

action. The Site is in the eastern portion of the San Fernando Valley Basin in Los Angeles, California.

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The NCP sets criteria that must be met to delete a site from the NPL. EPA, in consultation with the State of California, has determined that the Site meets the following criterion for site deletion: "The remedial investigation has shown that the release poses no significant threat to public health or the environment, and, therefore, taking of remedial measures is not appropriate." However, this deletion does not preclude future actions under Superfund, based on new information or conditions.

In the Rules and Regulations section of today's **Federal Register**, we are concurrently publishing a Direct Final Notice of Deletion for the Site, because we view this as a noncontroversial action and anticipate no adverse comments. This is a streamlined approach for site deletion. We have provided further information on the Site and explained our reasons for this deletion in Section IV. of the Direct Final Notice of Deletion.

If we receive no adverse comment(s) on this Notice of Intent to Delete or the Direct Final Notice of Deletion, the deletion will become final 30 days after the end of the public comment period. If we receive adverse comment(s), we will publish a timely withdrawal of the Direct Final Notice of Deletion before it takes effect. We will, as appropriate, prepare a Responsiveness Summary to address public comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will not be another comment period on the Notice of Intent to Delete/Direct Final Notice of Deletion. Any parties interested in commenting must do so at this time.

**DATES:** Comments concerning deletion of this Site must be received by September 9, 2004.

**ADDRESSES:** Written comments should be addressed to Jackie Lane, Community Involvement Coordinator, U.S. EPA Region IX (SFD-3), 75 Hawthorne Street, San Francisco, California 94105, (415) 972-3236.

**FOR FURTHER INFORMATION CONTACT:** Charnjit Bhullar, Remedial Project Manager, U.S. EPA Region IX (SFD 7-

1), 75 Hawthorne Street, San Francisco, California 94105, (415) 972-3960.

**SUPPLEMENTARY INFORMATION:** For additional Site information, see the Direct Final Notice of Deletion which is located in the Rules and Regulations section of this **Federal Register**.

**Information Repositories:** Information supporting the deletion is available in the Deletion Docket at the EPA Region IX Records Center and at the Information Repositories. The Information Repositories have been established to provide comprehensive Site related information, at the following addresses:

U.S. EPA Superfund Record Center, 95 Hawthorne Street, San Francisco, California 94105-3901, (415) 536-2000.

La Canada Library, 4545 Oakwood Ave., La Canada CA 91011, (818) 952-0603. Los Angeles Department of Water and Powers, 111 North Hope Street, Rm. 516, Los Angeles, CA 90012 (213) 367-1995.

Glendale Public Library, 222 East Harvard Street, Glendale, CA 91205, (818) 548-2021.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: July 29, 2004.

**Keith Takata,**

*Acting Regional Administrator, Region IX.*

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## DENALI COMMISSION

### 45 CFR Chapter IX

#### National Environmental Policy Act Implementing Procedures

**AGENCY:** Denali Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Denali Commission proposes to establish 45 CFR chapter IX and to add regulations for implementing the National Environmental Policy Act of 1969 (NEPA) and invites public comment on the proposed rule. All comments will be considered in preparing the final version.

**DATES:** Comments and related material must be received by September 9, 2004.

**ADDRESSES:** Submit comments to the Denali Commission, Attn: NEPA Comments; 510 L Street, Suite 410; Anchorage, AK 99501. Comments may be inspected in Suite 410 between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Al Ewing, Denali Commission; 510 L Street, Suite 410; Anchorage, AK 99501. Telephone: (907) 271-1414. E-mail: [communications@denali.gov](mailto:communications@denali.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Introduced by Congress in 1998, the Denali Commission (Commission) is an innovative federal-state partnership designed to provide critical utilities, infrastructure, and economic support throughout Alaska. With the creation of the Commission, Congress acknowledged the need for increased inter-agency cooperation and focus on Alaska's remote communities. Since its first meeting in April 1999, the Commission is credited with providing numerous cost-shared infrastructure projects across the State that exemplify effective and efficient partnership between federal and state agencies, and the private sector.

The National Environmental Policy Act (NEPA) and implementing regulations promulgated by the Council on Environmental Quality (CEQ) (40 CFR parts 1500-1508) establish a broad national policy to protect the quality of the human environment and to ensure that environmental considerations and associated public concerns are given careful attention and appropriate weight in all decisions of the federal government. Sections 102(2) of NEPA and 40 CFR 1505.1 and 1507.3 require federal agencies to develop and, as needed, revise implementing procedures consistent with the CEQ regulations. The Denali Commission proposes the following as policy and procedures for complying with NEPA and CEQ regulations.

