directly related to the operation of the Trust (e.g., purchase of furnishings, services, and space acquisition or conversion for the Trust offices or maintenance facilities);

(3) Internal organizational changes and facility and office expansions, reductions, and closings;

(4) Routine financial transactions, including such things as salaries and expenses, procurement, guarantees, financial assistance, income transfers, audits, fees, bonds and royalties;

(5) Management, formulation, allocation, transfer and reprogramming of the Trust's budget;

(6) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, and replacement activities having limited context and intensity (limited size and magnitude or short-term effects);

(7) Preparation, issuance, and submittal of publications and routine reports;

(8) Activities which are educational, informational, or advisory (including interpretive programs), or otherwise in consultation with or providing technical assistance to other agencies, public and private entities, visitors, individuals, or the general public;

(9) Legislative proposals of an administrative or technical nature, including such things as changes in authorizations for appropriations or financing authority, minor boundary changes and land transactions; or having primarily economic, social, individual or institutional effects, as well as comments and reports on legislative proposals;

(10) Promulgation of regulations and requirements, or amendments thereto, provided such actions do not:

(i) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(ii) introduce non-compatible uses which might compromise the nature and characteristics of the area or cause physical damage to it;

(iii) conflict with adjacent ownerships or land uses; or

(iv) cause a nuisance to adjacent owners or occupants;

(11) Proposal, adoption, revision, and termination of policies, directives, regulations, and guidelines of an administrative, financial, legal, technical, or procedural nature, the environmental effects of which are too broad, speculative, or conjectural to lend themselves to meaningful environmental analysis;

(12) Preparation, approval, coordination, and implementation of plans, including priorities, justifications, and strategies, for non-manipulative and non-destructive research, monitoring, inventorying, and information gathering;

(13) Identification, nomination, certification, and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs;

(14) Minor or temporary changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection, minor changes in programs or regulations pertaining to visitor activities, and approval of permits for special events or public assemblies and meetings, as well as leases for use of real property for no more than three months, provided such events, assemblies, meetings and leases entail only short-term or readily mitigated environmental disturbance;

(15) Designation of environmental study areas and research areas, including those closed temporarily or permanently to the public, provided there is no environmental impact;

(16) Land and boundary surveys and minor boundary adjustments or land acquisitions or exchanges resulting in no significant change in land use;

(17) Archaeological surveys and permits involving only surface collection or small-scale test excavations;

(18) Promulgation of planning and design guidelines that are in accordance with the general objectives of the Plan as covered by the Plan EIS;

(19) Implementation of a proposal or plan which was covered by a previously prepared EA and/or EIS or categorically excluded, or changes to such a proposal or plan when such changes would cause no environmental impact;

(20) Contracts, work authorizations, or procurement actions directly related to and implementing proposals, programs, and master agreements for which an EA and/or an EIS have been prepared, or which were categorically excluded, or which are related to administrative operation of the Trust;

(21) The leasing, permitting, sale, or financing of, or granting of non-fee interests regarding, real or personal property in the Presidio Trust Area;

(22) Extension, reissuance, renewal, renegotiation, modification, conversion in form, or termination of agreements for use of real property (including but not limited to leases, permits, licenses, concession contracts, use and occupancy agreements, easements, and rights-of-way) that were in force as of the date the Trust received administrative jurisdiction of the underlying real property, so long as such agreements were previously subject to NEPA, do not involve new construction or new or substantially greater environmental impacts, and new

information of substantial importance or changed circumstances relevant to environmental conditions do not come into play.

