EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20503

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The Council on Environmental Quality ("CEQ") has developed the attached document to assist federal agencies in preparing or updating their procedures for implementing the National Environmental Policy Act ("NEPA"), consistent with section 102(2)(B) of NEPA, 42 U.S.C. § 4332(2)(B), and Executive Order ("EO") 14154, *Unleashing American Energy*, 90 Fed. Reg. 8353 (Jan. 29, 2025).

Section 102(2)(B) of NEPA directs federal agencies to "identify and develop methods and procedures, in consultation with [CEQ] . . . which will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." EO 14154 reaffirms the Administration's commitment to improving the clarity, predictability, and efficiency of environmental reviews and authorizations, and it directs CEQ to coordinate the revision of agency-level NEPA procedures for consistency and to support related objectives. *See* EO 14154, Sec. 5(c).

Consistent with these authorities, CEQ developed the attached template as a non-binding informational resource. The template is intended to support and coordinate agency efforts to enhance consistency, coordination, and best practices in their implementation of NEPA's procedural requirements. It does not establish new requirements, create legal obligations, or represent CEQ's final position on how agencies should implement NEPA. Rather, the template provides a framework that agencies may consider and adapt to their missions. Agencies are encouraged to flexibly use this template and to tailor it as appropriate to their particular statutory responsibilities, organizational structures, and programmatic needs.

The content of this document is preliminary and subject to further revision. CEQ is engaged in an ongoing process of coordination with agencies as they revise their NEPA implementing procedures, and in that regard CEQ anticipates that the template will evolve through this continued engagement with federal agencies and other relevant stakeholders in the Executive Branch. CEQ appreciates agency feedback received thus far and welcomes further engagement on the template's content to inform potential future iterations.

Agencies should not interpret any portion of this document as mandatory or prescriptive. The template is not a regulation, does not carry the force and effect of law, and is not intended to bind the public or any federal agency. It is offered solely to provide clarity and technical assistance during the development or revision of agency-specific NEPA procedures.

[Agency] National Environmental Policy Act Implementing Procedures

PART XXXX—PURPOSE AND POLICY

Sec.
XXXX.1 Purpose and policy.
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§ XXXX.1 Purpose and policy.

(a) The purpose of these procedures is to integrate the National Environmental Policy Act (NEPA) into [*agency's*] decision-making processes. Specifically, the procedures: describe the process by which [*agency*] determines what actions are subject to NEPA's procedural requirements and the level of NEPA review where applicable; ensure that relevant environmental information is identified and considered early in the process in order to ensure informed decision making; enable [*agency*] to conduct coordinated, consistent, predictable and timely environmental reviews; reduce unnecessary burdens and delays; and implement NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental documents.

(b) *Procedural and Interpretive Rule.* This document sets forth [*agency*'s] procedures and practices for implementing NEPA. It further explains [*agency's*] interpretation of certain key terms in NEPA. It does not, nor does it intend to, govern the individual rights and obligations of either regulated entities or people in general. It does, however, establish the procedures under which [*agency*] will typically fulfill its requirements under NEPA.

(c) *Consultation with the Council on Environmental Quality ("CEQ").* Notwithstanding the process for establishing or revising categorical exclusions set forth in § XXX1.4(b) and (d), [*agency*] will consult with CEQ while developing or revising their proposed NEPA implementing procedures, in accord with NEPA § 102(2)(B), 42 U.S.C. § 4332(B).

§ XXXX.2 Applicability.

(a) *Applicability.* This subchapter [*or part*] is applicable to [*list all sub-units, components, etc., as applicable*].

(b) *Authority.* NEPA imposes certain procedural requirements on the exercise of [*agency's*] existing legal authority in relevant circumstances. Nothing contained in these procedures is intended or should be construed to limit [*agency's*] other authorities or legal responsibilities.

PART XXX1—NEPA AND AGENCY PLANNING

Sec.
XXX1.1 Determining when NEPA applies.
XXX1.2 Determining the appropriate level of NEPA review.
XXX1.3 NEPA and agency decisionmaking.
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§ XXX1.1 Determining when NEPA applies.

(a) [*Agency*] will determine that NEPA does not apply to a proposed agency action when:

(1) The activities or decision do not result in final agency action under the Administrative Procedure Act, *see* 5 U.S.C. § 704, or other relevant statute that also includes a finality requirement;

(2) The proposed activity or decision is exempted from NEPA by law;

(3) Compliance with NEPA would clearly and fundamentally conflict with the requirements of another provision of law;

(4) In circumstances where Congress by statute has prescribed decisional criteria with sufficient completeness and precision such that [*agency*] retains no residual discretion to alter its action based on the consideration of environmental factors, then that function of [*agency*] is nondiscretionary within the meaning of NEPA § 106(a)(4) and/or § 111(10)(B)(vii) (42 U.S.C. § 4336(a)(4) and § 4336e(10)(B)(vii), respectively), and NEPA does not apply to the action in question;

(5) The proposed action is an action for which another statute's requirements serve the function of agency compliance with the Act; or

(6) The proposed action is not a "major Federal action." The terms "major" and "federal action," each have independent force. NEPA applies only when both of these two criteria are met. While such a determination is inherently bound up in the facts and circumstances of each individual situation, and is thus reserved to the judgment of [*agency*] in each instance, [*agency*] provides its officers and the public at large with the following interpretive guidance:

(i) [*Agency*] will presume, on the basis of its experience, that the following types of action are generally "major":

(A) [*Insert a list of examples from agency experience that the agency knows will usually or always trigger an EIS. Many agencies already have such a list in their existing NEPA procedures*], or

(B) [*Informed by the content of the list generated in (A), Agency should consider distilling from that list a presumptive (but nonbinding) monetary threshold above which an action will be deemed "major." This threshold can be calculated, to the*

extent the agency can substantiate it: 1) by project costs; and/or 2) by overall economic impact, e.g., regulatory costs].

