

(4) Supply available data, assessments, and other information that may be helpful in the preparation of the Environmental Document or the Administrative Record in a timely manner.

(5) Make an independent evaluation of the Federal Agency applicant's Environmental Document and take responsibility for the scope and contents of the EIS or EA when it is sufficient as required by 40 CFR 1506.5.

(6) Prepare and, following Commission final approval of an application, sign a FONSI or ROD. Alternatively, if NCPC concurs with the contents of a Federal Agency's FONSI or ROD, NCPC may co-sign the Federal Agency's document following the Commission's final approval of an application if co-signing is consistent with the Federal Agency's NEPA regulations.

(7) Provide documentation requested and needed by the Lead Agency for the Administrative Record.

(b) In the event a Federal Agency applicant fails to allow NCPC to participate in a meaningful manner as a Cooperating Agency, the parties shall agree to use their best efforts to cooperatively resolve the issue at the working levels of their respective agencies, and, if necessary, by elevating the issue within their respective agencies. If internal resolution at higher agency levels is unsuccessful, the parties may agree to seek mediation. Alternatively, NCPC may prepare its own Environmental Document either as a stand-alone document or a supplement to the Federal Agency applicant's Environmental Document or take no action on the underlying application.

Subpart C—NEPA Submission Schedules

§ 601.8 NEPA submission schedule for applications governed by the National Capital Planning Act.

(a) *NEPA compliance requirements.* Federal Agency applicants, and NCPC for non-Federal Agency applications, shall comply with NEPA for the following types of projects:

(1) Projects requiring Commission approval; and

(2) Master plans requiring Commission action with future projects requir-

ing subsequent Commission approval; provided that:

(i) The applicant intends to submit individual projects depicted in the master plan to the Commission within five years of the date of Commission action on the master plan; and

(ii) The applicant intends to use the master plan EA or EIS to satisfy its NEPA obligation for specific projects referenced in the master plan.

(b) *Timing of NEPA compliance.* When Federal Agency and Non-Federal Agency applicants submit projects of the type described in paragraph (a) of this section, the Federal Agency applicant or NCPC for a Non-Federal agency application shall submit the requisite Environmental Documentation timed to coincide with the Commission's review stages as set forth in paragraphs (c) through (f) of this section.

(c) *Concept review.* The NEPA Public Scoping process shall have been initiated by the Federal Agency applicant or NCPC for a Non-Federal Agency application before the applicant submits an application for concept review. Alternatively, if the Federal Agency applicant or NCPC is contemplating use of a CATEX, the initiation of the Public Scoping process may be deferred until the final decision on use of a CATEX is made. Any NEPA information available at the time of concept review shall be submitted by the Federal Agency applicant or NCPC for a Non-Federal Agency application to facilitate effective Commission concept review.

(d) *Preliminary review.* A Draft Environmental Document shall be issued or published before the applicant submits an application for preliminary review. The NEPA information shall be provided to the Commission to facilitate the Commission's preliminary review and the provision of meaningful Commission comments and direction.

(e) *Final review.* (1) At the time a Non-Federal Agency submits an application for final approval, the determination (FONSI or ROD) resulting from the Environmental Document shall be submitted by NCPC in a form consistent with the rules of this part. At the time a Federal Agency applicant submits an application to the

§ 601.9

1 CFR Ch. VI (1–1–23 Edition)

Commission for final review, the Federal Agency applicant shall submit a determination (FONSI or ROD) in a form consistent with the applicant's NEPA regulations. As a Cooperating Agency, NCPC may co-sign the Federal Agency's FONSI or ROD following final Commission approval if co-signing is consistent with the Federal Agency's NEPA regulations. Alternatively, NCPC may prepare and sign its own independent document in accordance with the requirements of §§ 601.16(a) or 601.25(a) through (c).

(2) If at the time of final review, the Commission denies a Federal Agency applicant's project and requests changes thereto, the Federal Agency applicant shall proceed in a manner consistent with applicable law. The Federal Agency applicant may pursue, among others, the option of revising the project in a manner responsive to the Commission's comments. If the Federal Agency pursues this option, it shall review and consider the need for possible changes to its Environmental Document and its FONSI or ROD. Upon resubmission of a revised application for final review, the applicant shall submit a revised Environmental Document and a revised FONSI or ROD if in its judgement revised documents are necessary. If NCPC and the applicant disagree regarding the need for a revised Environmental Document and FONSI or ROD, the parties shall work together to resolve their differences. The final decision regarding the need for a revised Environmental Document and a revised FONSI or ROD shall be made by the Commission's Executive Committee.

(f) *Deviations from the submission schedule for Emergency Circumstances.* (1) This paragraph (f) applies when the following three conditions exist: NCPC is the Lead Agency; Emergency Circumstances exist; and an Extraordinary Circumstance as set forth in § 601.11 is present that precludes use of a CATEX.

(2) When the three conditions described above exist, NCPC shall undertake one of the following actions:

(i) When Emergency Circumstances render it necessary to take an action that requires an EA, the Executive Director shall prepare a concise, focused

EA consistent with CEQ guidance. At the earliest opportunity, the Commission shall grant approval for the EA.

(ii) Where Emergency Circumstances make it necessary for the Commission to take an action with significant environmental impact without observing the provisions of these regulations, NCPC shall consult with CEQ about alternative arrangements. NCPC will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review.

§ 601.9 NEPA submission schedule for applications governed by the Commemorative Works Act.

(a) *Timing of NEPA compliance.* When, pursuant to the Commemorative Works Act, the National Park Service (NPS) or the General Services Administration (GSA) submits an application to the Commission for approval of a site and design for a commemorative work, NPS or GSA shall be required to comply with NEPA and submit the NEPA documentation timed to coincide with the Commission's review stages as set forth in paragraphs (b) through (e) of this section.

(b) *Concept site review.* (1) The NEPA Scoping Process shall have been initiated by NPS or GSA before the appropriate agency submits an application to the Commission for concept site review. Available NEPA documentation for all concept sites shall be included in the application to facilitate effective Commission concept review.

(2) The Commission shall provide comments to NPS or GSA on the multiple sites to assist the applicant in selecting a preferred site.

(c) *Concept design review for preferred sites.* (1) The NEPA Public Scoping Process shall have been initiated before NPS or GSA submits an application to the Commission for concept design review. Available NEPA documentation shall be included in the application to facilitate effective Commission concept review.

(2) The Commission shall provide comments to NPS or GSA on the preferred site(s) and the concept designs for each site to facilitate selection of a preferred site and refinement of the memorial design for that site. The