

relationships of the applicant other than those described in this paragraph may constitute special circumstances that would make an award unjust.

Dated: August 6, 1997.

Stuart E. Weisburg,
Chairman.

Daniel Guttman,
Commissioner.

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POSTAL SERVICE

39 CFR Parts 775, 777 and 778

National Environmental Policy Act Implementing Procedures

AGENCY: Postal Service (USPS).

ACTION: Proposed rule.

SUMMARY: This proposal would revise existing procedures and categorical exclusions governing the Postal Service's compliance with the National Environmental Policy Act (NEPA). The proposed amendments are based upon experience with existing regulations and new policies and infrastructure that have been implemented since the restructuring of the Postal Service in 1992. The proposed changes are intended to comply with the requirements of NEPA while improving quality and reducing administrative processes and preparation.

DATE: Comments must be received by September 10, 1997.

ADDRESSES: Please submit written comments to Charles E. Bravo, Manager, Environmental Management Policy, U.S. Postal Service, 475 L'Enfant Plaza SW Room 1P830, Washington, DC 20260-2810, fax (202) 268-6016.

FOR FURTHER INFORMATION CONTACT: Charles A. Vidich, Environmental Coordinator, U.S. Postal Service, 8 Griffin Rd. N., Windsor, CT 06006-7030, phone (860) 285-7254, or Gary W. Bigelow, Senior Counsel, Environmental Law, 4200 Wake Forest Rd., Raleigh, NC 27668-1121, phone (919) 501-9439.

SUPPLEMENTARY INFORMATION: Historically, the U.S. Postal Service has implemented the provisions of the National Environmental Policy Act (NEPA) through policies and procedures established by the Postal Service's Facilities organization. Certainly, most of the "major federal actions" undertaken by the Postal Service have been associated with the construction or disposal of postal facilities. However, in recent years it has become increasingly evident that other postal organizations also have a role in implementing the

provisions of NEPA. The Postal Service is revising its regulations to clarify the scope of the applicability of NEPA.

The proposed changes revise procedures for implementing the requirements of NEPA. They require Postal Service officials to consider potential impacts of major federal actions to the human environment. To properly implement the provisions of the Act, responsible Postal Service officials must perform adequate environmental analyses to determine whether identified impacts are significant. An Environmental Impact Statement (EIS) is required if the impacts are determined to be significant; otherwise, an environmental assessment (EA) is prepared, unless the action is categorically excluded or there is no potential for significant impact.

Responsible officials will complete an environmental checklist to identify potential environmental concerns outside of the NEPA process, such as permitting requirements, and to determine the need for preparing an EA. Although NEPA does not require the preparation of an environmental checklist, it is Postal Service policy to use the environmental checklist as a planning tool to better identify the environmental consequences of proposed actions that have potential for impacts upon the environment.

The proposed changes respond to numerous suggestions for additional categorical exclusions (CATEXs), modifications to existing exclusions, and clarification of the scope of the NEPA requirements. The changes are connected with experience with the types of actions that generally do not require an EA or result in a finding of no significant impact (FONSI). In addition, the Postal Service reorganized in 1992 and its missions, programs, and policies have evolved to meet the requirements of the competitive market and to continue to provide a business-like public service to the American public. Accordingly, the Postal Service needs to make changes to its NEPA regulations consistent with its restructured operation.

In order to produce an update of the CATEXs, the Postal Service reviewed EAs and FONSI that it has issued. It also reviewed other federal agency CATEXs to ensure the appropriateness of the exclusions. The results form the basis for the proposed amendments. The proposed changes are consistent with guidance provided by the Council on Environmental Quality (CEQ), which encourages flexibility in the NEPA implementing procedures to reduce administrative burdens and promote efficiency. The Postal Service has

consulted the CEQ regarding these proposed amendments. The proposed CATEXs would not affect the Postal Service's responsibility for compliance with other applicable federal, state, or local environmental laws, including the Clean Air Act, Clean Water Act, and existing postal floodplain and wetland regulations.

The proposed changes are intended to adjust the Postal Service's normal levels of NEPA review and to add, modify, and clarify classes of actions based upon experience in applying NEPA. The listings do not constitute a conclusive determination regarding the appropriate level of review for a proposed action. The identified categories of CATEXs and actions that normally require an EA presume that the level of review is appropriate. The presumptions do not apply when unusual or extraordinary circumstances related to the action that may affect the significance of the proposed action. An example of an extraordinary circumstance could be the proposed construction of a small structure in the middle of wetlands that harbor protected endangered species.