(ii) NEPA does not apply to "non-Federal actions." Therefore, under the terms of the statue, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project. NEPA § 111(10)(B)(i), 42 U.S.C. § 4336e(10)(B)(i). A but-for causal relationship is insufficient to make an agency responsible for a particular action under NEPA. *See Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 767 (2004).

(7) In addition to the illustrative general categories set forth in NEPA § 111(10), 42 U.S.C. § 4336e(10), [*agency*] has determined that the following non-exhaustive list of [*agency's*] activities are not subject to NEPA because they presumptively do not meet the definition of a "major Federal action": [*Add agency-specific actions to this list. For example, if an agency program authorizes a particular funding mechanism that does not meet the definition because the agency has limited control over the outcome, then that funding mechanism should be named and described explicitly. Agencies should also consider establishing express thresholds for "minimal" federal funding or involvement to provide clarity on the agency's views in these procedures.*]

§ XXX1.2 Determine the appropriate level of NEPA review.

(a) If [*agency*] determines under § XXX1.1 that NEPA applies to a proposed activity or decision, [*agency*] will then determine the appropriate level of NEPA review in the following sequence and manner.

(1) If [*agency*] has established, or adopted pursuant to NEPA 109, a categorical exclusion that covers the proposed action, [*agency*] will analyze whether to apply the categorical exclusion to the proposed action and apply the categorical exclusion, if appropriate, pursuant to § XXX1.4(e).

(2) If another agency has already established a categorical exclusion that covers the proposed action, [*agency*] will consider whether to adopt that exclusion pursuant to § XXX1.4(c) so that it can be applied to the proposed action at issue, and to future activities or decisions of that type.

(3) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, pursuant to § XXX1.4(b), [*agency*] will consider whether to so establish or revise, and then apply the categorical exclusion to the proposed action pursuant to § XXX1.4(e).

(4) If [*agency*] cannot apply a categorical exclusion to the proposed action consistent with paragraphs (a)(1)-(a)(3), [*agency*] will analyze the proposed action's reasonably foreseeable effects consistent with paragraph (b), and then will:

(i) if the proposed action is not likely to have reasonably foreseeable significant effects or the significance of the effects is unknown, develop an environmental assessment, as described in § XXX1.5; or

(ii) if the proposed action is likely to have reasonably foreseeable significant effects, develop an environmental impact statement, as described in part XXX2 of this [sub]chapter.

(b) When considering whether the reasonably foreseeable effects of the proposed action are significant, [*agency*] will analyze the potentially affected environment and degree of the effects of the action. [*Agency*] may use any reliable data source and will not undertake new research unless it is essential to evaluating alternatives and the cost and time of obtaining it are not unreasonable.

(1) In considering the potentially affected environment, [*agency*] may consider, as appropriate to the specific action, the affected area (national, regional, or local) and its resources. [*Agencies may include a list of resources relevant for consideration, consistent with agency programs.*]

(2) In considering the degree of the effects, [*agency*] may consider the following, as appropriate to the specific action:

(i) Both short- and long-term effects.

(ii) Both beneficial and adverse effects.

(iii) Effects on public health and safety.

(iv) Effects on employment.

(v) Effects on the quality of life of the American people.

(vi) Effects that would violate Federal, State, Tribal, or local law protecting the environment.

§ XXX1.3 NEPA and agency decisionmaking.

(a) [*With reference to the agency's programs, explain how the agency will integrate the NEPA process with other planning and authorization processes at the earliest reasonable time to avoid delays later in the process, to head off potential conflicts, and to ensure that the agency considers environmental effects in their planning and decisions*].

(b) *Limitations on actions during the NEPA process.* While a NEPA review is ongoing, [*agency*] will take no action concerning a proposal that would:

(1) have an adverse environmental effect; or

(2) limit the choice of reasonable alternatives.

(c) *Actions developed by non-Federal entities.* [*Include this section if relevant and revise it consistent with agency programs*]. For proposed actions that are initially developed by applicants [*e.g., entities that submit applications for Federal financial assistance*] or other non-Federal entities, [*agency*] will:

(1) coordinate with the non-Federal entity at the earliest reasonable time in the planning process to inform the entity what information [*agency*] might need to comply with NEPA and establish a schedule for completing steps in the NEPA review process, consistent with NEPA's statutory deadlines and any internal agency NEPA schedule requirements; and

(2) begin the NEPA process by determining whether NEPA applies, as described in § XXX1.1, and if it does, determine the appropriate level of NEPA review, as described in § XXX1.2, as soon as practicable after receiving the complete application

An applicant or a contractor hired by the applicant may prepare an environmental assessment or environmental impact statement under [*agency's*] supervision. [*Agency's*] procedures for applicant-prepared environmental assessments and environmental impact statement are included in part XXX5 of this [sub]chapter.

(d) [*Include if relevant.*] If [*agency*] is considering an application from a non-Federal entity and becomes aware that the applicant is about to take an action within [*agency's*] jurisdiction that would meet either of the criteria in § XXX1.3(b), [*agency*] will promptly notify the applicant that [*agency*] will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.

(1) [*Agencies may include examples of activities that would not likely have an adverse environmental effect or limit the choice of reasonable alternatives.*]

(e) *Adjudication.* [*Include and adjust if relevant this language is intended to primarily apply to multi-member commissions that employ staff recommendations as described here.*] For adjudication, the environmental document will normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances, the document may follow preliminary hearings designed to gather information for use in the statements.