Section 1508.4 of the CEQ regulations provides for categories of action that do not individually or cumulatively have significant effects on the human environment, and therefore, do not require the preparation of an environmental impact statement (EIS) or an environmental assessment (EA). In keeping with both the Congressional mandate of interagency cooperation and the CEQ's goals of eliminating duplication and reducing delay, per the CEQ suggestion, the Denali Commission examined existing categorical exclusions from other federal agencies to determine whether similar categorical

exclusions might be applicable to Denali Commission actions that are similar in nature, scope, intensity and effect. Attachment A to part 900 contains a list of proposed categorical exclusions.

#### Request for Comment

The Denali Commission encourages interested persons to submit written data and comments. Written comments should include the name, address, and contact information of the submitter and should be submitted to the address provided above. A stamped, self-addressed postcard or envelope should be submitted with comments for acknowledgement of receipt. The Denali Commission will consider all comments received during the comment period.

#### List of Subjects in 45 CFR Part 900

Administrative practice and procedure, Environmental impact statements, Environmental protection.

For the reasons stated in the preamble, the Denali Commission proposes to establish title 45 of the CFR, chapter IX, consisting of parts 900 through 999, and to add part 900 reading as follows:

#### CHAPTER IX—DENALI COMMISSION

#### PART 900—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

##### Subpart A—General

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##### Subpart C—Environmental Assessments

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900.401	Notice of Intent and Scoping.
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900.403	Supplemental EIS.
900.404	Adoption.
900.405	Proposals normally requiring an EIS.

#### Appendix A to Part 900—Categorical Exclusions

**Authority:** 42 U.S.C. 3121; 4321; 40 CFR parts 1500–1508.

##### Subpart A—General

###### § 900.101 Purpose.

This regulation (45 CFR part 900) prescribes the policies and procedures of the Denali Commission (Commission) for implementing the National Environmental Policy Act of 1969 (NEPA) as amended (42 U.S.C. 4321–4347); the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500 through 1508); and other related Federal environmental laws, statutes, regulations, and Executive Orders that apply to Commission programs and administrative actions. This part supplements, and is to be used in conjunction with, 40 CFR parts 1500 through 1508.

###### § 900.102 Environmental policy.

It is the policy of the Commission to:

(a) Comply with the procedures and policies of NEPA and other related environmental laws, regulations, and orders applicable to Commission actions;

(b) Provide guidance to applicants responsible for ensuring that proposals comply with all appropriate Commission requirements;

(c) Integrate NEPA requirements and other planning and environmental review procedures required by law or Commission practice so that all such procedures run concurrently rather than consecutively;

(d) Encourage and facilitate public involvement in Commission decisions that affect the quality of the environment;

(e) Use the NEPA process to identify and assess reasonable alternatives to proposed Commission actions to avoid or minimize adverse effects upon the quality of the human environment;

(f) Use all practicable means consistent with NEPA and other essential considerations of national policy to restore or enhance the quality of the human environment and avoid or minimize any possible adverse effects of the Commission's actions upon the quality of the human environment; and

(g) Consider and give important weight to environmental factors, along with other societal needs, in developing

proposals and making decisions in order to achieve a proper balance between the development and utilization of natural, cultural and human resources and the protection and enhancement of environmental quality (*see* NEPA section 101 and 40 CFR 1508.14).

###### § 900.103 Terms and abbreviations.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508.

(1) *Action*. A project, program, plan, or policy, as discussed in 40 CFR 1508.18, subject to the Commission's control and responsibility.

(2) *Applicant*. The partner or organization applying for financial assistance or other approval.

(3) *Commission proposal (or proposal)*. A proposal, whether initiated by the Commission, another Federal agency, or an applicant, for any action that requires a Commission decision, as discussed at 40 CFR 1508.23.

(4) *Federal Co-Chair*. One of the seven members of the Commission, appointed by the Secretary of Commerce, as defined in the Denali Commission Act of 1998, 42 U.S.C. 3121.