Description of Proposed Amendments

This section describes the proposed amendments to the Postal Service NEPA regulations at 39 CFR part 775. Subchapter K is renamed Environmental Regulations to more accurately describe the subchapter that contains NEPA and wetland and floodplain regulations. Parts 777 and 778 are redesignated from Subchapter K to the formerly reserved Subchapter L, Special Regulations.

Part 775 is similarly renamed National Environmental Policy Act Procedures. Section 775.1, Purpose, is revised by deleting the language in the second sentence.

Section 775.3(a), Responsibilities, is revised to indicate that the Chief Environmental Officer of the Postal Service is the person responsible for overall development of policy regarding NEPA, and each 39 CFR part 4 officer with responsibility over the proposed program, project, action, or facility is responsible for compliance with NEPA as the responsible official. The officer who is in charge of the facilities organization is responsible for the development of NEPA policy as it affects real estate and construction or disposal of postal facilities. Paragraph (b) is revised to state that environmental coordinators are designated by postal management to assist in compliance with NEPA requirements because the Postal Service has reorganized and renamed many of the groups referenced in the original regulation.

Section 775.4 is a new section with definitions. The Postal Service incorporates by reference those definitions set forth in CEQ's regulations contained in 40 CFR part 1508. Additional definitions pertaining to postal documents or types of officials are also listed.

Existing § 775.4, Typical classes of action, is split up and renamed and renumbered as § 775.5, Classes of Actions, and § 775.6, Categorical Exclusions. Section 775.4(a) is renumbered as § 775.5 and revised to state that the Postal Service does not normally conduct actions requiring an EIS, but will prepare an EIS based on the factors in the CEQ regulations. Classes of actions that normally require EAs have been revised and include:

1. Any project that includes the conversion, purchase, or any other alteration of the fuel source for 25 percent or more of USPS vehicles operating with fuel other than diesel or gasoline in any carbon monoxide or ozone nonattainment area.
2. Any action that would adversely affect a federally listed threatened or endangered species or its habitat.
3. Any action that would directly affect public health.
4. Any action that would require development within park lands, or be located in close proximity to a wild or scenic river or other ecologically critical area.
5. Any action affecting the quality of the physical environment that would be scientifically highly controversial.
6. Any action that may have highly uncertain or unknown risks on the human environment.
7. Any action that threatens a violation of applicable federal, state, or local law or requirements imposed for the protection of the environment.
8. New construction of a facility with vehicle maintenance or petroleum fuel dispensing capabilities, whether owned or leased.
9. Acquisition or lease of an existing building involving new uses or a change in use to a greater environmental intensity.
10. Real property disposal involving a known change in use to a greater environmental intensity.
11. Postal facility function changes involving new uses of greater environmental intensity.
12. Reduction in force involving more than 1000 positions.
13. Relocation of 300 or more employees more than 50 miles.
14. Initiation of legislation.

Paragraph (b) of existing § 775.4, Categorical Exclusions, is revised and renumbered as § 775.6, Categorical

Exclusions. The classes of actions in paragraphs (b) through (e) of this section are those that the Postal Service has determined do not individually or cumulatively have a significant impact on the human environment and, therefore, do not require the preparation of an EA or EIS. In order to be categorically excluded, a proposed action must be based on a determination that the action fits within a class listed and that there are no extraordinary circumstances that may affect the significance of the proposal. Extraordinary circumstances are those unique situations presented by specific proposals, such as scientific controversy about the environmental impacts of the proposal or uncertain effects or effects involving unique resources or unknown risks. The proposed action must also not be connected to other actions with potentially significant actions or is not related to other proposed actions with potentially significant impacts.

The CATEXs are listed in the following order: Those relating to general agency actions; emergency and restoration actions; maintenance and repair actions; and real estate and construction activities. The general agency actions relate to activities that in and of themselves do not normally impact the environment, such as policy development, planning, procurement, training, research, and other administrative processes. The emergency and environmental restoration actions relate to emergency, disaster-related, and environmental restoration or remediation activities. The maintenance and repair actions involve activities that are minor or involve replacement of equipment and upkeep of buildings. Real estate and construction activities concern the acquisition, construction, and disposal of real property.

Paragraph (b) states that the listed CATEXs that relate to general agency actions are classes of actions that have been determined to not have a significant impact upon the environment and therefore do not require an EA or EIS. These are new CATEXs except where indicated.

(1) Policy development, planning, and implementation that relate to routine activities such as personnel, organizational changes, or similar administrative functions.

