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[FR Doc. 2025–12499 Filed 7–2–25; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 46

[256D0102DM; DS6CS00000; DLSN00000.000000] [DOI–2025–0004]

RIN 1090–AB18

National Environmental Policy Act Implementing Regulations

AGENCY: Office of the Secretary, Interior

ACTION: Interim final rule, request for comments

SUMMARY: The Department of the Interior (Department or DOI) is partially rescinding and making necessary targeted updates to its remaining regulations implementing the National Environmental Policy Act (NEPA), which were promulgated to ''supplement'' now-rescinded Council on Environmental Quality (CEQ) NEPA implementing regulations. Mindful that the Supreme Court recently clarified NEPA is a ''purely procedural statute,'' DOI will henceforth maintain the remainder of its NEPA procedures—which apply only to DOI's internal processes—in a Handbook separate from the Code of Federal Regulations (CFR). This interim final rule requests comments on this action and related matters to inform DOI's decision-making.

DATES: The interim final rule is effective July 3, 2025. Comments must be postmarked (for mailed comments), delivered (for personal or messenger delivery comments), or filed (for electronic comments) no later than August 4, 2025. The Department will not necessarily consider any comments received after the above date in making our decision.

ADDRESSES: You may submit comments on this IFR and its supporting documents through either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* docket number DOI–2025–0004. Follow the instructions for submitting comments.
- *Mail/Hand Delivery:* U.S. Department of the Interior, 1849 C Street NW, MS 5020, Washington, DC 20240.

Instructions: All submissions must include the agency name, ''Department of the Interior,'' and docket number, DOI–2025–0004, for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. Do not submit electronically any information you consider to be private, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Docket: For access to the docket to read comments received, go to *https://www.regulations.gov* docket number DOI–2025–0004.

FOR FURTHER INFORMATION CONTACT: Stephen G. Tryon, Director, Office of Environmental Policy and Compliance, 202–208–4221, *NEPAregulations@ios.doi.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

DOI is issuing this interim final rule to partially rescind and make other needed, targeted updates to its regulations for implementation of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.,* as amended (NEPA), codified at 43 CFR part 46. DOI's existing NEPA implementing regulations were promulgated as a ''supplement. . . to be used in conjunction with,'' 43 CFR 46.20, CEQ's NEPA regulations. DOI provided that the ''[p]urpose of this part'' was to ensure ''compliance with'' not only NEPA itself but CEQ's regulations implementing NEPA. 43 CFR 46.10(a)(2). But CEQ's NEPA regulations have been repealed, as of April 11, 2025. *See Removal of National Environmental Policy Act Implementing Regulations,* (90 FR 10610; Feb. 25, 2025). CEQ's repeal of its regulations was necessitated by and is consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353; January 29, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967; May 24, 1977), which was the basis CEQ had invoked for its authority to make rules. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations. DOI's regulations, which were a ''supplement . . . to be used in conjunction with'' those CEQ regulations, thus stand in obvious need of fundamental revision.

In addition, Congress recently passed the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023 to add substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ, DOI, and other agencies had previously addressed in their own regulations. DOI recognized the need to update its regulations in light of these significant statutory changes. Since DOI's regulations were originally designed to supplement CEQ's NEPA regulations, DOI had been awaiting CEQ action before revising its own regulations, consistent with CEQ direction. See 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, now that CEQ's regulations have been repealed, it is exigent that DOI ensure procedures conform to the statute as amended by the FRA.

Finally, the Supreme Court has recently issued its decision in *Seven County Infrastructure Coalition* v. *Eagle County, Colorado,* 145 S. Ct. 1497 (2025), in which it described the ''transform[ation]'' of NEPA from its roots as ''a modest procedural requirement,'' into a significant ''substantive roadblock'' that ''paralyze[s]'' ''agency decisionmaking.'' *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a ''course correction'' mandating that courts give ''substantial deference'' to reasonable agency conclusions underlying that agency's NEPA process. *Id.* at 1513–14. The Court also acknowledged, and through its course correction sought to address, the effect judicial ''micromanage[ment]'' has had on ''litigation-averse agencies'' which have been ''tak[ing] ever more time and . . . [prepar[ing] ever longer EISs [environmental impact statements] for future projects.'' *Id.* at 1513. DOI, thus, is issuing this IFR to streamline its NEPA process in accordance with the Supreme Court's decision and changes to the underlying statute. This revision has thus been called for, authorized, and directed by all three branches of government at the highest possible levels.

NEPA does not require Federal agencies to issue regulations implementing NEPA, but instead directs agencies to ''identify and develop methods and procedures,'' in coordination with CEQ, with respect to their environmental analysis of their proposed actions, *see* 42 U.S.C. 4332(2)(B). Both E.O. 14154 and E.O. 14192 direct agencies to ensure regulatory requirements are grounded in applicable law and to alleviate any unnecessary regulatory burdens, respectively. Consistent with the direction in these E.O.s to reduce unnecessary regulatory burdens, DOI will rescind portions of its NEPA

implementing regulations at 43 CFR part 46, while retaining and making targeted updates to certain provisions. Specifically, DOI intends to retain and make limited updates to provisions relating to emergency responses to ensure that DOI can respond timely to any such event and to avoid any confusion regarding the continued validity of this already-established provision for action in emergency situations (43 CFR 46.150); categorical exclusions and their use to avoid any instability in these vital procedures or uncertainty about the continued validity of its already-established categorical exclusions (43 CFR 46.205, 46.210, 46.215); and applicant and contractor preparation of environmental documents to provide a durable framework for the use of such documents (43 CFR 46.105, 46.107). All other provisions will be removed from 43 CFR part 46. Other than these few provisions, DOI's procedures will henceforth be contained in the *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures,* a copy of which is available in the docket listed under **ADDRESSES** above (but will not be codified in the CFR).