(f) *Rulemaking.* [*Include and adjust if relevant, e.g., include agency-specific rulemaking processes, if applicable*] For informal rulemaking conducted pursuant to the Administrative Procedure Act, 5 U.S.C. § 553, the draft environmental document will normally accompany the proposed rule.

§ XXX1.4 Categorical exclusions.

(a) *Generally.* This section describes the process [*agency*] uses for establishing and revising categorical exclusions, for adopting other agencies' categorical exclusions, and for applying categorical exclusions to a proposed agency action. [*Agency's*] categorical exclusions, including CEs [*agency*] established and substantiated consistent with its NEPA procedures, legislative CEs, and CEs adopted from other agencies, are listed in [*cite to the subsection of the procedures where the agency's CEs are listed (proposed subsection (g) below) or an appendix to these procedures*].

(b) *Establishing and revising categorical exclusions.* To establish or revise a categorical exclusion, [*agency*] will determine that the category of actions normally does not significantly affect the quality of the human environment. In making this determination, [*agency*] will:

(1) Develop a written record containing information to substantiate its determination;

(2) Consult with CEQ on its proposed categorical exclusion, including the written record, for a period not to exceed 30 days prior to providing public notice as described in subparagraph (3); and

(3) Provide public notice in the *Federal Register* of [*agency's*] establishment of the categorical exclusion and the location of availability of the written record.

(c) *Adopting categorical exclusions from other Federal agencies.* Consistent with NEPA § 109, 42 U.S.C. § 4336c, [*agency*] may adopt a categorical exclusion listed in another agency's NEPA procedures. When adopting a categorical exclusion, [*agency*] will:

(1) Identify the categorical exclusion listed in another agency's NEPA procedures that covers its category of proposed or related actions;

(2) Consult with the agency that established the categorical exclusion to ensure that the proposed adoption of the categorical exclusion is appropriate;

(3) Provide public notification of the categorical exclusion that [*agency*] is adopting, including a brief description of the proposed action or category of proposed actions to which [*agency*] intends to apply the adopted categorical exclusion [*Agencies should add additional information to this provision to explain how the agency will notify the public of the adoption and what additional information the agency will include in the notification. For example, this may include the process the agency will use to evaluate for extraordinary circumstances when applying the adopted CE and a brief description of the agencies' consultation*]; and

(4) Document the adoption of the categorical exclusion in [*agency's*] implementing procedures [*i.e., subsection (g) below or an appendix*].

(d) *Removal of categorical exclusions.* To remove a categorical exclusion from [*reference subsection of the procedures where the agency's CEs are listed, the appendix to these procedures, or where otherwise publicly available*], [*agency*] will:

(1) Develop a written justification for the removal;

(2) Consult with CEQ on its proposed removal of the categorical exclusion, including the written justification, for a period not to exceed 30 days prior to providing public notice as described in subparagraph (3); and

(3) Provide public notice of [*agency's*] removal of the categorical exclusion and the written justification in the *Federal Register*.

(e) *Applying categorical exclusions.* If [*agency*] determines that a categorical exclusion covers a proposed agency action, [*agency*] will evaluate the action for extraordinary circumstances that indicate a normally excluded agency action is likely to have a reasonably foreseeable significant adverse effect.

(1) [*Agencies may provide examples of extraordinary circumstances*]. If an extraordinary circumstance is not present, [*agency*] will determine that the categorical exclusion applies to the proposed agency action and conclude review.

(2) [*Agency*] will determine that the categorical exclusion applies to the proposed agency action and conclude review if [*agency*] either:

(i) Determines that, notwithstanding the extraordinary circumstance, the proposed agency action is not likely to result in reasonably foreseeable adverse significant effects; or

(ii) Modifies the proposed agency action to avoid those effects.

If [*agency*] determines that it cannot apply the categorical exclusion to the proposed action, [*agency*] will prepare an environmental assessment or environmental impact statement, as appropriate.

(3) *Documentation of categorical exclusion determinations.* [*Agency*] will document its evaluation of the applicability of a categorical exclusion in a [*identify any form that the*

agency uses, such as a checklist or other record as described in paragraph 4 below] in each of the following cases [*modify this list as needed for consistency with agency programs*]]:

(i) For any application of a categorical exclusion designated by [*agency*] as requiring documentation, as indicated in paragraph (g) of this section [*indicating which CEs require documentation and how that is done*], and

(ii) For any case in which [*agency*] determines that applying a categorical exclusion is appropriate consistent with paragraph (e)(2).

(4) [*Explain the format and contents of the agency's categorical exclusion documentation, i.e., agency forms such as a checklist or other record), including how the agency will document its extraordinary circumstance review*].

(f) *Reliance on categorical exclusion determinations of other agencies.* [*Agency*] may also rely on another agency's determination that a categorical exclusion applies to a particular proposed agency action if the agency action covered by that determination and the [*agency's*] proposed action are substantially the same. [*Agency*] will document its reliance on another agency's categorical exclusion determination [*explain how*].

(g) *List of categorical exclusions.* [*Agency*] has established the following categorical exclusions:

(1) [*List agency's CEs, noting which require documentation and which do not*].

§ XXX1.5 Environmental assessments.

(a) *Generally.* If an action is subject to NEPA, as determined following the procedures in § XXX1.1, and unless [*agency*] finds that the proposed action is excluded from having to prepare an environmental assessment or environmental impact statement pursuant to a categorical exclusion as determined following the procedures in § XXX1.4, or by another provision of law, [*Agency*] will prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown. [*Agency*] is mindful of Congress' direction that environmental statements are to be "concise." NEPA § 106(b)(2); 42 U.S.C. § 4336(b)(2).