(2) Routine actions, including the management of programs or activities necessary to support the normal conduct of agency business, such as administrative, financial, operational, and personnel actions that involve no commitment of resources other than manpower and funding allocations.

(3) Award of contracts for technical support services, management and operation of a government-owned facility, and personal services.

(4) Research activities and studies and routine data collection when such actions are clearly limited in context and intensity.

(5) Educational and informational programs and activities.

(6) Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes that do not affect more than 1,000 positions.

(7) Postal rate or mail classification actions, address information system changes, post office name changes, and ZIP Code changes. (Revised and renumbered from existing § 775.4(b)(14).)

(8) Property protection, law enforcement, and other legal activities undertaken by the Postal Inspection Service, General Counsel, the Judicial Officer, and the Inspector General.

(9) Activities related to trade representation and market development activities abroad.

(10) Emergency preparedness planning activities, including designation of on-site evacuation routes.

(11) Minor reassignment of motor vehicles and purchase or deployment of motor vehicles to new locations that do not adversely impact traffic safety, congestion, or air quality. (Revised and renumbered from § 775.4(b)(13).)

(12) Procurement or disposal of mail handling or transport equipment. (Revised and renumbered from § 775.4(b)(13).)

(13) Acquisition, installation, operation, removal, or disposal of communication systems, computers, and data processing equipment.

(14) Postal facility function changes not involving construction, where there are no substantial relocations of employees or no substantial increase in the number of motor vehicles at a facility. (Revised and renumbered from § 775.4(b)(15).)

(15) Closure or consolidation of post offices under 39 U.S.C. 404(b).

(16) Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include, but are not limited to, adding filtration and recycling systems to allow reuse of vehicle or machine oil, setting up sorting areas to improve process efficiency, and segregating waste streams previously mingled and assigning new identification codes to the two resulting streams.

(17) Actions that have an insignificant effect upon the environment as

established in a previously written Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) or Environmental Impact Statement (EIS). Such repetitive actions shall be considered "reference actions," and a record of all decisions concerning these "reference actions" shall be maintained by the Chief Environmental Officer or designee. The proposed action must be essentially the same in context and the same or less in intensity or must create fewer impacts than the "reference action" previously studied under an EA or EIS in order to qualify for this exclusion.

(18) Rulemakings that are strictly procedural, and interpretations and rulings with existing regulations, or modifications or rescissions of such interpretations and rulings.

Paragraph (c) lists emergency or restoration actions that are CATEXs. These are new CATEXs.

(1) Any cleanup, remediation, or removal action conducted under the provisions of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or the Resource Conservation Recovery Act (RCRA), any asbestos abatement actions regulated under the provisions of the Occupational Safety and Health Act (OSHA) or the Clean Air Act, or any polychlorinated biphenyls (PCB) transformer replacement or any lead-based paint abatement actions regulated under the provisions of the Toxic Substances Control Act (TSCA), OSHA, or RCRA.

(2) Testing associated with environmental cleanups or site investigations.

Paragraph (d) lists CATEXs concerning maintenance or repair actions at existing facilities that do not have a significant impact upon the environment. Revised and renumbered CATEXs are indicated.

(1) Siting, construction or operation of temporary support buildings or support structures.

(2) Routine maintenance and minor activities, such as fencing, that occur in floodplains or state and local wetlands or pursuant to the nationwide permitting process of the Corps of Engineers.

(3) Routine actions normally conducted to protect and maintain properties and which do not alter the configuration of the building. (Renumbered from § 775.4(b)(6)).

(4) Changes in buildings required to promote handicapped accessibility pursuant to the Architectural Barriers Act.

(5) Repair to, or replacement in kind or equivalent of building equipment or

components (e.g., electrical distribution, HVAC systems, doors, windows, roofs, etc.). (Revised and renumbered § 775.4(b)(7)).

(6) Internal modifications or improvements to structures or buildings to accommodate mail processing, computer, communication or other similar types of equipment or other actions which do not involve modification to the external walls of the facility.

(7) Joint development and/or joint use projects that only involve internal modifications to an existing facility. (Revised and renumbered from § 775.4(b)(12)).

(8) Noise abatement measures, such as construction of noise barriers and installation of noise control materials.

(9) Actions which require concurrence or approval of another federal agency where the action is a categorical exclusion under the NEPA regulations of that federal agency.

Paragraph (e) concerns CATEXs applicable to real estate actions. Revised and renumbered CATEXs are indicated.