The Supreme Court could not have been clearer in *Seven County* that NEPA is a procedural statute. *See Seven County,* 145 S. Ct. at 1510 (''NEPA is purely procedural. . . . NEPA does not mandate particular results, but simply prescribes the necessary process for an agency's environmental review of a project;'') (internal quotation omitted); *id.* at 1511 (NEPA is a *purely procedural statute*''); *id.* at 1513 (NEPA is properly understood as ''a modest procedural requirement''); *id.* at 1514 (''NEPA's status as a purely procedural statute''); *see also id.* at 1507 (''Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.''). The history of DOI's implementing regulations also reflects the understanding that they are procedural rules, for they were uncodified for over a decade before being codified ''as a matter of good policy.'' This is, moreover, consistent with the approach that several other Federal agencies have used for decades.

This action fulfills President Trump's directive in E.O. 14154 for each agency to, in consultation with CEQ, revise its agency-level NEPA implementing procedures in light of the FRA. 90 CFR at 8355. This action implements E.O. 14154 and complies with the requirements of the Administrative Procedure Act (APA). DOI requests comment on the rescission of portions of its regulations implementing NEPA and its retention and targeted updates to its remaining regulations implementing NEPA, as well as the *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures,* a copy of which is available in the docket listed under **ADDRESSES** above (but will not be codified in the CFR). This notice serves to provide fair notice to interested persons and to allow for public comment on DOI's interim final rulemaking. Public comments on the matters addressed in this interim final rule are due by August 4, 2025. As explained in Section IV of this notice, DOI requests and encourages public comment on the rationale for this action and related matters that may inform DOI's decision making.

A. National Environmental Policy Act

Congress enacted NEPA to declare a national policy ''to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and [to] fulfill the social, economic, and other requirements of present and future generations of Americans.'' 42 U.S.C. 4331(a).

NEPA, as amended by the FRA, furthers this national policy by requiring Federal agencies to prepare an environmental impact statement—''in essence, a report''—for proposed ''major Federal actions significantly affecting the quality of the human environment.'' 42 U.S.C. 4332(2)(C); *Seven County,* 145 S. Ct. at 1507. This statement must address: (1) The reasonably foreseeable environmental effects of the proposed agency action; (2) the reasonably foreseeable adverse environmental effects that cannot be avoided; (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 resources that would be involved in the proposed action. 42 U.S.C. 4332(2)(C).

NEPA further mandates that Federal agencies ensure the professional and scientific integrity of environmental documents; use reliable data and resources when carrying out NEPA; and study, develop, and describe technically and economically feasible alternatives. 42 U.S.C. 4332(2)(D)–(F). NEPA provides procedures for making threshold determinations about whether an environmental document must be prepared and the appropriate level of environmental review. 42 U.S.C. 4336(a)–(b).

NEPA does not mandate specific results or substantive outcomes. *Seven County,* 145 S. Ct. at 1507. Rather, NEPA requires Federal agencies to consider the environmental effects of proposed actions as part of agencies' decision-making processes. As amended by the FRA, NEPA provides additional requirements to facilitate timely and unified Federal reviews, including provisions clarifying lead, joint lead, and cooperating agency designations, generally requiring the development of a single environmental document, directing agencies to develop procedures for project sponsors to prepare environmental assessments and environmental impact statements, and prescribing page limits and deadlines. 42 U.S.C. 4336a. NEPA also sets forth the circumstances under which agencies may rely on programmatic environmental documents, 42 U.S.C. 4663b, and adopt and use another agency's categorical exclusions. 42 U.S.C. 4336c.

B. NEPA Regulations

1. Council on Environmental Quality (CEQ) NEPA Regulations

On January 20, 2025, President Trump issued E.O. 14154, *Unleashing American Energy.*[1] The E. O. revoked E.O. 11991, *Relating to protection and enhancement of environmental quality,*[2] which had directed CEQ to issue regulations implementing NEPA and required Federal agencies to comply with those regulations.[3] E.O. 14154 also directed CEQ to provide guidance on implementing NEPA and propose rescinding CEQ's NEPA regulations within 30 days of the order.[4] CEQ issued an interim final rule rescinding CEQ's NEPA implementing regulations (including as they relate to agency NEPA procedures) on February 25, 2025, effective April 11, 2025.[5] Following CEQ's provision of initial guidance, E.O. 14154 directs the Chairman of CEQ to convene a working group to coordinate the revision of

[1] 90 FR 8353 (Jan. 29, 2025) (''E.O. 14154'').

[2] 42 FR 26,967 (May 25, 1977).

[3] E.O. 14154 at sec. 5.

[4] *Id.* at sec 5(a). The guidance and any resulting agency implementing regulations must ''expedite permitting approvals and meet deadlines established in the [FRA].'' *Id.* at sec 5(c).

[5] 90 FR 10,610 (Feb. 25, 2025).

agency-level NEPA implementing regulations for consistency.

2. DOI NEPA Regulations

Until 2008, DOI provided procedures for implementing NEPA in chapters of part 516 of the Department Manual. DOI periodically revised the Department Manual chapters containing NEPA procedures through a notice and comment process that involved publication of proposed and final revisions in the **Federal Register**, but did not promulgate as regulations the procedures contained in the Department Manual. In 2008, DOI promulgated regulations codifying DOI's NEPA procedures at 43 CFR part 46. In the preamble to the 2008 notice of proposed rulemaking,[6] DOI explained that ''[t]he Department believes that codifying the procedures in regulations that are consistent with NEPA and the CEQ regulations will provide greater visibility to that which was previously contained in the [Department Manual] DM and enhance cooperative conservation by highlighting opportunities for public engagement and input in the NEPA process.'' 73 FR 61292. DOI retained additional explanatory guidance (as distinguished from agency implementing procedures) in the Department Manual and other Departmental guidance documents. Bureaus and offices (bureaus) of the Department continue to maintain Department Manual chapters in part 516 specific to their programs which supplement the DOI NEPA implementing procedures.

