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PART 900—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

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APPENDIX A TO PART 900—CATEGORICAL EXCLUSIONS

AUTHORITY: 42 U.S.C. 3121, 4321; 40 CFR parts 1500 through1508.

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Subpart A—General

§ 900.101 Purpose.

This regulation 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) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500 through 1508). This regulation also addresses other related federal environmental laws, statutes, regulations, and Executive Orders that apply to Commission actions. This part adopts, supplements, and is to be used in conjunction with, 40 CFR parts 1500 through 1508, consistent with 40 CFR 1507.3.

§ 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 human 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, minimize, or otherwise mitigate any possible adverse effects of the Commission's actions upon the quality of the human environment; and

(g) Consider and give important weight to factors including customary and traditional uses of resources, recreation, and the objectives of Federal, regional, State, local and tribal land use plans, policies, and controls for the area concerned 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). In particular the Commission will consider potential effects on subsistence activities, which are critically important to the daily existence of Alaska Native villages.

§ 900.103 Terms and abbreviations.

(a) For the purposes of this part, the definitions in the CEQ Regulations, 40 CFR parts 1500 through 1508, are adopted and supplemented as set out in paragraphs (a)(1) through (5) of this section. In the event of a conflict the CEQ Regulations apply.

(1) *Action*. Action and Federal action as defined in 40 CFR 1508.18, include projects, programs, plans, or policies, subject to the Commission's control and responsibility.

(2) *Applicant*. The federal, state, local government or non-governmental partner or organization applying to the Commission for financial assistance or other approval. An applicant may also be a partner organization in receipt of award funds.

(3) *Approving Official*. The Denali Commission staff member designated by the Federal Co-Chair or his/her designee to fulfill the responsibilities defined in §900.106, including overseeing development of and approval of the NEPA document.

(4) *Commission proposal (or proposal)*. A proposal, as defined at 40 CFR 1508.23, is a Commission proposal whether initiated by the Commission, another federal agency, or an applicant.

(5) *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, Public Law 105–277.

(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; and

(8) ROD—Record of decision.

§ 900.104 Federal and intergovernmental relationships.

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, state and local agencies and Alaska Native villages and commonly depends on these governmental agencies for project management. Consequently, the Commission generally relies on the expertise and processes already in use by partnering agencies to help prepare Commission NEPA analyses and documents.

(a) With federal partners, the Commission will work as either a joint lead agency (40 CFR 1501.5 and 1508.16) or cooperating agency (40 CFR 1501.6 and 1508.5). The Commission may invite other Federal agencies to serve as the lead agency, a joint lead agency, or as a cooperating agency.

(b) Consistent with 40 CFR 1508.5, the Commission will typically invite Alaska Native villages and state and local government partners to serve as cooperating agencies.

(c) Requests for the Commission to serve as a lead agency (40 CFR 1501.5(d)), for CEQ to determine which Federal agency shall be the lead agency (40 CFR 1501.5(e)), or for the Commission to serve as a cooperating agency (40 CFR 1501.6(a)(1)) shall be mailed to the Commission office.

§ 900.105 Applicant responsibility.

(a) Applicants shall work under Commission direction provided by the Approving Official, and assist the Commission in fulfilling its NEPA obligations by preparing NEPA analyses and documents that 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) Applicants shall follow Commission direction when they assist the Commission with the following responsibilities, among others:

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

(2) Create and distribute public notices;

(3) Coordinate public hearings and meetings as required;

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

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

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

(7) Implement mitigation measures included as voluntary commitments by the applicant or as requirements of the applicant in environmental documents.

§ 900.106 Denali Commission responsibility.

(a) The Federal Co-Chair or his/her designee shall designate an Approving Official for each Commission proposal, and shall provide environmental guidance to the Approving Official;

(b) The Approving Official shall provide direction and guidance to the applicant as well as identification and development of required analyses and documentation;

(c) The 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;

(d) The Approving Official shall ensure mitigation measures included in environmental documents are implemented; and

(e) The Approving official shall be responsible for coordinating communications with cooperating agencies and other federal agencies.

§ 900.107 Role of lead and cooperating agencies.

In accordance with § 900.104, the Commission may defer the lead agency role to other federal agencies in accordance with 40 CFR 1501.5, and the Commission will then exercise its role as either a joint lead or a cooperating agency in accordance with 40 CFR 1501.6.

§ 900.108 Public involvement.

(a) When public involvement is required pursuant to subparts C and D of this part, interested persons and the affected public shall be provided notice of the availability of environmental documents, NEPA-related hearings, and public meetings. Such notice will be made on the Commission Web site and other means such that the community is notified (e.g., community postings, newspaper, radio or television).