(1) Obtaining, granting, disposing, or changing of easements, licenses and permits, rights-of-way and similar interests. (Renumbered from § 775.4(b)(8)).

(2) Extension, renewal, renegotiation, or termination of existing lease agreements. (Renumbered from § 775.4(b)(11)).

(3) Purchase of Postal Service occupied leased property where the planned postal uses do not differ significantly from the past uses of the site. (Renumbered from § 775.4(b)(10)).

(4) Acquisition or disposal of existing facilities and real property where the planned uses do not differ significantly from past uses of the site. (Renumbered and revised from § 775.4(b)(2) & (9)).

(5) Acquisition of real property not connected to specific facility plans or when necessary to protect the interests of the Postal Service in advance of final project approval. This categorical exclusion only applies to the acquisition. Any subsequent use of the site for a facility project must be considered under this part. (Revised and renumbered from § 775.4(b)(5)).

(6) Disposal through sale or outlease of unimproved real property (Renumbered and revised from § 775.4(b)(9)).

(7) Disposal through sale, outlease, transfer or exchange of real property to other federal or state agencies.

(8) Acquisition or disposal through sale, lease, transfer or exchange of real property that do not involve any increase in volumes, concentrations, or discharge rates of wastes, air emissions,

or water effluents, and that under reasonably foreseeable uses, have generally similar environmental impacts as compared to those before the acquisition or disposal. A determination that the proposed action is categorically excluded can be based upon a previous reference action.

(9) Acquisition or disposal through sale, lease, transfer, reservation or exchange of real property for nature and habitat preservation, conservation, a park or wildlife management.

(10) New construction, Postal Service owned or leased, or joint development and/or joint use projects, of any facility unless the proposed action is listed as requiring an EA in § 775.5 (Revised and renumbered from § 775.4(b)(1)).

(11) Expansion or improvement of an existing facility where the expansion is within the boundaries of the site or occurs in a previously developed area unless the proposed action is listed as requiring an EA in § 775.5.

(12) Construction and disturbance pursuant to a nationwide permit issued by the Corp of Engineers.

(13) Any activity in floodplains being regulated pursuant to Part 776 and which is not listed as requiring an EA in § 775.5.

Section 775.5 is renumbered to § 775.8. No revisions are made to this section.

A new § 775.7 is added entitled Planning and early coordination. This section outlines the necessity for planning and early coordination for all NEPA documents. Operational personnel and facilities personnel must cooperate in the early concept stages of a program or project in order to fully evaluate the ramifications of the proposed action since certain decisions made early in the planning concept may fix later impacts and results.

Section 775.6 Environmental evaluation process is renumbered to § 775.9 and revised extensively. Paragraph (a) is revised to indicate that an environmental checklist can be used to support a record of environmental consideration that a proposed action either was categorically excluded and there were no extraordinary circumstances that may cause the action to have a significant impact upon the environment; or the action clearly indicates the absence of environmental impacts upon the environment; or that the proposed action will require the preparation of an environmental assessment.

The use of the environmental checklist can act as an internal check for the responsible official to assist in the determination that environmental issues have been considered. Although NEPA

does not require the use of a checklist, the Postal Service has found that the use of a checklist can serve important NEPA and non-NEPA functions such as whether a permit may be necessary or further investigations may be required to verify the presence of hazardous substances on a property.

The use of a mitigated FONSI is conditioned upon the implementation of the identified mitigation measures that support a FONSI. When the FONSI relies upon implementation of the proposed mitigation measures, those mitigation measures must be funded and implemented or the FONSI is not valid. Unless the identified mitigation measures are implemented by the responsible official, an EIS must be prepared.

Paragraph (b) is revised to indicate that alternatives to the proposed action are to be considered as well as alternate sites for a new facility. The use of alternative analysis is broader than comparison of alternate sites and the revisions reflect the expansion of NEPA beyond the facilities program and projects. The identification of decision makers have been expanded to reflect that many persons or groups have authority within the Postal Service to make a decision that may impact the environment. The decision to prepare an EIS has been delegated to the responsible officer with authority over that project or program.

Present § 775.7 is renumbered to § 775.10 and revised in paragraph (a) to add a requirement that the EA contain a list of applicable environmental permits necessary to complete the proposed action.

Section 775.8 is renumbered to § 775.11 and revised to change section references.

Section 775.9 is renumbered to § 775.12.

Section 775.10 is renumbered to § 775.13 and revised in (a)(4) to correct the title of the legislative counsel.