(b) The following abbreviations are used throughout this part:

(1) CATEX—Categorical exclusions;

(2) CEQ—Council on Environmental Quality;

(3) EA—Environmental assessment;

(4) EIS—Environmental impact

statement;

(5) FONSI—Finding of no significant impact;

(6) NEPA—National Environmental Policy Act of 1969, as amended;

(7) NOI—Notice of intent;

(8) ROD—Record of decision.

###### § 900.104 Applicability.

The Denali Commission was created to deliver the services of the Federal government in the most cost-effective manner practicable. In order to reduce administrative and overhead costs, the Commission partners with Federal and State agencies and commonly depends on these agencies for project management. Consequently, the Commission generally relies on the expertise and processes already in use by partnering Federal and State agencies to prepare NEPA analysis and documents.

###### § 900.105 Applicant responsibility.

Applicants, under Commission direction (contact Chief of Staff at 907–271–1414), shall generally assume the following responsibilities of environmental review:

(a) Comply with the provisions of NEPA (42 U.S.C. 4321–4347), the CEQ

regulations (40 CFR parts 1500 through 1508), and the requirements set forth in this part;

(b) Prepare and disseminate the applicable environmental documentation concurrent with a proposal's engineering, planning, and design;

(c) Submit all environmental documents created pursuant to this part to the Commission for review and approval before public distribution;

(d) Create and distribute public notices;

(e) Coordinate public hearings and meetings as required;

(f) Participate in all Commission-conducted hearings or meetings;

(g) Consult with the Commission prior to obtaining the services of an environmental consultant; in the case that an environmental impact statement (EIS) is required, the consultant or contractor will be selected by the Commission;

(h) Implement mitigation measures stated in environmental documents.

#### **§ 900.106 Denali Commission responsibility.**

(a) The Denali Commission's Chief of Staff shall provide environmental guidance to the Commission's approving official and to the applicant;

(b) The Commission's approving official shall provide guidance and oversight in the identification and development of required documentation;

(c) The Commission's approving official shall make an independent evaluation of the environmental issues, take responsibility for the scope and content of the environmental document (EA or EIS), and make the environmental finding, where applicable.

#### **§ 900.107 Role of lead and cooperating agencies.**

In accordance with § 900.104, the Commission will defer lead agency role to other Federal agencies whenever appropriate in accordance with 40 CFR 1501.5, and the Commission will exercise its role as a cooperating agency in accordance with 40 CFR 1501.6.

#### **§ 900.108 Public involvement.**

(a) Interested persons and the affected public shall be provided notice of the availability of environmental documents, NEPA-related hearings, and public meetings.

(b) Applicants, when conducting the NEPA process, shall provide the opportunity for public participation and shall consider the public comments on the proposal as described in subparts C and D to this part.

(c) Interested persons can obtain information or status reports on EISs and other elements of the NEPA process from the Commission's office at 510 L Street, Suite 410; Anchorage, Alaska 99501. Telephone: (907) 271-1414.

### **Subpart B—Environmental Review Procedures**

#### **§ 900.201 Environmental review process.**

(a) *General.* The environmental review process is the investigation of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) *Early coordination.* Applicants will begin the environmental review process as soon as Denali Commission assistance is projected. Environmental issues shall be identified and considered early in the proposal planning process. Applicants shall use a systematic, interdisciplinary approach that includes community involvement and intergovernmental coordination to expand the potential sources of information and identify areas of concern. Environmental permits and other forms of approval, concurrence, or consultation may be required. The planning process shall include permitting and other review processes to ensure that necessary information will be collected and provided to permitting and reviewing agencies in a timely manner.

#### **§ 900.202 Emergency actions and variance.**

(a) *Emergency actions requiring EISs.* The Commission may take an action without observing all provisions of this part or the CEQ Regulations (40 CFR parts 1500 through 1508), in accordance with 40 CFR 1506.11, in emergency situations that demand immediate action and require preparation of an EIS. The Commission shall notify the CEQ as early as possible when it is considering such action. The Commission shall document emergency actions and identify impacts from the actions taken, as well as further mitigation necessary. Further analyses and documentation may be required.

(b) *Emergency actions requiring EAs.* In emergency situations that demand immediate action and require preparation of an environmental assessment (EA), any variance from the requirements of this part (45 CFR part 900) must be based on the interests of national security or public health, safety, or welfare. Emergency actions must have the advance written approval of the Federal Co-Chair or his/her

designee. The Commission shall publish a notice in the **Federal Register** specifying the variance granted and its basis. Under no circumstances is the Federal Co-Chair or his/her designee authorized to waive or grant a variance from any requirement of the CEQ Regulations, except as provided for in those regulations.