(23) Issuance of permits relating to minor development activities (sign approval, interior modifications, minor exterior changes to facade, etc.) that are consistent with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR part 68, as applicable;

(24) Rehabilitation, modification, or improvement of historic properties in conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR part 68;

(25) Rehabilitation, modification, or improvement of non-historic properties when the following conditions are met:

(i) In the case of residential buildings, the unit density is not changed more than 20 percent;

(ii) The project does not involve changes in land use (from non-residential to residential or from residential to non-residential); and

(iii) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation;

(26) Removal, reduction, or restraint of resident individuals of species that are not threatened or endangered which pose dangers to visitors, residents, or neighbors or immediate threats to resources of the Presidio Trust Area;

(27) Removal of non-historic materials and structures in order to restore natural conditions when such removal has no potential for adverse environmental impacts, including impacts to cultural landscapes or archaeological resources;

(28) Installation, construction, removal, permitting, maintenance, replacement-in-kind, relocation, operation, or modification of signs, displays, kiosks, traffic control devices, pedestrian and traffic safety features, trails, trailside camping zones, fencing, landscaping, sanitary facilities, comfort stations, utility facilities, parking lots, and other minor structures and facilities;

(29) Routine maintenance, property management, resource management, and research or educational activities with no potential for environmental impact or non-conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR part 68, as applicable;

(30) Issuance of rights-of-way for and installation, maintenance, or repair of overhead or underground utility lines (e.g., power, water, irrigation, telecommunications, etc.) not involving placement of poles or towers outside of

existing traffic and utility corridors and not involving vegetation clearance (other than for placement of poles), and not resulting in visual intrusion in the Presidio Trust Area or non-conformance with the Secretary's "Standards for the Treatment of Historic Properties" at 36 CFR part 68, as applicable; and

(31) Experimental testing of no longer than 180 days of mass transit systems, and changes in operation of existing systems with no potential for adverse environmental impact.

(d) *Overriding criteria.* An action which falls into one or more of the categories in paragraph(s) of this section may still require the preparation of an EIS or an EA if the responsible Trust official determines it meets the criteria stated in § 1010.8(b) or § 1010.10(b), respectively, or involves extraordinary circumstances that may have a significant environmental effect. At its discretion, the Trust may require the preparation of an EA or an EIS for a proposal or action that otherwise qualifies for a categorical exclusion.

§ 1010.8 Actions that normally require an EIS.

(a) *General procedure.* So long as a proposed action or project is not categorically excluded under § 1010.7, the Trust shall require the preparation of an EA to determine if the proposed action or project requires an EIS. Nevertheless, if it is readily apparent to the responsible Trust official that the proposed action or project will have a significant impact on the environment, an EA is not required, and the Trust will prepare or direct the preparation of an EIS without preparing or completing the preparation of an EA. To assist the responsible Trust official in determining if a proposal or action normally requires the preparation of an EIS, the following criteria and categories of action are provided.

(b) *Criteria.* Criteria used to determine whether proposals or actions may significantly affect the environment and therefore require an EIS are described in 40 CFR 1508.27.

(c) *Categories of action.* The following categories of action normally require an EIS (unless categorically excluded or previously analyzed in an EA or EIS):

(1) Legislative proposals made by the Trust to the United States Congress;

(2) Approval, funding, construction, and/or demolition in preparation for construction of any new building, if that activity is not contemplated by the Plan and has a significant effect on the human environment that has not previously been reviewed in the Plan EIS or other previously prepared EA or EIS; and

(3) Proposals that would significantly alter the kind and amount of recreational, historical, or cultural resources of the Presidio Trust Area or the integrity of the setting.

§ 1010.9 Preparation of an EIS.

(a) *Notice of intent.* When the Trust decides to prepare an EIS, it shall publish a notice of intent in the **Federal Register** in accordance with 40 CFR 1501.7 and 1508.22. Where there is a lengthy period between the Trust's decision to prepare an EIS and the time of actual preparation, then at the discretion of the responsible Trust official the notice of intent shall be published at a reasonable time in advance of preparation of the EIS.

(b) *Preparation.* After having determined that an EIS will be prepared and having published the notice of intent, the Trust will begin to prepare or to direct the preparation of the EIS. The EIS shall be formatted in accordance with 40 CFR 1502.10.

(c) *Supplemental environmental impact statements.* The Trust may supplement a draft or final EIS at any time. The Trust shall prepare a supplement to either a draft or final EIS when: (1) Substantial changes are proposed to an action analyzed in the draft or final EIS that are relevant to environmental concerns;

(2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts; or

(3) Actions are proposed which relate to or are similar to other actions taken or proposed and that together will have a cumulatively significant impact on the human environment.