Section 775.11 is renumbered to § 775.14 and revised to change section references.

DISTRIBUTION TABLE—Continued

Existing section	New section	Action
775.8	775.11	Amended.
775.9	775.12	Amended.
775.10	775.13	Amended.
775.11	775.14	Amended.

In view of the matters discussed above, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed amendments to part 775 of subchapter K and subchapter L of title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 775

Environmental impact statements.

For the reasons set out in this document, the Postal Service proposes to amend 39 CFR subchapter K, part 775, and subchapter L, parts 777 and 778, as follows:

SUBCHAPTER K—ENVIRONMENTAL REGULATIONS

PART 775—NATIONAL ENVIRONMENTAL POLICY ACT PROCEDURES

1. The authority citation for 39 CFR part 775 is revised to read as follows:

Authority: 39 U.S.C. 401; 42 U.S.C. 4321 *et seq.*; 40 CFR 1500.4.

2. The heading for subchapter K is revised to read as set forth above.

3. The heading of part 775 is revised to read as set forth above.

4. Section 775.1 is revised to read as follows:

§ 775.1 Purpose.

These procedures implement the National Environmental Policy Act (NEPA) regulations (40 CFR part 1500) issued by the Council on Environmental Quality (CEQ).

5. Section 775.3 is revised to read as follows:

§ 775.3 Responsibilities.

(a) The Chief Environmental Officer is responsible for overall development of policy regarding NEPA and other environmental policies. The officer in charge of the facilities or real estate organization is responsible for the development of NEPA policy as it affects real estate or acquisition, construction and disposal of postal facilities consistent with overall NEPA policy. Each officer with responsibility over the proposed program, project, action, or facility is responsible for

compliance with NEPA as the responsible official.

(b) Postal managers will designate environmental coordinators to assist with compliance with NEPA procedures.

§§ 775.5 through 775.11 [Redesignated as §§ 775.8 through 775.14]; § 775.4(a) [Redesignated as § 775.5] and § 775.4(b) [Redesignated as § 775.6].

6. Sections 775.5 through 775.11 are redesignated as §§ 775.8 through 775.14 and § 775.4(a) is redesignated as § 775.5 and § 775.4(b) is redesignated as § 775.6.

7. Newly redesignated § 775.5 is revised to read as follows:

§ 775.5 Classes of actions.

(a) *Actions which normally require an environment impact statement.* None, however the Postal Service will prepare an EIS when necessary based on the factors identified in 40 CFR 1508.27.

(b) *Actions requiring an environmental assessment.* Classes of actions that will require an environmental assessment unless categorically excluded include:

(1) Any project that includes the conversion, purchase, or any other alteration of the fuel source for 25 percent or more of USPS vehicles operating with fuel other than diesel or gasoline in any carbon monoxide or ozone non-attainment area;

(2) Any action that would adversely affect a federally listed threatened or endangered species or its habitat;

(3) Any action that would directly affect public health;

(4) Any action that would require development within park lands, or be located in close proximity to a wild or scenic river or other ecologically critical area;

(5) Any action affecting the quality of the physical environment that would be scientifically highly controversial;

(6) Any action that may have highly uncertain or unknown risks on the human environment;

(7) Any action that threatens a violation of applicable federal, state, or local law or requirements imposed for the protection of the environment;

(8) New construction of a facility with vehicle maintenance or fuel dispensing capabilities, whether owned or leased;

(9) Acquisition or lease of an existing building involving new uses or a change in use to a greater environmental intensity;

(10) Real property disposal involving a known change in use to a greater environmental intensity;

(11) Postal facility function changes involving new uses of greater environmental intensity;

DISTRIBUTION TABLE

Existing section	New section	Action
775.1	775.1	Revised.
775.2	775.2	Unchanged.
775.3	775.3	Revised.
	775.4	New.
775.4(a)	775.5	Revised.
775.4(b)	775.6	Revised.
	775.7	New.
775.5	775.8	Unchanged.
775.6	775.9	Revised.
775.7	775.10	Amended.

(12) Reduction in force involving more than 1000 positions;

(13) Relocation of 300 or more employees more than 50 miles;

(14) Initiation of legislation.

8. In newly redesignated § 775.9, paragraphs (a)(1) through (4), the first sentence in (b)(1), and paragraphs (b)(2), (b)(3), introductory text, and (b)(3)(i) are revised and a new sentence is added after the first sentence in paragraph (b)(1) to read as follows:

§ 775.9 Environmental evaluation process.