(b) Applicants shall assist the Commission in providing the opportunity for public participation and considering the public comments on the proposal as described in subparts C and D of 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; or on the Commission Web site at *http://www.denali.gov*. Telephone: (907) 271–1414. The Commission will provide hard copies of NEPA documents to governmental and/or tribal entities in the affected communities.

(d) In the interests of national security or the public health, safety, or welfare, the Commission may reduce any time periods that the Commission has established and that are not required by the CEQ Regulations. The Commission shall publish a notice on the Web site at *http://www.denali.gov* and notify interested parties (see 40 CFR 1506.6) specifying the revised time periods for the proposed action and the rationale for the reduction.

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 contact the Commission and work with the Approving Official to 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. A systematic, interdisciplinary approach that includes community involvement and intergovernmental coordination to expand the potential sources of information and identify areas of concern will be used. 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.

(a) *General.* Emergency circumstances may require immediate actions that preclude following standard NEPA processes. The Council shall limit alternative arrangements to those actions that are necessary to control the immediate impacts of the emergency. In the event of emergency circumstances, the Approving Official should coordinate with the Federal Co-Chair as soon as practicable. Immediate emergency actions necessary to protect the lives and safety of the public or prevent adverse impacts to ecological resources and functions should never be delayed in order to comply with these NEPA procedures. Alternative arrangements for NEPA compliance are permitted for emergency actions pursuant to paragraphs (b) through (d) of this section.

(b) *Categorical exclusion (CATEX).* When emergency circumstances make it necessary to determine whether an extraordinary circumstance would preclude the use of a CATEX, the Approving Official shall make the determination as soon as practicable. If an extraordinary circumstance exists, the Approving Official shall comply with paragraphs (c) and (d) of this section, as applicable.

(c) *Environmental assessment (EA).* When emergency circumstances make it necessary to take an action that requires an EA before the EA can be completed, the Approving Official will consult with the Federal Co-Chair to develop alternative arrangements to meet the requirements of these NEPA implementing procedures and CEQ Regulations pertaining to EAs. Alternative arrangements should focus on minimizing adverse environmental impacts of the proposed action and the emergency. To the maximum extent practicable, these alternative arrangements should include the content, interagency coordination, and public notification and involvement that would normally be undertaken for an EA for the action at issue and cannot alter the requirements of the CEQ Regulations at 40 CFR 1508.9(a)(1) and (b). The Federal Co-Chair may grant an alternative arrangement. Any alternative arrangement shall be documented. The Federal Co-Chair will inform CEQ of the alternative arrangements at the earliest opportunity.

(d) *Environmental Impact Statement (EIS).* Where emergency circumstances make it necessary to take actions with significant environmental impacts without observing other provisions of these NEPA implementing procedures and the CEQ Regulations (see 40 CFR 1506.11) the Federal Co-Chair may consult with CEQ about alternative arrangements for implementation of NEPA. In these situations, the Commission may reduce processing times or, if the emergency situation warrants, abbreviate its preparation and processing of EISs. Any request for alternative arrangements must be submitted by the Federal Co-Chair to CEQ and notice of a potential request should be provided to CEQ at the earliest opportunity. For projects undertaken by an applicant, the Approving Official will inform the Federal Co-Chair about the emergency. The Federal Co-Chair will consult CEQ requesting the alternative arrangements for complying with NEPA.

§ 900.203 Determination of federal actions.

(a) The Commission shall determine whether any Commission proposal:

(1) Is categorically excluded from preparation of either an EA or an EIS;

(2) Requires preparation of an EA; or

(3) Requires preparation of an EIS.

(b) Notwithstanding any other provision of this part, the Commission may prepare a NEPA document to assist

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 Commission 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 this part.

§ 900.204 Categorical exclusions.

(a) *General.* A categorical exclusion (CATEX) is defined in 40 CFR 1508.4 as a category of actions which do not individually or cumulatively have a significant 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 that meet the conditions in paragraph (b) of this section and are listed in section A of appendix A of this part can be categorically excluded from further analysis and documentation in an EA or EIS. Actions that meet the screening conditions in paragraph (b) of this section and are listed in section B of appendix A require satisfactory completion of a Denali Commission CATEX checklist in order to be categorically excluded from further analysis and documentation in an EA or EIS.

(b) *Conditions.* The following three conditions must be met for an action to be categorically excluded from further analysis in an EA or EIS.