(c) *Reduction of time periods.* In the interests of national security or the public health, safety, or welfare, the Commission may reduce any time periods that are not required by the CEQ Regulations. The Commission shall publish a notice in the **Federal Register** and notify interested parties (*see* 40 CFR 1506.6) specifying the revised time periods and the rationale for the reduction.

#### **§ 900.203 Determination of Federal actions.**

(a) The Commission shall determine, under the procedures detailed in the CEQ Regulations (40 CFR parts 1500 through 1508) and this part, whether any Commission proposal:

- (1) Is statutorily exempt from a portion or all of the NEPA process;
- (2) Is categorically excluded from preparation of either an EIS or an EA;
- (3) Requires preparation of an EA; or
- (4) Requires preparation of an EIS.

(b) Notwithstanding any other provision of this part, the Commission may prepare a NEPA document for any Commission action at any time in order to further the purposes of NEPA. This NEPA document may be done to analyze the consequences of ongoing activities, to support Commission planning, to assess the need for mitigation, to disclose fully the potential environmental consequences of Commission actions, or for any other reason. Documents prepared under this paragraph shall be prepared in the same manner as Commission documents prepared under paragraph (a) of this section.

#### **§ 900.204 Categorical exclusions.**

(a) *General.* A categorical exclusion (CATEX) is defined by 40 CFR 1508.4 as an action having no significant individual or cumulative effect on the human environment and, for which in the absence of extraordinary circumstances or sensitive resources, neither an EA nor an EIS is required. Actions consistent with any of the categories listed in section A of appendix A of this part are eligible for categorical exclusion and no documentation is required. All other activities, as listed in section B of appendix A, require satisfactory completion of a CATEX checklist.

(b) *Organization.* All CATEXs may be applied by any organizational element of the Commission. The sectional divisions in Appendix A of this part are solely for purposes of organization of that appendix and are not intended to be limiting.

(c) *Extraordinary circumstances.* Any action that normally would be classified as a CATEX but could involve extraordinary circumstances will require appropriate environmental review to determine if the CATEX classification is proper. Extraordinary circumstances to be considered include those likely to:

(1) Have a reasonable likelihood of significant impacts on public health, public safety, or the environment;

(2) Have effects on the environment that are likely to be highly controversial or involve unresolved conflicts concerning alternative uses of available resources;

(3) Have possible effects on the human environment that are highly uncertain, involve unique or unknown risks, or are scientifically controversial;

(4) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects;

(5) Relate to other actions with individually insignificant but cumulatively significant environmental effects;

(6) Have a greater scope or size than is normal for the category of action;

(7) Have the potential to degrade already existing poor environmental conditions or to initiate a degrading influence, activity, or effect in areas not already significantly modified from their natural condition;

(8) Have a disproportionately high and adverse effect on low income or minority populations; or

(9) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.

(d) *Sensitive resources.* A proposal that adversely affects environmentally sensitive resources may not be categorically excluded unless the impact has previously been resolved through another environmental process, such as coordination or consultation under the Coastal Zone Management Act or National Historic Preservation Act. Environmentally sensitive resources to be considered include the following:

(1) Properties listed, or eligible for listing, in the National Register of Historic Places;

(2) Species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or their habitat; or

(3) Natural resources and unique geographic characteristics such as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; and other ecologically significant or critical areas.

#### **§ 900.205 Environmental assessment.**

(a) An EA is required for all proposals, except those exempt or categorically excluded under this part, and those requiring or determined to require an EIS. EAs provide sufficient evidence and analysis to determine whether to prepare an EIS or a finding of no significant impact (FONSI).

(b) In addition, an EA may be prepared on any action at any time in order to assist in planning and decisionmaking, to aid in the Commission's compliance with NEPA when no EIS is necessary, or to facilitate EIS preparation.

(c) EAs shall be prepared in accordance with subpart C of this part and shall contain analyses to support conclusions regarding environmental impacts.

#### **§ 900.206 Environmental impact statement.**

An EIS is required when the project is determined to have a potentially significant impact on the human environment. EISs shall be prepared in accordance with subpart D of this part.