E.O. 14154 directs all agencies to prioritize efficiency and certainty over any other objectives and avoid and minimize delays and ambiguity in the permitting process. DOI's internal procedures and policies to guide compliance with NEPA will better advance the priorities articulated in E.O. 14154 and provide for quicker updates in policy implementation for bureaus to use than will retaining the NEPA implementing regulations. Consolidating procedures with many other policies and guidance will also provide additional public transparency.

Moreover, DOI has decided that the flexibility to respond to new developments in this fast-evolving area of law, afforded by using non-codified procedures, outweighs the appeal of maintaining its NEPA procedures as regulations going forward. Notably, in this digitized age, while DOI codified its procedures as regulations, in part, to provide ''greater visibility'' to the public, DOI can—and will—ensure such visibility simply by posting these procedures online, which removes the upside of codification. By contrast, not maintaining its procedures as regulations will enable it to rapidly update these procedures in response to future court decisions (such as *Seven County*) or Presidential directives (such as E.O. 14154). The balance thus tips decisively toward using a non-regulatory, but publicly accessible, procedural document. Because rescinding DOI's existing regulations without simultaneously adopting a replacement would likely cause uncertainty among regulated parties, the new procedures that DOI adopts today have informed its decision to rescind most of its prior regulations.

DOI's new NEPA implementing procedures are a more faithful implementation of the statute as amended in 2023 than its old procedures. They implement major structural features of the 2023 amendments, such as deadlines and page limits for environmental assessments and environmental impact statements, as directed at NEPA Section 107(g), and provide that DOI will complete preparation of these documents within the maximum length and on the timeline that Congress intends. They incorporate Congress's definition of ''major Federal action'' and the exclusions thereto, as codified at NEPA Section 111(10). They incorporate Congress's mandated procedure for determining the appropriate level of review under NEPA, as codified in NEPA Section 106. And they incorporate Congress's revision to the requirements for what an agency must address in its environmental impact statements, as codified at NEPA Section 102(2)(C), and Congress's requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an environmental impact statement, as directed at NEPA Section 107(c). All of these are crucial features of Congress's policy design and its purpose in the 2023 amendments that NEPA review be more efficient and certain.

Moreover, all of these respond to the President's directive in E.O. 14154; and all of these reflect the Supreme Court's recent and unequivocal statement that NEPA is a purely procedural statute. DOI is conscious of the Supreme Court's admonition that NEPA review has grown out of all proportion to its origins as a ''modest procedural requirement,'' creating, ''under the guise of just a little more process,'' ''[d]elay upon delay, so much so that the process seems to 'borde[r] on the Kafkaesque.' '' *Seven County,* 145 S. Ct. at 1513–14 (internal quotation omitted). These procedures, therefore, attempt to align NEPA with its Congressionally mandated dimensions, reflecting the guidance given also by the President and the Supreme Court, and making review under it faster, more flexible, and more efficient.

In reaching this decision, DOI acknowledges that third parties may claim to have reliance interests in DOI's existing NEPA procedures. But revised agency procedures will have no effect on ongoing NEPA reviews, where DOI, following CEQ guidance, will continue to apply the preexisting procedures to applications that are sufficiently advanced. Moreover, as the Supreme Court has just explained, NEPA ''is a purely procedural statute'' that ''imposes no substantive environmental obligations or restrictions.'' *Seven County,* 145 S. Ct. at 1507. To the extent any asserted reliance interests are grounded in substantive environmental concerns, such interests are entitled to ''no. . . weight.'' *Dep't of Homeland Sec.* v. *Regents of the Univ. of California,* 140 S. Ct. 1891, 1914 (2020).

Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in *prospective* procedures. To the extent such interests exist, the Department holds that they are ''outweigh[ed]'' by ''other interests and policy concerns.'' *Id.* Namely, the complex web of regulations that preexisted the 2023 amendments to NEPA and these new procedures repeatedly ''led to more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,'' which in turn has meant that ''[f]ewer projects make it to the finish line,'' or even ''to the starting line.'' *Seven County,* 145 S. Ct. at 1513–14. This has increased the cost of projects dramatically, ''both for the agency preparing the EIS and for the builder of the project,'' resulting in systemic harms to America's infrastructure and economy. *Id.* Correspondingly, the wholesale revision and simplification of this regime, effectuated by the revision of DOI's NEPA procedures and relocation of them to the *Department of the Interior Handbook: National Environmental Policy Act Implementing Procedures,* is necessary to ensure efficient and predictable reviews, with significant upsides for the economy and for projects of all sorts. This set of policy considerations drastically outweighs any claimed reliance interests in the preexisting procedures.

[6] 73 FR 126 (Jan. 2, 2008).

DOI has revised its NEPA implementing procedures to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154, and to address the pathologies of the NEPA process and NEPA litigation identified by the Supreme Court.

Where DOI has retained an aspect of its preexisting NEPA implementing procedures, it is because that aspect is compatible with these guiding principles; where DOI has revised or removed an aspect, it is because that aspect is not compatible.

II. Discussion of Regulatory Changes

A. Removing NEPA Procedures From Regulation

NEPA requires that all Federal agencies identify and develop methods and procedures, in consultation with CEQ, that will ensure that unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations. 42 U.S.C. 4332(2)(B). The statutory amendments to NEPA under the FRA also refer to agency NEPA procedures.[7] Federal agencies have developed varying forms of NEPA implementing procedures, some in regulation and some in other forms of procedural documents. DOI's revised NEPA procedures, developed in consultation with CEQ and in coordination with other Federal agencies for consistency across the Federal government, will facilitate compliance with the statutory obligations of NEPA.

B. Retaining and Revising Certain Provisions

The rule removes most of the existing DOI NEPA regulations in favor of relying on Departmental guidance for the reasons discussed above, but the rule retains and makes targeted updates to its regulations that authorize three tools that DOI bureaus may rely on to expedite NEPA reviews and ensure that compliance with NEPA is achieved in an efficient manner.