(b) *Elements.* For the purpose of providing evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, environmental assessments will [*expand upon this list to reflect agency practice, if appropriate*]:

(1) Briefly discuss the:

(i) Purpose and need for the proposed agency action based on the [*agency's*] statutory authority. When the proposed agency action concerns [*agency's*] duty to act on an application for authorization, the purpose and need for the proposed agency action will also be informed by the goals of the applicant;

(ii) Alternatives to the extent required by NEPA § 102(2)(H), 42 U.S.C. § 4332(2)(H); and

(iii) The reasonably foreseeable effects of the proposed agency action and the alternatives considered.

(c) *Agency actions normally requiring an environmental assessment*. The following classes of actions normally require environmental assessments, but likely do not require an environmental impact statement: [*Add to this general list classes of actions that normally require an EA, specific to agency programs. This might include master planning initiatives, certain categories of construction activities, storage and disposal actions, and the like*]:

(1) Proposed agency actions that do not fall under a categorical exclusion, but with respect to which there is no clear indication that significant effects will result; and

(2) Proposed agency actions typically covered by a categorical exclusion but that involve an extraordinary circumstance, where the presence of the extraordinary circumstance prevents [*agency*] from applying the categorical exclusion under XXX1.4(e) above.

(d) *Page limits*.

(1) The text of an environmental assessment will not exceed 75 pages, not including citations or appendices.

(2) Environmental assessments shall be prepared on 8.5"x11" paper with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. When an item of graphical material is larger than 8.5"x11", each such item shall count as one page.

(3) *Certification Related to Page Limits*. The breadth and depth of analysis in an environmental assessment will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the environmental assessment, a responsible official will certify (and the certification will be incorporated into the environmental assessment) that [*agency*] has considered the factors mandated by NEPA; that the environmental assessment represents [*agency's*] good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects [*agency's*] expert judgment; and that any considerations addressed briefly or left unaddressed were, in [*agency's*] judgment, comparatively unimportant or frivolous.

(e) *Deadlines*. NEPA is governed by a "rule of reason." *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004). In establishing deadlines for the environmental assessment process in the 2023 revision of NEPA, Congress supplied the measure of that reason in § 107(g) of NEPA, 42 U.S.C. § 4336a(g). "Time and resources are simply too limited for us to believe that Congress intended" consideration under NEPA to extend indefinitely. *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. NRDC,* 435 U.S. 519, 551 (1978)). Thus:

(1) [*Agency*] will complete the environmental assessment not later than the date that is 1 year after:

(2) [*Explain the applicable start date for EAs based on agency programs and types of actions. Alternatively, explain how the agency will identify the start date on an individual basis. As Congress provided in the statute, NEPA § 107(g)(1)(B), 42 U.S.C.*

§ 4336a(g)(1)(B), the start date is to be the soonest of the three triggering events which occurs, as applicable to the particular agency action at hand.]

(3) [*Describe the end dates for EAs that the agency will use to calculate the deadlines.*]

(4) The environmental assessment will issue (unless the deadline is extended pursuant to the provision below), at the latest, on the day the deadline elapses, in as substantially complete form as is possible.

(5) *Deadline extensions*. If [*agency*] determines it is not able to meet the deadline prescribed by NEPA § 107(g)(1)(B), 42 U.S.C. § 4336a(g)(1)(B), it must consult with the applicant pursuant to NEPA § 107(g)(2), 42 U.S.C. § 4336a(g)(2). After such consultation, and for cause stated, it may establish a new deadline. Cause for establishing a new deadline is only established if the environmental assessment is so incomplete, at the time at which [*agency*] determines it is not able to meet the statutory deadline, that issuance pursuant to subsection (4) above would result in [*agency*] being fundamentally in breach of the spirit of NEPA's requirements. Such new deadline must provide only so much additional time as is necessary to complete such environmental assessment. The announcement of the new deadline will specify the reason why the environmental assessment was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline.

(6) *Certification Related to Deadline.* When the environmental assessment issues, a responsible official will certify (and the certification will be incorporated into the environmental assessment) that the resulting environmental assessment represents [*agency's*] good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; that, in [*agency's*] expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in [*agency's*] judgment, it is not fundamentally in breach of the spirit of NEPA's requirements.

§ XXX1.6 Findings of no significant impact.

(a) [*Agency*] will prepare a finding of no significant impact if [*agency*] determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed action will not have significant effects. The finding of no significant impact will:

(1) Include the environmental assessment or incorporate it by reference [*agency may choose one based on agency practice*];

(2) Document the reasons why [*agency*] has determined that the selected alternative will not have a significant effect on the quality of the human environment;

(3) State the authority for any mitigation that [*agency*] has adopted and any applicable monitoring or enforcement provisions. If [*agency*] finds no significant effects based on mitigation, the mitigated finding of no significant impact will state any mitigation requirements enforceable by the agency or voluntary mitigation commitments that will be undertaken to avoid significant effects [*If applicable, include agency-specific information related to mitigation monitoring and compliance plans, including any templates or forms that the agency provides to applicants. For agencies taking applicant-driven actions, describe appropriate conditions in grants, permits, or other approvals; and the conditioning funding on mitigation.*];

(4) Identify any other environmental documents related to the finding of no significant impact; and

(5) State that an environmental impact statement will not be prepared, concluding the NEPA process for that action.

(b) [*Explain how the agency will make the EA and FONSI available to the public, such as by posting on an agency website*].

§ XXX1.7 Lead and cooperating agencies.