#### **Subpart C—Environmental Assessments**

##### **§ 900.301 Content.**

(a) An EA must include brief discussions of the need for the proposal; of alternatives to the proposal as required by NEPA section 102(2)(E); and of the environmental impacts of the proposal and alternatives. The EA must also include a listing of agencies and persons consulted.

(b) An EA may describe a broad range of alternatives and proposed mitigation measures to facilitate planning and decisionmaking.

(c) The EA should also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that those requirements can be met.

(d) The level of detail and depth of impact analysis will normally be limited to the minimum needed to determine

the significance of potential environmental effects.

#### **§ 900.302 Adoption and incorporation by reference.**

(a) An environmental document prepared for a proposal before the Commission by another agency, entity, or person (including an applicant) may be adopted as an EA if, upon independent evaluation by the responsible Commission official, it is found to comply with this part and relevant provisions of 40 CFR parts 1500 through 1508.

(b) A responsible official may use an environmental document that, upon independent evaluation, is found not to comply with the requirements of an EA, if the responsible official incorporates the document by reference in accordance with 40 CFR 1502.21 and augments it as necessary to meet the requirements of an EA or an EIS.

(c) If such an EA is adopted or incorporated by reference, the responsible Commission official shall prepare a notice of availability and proposed FONSI; or, if the EA results in the decision to do an EIS, the responsible Commission official shall prepare a notice of intent (NOI). In either case, the FONSI or NOI shall acknowledge the origin of the EA and take full responsibility for its scope and content.

#### **§ 900.303 Public involvement.**

The public must be provided notice of the availability of EAs in accordance with 40 CFR 1506.6. Commission approval is required before an EA is made available to the public and the notice of availability is published. The applicant is responsible for making the EA available for public inspection and sending an EA notice of availability to the affected units of Alaska Native/American Indian tribal organizations, and Federal, State and local government. Final Commission action will be taken after public comments are reviewed and considered.

#### **§ 900.304 Actions resulting from assessment.**

(a) *Accepted without modification.* A proposal may be accepted without modifications if the EA indicates that the proposal does not have significant environmental impacts and a FONSI is prepared.

(b) *Accepted with modification.* If an EA identifies potentially significant environmental impacts, the proposal may be modified to eliminate such impacts. Proposals so modified may be accepted if the proposed changes are evaluated in an EA and a FONSI is

prepared. The FONSI shall list any mitigation measures necessary to make the recommended alternative environmentally acceptable and describe applicable monitoring and enforcement measures intended to ensure the implementation of the mitigation measures.

(c) *Rejected*. A proposal should be rejected if significant and unavoidable adverse environmental impacts would still exist after modifications have been made to the proposal and an EIS is not prepared.

(d) *Prepare an EIS*. A proposal shall require an EIS, prepared in accordance with subpart D to this part, if the EA indicates significant environmental impacts.

#### **§ 900.305 Findings of no significant impact.**

(a) *Definition*. Finding of no significant impact means a document by the Commission briefly presenting the reasons why an action, not otherwise excluded as provided in subpart B of this part, will not have a significant impact on the human environment and for which an EIS will not be prepared.

(b) *Applicant responsibility*. The applicant shall furnish the Commission with a copy of the EA; the public hearing summary or minutes, where applicable; and copies of any written comments received and responses thereto. In addition, the applicant shall recommend the Commission prepare a FONSI.

(c) *Content*. A FONSI shall include the EA or a summary of it and shall note any other environmental documents related to it (40 CFR 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.

(d) *Public involvement*. The Commission shall make the FONSI available to the public and to the affected units of Alaska Native/ American Indian tribal organizations, and Federal, State and local government as specified in 40 CFR 1506.6.

(e) *Special circumstances*. The FONSI notice of availability will be made available for 30 days in cases described in 40 CFR 1501.4(e)(2).

#### **§ 900.306 Proposals normally requiring an EA.**

Proposals that normally require preparation of an EA include the following:

(a) Initial field demonstration of a new technology;

(b) Field trials of a new product or new uses of an existing technology;

(c) Alteration of a sensitive resource, as defined in § 900.204(d), by physical, chemical or biological means.