1. Emergency Responses

First, DOI is retaining 43 CFR 46.150, which allows bureaus to respond to emergencies while either forgoing NEPA analysis so as to allow the bureau to take actions ''urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources'' and use alternative arrangements for NEPA compliance to take other actions beyond those immediately necessary to protect life, property, and resources in response to emergencies. The rule makes minor clarifying adjustments to the text that reflect DOI's experience implementing these provisions. The adjustments do not change the meaning of the provisions.[8]

2. Categorical Exclusions

Next, DOI is retaining 43 CFR 46.205, 46.210, and 46.215, which establish Departmental categorical exclusions and lay out the procedures for relying on a categorical exclusion to comply with NEPA. Categorical exclusions represent those categories of actions that DOI has determined normally do not significantly affect the environment. Categorical exclusions provide important efficiency by ensuring that many agency actions are not subjected to the lengthy NEPA process and can proceed using the significantly truncated process identified in the DOI NEPA regulations for determining that a categorical exclusion applies and ensuring that no ''extraordinary circumstances'' are present that would preclude reliance on the categorical exclusion. Section 46.210 will continue to identify Departmental categorical exclusions while additional, bureau-specific categorical exclusions are identified in guidance documents.

Although DOI is largely retaining these provisions in regulation, the rule revises them to eliminate from the regulations certain categorical exclusions that are not used across the Department and to refine certain other extraordinary circumstances that, when present, would preclude reliance on a categorical exclusion. Section 46.205 includes new paragraphs (e), (f), (g), (h), (i), and (j) providing how DOI bureaus may rely on categorical exclusion determinations made by other agencies, may apply multiple categorical exclusions to a single action, and may rely on a categorical exclusion administratively established or adopted by another DOI bureau; the procedures governing the establishment, modification, or removal of categorical exclusions from NEPA procedures; and the clarification that any such establishment, modification, or removal does not itself have any environmental effects for purposes of NEPA. In Section 46.210, the rule removes paragraphs (k) and (l), which describe categorical exclusions for hazardous fuels reduction activities using prescribed fire and post-fire rehabilitation activities, respectively. These categorical exclusions will continue to be identified in bureau-specific NEPA procedures, and those bureaus may then continue to rely on them for purposes of NEPA compliance, but they are not properly considered Departmental categorical exclusions.

In Section 46.215, which lists the ''extraordinary circumstances'' that, if present preclude reliance on a categorical exclusion, the rule removes existing paragraphs (c), (i), and (j), and then renumbers the remaining paragraphs. Paragraph (c) provides that an extraordinary circumstance is present if an action may ''[h]ave highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.'' 43 CFR 46.215(c). This provision causes confusion as it has been frequently misunderstood to mean that any controversy surrounding the substance of the action itself constitutes an extraordinary circumstance. The provision is intended only to provide that controversy about the nature and magnitude of the environmental effects of the action constitutes an extraordinary circumstance. In any event, the concept is sufficiently addressed in existing paragraph (d) (which this rule renumbers as paragraph (c)).

Paragraph (i) provides that an extraordinary circumstance is present if an action may ''[v]iolate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.'' 43 CFR 46.215(i). Whether a proposed Federal action may violate a law imposed for the protection of the environment is a question that goes beyond the procedural requirements of NEPA and may be better considered and appropriately addressed by the Responsible Officer when making the decision on the proposed action. While a proposed action's inconsistency with such a law should be appropriately considered in the agency decision-making process—and may suggest that that the proposed action should not be approved—it is not relevant to the determination of whether the proposed action may have significant environmental effects.

Paragraph (j) was promulgated in response to E.O. 12898, *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (Feb. 11, 1994). That E.O. was rescinded by E. O. 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (Jan. 21, 2025). Therefore, it is appropriate to remove the associated provision in Section 46.215.

[7] 42 U.S.C. 4336a(f), 4336c.

[8] Executive Order 14156, *Declaring a National Energy Emergency* (Jan. 20, 2025); Secretary's Order 3417, *Addressing the National Energy Emergency* (Feb. 3, 2025).

In addition, all references to E.O.s in the DOI list of extraordinary circumstances are removed. These E.O.s could change over time or could unduly limit the review of the resources listed, not allowing for more relevant information to be considered in the extraordinary circumstances review for a proposed action.

3. Applicant- and Contractor-Prepared Environmental Documents

Finally, DOI is retaining and revising Section 46.105 and adding Section 46.107, which set standards and procedures that apply when DOI bureaus hire contractors to prepare environmental assessments, environmental impact statements, or other environmental information; or rely on applicants to prepare environmental information, including environmental assessments or environmental impact statements. The FRA provides that agencies may develop procedures to allow for the preparation of environmental assessments and environmental impact statements by applicants for Federal approvals. DOI already has a regulation allowing for bureaus to rely on applicant-prepared environmental assessments. The revisions made by this rule would extend that allowance to applicant-prepared environmental impact statements while also adding standards and procedures to ensure that the process for using applicant-prepared environmental assessments and environmental impact statements is both efficient and legally defensible. For similar reasons, additional standards and procedures have been added to the regulation governing bureau use of environmental information or documents prepared by contractors engaged directly by the bureaus.

III. Basis for Issuing an Interim Final Rule

A. Notice-and-Comment Rulemaking Is Not Required

DOI is repealing its prior regulations that establish procedures and practices for implementing NEPA, a ''purely procedural statute'' which ''simply prescribes the necessary process' for an agency's environmental review of a project''—a review that is, even in its most rigorous form, ''only one input into an agency's decision and does not itself require any particular substantive outcome.'' *Seven County,* 145 S. Ct. at 1507, 1511 (internal quotation omitted). ''NEPA imposes no *substantive* constraints on the agency's ultimate decision to build, fund, or approve a proposed project,'' and ''is relevant only to the question of whether an agency's final decision''—*i.e.,* that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—''was reasonably explained.'' *Id.* at 1511. As such, notice and comment procedures are not required because this revision falls within the APA exception for ''rules of agency organization, procedure, or practice.'' 5 U.S.C. 553(b)(A). DOI's existing NEPA regulations do not dictate what actions to take or policies to adopt. Rather, they prescribe how bureaus should conduct their NEPA reviews: detailing the application of NEPA, timing of environmental impact statements, and specifying other procedural requirements.[9] These are procedural provisions, not substantive environmental ones, and they apply exclusively to internal DOI processes. And because procedural rules do not require notice and comment, absent a specific provision of law requiring such procedures, they do not require notice and comment to be rescinded. *See* 5 U.S.C. 553(b)(A). Indeed, DOI recognized as much even when initially promulgating them: DOI was explicit that the department was codifying its procedures because it ''believes that codifying the procedures in regulations that are consistent with NEPA and the CEQ regulations will provide greater visibility to that which was previously contained in the DM and enhance cooperative conservation by highlighting opportunities for public engagement and input in the NEPA process.'' 73 FR 61292.