[*In this section, explain any agency-specific processes for complying with section 107(a) and (b) of NEPA with regard to the designation and roles of lead and cooperating agencies and the "one document" requirement.*]

In many instances, a proposed activity or decision is undertaken in the context which entails activities or decisions undertaken by other federal agencies (*e.g.*, where multiple federal authorizations are required with respect to a project sponsor's overall purpose and goal). These activities and decisions are "connected actions," in that they are each the responsibility of a particular agency but they are all connected in a matter relevant to NEPA, *e.g.*, by their relationship with one overarching project. In such instances, Congress has provided that the multiple agencies involved shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA § 107(a)(1)(A), 42 U.S.C. § 4336a(a)(1)(A). When serving as the lead agency, [*agency*] is ultimately responsible for completing the NEPA process. When a joint lead relationship is established pursuant to NEPA § 107(a)(1)(B), 42 U.S.C. § 4336a(a)(1)(B), [*agency*] and the other joint lead agency or agencies are collectively responsible for completing the NEPA process.

§ XXX1.8 Notices of intent and scoping.

(a) *Notice of intent*. As soon as practicable after determining that a proposal is sufficiently developed to allow for meaningful public comment and requires an environmental impact statement, [*agency*] will publish a notice of intent to prepare an environmental impact statement. If [*agency*] determines that it will prepare an environmental assessment for a proposed action, [*agency*] may publish notice of intent to publish an environmental assessment. [*List the categories of actions the for which the agency would publish an NOI for an EA, or include factors to consider or thresholds for publishing one.*]

(1) The notice of intent for an environmental impact statement will include a request for public comment on alternatives or effects and on relevant information, studies, or analyses with respect to the proposed agency action. NEPA § 107(c); 42 U.S.C. § 4336a(c).

(2) In addition to a request for comment required for notices of intent for environmental impact statements, notice of intent for any environmental document may include:

(i) The purpose and need for the proposed action;

(ii) A preliminary description of the proposed action and alternatives the environmental impact statement will consider;

(iii) A brief summary of expected effects;

(iv) Anticipated permits and other authorizations (*i.e.*, anticipated connected actions);

(v) A schedule for the decision-making process;

(vi) A description of the public scoping process, including any scoping meeting(s);

(vii) Contact information for a person within [*agency*] who can answer questions about the proposed action and the environmental impact statement; and

(viii) Identification of any cooperating and participating agencies (*i.e.*, agencies responsible for connected actions), and any information that such agencies require in the notice to facilitate their decisions or authorizations

(b) *Scoping*. [*Agency*] may use an early and open process to determine the scope of issues for analysis in an environmental document, including identifying significant issues and eliminating from further study non-significant issues. Scoping may begin as soon as practicable after the proposal for action is sufficiently developed for consideration. Scoping may include appropriate pre-application procedures or work conducted prior to publication of the notice of intent. [*Include agency-specific scoping procedures, including an explanation of agency practice of conducting scoping for EISs, EAs, or both. This may include the process for identifying cooperating and participating agencies, connected actions, and other likely stakeholders. Agencies should require scoping activities in these procedures only to the extent they demonstrably improve the efficiency of the overall process.*]

PART XXX2—ENVIRONMENTAL IMPACT STATEMENTS

Sec.

§ XXX2.1 Preparation of environmental impact statements.

(a) [*Agency*] will prepare an environmental impact statement only with respect to proposed agency actions that otherwise require preparation of an environmental document and that have a reasonably foreseeable significant effect on the quality of the human environment. NEPA § 106(b)(1); 42 U.S.C. § 4336(b)(1). [*Agency*] will presume, on the basis of its experience, that the following types of action generally "significantly affect[] the quality of the human environment," consistent with section NEPA § 102(2)(C), 42 U.S.C. § 4332(2)(C):

(1) [*Insert examples from agency experience*]; or

(2) [*Informed by the content of the list generated in (1), Agency should consider distilling from that list a presumptive (but nonbinding) monetary threshold above which an action's reasonably foreseeable environmental effects will be deemed "significant." This threshold can be calculated, to the extent the agency can substantiate it, by reference to the cost it would typically take to remediate the proximate effect of an action of this type on the environment.*].

(b) During the process of preparing an environmental impact statement, [*agency*]:

(i) Will obtain the comments of:

(A) any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or is authorized to develop and enforce environmental standards.

(B) Appropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards.

(ii) May request the comments of:

(A) State, Tribal, or local governments that may be affected by the proposed action;

(B) Any agency that has requested it receive statements on actions of the kind proposed;

(C) The applicant, if any; and

(D) The public, including by affirmatively soliciting comments in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action.

(c) This process of obtaining and requesting comments pursuant to (b) above may be undertaken at any time that is reasonable in the process of preparing the environmental impact statement. [*Agency*] will ensure that will this consultation be permitted to cause [*agency*] to

violate the congressionally mandated deadline for completion of an environmental impact statement.

(d) *Response to comments contained in environmental impact statements.* [*Agency*] will address any significant comments received consistent with paragraph (b) of this section in the environmental impact statement.

(e) [*Agencies should describe the process for submitting public comments in those instances where the agency solicits public comments, including electronic submission. Agencies should also describe any requirements or suggestions to commenters to assist them in submitting comments useful to the agency, such as focusing on the merit of alternatives, how specific comments should be, and focusing on why the issues raised are important to the consideration of potential effects and alternatives.*]

§ XXX2.2 Purpose and need.

The statement will include the purpose and need for the proposed agency action based on the [*agency's*] statutory authority. When the proposed agency action concerns [*agency's*] duty to act on an application for authorization, the purpose and need for the proposed agency action will also be informed by the goals of the applicant.

§ XXX2.3 Analysis within the environmental impact statement.