(1) The action has not been segmented (too narrowly defined or broken down into small parts in order minimize its potential effects and avoid a higher level of NEPA review) and its scope includes the consideration of connected actions and, when evaluating extraordinary circumstances, cumulative impacts.

(2) No extraordinary circumstances described in paragraph (c) of this section exist, unless resolved through other regulatory means.

(3) One categorical exclusion described in either section of appendix A of this part encompasses the proposed action.

(c) *Extraordinary circumstances.* Any action that normally would be classified as a CATEX but could involve extraordinary circumstances will require appropriate environmental review documented in a Denali Commission CATEX checklist to determine if the CATEX classification is proper or if an EA or EIS should be prepared. 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 (see Executive Order 12898);

(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 (see Executive Order 13007);

(10) Threaten a violation of a federal, tribal, state or local law or requirement imposed for the protection of the environment;

(11) Have a reasonable likelihood of significant impact to subsistence activities; or

(12) Have a reasonable likelihood of significant impacts on environmentally sensitive resources, such as:

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

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

(iii) 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; special aquatic sites (defined under Section 404 of the Clean Water Act); 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 from NEPA 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 decision making, 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. If a FONSI is proposed, it shall be prepared in accordance with § 900.305.

§ 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.

§ 900.207 Programmatic environmental reviews.

(a) A programmatic NEPA review is used to assess the environmental impacts of a proposed action that is broad in reach, such as a program, plan, or policy (see 40 CFR 1502.4). Analyses of subsequent actions that fall within the program, plan, or policy may be tiered to the programmatic review, as described in 40 CFR 1502.20 and 1508.28.

(b) Programmatic NEPA reviews may take the form of a programmatic EA or a programmatic EIS.

(c) A programmatic EA shall meet all of the requirements for EAs in subpart C of this part, including those for content and public involvement. In order to adopt a programmatic EA prepared by another agency that did not provide the same public involvement opportunities as the Commission, the Commission shall provide notice of the availability of the programmatic EA and make it available for public comment consistent with § 900.303(b) and (c) before adopting it.

(d) A programmatic EIS shall meet all of the requirements for EISs in subpart D of this part and in 40 CFR parts 1500 through 1508.

Subpart C—Environmental Assessments

§ 900.301 Content.

(a) An EA shall 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 shall also include a listing of agencies and persons consulted in the preparation of the EA.

(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 EA should be a concise public document. 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 General considerations in preparing environmental assessments.

(a) *Adoption of an EA.* The Commission may adopt an EA prepared for a proposal before the Commission by another agency or an applicant when the EA, or a portion thereof, addresses the proposed Commission action and meets the standards for an adequate analysis under this part and relevant provisions of 40 CFR parts 1500 through 1508, provided that the Commission makes its own evaluation of the environmental issues and takes responsibility for the scope and content of the EA in accordance with 40 CFR 1506.5(b).

(b) *Incorporation by reference into the EA.* Any document may be incorporated by reference in accordance with 40 CFR 1502.21 and used in preparing an EA in accordance with 40 CFR 1501.4(e) and 1506.5(a), provided that the Commission makes its own evaluation of the environmental issues and takes responsibility for the scope and content of the EA in accordance with 40 CFR 1506.5(b).

§ 900.303 Public involvement.

(a) Commission approval is required before an EA is made available to the public and the notice of availability is published.

(b) The public shall be provided notice of the availability of EAs and draft FONSIs in accordance with 40 CFR 1506.6 and § 900.108(a) by the Approving Official. The Approving Official is responsible for making the EA available for public inspection and will provide hard copies on request to the affected units of Alaska Native/American Indian tribal organizations and/or local government.

(c) EAs and draft FONSIs will be available for public comment for not less than 15 calendar days but may be published for a longer period of time as determined by the Approving Official.

(d) Final Commission action will be taken after public comments received on an EA and draft FONSI are reviewed and considered.

§ 900.304 Actions resulting from assessment.

(a) *Accepted without modification.* The Commission may accept a proposal without modifications if the EA indicates that the proposal does not have significant environmental impacts and a FONSI is prepared in accordance with § 900.305.

(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 by the Commission if the proposed changes are evaluated in an EA and a FONSI is prepared in accordance with § 900.305.

(c) *Mitigated FONSI.* If mitigation is required to reduce the impacts below significant the FONSI shall identify the mitigation and describe applicable monitoring and enforcement measures intended to ensure the implementation of the mitigation measures.

(d) *Prepare an EIS.* The Commission shall require that the proposal be evaluated in an EIS, prepared in accordance with subpart D to this part, if the EA indicates significant environmental impacts that cannot be mitigated below a specified level of significance.