Just so, DOI's new procedures will also be purely procedural and guide internal agency compliance with NEPA. Indeed, it is hard to see how they could be otherwise, since the Supreme Court has recently repeatedly emphasized that ''NEPA is a purely procedural statute.'' *Seven County,* 145 S. Ct. at 1507; *see id.* at 1510 (''NEPA is purely procedural. . . . NEPA 'does not mandate particular results, but simply prescribes the necessary process' for an agency's environmental review of a project.''); *id.* at 1511 (NEPA is a *purely procedural statute*''); *id.* at 1513 (NEPA is properly understood as ''a modest procedural requirement''); *id.* at 1514 (''NEPA's status as a purely procedural statute''); *see also id.* at 1507 (''Simply stated, NEPA is a procedural cross-check, not a substantive roadblock.''). Procedures for implementing a purely procedural statute must be, by their nature, procedural rules. Surely, they cannot be legislative rules; as such, they do not need to be promulgated via notice-and-comment rulemaking. *See* 5 U.S.C. 553(b)(A). And even if that were not universally true, the new rules adopted in this notice *are* purely procedural.

Moreover, even if (and to the extent that) DOI's regulations were not procedural rules, they may be characterized as interpretative rules or general statements of policy under 5 U.S.C. 553(b)(A). An interpretative rule provides an interpretation of a statute, rather than making discretionary policy choices that establish enforceable rights or obligations for regulated parties under delegated congressional authority. The definitions sections of both the old and new procedures, for instance, may be classified as such. General statements of policy provide notice of an agency's intentions as to how it will enforce statutory requirements, again without creating enforceable rights or obligations for regulated parties under delegated congressional authority. The prefatory sections of both the old and new procedures, for instance, may be classified as general statements of policy. Both of these types of agency action are expressly exempted from notice and comment by statute. 5 U.S.C. 553(b)(A), and so do not require notice and comment for their removal.

Accordingly, although DOI is voluntarily providing notice and an opportunity to comment on this interim final rule, the agency has determined that notice-and-comment procedures are not required. The fact that DOI previously undertook notice-and-comment rulemaking in promulgating these regulations is immaterial: As the Supreme Court has held, where notice-and-comment procedures are not required, prior use of them in promulgating a rule does not bind the agency to use such procedures in repealing it. *Perez* v. *Mortg. Bankers Ass'n,* 575 U.S. 92, 101 (2015).

B. DOI Has Good Cause for Proceeding With an Interim Final Rule.

Moreover, DOI also finds that, to the extent that prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing regulations satisfies the ''good cause'' exceptions in 5 U.S.C. 553(b)(B) and (d). The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is ''impracticable, unnecessary, or contrary to the public interest,'' 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). As discussed in Sections I &

[9] See 43 CFR part 46.

II, above, DOI's prior rules were promulgated as a ''supplement . . . to be used in conjunction with,'' 43 CFR 46.20, CEQ's NEPA regulations. Following the rescission of CEQ's regulations, DOI's current rules are left hanging in air, supplementing a NEPA regime that no longer exists. DOI, thus far and as a temporary, emergency measure, has been continuing to operate under its prior procedures *as if* the CEQ NEPA regime still existed. This is not, however, tenable. As soon as updated non-regulatory procedures were available—which they are now—Interior must immediately rescind its duplicative or inconsistent regulations that compose this makeshift regime.

For the same reasons stated in the present section, above, DOI finds that ''good cause'' exists under 5 U.S.C.§ 553(d)(3) to forgo the 30-day delay of the effective date that would otherwise be required to rescind regulations in their entirety. This interim final rule and the new procedural document that accompanies it will accordingly be effective immediately.

C. DOI Solicits Comment

As explained above, comment is not required because DOI's NEPA procedures were and are procedural and because, even if comment were otherwise required under the APA, good cause exists to forgo it. Nevertheless, DOI has elected voluntarily to solicit comment. DOI is soliciting comment on this interim final rule and its new procedures, which are available for review at *www.regulations.gov,* docket number 2025–0004. DOI may make further revisions to its NEPA implementing procedures, if DOI's review of any comments submitted suggests that further revisions are warranted. Commenters have 30 days from the date of publication of this interim final rule to submit comments.

IV. Regulatory Analyses and Notices

A. E.O. 12866, Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal Government's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this interim final rule is a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and has reviewed.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended, (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 generally require agencies to assess the impacts of final rules on small entities by preparing a regulatory flexibility analysis. Under the RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. The RFA applies only to rules for which an agency is required to first publish a proposed rule. *See* 5 U.S.C. 603(a) and 604(a). As the Department is not required to publish a notice of proposed rulemaking for this interim final rule, the RFA does not apply.

Even if the RFA applies, this rule does not directly regulate small entities. Rather, the rule applies to Federal agencies and sets forth the process for their compliance with NEPA. Accordingly, DOI hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Analysis

DOI has determined that the rule will not have a significant effect on the environment because it will not authorize any specific agency activity or commit resources to a project that may affect the environment. Therefore, DOI does not intend to conduct a NEPA analysis of this interim final rule. In addition, DOI has determined that its categorical exclusion (CE) at 43 CFR 46.210(i) covers this rulemaking. The CE covers policies, directives, regulations, and guidelines that are ''of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.'' Further, the proposed rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215.

