

§ 1010.6

(3) If an EIS is determined to be necessary, the Trust shall initiate a public scoping process in accordance with 40 CFR 1501.7. An EIS, if determined necessary, must be completed and circulated at the earliest point at which meaningful analysis can be developed for the proposed action or project and prior to the Trust's final approval of the proposed action or project.

§ 1010.6 Determination of requirement for EA or EIS.

In deciding whether to require the preparation of an EA or an EIS, the NEPA Compliance Coordinator will determine whether the proposal is one that:

- (a) Normally does not require either an EA or an EIS;
- (b) Normally requires an EIS; or
- (c) Normally requires an EA, but not necessarily an EIS.

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

(a) *Categorical Exclusions.* Pursuant to 40 CFR 1508.4, the Trust has determined that the categories of action identified in this paragraph have no significant effect, either individually or cumulatively, on the human environment and are therefore categorically excluded. Such actions (whether approved by the Trust or undertaken by the Trust directly or indirectly) do not require the preparation of an EA or an EIS:

- (1) Personnel actions and investigations and personal services contracts;
- (2) Administrative actions and operations directly related to the operation of the Trust (*e.g.*, purchase of furnishings, services, and equipment) provided such actions and operations are consistent with applicable Executive Orders;
- (3) Internal organizational changes and facility and office expansions, reductions, and closings;
- (4) Routine financial transactions, including such things as salaries and expenses, procurement, guarantees, financial assistance, income transfers, audits, fees, bonds and royalties;
- (5) Management, formulation, allocation, transfer and reprogramming of the Trust's budget;
- (6) Routine and continuing government business, including such things as

36 CFR Ch. X (7-1-08 Edition)

supervision, administration, operations, maintenance, and replacement activities having limited context and intensity (limited size and magnitude or short-term effects);

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

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

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

(10) Proposal, adoption, revision, and termination of policies, directives, regulations, and guidelines:

(i) That are of an administrative, financial, legal, technical, or procedural nature, the environmental effects of which are too broad, speculative, or conjectural to lend themselves to environmental analysis and the implementation of which will be subject to the NEPA process either collectively or on a case-by-case basis; or

(ii) Where such actions will not potentially:

(A) Increase public use to the extent of compromising the nature and character of the area or of causing significant physical damage to it;

(B) Introduce non-compatible uses that might compromise the nature and characteristics of the area or cause significant physical damage to it;

(C) Conflict with adjacent ownerships or land uses; or

(D) Cause a significant nuisance to adjacent owners or occupants;

(11) Preparation, approval, coordination, and implementation of plans, including priorities, justifications, and strategies, for research, monitoring, inventorying, and information gathering that is not or is only minimally manipulative and causes no or only minimal physical damage;

Presidio Trust

§ 1010.7

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

(13) Minor or temporary changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection, minor changes in programs or regulations pertaining to visitor activities, and approval of permits or other use and occupancy agreements for special events or public assemblies and meetings, provided such events, assemblies, and meetings entail only short-term or readily mitigated environmental impacts;

(14) Designation of environmental study areas and research areas, including those closed temporarily or permanently to the public, provided such designation would cause no or only minimal environmental impact;

(15) Land and boundary surveys and minor boundary adjustments or transfers of administrative jurisdiction resulting in no significant change in land use;

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

(17) Changes or amendments to an approved plan or action when such changes or amendments would cause no or only minimal environmental impact;

(18) Contracts, work authorizations, or procurement actions related to proposals, programs, and master agreements related to administrative operation of the Trust;

(19) The leasing, permitting, sale, or financing of, or granting of non-fee interests regarding, real or personal property in the Presidio Trust Area, provided that such actions would have no or only minimal environmental impact;

(20) Extension, reissuance, renewal, minor modification, or conversion in form of agreements for use of real property (including but not limited to leases, permits, licenses, concession contracts, use and occupancy agreements, easements, and rights-of-way), so long as such agreements were previously subject to NEPA and do not in-

volve new construction or new or substantially greater environmental impacts, and so long as no new information is known or no changed circumstances have occurred that would give rise to new or substantially greater environmental impacts.

(21) Rehabilitation, modification, or improvement of historic properties that have been determined to be in conformance with the Secretary of the Interior's "Standards for the Treatment of Historic Properties" at 36 CFR part 68 and that would have no or only minimal environmental impact;

(22) Rehabilitation, maintenance, modification or improvement of non-historic properties that is consistent with applicable Executive Orders, provided there is no potential for significant environmental impacts, including impacts to cultural landscapes or archaeological resources;

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

(24) Removal of non-historic materials and structures in order to restore natural conditions when such removal has no potential for significant environmental impacts, including impacts to cultural landscapes or archaeological resources and is consistent with applicable Executive Orders;

(25) Installation of signs, displays, and kiosks, etc.;

(26) Replacement of minor structures and facilities (*e.g.*, signs, kiosks, fences, comfort stations, and parking lots) with little or no change in location, capacity, or appearance;

(27) Repair, resurfacing, striping, installation of traffic control devices, and repair/replacement of guardrails, culverts, signs, and other minor features, on existing roads and parking facilities, provided there is no potential for significant environmental impact;

(28) Minor trail relocation, development of compatible trail networks on roads or other formally established routes, and trail maintenance and repair;

(29) Construction or rehabilitation in previously disturbed or developed areas

§ 1010.7

36 CFR Ch. X (7–1–08 Edition)

required to meet health or safety regulations, or to meet requirements for making facilities accessible to the handicapped provided such construction or rehabilitation is implemented in a manner consistent with applicable Executive Orders;

(30) Landscaping and landscape maintenance in previously disturbed or developed areas;

(31) Minor changes in programs and regulations pertaining to visitor activities;

(32) Routine maintenance, property management, and resource management, with no potential for significant environmental impact and that are 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

Presidio Trust

§ 1010.10

(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 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