§ 1010.10 Actions that normally require an EA.

(a) *General procedure.* If a proposal or action is not one that normally requires an EIS, and does not qualify for a categorical exclusion under § 1010.7, the Trust will require, prepare, or direct the preparation of an EA. An EA should be prepared when the Trust has insufficient information on which to determine whether a proposal may have significant impacts. An EA assists the Trust in complying with NEPA when no EIS is necessary, and it facilitates the preparation of an EIS, if one is necessary.

(b) *Criteria.* Criteria used to determine those categories of action that normally require an EA, but not necessarily an EIS, include:

(1) Potential for minor degradation of environmental quality;

(2) Potential for cumulative impact on environmental quality; and

(3) Potential for impact on protected resources.

(c) *Categories of action.* The following categories of action normally require the preparation of an EA (unless categorically excluded or previously analyzed in an EA or EIS):

(1) Promulgation of regulations and requirements to the extent such an action is not covered by a categorical exclusion;

(2) Proposals submitted by project applicants to the Trust for its review, as described in § 1010.14; and

(3) Proposals to significantly add or alter access between the Presidio Trust Area and surrounding neighborhoods.

§ 1010.11 Preparation of an EA.

(a) *When to prepare.* The Trust will begin the preparation of an EA (or require it to be begun) as early as possible after it is determined by the responsible Trust official to be required. The Trust may prepare or require an EA at any time to assist planning and decision-making.

(b) *Content and format.* An EA is a concise public document used to determine whether to prepare an EIS. Only those resources that may experience significant impacts and that are specifically relevant to the particular proposal should be addressed in the EA. Those areas should be addressed in as much detail as is necessary to allow an analysis of the alternatives and the proposal. The EA shall contain brief discussions of the following topics:

(1) Purpose and need for the proposed action.

(2) Description of the proposed action.

(3) Alternatives considered, including a No Action alternative.

(4) Environmental effects of the proposed action and the alternatives, including mitigation measures.

(5) Listing of agencies, organizations, and/or persons consulted.

(c) *Finding of no significant impact ("FONSI").* If an EA is completed and the responsible Trust official determines that an EIS is not required, then the responsible Trust official shall prepare a finding of no significant impact. The finding of no significant impact shall be made available to the public by the Trust as specified in 40 CFR 1506.6.

(d) *Mitigated FONSI.* If an EA is completed and the responsible Trust official determines that an EIS is required, then prior to preparation of an EIS, the proposal may be revised in order to mitigate the impacts identified in the EA through adherence to legal requirements, inclusion of mitigation as an integral part of the proposal, and/or fundamental changes to the proposal. If the revised proposal does not qualify for

a categorical exclusion under § 1010.7, a subsequent EA will be prepared on the revised proposal and will result in a Mitigated Finding of No Significant Impact, preparation of an EIS, or additional revision of the proposal and a subsequent EA.

§ 1010.12 Public involvement.

The Trust will make public involvement an essential part of its environmental review process. Public notice of anticipated Trust actions, opportunities for involvement, and availability of environmental documents will be facilitated through announcements in the Trust's monthly newsletter, postings on its web site (www.presidiotrust.gov), placement of public notices in newspapers, direct mailings, and other means appropriate for involving the public in a meaningful way. The Trust will conduct scoping with interested federal, state and local agencies and Indian tribes, and hold public workshops to gather early input whenever appropriate. Notice of all public workshops will be given in a timely manner. Interested persons may also obtain information concerning any pending EIS or any other element of the environmental review process of the Trust by contacting the responsible Trust official at the following address: Presidio Trust, P.O. Box 29052, San Francisco, California, 94129-0052.

§ 1010.13 Trust decision-making procedures.

To ensure that at major decision-making points all relevant environmental concerns are considered by the decision-maker, the following procedures are established.