#### **Subpart D—Environmental Impact Statements**

##### **§ 900.401 Notice of Intent and Scoping.**

(a) The Commission shall publish a NOI, as described in 40 CFR 1508.22, in the **Federal Register** as soon as practicable after a decision is made to prepare an EIS, in accordance with 40 CFR 1501.7. If there will be a lengthy period of time between the Commission's decision to prepare an EIS and its actual preparation, the Commission may defer publication of the NOI until a reasonable time before preparing the EIS, provided that the Commission allows a reasonable opportunity for interested parties to participate in the EIS process. Through the NOI, the Commission shall invite comments and suggestions on the scope of the EIS.

(b) Publication of the NOI in the **Federal Register** shall begin the public scoping process. The public scoping process for a Commission EIS shall allow a minimum of 30 days for the receipt of public comments.

##### **§ 900.402 Preparation and filing of draft and final EISs.**

(a) *General*. Except for proposals for legislation as provided for in 40 CFR 1506.8, EISs shall be prepared in two stages and may be supplemented.

(b) *Format*. The EIS format recommended by 40 CFR 1502.10 shall be used unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

(c) *Applicant & Commission responsibility*. The draft or final EIS shall be prepared by the Commission in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance from the Commission.

(d) *Third-party consultants*. A third-party consultant selected by the Commission or in cooperation with a cooperating agency may prepare the draft or final EIS. The Commission shall provide guidance, participate in its preparation, independently evaluate, and take responsibility for the draft or final EIS.

(e) *Filing*. After a draft or final EIS has been prepared, the Commission and applicant shall concurrently file the draft or final EIS with the Environmental Protection Agency (EPA). The EPA will publish a notice of

availability in accordance with 40 CFR 1506.9 and 1506.10.

(f) *Draft to final EIS*. When a final EIS does not require substantial changes from the draft EIS, the Commission may document required changes in errata sheets, insertion pages, and revised sections. The Commission will then circulate such changes together with comments on the draft EIS, responses to comments, and other appropriate information as its final EIS. The Commission will not circulate the draft EIS again; however, the Commission will provide the draft EIS if requested.

(g) *ROD*. A record of decision (ROD) will be prepared in accordance with 40 CFR 1505.2.

##### **§ 900.403 Supplemental EIS.**

(a) Supplements to either draft or final EISs shall be prepared, as prescribed in 40 CFR 1502.9, when substantial changes are proposed in a project that are relevant to environmental concerns; or when there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(b) Where action remains to be taken and the EIS is more than a year old, the Commission will review the EIS to determine whether it is adequate or requires supplementation.

(c) The Commission and applicant shall prepare, circulate and file a supplement to an EIS in the same fashion (exclusive of scoping) as a draft and final EIS. In addition, the supplement and accompanying administrative record shall be included in the administrative record for the proposal.

(d) An NOI to prepare a supplement to a final EIS will be published in those cases where a ROD has already been issued.

##### **§ 900.404 Adoption.**

(a) The Commission may adopt a federal draft or final EIS.

(b) If the actions covered by the original EIS and the proposal are substantially the same, the Commission shall recirculate it as a final statement. Otherwise, the Commission shall treat the statement as a draft and recirculate it.

(c) Where the Commission is a cooperating agency, it may adopt the EIS of the lead agency without recirculating it when, after an independent review of the EIS, the Commission concludes that its comments and suggestions have been satisfied.

**§ 900.405 Proposals normally requiring an EIS.**

The responsible official shall assure that an EIS will be prepared and issued for proposals when it is determined that any of the following conditions exist:

(a) The proposal may significantly affect the pattern and type of land use (industrial, commercial, agricultural, recreational, residential) or the growth and distribution of population;

(b) The effects resulting from any structure or facility constructed or operated under the proposal may conflict with local, regional or State land use plans or policies;

(c) The proposal may have significant adverse effects on wetlands, including indirect and cumulative effects, or any major part of a structure or facility constructed or operated under the proposal may be located in wetlands;

(d) The proposal may likely adversely affect species protected under the Endangered Species Act or their habitats, such as when a structure or a facility constructed or operated under the proposal may be located in the habitat;

(e) Implementation of the proposal may directly cause or induce changes that significantly:

- (1) Displace population;
- (2) Alter the character of existing residential areas;
- (3) Adversely affect a floodplain.

**Appendix A to Part 900—Categorical Exclusions****A. General Categorical Exclusions**

Actions consistent with any of the following categories are eligible for a categorical exclusion:

A1. Routine administrative and management activities including, but not limited to, those activities related to budgeting, finance, personnel actions, procurement activities, compliance with applicable executive orders and procedures for sustainable or "greened" procurement, retaining legal counsel, public affairs activities (e.g., issuing press releases, newsletters and notices of funding availability), internal and external program evaluation and monitoring (e.g., site visits), database development and maintenance, and computer systems administration.