D. Executive Order 13132, Federalism

E.O. 13132 requires agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. Policies that have federalism implications include regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim final rule does not have federalism implications because it applies to Federal agencies, not States.

E. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

E.O. 13175 requires agencies to have a process to ensure meaningful and timely input by Tribal officials in the development of policies that have Tribal implications. Such policies include regulations that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This interim final rule is not a regulatory policy that has Tribal implications because it does not impose substantial direct compliance costs on Tribal governments (section 5(b)) and does not preempt Tribal law (section 5(c)).

F. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

Agencies must prepare a Statement of Energy Effects for significant energy actions under E.O. 13211. This interim final rule is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

G. Executive Order 12988, Civil Justice Reform

Under section 3(a) of E.O. 12988, agencies must review their regulations to eliminate drafting errors and ambiguities, draft them to minimize litigation, and provide a clear legal standard for affected conduct. Section 3(b) provides a list of specific issues for review to ensure compliance with section 3(a). DOI has conducted this review and determined that this interim final rule complies with the requirements of E.O. 12988.

H. Unfunded Mandates Assessment

Section 201 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) requires Federal agencies to assess the effects of their regulatory actions on State, Tribal, and local governments and the private sector to the extent that such regulations incorporate requirements specifically set forth in law. Before promulgating a rule that may result in the expenditure by a State, Tribal, or local government, in the aggregate, or by the private sector of $100 million, adjusted annually for inflation, in any one year, an agency must prepare a written statement that assesses the effects on State, Tribal, and local governments and the private sector. 2

U.S.C. 1532. This interim final rule applies to Federal agencies and would not result in expenditures of $100 million or more by State, Tribal, and local governments, in the aggregate, or the private sector in any one year. This action also does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments.

I. Paperwork Reduction Act

This interim final rule does not impose any new information collection burden that would require additional review or approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 46

Environmental protection; Environmental impact statements.

Karen Budd-Falen,

Associate Deputy Secretary.

■ For the reasons stated in the preamble, under the authority of NEPA, as amended (42 U.S.C. 4321–4347), the Office of the Secretary revises part 46 of title 43 of the Code of Federal Regulations to read as follows:

PART 46—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

Sec.

Authority: 42 U.S.C. 4321–4347

Subpart A—[Reserved]

Subpart B—Protection and Enhancement of Environmental Quality

§ 46.105 Using a bureau-directed contractor to prepare environmental documents.

(a) A Responsible Official may use a bureau-directed contractor to prepare any environmental document.

(b) If a Responsible Official uses a bureau-directed contractor, the Responsible Official remains responsible for:

(1) Preparation and adequacy of the environmental documents; and

(2) Independent evaluation of the environmental documents after their completion. The Responsible Official must briefly document the bureau's evaluation of the environmental document and ensure that it meets the standards under NEPA, this Part, and any Departmental or bureau-specific procedures or guidance.

(c) The Responsible Official shall require any bureau-directed contractor preparing an environmental document to submit a professional integrity statement certifying that the environmental document is prepared with professional and scientific integrity, using reliable data and resources, and meets bureau needs for decision-making. In addition, the Responsible Official shall require any bureau-directed contractor preparing an environmental document to submit a disclosure statement specifying that the contractor has no financial or other interest in the outcome of the action.

§ 46.107 Procedures for applicant-prepared environmental impact statements and environmental assessments.

In accordance with NEPA section 107(f), 42 U.S.C. 4336a(f), the following procedures are established for bureaus to allow applicants, or contractors directed by applicants, to prepare environmental impact statements and environmental assessments under bureau supervision when the bureau is the Federal lead agency.

(a) A Responsible Official has discretion to allow an applicant or applicant-directed contractor to prepare an environmental impact statement or an environmental assessment (including analysis supporting these documents). A bureau may request more information, revise analysis methodologies, or choose not to use an environmental impact statement or an environmental assessment prepared by an applicant or its contractor at any time.

(b) Applicants or applicant-directed contractors may not prepare decision documents, including records of decision.

(c) The Responsible Official remains responsible for the accuracy, scope, and content of the environmental impact statement or environmental assessment and must independently evaluate and approve each such analysis before the bureau may use it. To maintain the scientific quality and integrity of the impact assessment, if in-house expertise is not available for the technical evaluations, another bureau or cooperating agency may be used, as needed, to verify the analyses if potential significance of an effect or issue is not clear.

(d) Prior to a Responsible Official initiating the preparation of an environmental impact statement or an environmental assessment proposed to be prepared by an applicant or an applicant-directed contractor, the bureau must engage with the applicant and provide written documentation outlining the bureau's expectations regarding roles, responsibilities, the project schedule, coordination, deliverables (including draft and final documents), and supervision. Such engagement must occur within 30 days of the date initiating the preparation of an environmental impact statement or an environmental assessment.

(e) If a Responsible Official uses information from an applicant or applicant-directed contractor to prepare an environmental impact statement or environmental assessment, the bureau must independently evaluate and provide written concurrence to the applicant or applicant-directed contractor documenting that the information submitted meets the standards under NEPA, this Part, and any Departmental or bureau-specific NEPA procedures or guidance. If a Responsible Official uses any of the following information prepared by an applicant or applicant-directed contractor in initiating a review, such information must be submitted in writing to the Responsible Official for independent evaluation prior to initiating the NEPA process:

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

(2) The proposed action and reasonable alternatives to the proposed action;

(3) A community and stakeholder engagement plan;

(4) Anticipated permits and authorizations required for the proposed action;

(5) Anticipated cooperating agencies;

(6) The process for consultations with relevant Federal agencies and State, Tribal, and local governments to ensure compliance with environmental laws and regulations.

(7) Anticipated issues and resources to be analyzed in the environmental impact statement or environmental assessment, and summary of analysis methodology, as applicable; and

(8) Schedule.