(a) The environmental impact statement will include a detailed statement on:

(1) reasonably foreseeable environmental effects of the proposed agency action;

(2) any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal;

(4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(5) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed agency action should it be implemented; and

(6) Any means identified to mitigate adverse environmental effects of the proposed action. [*Agency*] is mindful in this respect that NEPA itself does not require or authorize [*agency*] to impose any mitigation measures.

(b) Environmental impact statements will discuss effects in proportion to their significance. With respect to issues that are not significant, there will be no more than the briefest possible discussion to explain why those issues are not significant and therefore not worthy of any further analysis. Environmental impact statements will be analytic, concise, and no longer than

necessary to comply with NEPA in light of the congressionally mandated page limits and deadlines.

§ XXX2.4 Page limits.

(a) *Page limits*. Except as provided in paragraph (b), the text of an environmental impact statement will not exceed 150 pages, not including citations or appendices.

(b) An environmental impact statement for a proposed agency action of extraordinary complexity will not exceed 300 pages, not including any citations or appendices. [*Agency*] will determine at the earliest possible stage of preparation of an environmental impact statement whether the conditions for exceeding the page limit in paragraph (a) are present. [*Agency may provide a representative list of actions of extraordinary complexity or factors the agencies considers in making this determination.*]

(c) Environmental impact statements shall be prepared on 8.5"x11" paper with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. When an item of graphical material is larger than 8.5"x11", each such item shall count as one page.

(d) *Certification Related to Page Limits*. The breadth and depth of analysis in an environmental impact statement will be tailored to ensure that the environmental impact statement does not exceed these page limits. In this regard, as part of the finalization of the environmental impact statement, a responsible official will certify that [*agency*] has considered the factors mandated by NEPA; that the environmental impact statement represents [*agency's*] good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects [*agency's*] expert judgment; and that any considerations addressed briefly or left unaddressed were, in [*agency's*] judgment, comparatively unimportant or frivolous.

§ XXX2.5 Deadlines.

NEPA is governed by a "rule of reason." *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004). In establishing deadlines for the environmental impact statement process in the 2023 revision of NEPA, Congress supplied the measure of that reason in NEPA § 107(g), 42 U.S.C. § 4336a(g). "Time and resources are simply too limited for us to believe that Congress intended" consideration under NEPA to extend indefinitely. *Metro. Edison Co. v. People Against Nuclear Energy*, 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 551 (1978)). Thus:

[*Agency*] will complete the environmental impact statement not later than the date that is 2 years after the sooner of:

(a) [*Consistent with NEPA § 107(g)(1), 42 U.S.C. § 4336a(g), explain the applicable start date for EISs based on agency programs and types of actions. Alternatively, explain how the agency will identify the start date on an individual basis. The trigger is to be the earliest possible date.*]

(b) [*Describe the end dates for EISs that the agency will use to calculate the deadlines.*]

(c) The environmental impact statement will issue (unless the deadline is extended pursuant to the provision below) on the day the deadline elapses, in as substantially complete form as is possible.

(d) If [*agency*] determines it is not able to meet the deadline prescribed by NEPA § 107(g)(1)(A), 42 U.S.C. § 4336a(g)(1)(A), it must consult with the applicant pursuant NEPA § 107(g)(2), 42 U.S.C. § 4336a(g)(2). After such consultation, and for cause stated, it may establish a new deadline by [*consistent with section 107(g)(2) of NEPA, 42 U.S.C. § 4336a(g)(2), explain the process by which the agency may extend the deadline*]. Cause for establishing a new deadline is only established if the environmental impact statement is so incomplete, at the time at which [*agency*] determines it is not able to meet the statutory deadline, that issuance pursuant to subsection (c) above would result in [*agency*] being fundamentally in breach of the spirit of NEPA's requirements. Such new deadline must provide only so much additional time as is necessary to complete such environmental impact statement. The announcement of the new deadline will specify the reason why the environmental impact statement was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline.

(e) *Certification Related to Deadlines.* When the environmental impact statement issues, a responsible official will certify (and the certification will be incorporated into the environmental impact statement) that the resulting environmental impact statement represents [*agency's*] good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the [*agency's*] expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the [*agency's*] judgment, it is not fundamentally in breach of the spirit of NEPA's requirements.

§ XXX2.6 Publication of the environmental documents.

[*Agency*] will publish the entire environmental impact statement. During the process of preparing the environmental impact statement, [*agency*] may publish such draft, predecisional materials as in its judgment may assist in fulfilling its responsibilities under NEPA and this [chapter]. [*Explain how the agency will make the EIS public, as well as any draft version of the EIS or other predecisional materials that the agency may choose to make publicly available*].

PART XXX3—EFFICIENT ENVIRONMENTAL REVIEWS

Sec.

§ XXX3.1 Programmatic environmental documents and tiering.

[*Include this section to the extent relevant to agency practice and programs, and revise it to reflect agency programs as appropriate.*]

(a) [*Agency*] may prepare environmental documents for programmatic Federal actions, such as the adoption of new agency programs. [*Agency*] may evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions that have relevant similarities, such as common timing, effects, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development.

(b) After completing a programmatic environmental assessment or environmental impact statement, [*agency*] may rely on that document for 5 years if there are not substantial new circumstances or information about the significance of adverse effects that bear on the analysis. After 5 years, as long as [*agency*] reevaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid and briefly documents its reevaluation and explains why the analysis remains valid considering any new and substantial information or circumstances, [*agency*] may continue to rely on the document.

(c) Where an existing environmental document is relevant to a later proposed action, [*agency*] may employ tiering, whereby [*agency*] uses existing analysis of general matters from broader or programmatic NEPA documents in subsequent narrower NEPA reviews.