A2. Routine activities that the Commission does to support its program partners and stakeholders, such as serving on task forces, ad hoc committees or representing Commission interests in other forums.

A3. Approving and issuing grants for administrative overhead support.

A4. Approving and issuing grants for social services, education and training programs, including but not limited to support for Head Start, senior citizen programs, drug treatment programs, and funding internships, except for projects involving construction, renovation, or changes in land use.

A5. Approving and issuing grants for facility planning and design.

A6. Nondestructive data collection, inventory, study, research, and monitoring activities (e.g., field, aerial and satellite surveying and mapping).

A7. Research, planning grants and technical assistance projects that are not reasonably expected to commit the Federal government to a course of action, to result in legislative proposals, or to result in direct development.

**B. Program Categorical Exclusions**

Actions consistent with any of the following categories are eligible for a categorical exclusion upon completion of the Denali Commission categorical exclusion checklist:

B1. Acquisition and installation of equipment including, but not limited to, EMS, emergency and non-expendable medical equipment (e.g., digital imaging devices and dental equipment) and communications equipment (e.g., computer upgrades) provided all requirements for permits, registrations, and licenses are met and provided the equipment involves use of generally accepted technology.

B2. Routine upgrade, repair, maintenance, replacement or minor renovations, and additions to buildings, roads, airfields, grounds, equipment, and other facilities including, but not limited to, roof replacement, foundation repair, ADA access ramp and door improvements, HVAC renovations, painting, floor system replacement, repaving parking lots and ground maintenance that do not result in a change in the functional use of the real property.

B3. Engineering studies and investigations, including soil boring and test well drilling, to gather data for the purpose of determining engineering feasibility and permitting facility design.

B4. Construction or lease of new facilities including, but not limited to, portable facilities, trailers, health care facilities, bulk commodity storage and power generation facilities where such lease or construction:

- (a) Is at the site of an existing facility and the facility capacity is not substantially increased;
- (b) Is for buildings of less than 12,000 square feet of useable space when less than five acres of surface land area are involved at a new site; or
- (c) Is for projects other than buildings when one of the following conditions exist:

1. The project lies within existing boundaries of a previously disturbed site;
2. Less than two acres of surface land area involving known high-value wetlands are involved at a new site; or
3. Less than five acres of surface land area not involving high-value wetlands are involved at a new site.

B5. Actions associated with construction of sanitation facilities to serve rural homes and communities with the exception of the following actions: (a) Construction of a sanitary landfill at a new solid waste disposal site, and (b) Construction of a new wastewater treatment facility with direct discharge of treated sewage to surface waters.

B6. Construction of electric power stations (including switching stations and support facilities) with power delivery at 480 kV or below, modification (other than voltage increases) of existing stations and support facilities that could involve the construction of electric powerlines approximately ten miles in length or less, or relocation of existing electric powerlines approximately twenty miles in length or less, but not the integration of major new generation resources into a main transmission system.

B7. Construction of electric powerlines approximately ten miles in length or less that are not intended to integrate major new generation resources into a main transmission system.

B8. Reconstruction (upgrading or rebuilding) and/or minor relocation of existing electric powerlines approximately twenty miles in length or less to enhance environmental and land use values. Such actions include relocations to avoid right-of-way encroachments, resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts to environmentally sensitive areas.

Dated: July 29, 2004.

**Jeffrey B. Staser,**  
*Federal Co-Chair.*

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**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 20 and 80**

**[WT Docket No. 04-257; RM-10743; FCC 04-171]**

**Maritime Communications**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission addresses petitions for rulemaking that were filed by Maritel, Inc. (Maritel), a VHF public coast (VPC) station licensee, on May 16, 2003, and Mobex Network Services, LLC (Mobex), an automated maritime telecommunications system (AMTS) station licensee, on June 13, 2003. Both petitions seek additional flexibility for public coast station licensees. The Commission proposes to amend its rules to permit VPC and AMTS licensees to provide private mobile radio service to units on land. The proposed rule changes further the Commission's ongoing goal of establishing a regulatory framework that will enhance operational flexibility and enable maritime spectrum licensees to compete more effectively against other commercial mobile radio service