(f) If a Responsible Official uses an environmental impact statement or environmental assessment prepared by

an applicant or applicant-directed contractor, the Responsible Official must independently evaluate and verify that the environmental analysis, including the methodologies used by the applicant or applicant-directed contractor, meets bureau standards and complies with NEPA, this Part, and any applicable Departmental or bureau-specific NEPA procedures or guidance. The applicant or applicant-directed contractor must provide the bureau with all relevant supporting information, including all studies, surveys, and technical reports pertaining to the environment prepared by the applicant or applicant-directed contractor for the proposed action. The applicant or applicant-directed contractor must certify that the materials provided to the bureau are complete for the bureau's independent review and inclusion in its decision file. The Responsible Official shall document the bureau's review and determination in any bureau-approved environmental impact statement or environmental assessment. The bureau is responsible for publishing all environmental impact statements and environmental assessments and, if an action is administratively or judicially challenged, for using the materials in its decision file to prepare an administrative record.

(g) The Responsible Official shall require any applicant or applicant-directed contractor preparing an environmental impact statement or environmental assessment to submit a professional integrity statement certifying that the environmental analysis is prepared with professional and scientific integrity, using reliable data and resources, and meets any relevant Federal information quality standards and bureau needs for decision-making. In addition, the Responsible Official shall require any applicant or applicant-directed contractor preparing an environmental impact statement or an environmental assessment to submit a disclosure statement specifying any financial or other interest the entity has in the outcome of the action.

Bureaus must publish or otherwise provide bureau-specific policy information to assist applicants preparing environmental impact statements or environmental assessments. Bureaus may provide additional guidance to Responsible Officials describing how to document the independent evaluation of environmental impact statements and environmental assessments to ensure that they meet the standards under NEPA and these implementing procedures.

§ 46.150 Emergency responses.

This section applies only if the Responsible Official determines that an emergency exists that makes it necessary to take urgently needed actions before preparing an environmental document or documenting its use of a categorical exclusion in accordance with the provisions in this chapter.

(a) The Responsible Official may take those actions necessary to control the immediate impacts of the emergency that are urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources. When taking such actions, the Responsible Official shall consider the probable environmental consequences of these actions and mitigate reasonably foreseeable adverse environmental impacts to the extent practicable.

(b) The Responsible Official shall document in writing the determination that an emergency exists and describe the responsive actions taken at the time the emergency exists. The form of that documentation is within the discretion of the Responsible Official.

(c) If the Responsible Official determines that the nature and scope of proposed actions that must be taken beyond actions noted in paragraph (a) of this section but in response and relation to such emergency action preclude preparation of an environmental document, the Responsible Official must consult with the Office of Environmental Policy and Compliance about alternative arrangements for NEPA compliance for such additional responsive actions. The Assistant Secretary, Policy Management and Budget may authorize the use of alternative arrangements. Reliance on any such alternative arrangements shall apply only to the proposed actions necessary to control the immediate actions in response and related to the emergency beyond those noted in paragraph (a) of this section and must be documented. Consultation with the Office of Environmental Policy and Compliance and with the Assistant Secretary, Policy Management and Budget must be coordinated through the appropriate bureau headquarters.

(d) For actions meeting the criteria noted in paragraph (c) of this section that the Responsible Official reasonably foresees would be likely to result in significant effects, the Assistant Secretary, Policy Management and Budget or their designee must consult with the Council on Environmental Quality prior to authorizing the use of alternative arrangements for compliance with NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C).

(e) Other proposed actions remain subject to compliance with NEPA and the remaining sections of this Part.

Subpart C—Initiating the NEPA Process

§ 46.205 Actions categorically excluded from further NEPA review.

Categorical Exclusion means a category of actions that a bureau has determined normally do not significantly affect the quality of the human environment.

(a) Except as provided in paragraph (c) of this section, if an action is covered by a Departmental categorical exclusion, the bureau is not required to prepare an environmental assessment or an environmental impact statement. If a proposed action does not meet the criteria for any of the listed Departmental categorical exclusions or any of the individual bureau categorical exclusions, then the proposed action must be analyzed in an environmental assessment or environmental impact statement.

(b) The actions listed in § 46.210 are categorically excluded, Department-wide, from preparation of environmental assessments or environmental impact statements.

(c) DOI has provided for extraordinary circumstances in which a normally excluded action may have a significant environmental effect and require additional analysis. Section 46.215 lists the extraordinary circumstances under which actions otherwise covered by a categorical exclusion require analyses under NEPA.

(1) Any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances in § 46.215; if it does, further analysis and environmental documents must be prepared for the action.

(2) Bureaus must work within existing administrative frameworks, including any existing programmatic agreements, when deciding how to apply any of the § 46.215 extraordinary circumstances.

(d) Congress may establish categorical exclusions by legislation, in which case the terms of the legislation determine how to apply those categorical exclusions.

(e) A Responsible Official may rely on another agency's determination that a categorical exclusion applies to a particular proposed action if the action covered by that determination and the bureau proposed action are substantially the same. The Responsible Official need not conduct extraordinary circumstances review according to the protocol set forth at § 46.215 but must

document any reliance on another agency's categorical exclusion determination. When more than one agency is reviewing a proposed action, a bureau may also reach and document a joint determination with another agency that a categorical exclusion applies to the action.

(f) *Applying multiple categorical exclusions.* Bureaus may apply multiple categorical exclusions in combination to cover a single proposed action. In some circumstances, the combination of categorical exclusions can cover all elements of a proposed action and support the bureau's determination that the effects of the proposed action, with all its elements, are not reasonably foreseeably to be significant. When a bureau completes its review of a proposed action in reliance on multiple categorical exclusions, the bureau must concisely document this reliance, including review for the presence of extraordinary circumstances that, if present, would preclude application of the categorical exclusions to the proposed action.