(1) When [*agency*] prepares a subsequent environmental document that tiers to analysis from a programmatic review, [*agency*] should first determine whether the existing analysis adequately covers the new proposed action. The tiered document will discuss the relationship between the tiered document and the previous review; summarize and incorporate by reference the issues discussed in the broader document; concentrate on the issues specific to the subsequent action, analyzing site-, phase-, or stage-specific conditions

and reasonably foreseeable effects; and identify where the earlier document is publicly available.

(2) Tiering is appropriate when the sequence from an environmental document is:

(i) From a programmatic, plan, or policy environmental document to a program, plan, or policy statement or assessment of lesser or narrower scope or to a site-specific statement or assessment; or

(ii) From an environmental document on a specific action at an early stage to a subsequent environmental document at a later stage.

§ XXX3.2 Adoption.

(a) *Generally.* [*Agency*] may adopt from another agency an environmental impact statement, environmental assessment, or portion thereof, or a determination that a specific agency action is covered by a categorical exclusion, provided that the statement, assessment, portion thereof, or determination meets the standards for an adequate statement or assessment under these procedures.

(b) *Environmental impact statements.*

(1) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the [*agency*] will republish the adopted statement.

(2) If the actions are not substantially the same, [*agency*] will engage in such modifications of the statement as are necessary to render the statement fit for fulfilling NEPA's analytic requirements for the action at hand. In the course of doing this, [*agency*] may where appropriate publish the adopted statement for comment to the extent that solicitation of comment will assist [*agency*] in expeditiously adapting the adopted statement so that it is fit for purposes.

(c) *Environmental assessments.* If the actions covered by the original environmental assessment and the proposed action are substantially the same, the [*agency*] may adopt the environmental assessment in its finding of no significant impact and make the adoption publicly available.

§ XXX3.3 Combining documents.

[*Include if applicable. Agency may explain circumstances when this may apply.*]

[*Agency*] will combine, to the fullest extent practicable, any environmental document with any other agency document to reduce duplication and paperwork.

§ XXX3.4 Incorporation by reference.

(a) [*Agency*] may incorporate material, such as planning studies, analyses, or other relevant information, into environmental documents by reference when the effect will be to cut down on bulk without impeding [*agency*] and public review of the action. When incorporating material by reference, [*agency*] will cite, briefly describe the content and relevance to the environmental document, and make the materials reasonably available for review by potentially interested parties within the time allowed for comment. [*Agency*] will not use incorporation by reference as a means to evade the statutory page limits.

(b) [*Include this provision if the agency conducts cost benefit analyses of agency proposals to comply with other agency requirements.*] Although NEPA itself does not require cost-benefit analysis, [*agency*] conducts cost-benefit analysis [*fill in details of when agency does this*]. To the extent that this cost-benefit analysis is relevant to any alternatives analysis [*agency*] is conducting pursuant to NEPA, [*agency*] will incorporate the cost-benefit analysis by reference or append it to the statement to avoid duplication in evaluating the environmental effects. In such cases, the environmental document will discuss the relationship between that analysis and any analyses of unquantified environmental effects, values, and amenities.

§ XXX3.5 Supplemental environmental documents.

[*Agency*] will prepare supplements to environmental documents only if a major Federal action remains to occur, and:

(a) [*Agency*] makes substantial changes to the proposed action that are relevant to environmental concerns; or

(b) [*Agency*] decides, in its discretion, that there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its effects.

§ XXX3.6 Integrity and completeness of information.

(a) [*Agency*] will not undertake new scientific and technical research to inform its analyses unless that is essential to a reasoned choice among alternatives and the overall costs and time frame of such undertaking are not unreasonable. Rather, [*agency*] will make use of reliable existing data and resources.

(b) When [*agency*] is evaluating an action's reasonably foreseeable significant effects on the human environment, and there is incomplete or unavailable information that cannot be obtained at a reasonable cost or the means to obtain it are unknown, [*agency*] will make clear in the relevant environmental document that such information is lacking.

§ XXX3.7 Integrating NEPA with other environmental requirements.

(a) To the fullest extent possible, [*agency*] will prepare draft NEPA documents concurrently with and integrated with analyses and related surveys and studies required by other Federal statutes.

(b) [*Agency*] will combine an environmental document prepared in compliance with NEPA with any other agency document to reduce duplication and paperwork. Thus, [*agency*] may combine a NEPA document with related plans, rules, or amendments as a single consolidated document. The consolidated document will contain and clearly identify the required sections of the NEPA document.

(c) If comments on a notice of intent or other aspects of a scoping process identify consultations, permits, or licenses necessary under other environmental laws, the draft environmental document may contain a section briefly listing the applicable requirements and how [*agency*] has or will meet them (*e.g.*, permits applied for or received, consultations initiated or concluded).

§ XXX3.8 Elimination of duplication with State, Tribal, and local procedures.

(a) [*Agency*] will cooperate with State, Tribal, and local agencies that are responsible for preparing environmental documents.

(b) To the fullest extent practicable unless specifically prohibited by law, [*agency*] will cooperate with State, Tribal, and local agencies to reduce duplication between NEPA and State, Tribal, and local requirements, including through use of studies, analysis, and decisions developed by State, Tribal, or local agencies. Such cooperation may include:

(1) Joint planning processes;

(2) Joint environmental research and studies;

(3) Joint public hearings (except where otherwise provided by statute); or

(4) Joint environmental documents.

§ XXX3.9 Proposals for regulations.

Where the proposed action is the promulgation of a rule or regulation, procedures and documentation pursuant to other statutory or Executive order requirements may satisfy one or more requirements of this subchapter. When a procedure or document satisfies one or more requirements of this subchapter, [*agency*] may substitute it for the corresponding requirements in this subchapter and need not carry out duplicative procedures or documentation. Agencies will identify which corresponding requirements in this subchapter are satisfied and consult with CEQ to confirm such determinations.

