

## § 1010.8

## 36 CFR Ch. X (7-1-01 Edition)

consistent with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR part 68, as applicable, and with applicable Executive Orders;

(33) Upgrading or adding new utility facilities to existing poles, or replacement poles which do not change existing pole line configurations.

(34) Issuance of rights-of-way for overhead utility lines to an individual building or well from an existing line where installation will not result in significant visual intrusion or non-conformance with the Secretary's "Standards for the Treatment of Historic Properties" at 36 CFR part 68, as applicable, and will involve no clearance of vegetation other than for placement of poles;

(35) Issuance of rights-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion in an area administered by NPS or the Trust or non-conformance with the Secretary's "Standards for the Treatment of Historic Properties" at 36 CFR part 68, as applicable;

(36) Installation of underground utilities in previously disturbed areas having stable soils, or in an existing utility right-of-way; and

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

(b) *Extraordinary circumstances.* An action that falls into one or more of the categories in paragraph (a) of this section may still require the preparation of an EIS or an EA if the NEPA Compliance Coordinator determines that 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. Criteria used in determining whether to prepare an EA or EIS for an action that otherwise qualifies for a categorical exclusion include whether an action may:

(1) Have significant adverse effects on public health or safety;

(2) Have significant adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, sole or principal drinking water aquifers, wetlands, floodplains, or ecologically significant or critical areas;

(3) Have highly controversial environmental effects;

(4) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks;

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

(6) Be directly related to other actions with individually insignificant but cumulatively significant environmental effects;

(7) Have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places;

(8) Have significant adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species;

(9) Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), Executive Order 13007 (Indian Sacred Sites), or the Fish and Wildlife Coordination Act; and/or

(10) Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

### § 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 NEPA Compliance Coordinator 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

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preparation of an EIS without preparing or completing the preparation of an EA. To assist the NEPA Compliance Coordinator 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:

(1) Legislative proposals made by the Trust to the United States Congress, other than those described in §1010.7(b)(9);

(2) Approval, funding, construction, and/or demolition in preparation for construction of any new building, if that activity has a significant effect on the human environment;

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

(4) Approval or amendment of a general land use or resource management plan for the entire Presidio Trust Area.

### § 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 NEPA Compliance Coordinator 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 degradation of environmental quality;

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

(3) Potential for adverse impact on protected resources (*e.g.*, natural, scenic, recreational, historical, and cultural resources).

(c) *Categories of action.* The following categories of action normally require the preparation of an EA:

(1) Promulgation of regulations and requirements that are not categorically excluded;

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

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

(4) Contracts, work authorizations, and master agreements related to and implementing programs, policies, and