(g) Each bureau may rely on any categorical exclusion administratively established or adopted, under NEPA section 109, 42 U.S.C. 4336c, by the Department or any bureau within the Department.

(h) To establish or revise a categorical exclusion, the Department will determine that the action is of a type that normally does not significantly affect the quality of the human environment. In making this determination and identifying and describing such a category, the Department will:

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

(2) Consult with the Council on Environmental Quality 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 establishment of the categorical exclusion and the location of availability of the written record.

(i) *Removal of categorical exclusions.* To remove a categorical exclusion from its NEPA procedures, the Department will follow steps similar to those by which it establishes or revises a categorical exclusion.

(j) Neither the establishment nor the modification or removal of a categorical exclusion from bureau NEPA procedures is subject to NEPA review.

§ 46.210 Listing of Departmental categorical exclusions.

The following actions are categorically excluded under § 46.205(b), unless any of the extraordinary circumstances in § 46.215 apply and reliance on any of them to support approval of a proposed action need not be documented:

(a) Personnel actions and investigations and personnel services contracts.

(b) Internal organizational changes and facility and bureau reductions and closings.

(c) Routine financial transactions including such things as salaries and expenses, procurement contracts (*e.g.,* in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

(d) Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA.

(e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.

(f) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (*e.g.,* limited size and magnitude or short-term effects).

(g) Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)

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

(i) Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.

(j) Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

§ 46.215 Categorical exclusions: Extraordinary circumstances.

Extraordinary circumstances (see § 46.205(c)) exist for individual actions within categorical exclusions that may meet any of the criteria listed in paragraphs (a) through (i) of this section. Applicability of extraordinary circumstances to categorical exclusions is determined by the Responsible Official. If an extraordinary circumstance is not present, the Responsible Official may determine that the categorical exclusion applies to the proposed action and conclude review.

(a) Have significant impacts on public health or safety.

(b) Have significant impacts on such natural resources and unique geographic characteristics 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; wetlands; floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.

(c) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

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

(e) Have a direct relationship to other actions that implicate potentially significant environmental effects.

(f) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.

(g) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.

(h) Significantly limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

(i) Contribute to potentially significant effects resulting from the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the

area or from other actions that promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act).

Subpart D—[Reserved]

Subpart E—[Reserved]

[FR Doc. 2025–12433 Filed 7–1–25; 2:30 pm]
BILLING CODE 4334–63–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 520

[Docket No. NHTSA–2025–0160]

RIN 2127–AM35

Recission of NHTSA's 1975 Procedures for Considering Environmental Impacts

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule rescinds the National Highway Traffic Safety Administration's (NHTSA) 1975 Procedures for Considering Environmental Impacts from the Code of Federal Regulations because they are outdated, because they were promulgated on the basis of authorities that have been rescinded, and because the Department of Transportation has promulgated updated Department-wide National Environmental Policy Act (NEPA) procedures that will guide NHTSA's NEPA process.

DATES: This interim rule is effective on July 3, 2025. Written comments must be received by August 4, 2025.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the Federal eRulemaking Portal at *https://www.regulations.gov*. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.* You may also access the docket at 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Confidential Business Information: If you claim that any of the information in your comment (including any additional documents or attachments) constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4) or is protected from disclosure pursuant to 18 U.S.C. 1905, please see the detailed instructions given under the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy Act: Please see the Privacy Act heading under the Regulatory Analyses section of this document.

FOR FURTHER INFORMATION CONTACT: You may contact Stephanie Walters by email at *stephanie.walters@dot.gov* or by telephone at 202–819–3642. Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The National Highway Traffic Safety Administration (NHTSA), an agency within the U.S. Department of Transportation (DOT), adopted its own National Environmental Policy Act (NEPA) implementing procedures in 1975 at 49 CFR part 520 (''1975 procedures''), as directed by Executive Order (E.O.) 11514, *Protection and Enhancement of Environmental Quality* (35 FR 4245 (Mar. 7, 1970)), and the Council on Environmental Quality's Guidelines of April 23, 1971 (36 FR 7724). NHTSA's 1975 procedures established the initial framework for conducting NHTSA-specific environmental reviews on its rulemakings and regulatory actions.

Subsequently, E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967 (May 24, 1977)), amended E.O. 11514 to require the Council on Environmental Quality (CEQ) to issue binding regulations for NEPA compliance, which it did at 40 CFR parts 1500–1508 (CEQ regulations). Among other sections, 40 CFR 1500.3 stated that the CEQ regulations were applicable to and binding on all Federal agencies for implementing the procedural provisions of NEPA. Accordingly, NHTSA has followed NEPA's statutory requirements, its 1975 procedures to the extent they were previously consistent with law, and CEQ's NEPA implementing regulations to assess the environmental impacts of the agency's actions.

II. Basis for Removing the NHTSA NEPA Regulation

NHTSA has determined that it is appropriate to remove its 1975 procedures because the regulations are no longer consistent with the governing laws and orders relevant to NEPA, which have changed significantly since 1975. NHTSA's 1975 procedures were established pursuant to E.O. 11514 and CEQ's 1971 Guidelines (36 FR 7724). E.O. 11514 was amended by E.O. 11991, which has now been rescinded by E.O. 14154, *Unleashing American Energy* (90 FR 8353 (Jan. 29, 2025)). CEQ's 1971 Guidelines, which were the basis for CEQ's NEPA Implementing Regulations at 40 CFR parts 1500 *et seq.,* have also been repealed. *See Removal of National Environmental Policy Act Implementing Regulations,* (90 FR 10610 (Feb. 25, 2025)). These circumstances raise questions concerning the legal basis for NHTSA to maintain its 1975 procedures and create a need for NHTSA, which had long relied on CEQ's regulations in administering NEPA, *see supra,* to modernize and update its own regulations.

Further, the Fiscal Responsibility Act of 2023 (FRA 2023), Public Law 118–5, amended NEPA to provide more detailed procedures for environmental reviews. The FRA 2023 amendments require agencies to facilitate timely and unified Federal reviews, develop a