(e) *Rejected.* The Commission may always elect to reject a proposal.

§ 900.305 Findings of no significant impact.

(a) *Definition.* Finding of no significant impact (FONSI) means a document by the Commission briefly presenting the reasons why an action, not otherwise excluded as provided in § 900.204, 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 assist the Commission with preparing the EA. The Commission remains responsible for compiling the public hearing summary or minutes, where applicable; and copies of any written comments received and responses thereto.

(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) *Publication*. The Commission shall make the final FONSI available to the public on the Commission Web site.

(e) *Special circumstances*. The FONSI notice of availability will be made available for public review (including State and areawide clearinghouses) for 30 days before the Commission makes its final determination whether to prepare an environmental impact statement and before the action may begin (40 CFR 1501.4(e)(2)) where:

(1) The proposed action is, or is closely similar to, one which normally requires the preparation of an environmental impact statement under § 900.405; or

(2) The nature of the proposed action is one without precedent.

§ 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; and

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

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. Consistent with § 900.201(b), the Commission and the applicant will coordinate during the time period prior to the publication of the NOI to identify: the scope of the action, potential modifications to the proposal, potential alternatives, environmental constraints, potential timeframes for the environmental review, and federal, state, or tribal entities that could be interested in the project, including those with the potential to become cooperating agencies. 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, as further described in 40 CFR 1502.11 through 1502.18.

(c) *Applicant role*. The draft or final EIS shall be prepared by the Commission with assistance from the applicant under appropriate guidance and direction from the Approving Official.

(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.

(e) *Commission responsibility*. The Commission shall provide a schedule with time limits, guidance, participate in the preparation, independently evaluate, and take responsibility for the content of the draft and final EIS.

(f) *Filing*. After a draft or final EIS has been prepared, the Commission shall file the 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.

(g) *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 post the EIS on its Web site and provide the draft EIS if requested.

(h) *Record of decision.* 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 the Commission finds that there are 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 Commission action remains to be taken and the EIS is more than three years old, the Commission will review the EIS to determine whether it is adequate or requires supplementation.

(c) The Commission 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. When an applicant is involved, the applicant shall, under the direction of the approving official, provide assistance.

(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 draft or final EIS or portion thereof (see 40 CFR 1506.3), including a programmatic EIS, prepared by another agency.

(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 except as provided in paragraph (c) of this section.

(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.

(d) When the Commission adopts an EIS which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under 40 CFR part 1504, or when the EIS's adequacy is the subject of a judicial action which is not final, the Commission shall so specify.

§ 900.405 Proposals normally requiring an EIS.

An EIS will normally be required for:

(a) Large scale infrastructure construction efforts such as the relocation of an entire community;

(b) A project that requires a formal consultation under Section 7 of the Endangered Species Act; or

(c) Where implementation of the proposal may directly cause or induce changes that significantly:

(1) Displace population;

(2) Alter the character of existing residential areas; or

(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, in the absence of extraordinary circumstances, categorically excluded from further analysis in an EA or EIS:

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.

A8. 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).

B. Program Categorical Exclusions

Actions consistent with any of the following categories are, in the absence of extraordinary circumstances, categorically excluded from further analysis and documentation in an EA or EIS upon completion of the Denali Commission CATEX checklist:

B1. Upgrade, repair, maintenance, replacement, or minor renovations and additions to buildings, roads, harbors and other maritime facilities, grounds, equipment, and other facilities, including but not limited to, roof replacement, foundation repair, ADA access ramp and door improvements, weatherization and energy efficiency related 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.

B2. Engineering studies and investigations that do not permanently change the environment.

B3. Construction or lease of new infrastructure including, but not limited to, health care facilities, community buildings, housing, and bulk fuel storage and power generation plants, where such lease or construction:

(a) Is at the site of existing infrastructure and capacity is not substantially increased; or

(b) Is for infrastructure of less than 12,000 square feet of useable space when less than two aces of surface land area are involved at a new site.

B4. Construction or modification of electric power stations or interconnection facilities (including, but not limited to, switching stations and support facilities).

B5. Construction of electric powerlines approximately ten miles in length or less, or approximately 20 miles in length or less within previously disturbed or developed powerline or pipeline rights-of-way.

B6. Upgrading or rebuilding approximately twenty miles in length or less of existing electric powerlines, which may involve minor relocations of small segments or the powerlines.

B7. Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations, including those regulations applying to removal of asbestos, polychlorinated biphenyls (PCBs), and other hazardous materials.

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