(a) An environmental document (i.e., the EA, finding of no significant impact, EIS, or notice of intent), in addition to being prepared at the earliest point in the decision-making process, shall accompany the relevant proposal or action through the Trust's decision-making process to ensure adequate consideration of environmental factors.

(b) The decision-maker shall consider in its decision-making process only decision alternatives encompassed by the range of alternatives discussed in the relevant environmental documents. Also, where an EIS has been prepared, the decision-maker shall consider all alternatives described in the EIS, and a written record of the consideration of alternatives during the decision-making process shall be maintained.

(c) Any environmental document prepared for a proposal or action shall be made part of the record of any formal rulemaking by the Trust.

§ 1010.14 Review of proposals by project applicants.

(a) Each proposal for demolition, construction, reconstruction, development, preservation, rehabilitation, or restoration of real property submitted by a project applicant to the Trust for its review, and which the decision-maker agrees to consider, shall require an EA unless categorically excluded or covered by a previously prepared EA and/or EIS.

(b) The decision-maker may not take any approval action on such a proposal submitted by a project applicant until such time as the appropriate environmental review documents have been prepared and submitted to the decision-maker.

(c) At a minimum, and as part of any submission made by a project applicant to the decision-maker for its approval, such project applicant shall make available data and materials concerning the proposal sufficient to permit the Trust to carry out its environmental review responsibilities. When requested, the project applicant shall provide additional information that the responsible Trust official believes is necessary to permit it to satisfy its environmental review functions.

(d) With respect to each project proposed for consideration for which the responsible Trust official determines an EA shall be prepared, the decision-maker may require a project applicant to submit a draft EA regarding its proposal for the Trust's evaluation and revision. In accordance with 40 CFR 1506.5(b), the Trust shall make its own evaluation of the environmental issues and shall take responsibility for the scope and content of the final EA.

(e) With respect to each project proposed for consideration for which the responsible Trust official determines an EIS shall be prepared, the decision-maker may require a project applicant to pay a non-refundable fee to the Trust sufficient to cover a portion or all of the Trust's anticipated costs associated with preparation and review of the EIS, including costs associated with review under other applicable laws. Such fee shall be paid to the Trust in full prior to commencement of the preparation of the EIS or any amendment or supplement thereto.

(f) In accordance with 40 CFR 1506.5(c), the EIS shall be prepared by the Trust and/or by contractors who are selected by the Trust and who certify that they have no financial or other interest in the outcome of the project, and the Trust shall independently evaluate the EIS prior to its approval and take responsibility for ensuring its

adequacy. The EIS shall be prepared in accordance with 40 CFR part 1502.

(g) The responsible Trust official may set time limits for environmental review appropriate to each proposal, consistent with 40 CFR 1501.8 and 1506.10.

(h) The responsible Trust official shall at the earliest possible time ensure that the Trust commences its environmental review on a proposed project and shall provide the project applicant with any policies or information deemed appropriate in order to permit effective and timely review by the Trust of a proposal once it is submitted to the decision-maker for approval.

§ 1010.15 Actions where lead agency designation is necessary.

(a) Consistent with 40 CFR 1501.5, where a proposed action by the Trust involves one or more other Federal agencies, or where actions by the Trust and one or more Federal agencies are directly related to each other because of their functional interdependence or geographical proximity, the Trust will seek designation as lead agency for those actions that directly relate to implementation of the general objectives of the Plan and for those actions that relate solely to the Presidio Trust Area.

(b) For an action that qualifies as one for which the Trust will seek designation as lead agency, the Trust will promptly consult with the appropriate Federal agency to establish lead agency and cooperating agency designations.

(c) For an action as to which the Trust undertakes lead or cooperating agency status, the Trust is authorized to enter into a memorandum of understanding or agreement to define the rights and responsibilities of lead and cooperating agencies.

§ 1010.16 Actions to encourage agency cooperation early in the NEPA process.