§ XXX3.10 Unique identification numbers.

For all environmental documents, [*agency*] will provide a unique identification number for tracking purposes, which [*agency*] will reference on all associated environmental review documents prepared for the proposed agency action and in any database or tracking system for such documents. [*Agency*] will coordinate with the CEQ and other federal agencies to ensure uniformity of such identification numbers across federal agencies.

§ XXX3.11 Emergencies.

Where emergency circumstances make it necessary to take an action with reasonably foreseeable significant environmental effects without observing the provisions of these procedures, [*agency*] will consult with the CEQ about alternative arrangements for compliance with NEPA § 102(2)(C), 42 U.S.C. § 4332(2)(C). [*Add additional information as relevant if the agency has other emergency procedures to include, such as agency-specific emergency procedures for environmental assessments and categorical exclusions.*]

PART XXX4—AGENCY DECISION MAKING

Sec.
XXX4.1 Decision documents.
XXX4.2 Filing requirements.

§ XXX4.1 Decision documents.

[*Edit consistent with agency programs and practices. Explain when the agency will issue a decision document, such as a record of decision or decision (ROD) for environmental impact statements, environmental assessments, or categorical exclusion determinations to close out the process and how such decision documents will be published.*]

At the time of its decision on its proposed action, [*agency*] may prepare and timely publish a concise public decision document or joint decision document notifying the public that the decisionmaker has certified that [*agency*] has considered all relevant information raised in the NEPA process and that the NEPA process has closed.

§ XXX4.2 Filing requirements.

[*Agency*] will file environmental impact statements together with comments and responses with the Environmental Protection Agency (EPA), Office of Federal Activities for publication in the *Federal Register*.

PART XXX5—PROCEDURES FOR APPLICANT-PREPARED NEPA DOCUMENTS

§ XXX5.1 Procedures for applicant-prepared environmental documents.

In accordance with NEPA § 107(f), 42 U.S.C. § 4336a(f), [*agency*] has established procedures allowing applicants, or contractors hired by applicants, to prepare NEPA documents under [*agency's*] supervision. [*Revise or expand on this section consistent with agency programs and practice*].

(a) [*Agency*] will independently evaluate the environmental document and will take responsibility for its contents.

(b) [*Agency*] will assist applicants and applicant-hired contractors by providing guidance and outlining the types of information required for the preparation of the environmental document. [*Agency*] may provide also provide appropriate guidance and assist in environmental document preparation, to the extent that [*agency's*] resources and policy priorities admit. [*Agency*] will work with the applicant to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(c) [*Agency*] will work with the applicant to develop a schedule for preparation of the draft environmental document. Major changes to the schedule or related matters will be documented through written correspondence.

(d) [*Agency*] may request from an applicant environmental information for use by [*agency*] in preparing or evaluating an environmental document. This may include a decision file consisting of any factual, scientific, or technical information used, developed, or considered by the applicant or applicant-hired contractor in the course of preparing the draft environmental document, including any correspondence with [*agency*] or with third parties.

PART XXX6—DEFINITIONS [*Agencies may wish to adapt a definitions section for their NEPA procedures, relying in the first instance on the definition section in the 2020 rule or, where it differs, on the illustrative material provided below*]

§ XXX6.1 Definitions.

As used in these implementing procedures, terms have the meanings provided in NEPA § 111, 42 U.S.C. § 4336e. In addition:

(a) *NEPA* means the National Environmental Policy Act, as amended (42 U.S.C. § 4321, *et seq.*).

(b) *Authorization* means any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law in order to implement a proposed action.

(c) *Connected action* means an action undertaken by an agency, *e.g.*, a permitting action, some other type of authorization action, an analysis required by statute, or the like, that bears a relationship to other actions undertaken by other agencies relevant to NEPA, *e.g.*, that a set of connected actions are all related to one overarching project.

(d) *Effects* or *impacts* means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.

(1) Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects appropriate for analysis under NEPA may be either beneficial or detrimental, or both, with respect to these values.

(2) A "but for" causal relationship is insufficient to make an agency responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the agency has no ability to prevent due to its limited statutory authority or would occur regardless of the proposed action.

(e) *Human environment* means comprehensively the natural and physical environment and the relationship of Americans with that environment. (*See also* the definition of "effects" in paragraph (e) of this section.)

(f) *Jurisdiction by law* means agency authority to approve, veto, or finance all or part of the proposal.

(g) *Mitigation* means measures that avoid, minimize, or compensate for effects caused by a proposed action or alternatives as described in an environmental document or record of decision and that have a nexus to those effects. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation includes:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing effects by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

(h) *NEPA process* means all measures necessary for compliance with the requirements of section 2 and title I of NEPA.

(i) *Notice of intent* means a public notice that an agency will prepare and consider an environmental document.

(j) *Participating agency* means a Federal, State, Tribal, or local agency participating in an environmental review or authorization of an action.

(k) *Publish* and *publication* mean methods found by the agency to efficiently and effectively make environmental documents and information available for review by interested persons, including electronic publication.

(l) *Reasonable alternatives* means a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposed action, and, where applicable, meet the goals of the applicant.

(m) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(n) *Scope* consists of the range of actions, alternatives, and effects to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements.

(o) *Tiering* refers to the coverage of general matters in broader environmental impact statements or environmental assessments (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basin-wide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared.

PART XXX7—Severability.

§ XXX7.1 Severability.

The sections of this [sub]chapter are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is [*agency's*] intention that the validity of the remainder of those parts will not be affected, with the remaining sections to continue in effect.