(a) *All Actions*—(1) *Assessment of actions.* An environmental checklist may be used to support a record of environmental consideration as the written determination that the proposed action does not require an environmental assessment. An environmental assessment must be prepared for each proposed action, except that an assessment need not be made if a written determination is made that:

(i) The action is one of a class listed in § 775.6, *Categorical Exclusions*, and

(ii) The action is not affected by extraordinary circumstances which may cause it to have a significant environmental effect, or

(iii) The action is a type that is not a major federal action with a significant impact upon the environment.

(2) *Findings of no significant impact.* If an environmental assessment indicates that there is no significant impact of a proposed action on the environment, an environmental impact statement is not required. A “finding of no significant impact” is prepared and published in accordance with § 775.13. When the proposed action is approved, it may be accomplished without further environmental consideration. A “finding of no significant impact” document briefly presents the reasons why an action will not have a significant effect on the human environment and states that an environmental impact statement will not be prepared. It must refer to the environmental assessment and any other environmentally pertinent documents related to it. The assessment may be included in the finding if it is short, in which case the discussion in the assessment need not be repeated in the finding. The FONSI may be a mitigated FONSI in which case the required mitigation factors should be listed in the FONSI. The use of a mitigated FONSI is conditioned upon the implementation of the identified mitigation measures in the EA that support the FONSI. Unless the mitigation measures are implemented

by the responsible official, the use of an EA in lieu of an EIS is not acceptable.

(3) *Impact statement preparation decision and notices.* If an environmental assessment indicates that a proposed major action would have a significant impact on the environment, a notice of intent to prepare an impact statement is published (see § 775.13) and an environmental impact statement is prepared.

(4) *Role of impact statement in decision making.* An environmental impact statement is used, with other analyses and materials, to decide which alternative should be pursued, or whether a proposed action should be abandoned or other courses of action pursued. See § 775.12 for restrictions on the timing of this decision.

* * * * *

(b) * * *

(1) The environmental assessment of any action which involves the construction or acquisition of a new mail processing facility must include reasonable alternatives to the proposed action and not just consideration of contending sites for a facility. This process must be started early in the planning of the action. * * *

(2) When an environmental assessment indicates that an environmental impact statement may be needed for a proposed facility action, the responsible officer will make the decision whether to prepare an environmental impact statement for presentation to the Capital Investment Committee, and to the Board of Governors if the Board considers the proposal.

(3) If an environmental impact statement is presented to the Committee or the Board, and an analysis indicates that it would be more cost-effective to proceed immediately with continued control of sites, (including advance acquisition, if necessary, and where authorized by postal procedures), environmental impact statement preparation, and project designs, a budgetary request will include authorization of funds to permit:

(i) The preparation of an impact statement encompassing all reasonable alternatives and site alternatives,

* * * * *

9. Newly redesignated § 775.6 is revised to read as follows:

§ 775.6 Categorical exclusions.

(a) The classes of actions in this section are those that the Postal Service has determined do not individually or cumulatively have a significant impact on the human environment. A proposed action, to be categorically excluded, is

based upon a determination that the action fits within a class listed and there are no extraordinary circumstances that may affect the significance of the proposal. The action must not be connected to other actions with potentially significant impacts or is not related to other proposed actions with potentially significant impacts.

Extraordinary circumstances are those unique situations presented by specific proposals, such as scientific controversy about the environmental impacts of the proposal; uncertain effects or effects involving unique or unknown risks.

(b) *Categorical exclusions relating to general agency actions:*

(1) Policy development, planning and implementation that relate to routine activities such as personnel, organizational changes or similar administrative functions.

(2) Routine actions, including the management of programs or activities necessary to support the normal conduct of agency business, such as administrative, financial, operational and personnel actions that involve no commitment of resources other than manpower and funding allocations.

(3) Award of contracts for technical support services, management and operation of a government owned facility, and personal services.

(4) Research activities and studies and routine data collection when such actions are clearly limited in context and intensity.

(5) Educational and informational programs and activities.

(6) Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances or other similar causes that do not affect more than 1,000 positions.

(7) Postal rate or mail classification actions, address information system changes, post office name and zip code changes.

(8) Property protection, law enforcement and other legal activities undertaken by the Postal Inspection Service, the Law Department, the Judicial Officer, and the Inspector General.

(9) Activities related to trade representation and market development activities abroad.

(10) Emergency preparedness planning activities, including designation of on-site evacuation routes.

(11) Minor reassignment of motor vehicles and purchase or deployment of motor vehicles to new locations that do not adversely impact traffic safety, congestion or air quality.