(a) Consistent with 40 CFR 1501.6, the Trust may request the NPS to be a cooperating agency for actions or projects significantly affecting the quality of the Presidio. In addition, upon request of the Trust, any other Federal agency that has jurisdiction by law or special expertise with respect to any environmental issue that should be addressed in the analysis may be a cooperating agency. The Trust shall use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise to the maximum extent possible consistent with its responsibility as lead agency.

§ 1010.17 Actions to eliminate duplication with State and local procedures.

Consistent with 40 CFR 1506.2, the Trust shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements. Such cooperation shall to the fullest extent possible include:

- (a) Joint planning processes.
- (b) Joint environmental research and studies.
- (c) Joint public hearings (except where otherwise provided by statute).
- (d) Joint environmental assessments.

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BILLING CODE 4310-4R-U

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[CA 71-154b; FRL-6400-2]

Proposed Approval and Promulgation of California State Implementation Plan for San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP). These rules were submitted by the State on behalf of the District to provide general permitting requirements and general provisions for the implementation of NSR and other SIP requirements for stationary sources in the District. The rules were also submitted to improve the consistency and clarity of the existing SIP.

The intended effect of proposing approval of these rules is to control air pollution in accordance with the requirements of the Act and improve the consistency and clarity of the existing SIP. In the Final Rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any

parties interested in commenting should do so at this time.

DATES: Comments on this proposed action must be received in writing by August 23, 1999.

ADDRESSES: Written comments on this action must be sent to Ed Pike at the Region IX address mailing address listed below.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours at the following address: Permits Office (AIR-3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the submitted rules are also available for inspection at the following locations: Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW, Washington, DC 20460
California Air Resources Board
Stationary Source Division, Rule Evaluation Section 2020 "L" Street, Sacramento, CA 95814
San Joaquin Valley Unified Air Pollution Control District, Central Region, 1990 E. Gettysburg Avenue, Fresno, CA 93726

A courtesy copy of current District regulations may be available via the Internet at <http://arbis.arb.ca.gov/drdb/sju/cur.htm>. However, EPA assumes no responsibility for the availability or accuracy of this website. In addition, the version of the rules available on this website may not be the same as the rules submitted to EPA for approval, and readers should verify that the adoption dates are the same.

FOR FURTHER INFORMATION CONTACT: Ed Pike at (415) 744-1211 or pike.ed@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is proposing to approve the following rules into the SIP: 1110 Circumvention; 1140 Applicability of Emission Limits; 1150 Separation and Combination; 2010 Permits Required; 2031 Transfer of Permits; 2040 Applications; 2070 Standards for Granting Applications; 2080 Conditional Approval; and 2092 Standards for Permits to Operate. Rules 1110, 1140, 1150, 2010, and 2040 were adopted by the District Board of Directors on December 17, 1992, and submitted to EPA by the California Air Resources Board (CARB) as a revision to the SIP on September 28, 1994. Rules 2031, 2070, 2080, and 2092 were adopted by the District on December 17, 1992, and submitted to EPA by CARB on November 18, 1993.

For further information, please see the information provided in the direct final

action which is located in the Rules section of this **Federal Register**.

Dated: July 9, 1999.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 99-18601 Filed 7-22-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 99-256, RM-9527]

Radio Broadcasting Services; Refugio and Taft, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Pacific Broadcasting of Missouri, L.L.C. requesting the substitution of Channel 293C2 for Channel 291C3 at Refugio, Texas, reallocation of Channel 293C2 from Refugio, Texas, to Taft, Texas, and modification of the license for Station KTKY to specify operation on Channel 293C2 at Taft, Texas. The coordinates for Channel 293C2 at Taft are 27-52-00 and 97-13-08. Pacific also requested the allotment of Channel 291A at Refugio, Texas, at coordinates 28-21-58 and 97-19-11. Mexican concurrence will be requested for the allotment the allotments at Refugio and Taft. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 293C2 at Refugio.

DATES: Comments must be filed on or before September 7, 1999, and reply comments on or before September 22, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Pamela C. Cooper, Davis Wright Tremaine LLP, 1155 Connecticut Avenue, NW, suite 700, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99-256, adopted July 7, 1999, and released July 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center,