(12) Procurement or disposal of mail handling or transport equipment.

(13) Acquisition, installation, operation, removal or disposal of communication systems, computers and data processing equipment.

(14) Postal facility function changes not involving construction, where there are no substantial relocation of employees, or no substantial increase in the number of motor vehicles at a facility.

(15) Closure or consolidation of post offices under 39 U.S.C. 404(b).

(16) Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include but are not limited to, adding filtration and recycling systems to allow reuse of vehicle or machine oil, setting up sorting areas to improve process efficiency, and segregating waste streams previously mingled and assigning new identification codes to the two resulting streams.

(17) Actions which have an insignificant effect upon the environment as established in a previously written Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) or Environmental Impact Statement (EIS). Such repetitive actions shall be considered "reference actions" and a record of all decisions concerning these "reference actions" shall be maintained by the Chief Environmental Officer or designee. The proposed action must be essentially the same in context and the same or less in intensity or create fewer impacts than the "reference action" previously studied under an EA or EIS in order to qualify for this exclusion.

(18) Rulemakings that are strictly procedural, and interpretations and rulings with existing regulations, or modifications or rescissions of such interpretations and rulings.

(c) Categorical exclusions relating to emergency or restoration actions:

(1) Any cleanup, remediation or removal action conducted under the provisions of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or the Resource Conservation and Recovery Act (RCRA), any asbestos abatement actions regulated under the provisions of the Occupational Safety and Health Act (OSHA), or the Clean Air Act or any PCB transformer replacement or any lead based paint abatement actions regulated under the provisions of the Toxic Substances Control Act (TSCA), OSHA or RCRA.

(2) Testing associated with environmental cleanups or site investigations.

(d) Categorical exclusions relating to maintenance or repair actions at existing facilities:

(1) Siting, construction or operation of temporary support buildings or support structures.

(2) Routine maintenance and minor activities, such as fencing, that occur in floodplains or state and local wetlands or pursuant to the nationwide permitting process of the Corps of Engineers.

(3) Routine actions normally conducted to protect and maintain properties and which do not alter the configuration of the building.

(4) Changes in configuration of buildings required to promote handicapped accessibility pursuant to the Architectural Barriers Act.

(5) Repair to, or replacement in kind or equivalent of building equipment or components (e.g., electrical distribution, HVAC systems, doors, windows, roofs, etc.).

(6) Internal modifications or improvements to structures or buildings to accommodate mail processing, computer, communication or other similar types of equipment or other actions which do not involve modification to the external walls of the facility.

(7) Joint development and/or joint use projects that only involve internal modifications to an existing facility.

(8) Noise abatement measures, such as construction of noise barriers and installation of noise control materials.

(9) Actions which require concurrence or approval of another federal agency where the action is a categorical exclusion under the NEPA regulations of that federal agency.

(e) Categorical exclusions relating to real estate actions.

(1) Obtaining, granting, disposing, or changing of easements, licenses and permits, rights-of-way and similar interests.

(2) Extension, renewal, renegotiation, or termination of existing lease agreements.

(3) Purchase of Postal Service occupied leased property where the planned postal uses do not differ significantly from the past uses of the site.

(4) Acquisition or disposal of existing facilities and real property where the planned uses do not differ significantly from past uses of the site.

(5) Acquisition of real property not connected to specific facility plans or when necessary to protect the interests of the Postal Service in advance of final project approval. This categorical exclusion only applies to the acquisition. Any subsequent use of the

site for a facility project must be considered under this part.

(6) Disposal through sale or outlease of unimproved real property.

(7) Disposal through sale, outlease, transfer or exchange of real property to other federal or state agencies.

(8) Acquisition and disposal through sale, lease, transfer or exchange of real property that does not involve an increase in volumes, concentrations, or discharge rates of wastes, air emissions, or water effluents, and that under reasonably foreseeable uses, have generally similar environmental impacts as compared to those before the acquisition or disposal. A determination that the proposed action is categorically excluded can be based upon previous "reference actions" documented under § 775.5(b)(17).

(9) Acquisition and disposal through sale, lease, transfer, reservation or exchange of real property for nature and habitat preservation, conservation, a park or wildlife management.

(10) New construction, Postal Service owned or leased, or joint development and joint use projects, of any facility unless the proposed action is listed as requiring an EA in § 775.5.

(11) Expansion or improvement of an existing facility where the expansion is within the boundaries of the site or occurs in a previously developed area unless the proposed action is listed as requiring an EA in § 775.5.

(12) Construction and disturbance pursuant to a nationwide permit issued by the Corps of Engineers.

(13) Any activity in floodplains being regulated pursuant to § 776 and is not listed as requiring an EA in § 775.5.

10. Section 775.4 is removed, and a new § 775.4 is added to read as follows:

§ 775.4 Definitions.

(a) The definitions set forth in 40 CFR part 1508 apply to this part 775.

(b) In addition to the terms defined in 40 CFR part 1508, the following definitions apply to this part:

Approving official means the person or group of persons, who authorizes funding as established through the delegations of approval authority issued by the finance organization. That person or group of persons may not have proposed the action for which financial approval is sought.

Environmental checklist means a Postal Service form that identifies potential environmental impacts for proposed actions initiated by postal managers.

Mitigated FONSI means a FONSI which requires the implementation of specified mitigation measures in order to ensure that there are no significant impacts to the environment.

Record of environmental consideration means the Postal Service form that identifies the Postal Service's review of proposed activities under NEPA.

Responsible official means the person, or designated representative, who proposes an action and is responsible for compliance with NEPA. For larger projects, that person may not have the financial authority to approve such action. The responsible official signs the NEPA documents (FONSI, ROD) and the REC.

11. In newly redesignated § 775.10, paragraph (a)(4) is added to read as follows:

§ 775.10 Environmental assessments.

(a) * * *

(4) A list of applicable environmental permits necessary to complete the proposed action.

* * * * *

12. A new § 775.7 is added.

§ 775.7 Planning and early coordination.

Early planning and coordination among postal functional groups is required to properly consider environmental issues that may be attributable to the proposed action. Operational and facility personnel must cooperate in the early concept stages of a program or project. If it determined that more than one postal organization will be involved in any action, a lead organization will be selected to complete the NEPA process before any NEPA documents are prepared. If it is determined that a project has both real estate and non-real estate actions, the facilities functional organization will take the lead.

13. Newly redesignated § 775.11 is amended by revising the last sentence of paragraph (a)(1) and by revising paragraphs (b)(2)(ii), (c)(2), (c)(4), (c)(5) introductory text, (c)(5)(iv), and (d)(1) to read as follows:

§ 775.11 Environmental impact statements.

(a) * * *

(1) * * * Notice is given in accordance with § 775.13.

(b) * * *

(2) * * *

(ii) Contain discussions of impacts in proportion to their significance. Insignificant impacts eliminated during the process under § 775.11(a) to determine the scope of issues must be discussed only to the extent necessary to state why they will not be significant.

* * * * *

(c) * * *

(2) Summary. The section should compare and summarize the findings of the analyses of the affected environment, the environmental impacts, the environmental consequences, the alternatives, and the mitigation measures. The summary should sharply define the issues and provide a clear basis for choosing alternatives.

(3) * * *

(4) Proposed action. This section should clearly outline the need for the EIS and the purpose and description of the proposed action. The entire action should be discussed, including connected and similar actions. A clear discussion of the action will assist in consideration of the alternatives.

(5) Alternatives and mitigation. This portion of the environmental impact statement is vitally important. Based on the analysis in the Affected Environment and Environmental Consequences section (see § 775.11(c)(6)), the environmental impacts and the alternatives are presented in comparative form, thus sharply defining the issues and providing a clear basis for choosing alternatives. Those preparing the statement must:

* * * * *

(iv) Describe appropriate mitigation measures not considered to be an integral part of the proposed action or alternatives. See § 775.9(a)(7).

* * * * *

(d) * * *

(1) Any completed draft environmental impact statement which is made the subject of a public hearing, must be made available to the public as provided in § 775.13, of this chapter at least 15 days in advance of the hearing.

* * * * *

14. In newly redesignated § 775.12, the heading is revised to read as follows:

§ 775.12 Time frames for environmental impact statement actions.

* * * * *

15. In newly redesignated § 775.13, paragraph (a)(4) is revised to read as follows:

§ 775.13 Public notice and information.

(a) * * *

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Chief Counsel, Legislative, Law Department, who will have it published in the Federal Register.

* * * * *

16. In newly redesignated § 775.14, paragraph (b) is revised to read as follows:

§ 775.14 Hearings.

* * * * *

(b) The distribution and notice requirements of § 775.11(d)(1) and 775.13 must be complied with whenever a hearing is to be held.

17. A heading for Subchapter L is added to read as follows:

Subchapter L—Special Regulations

18. Parts 777 and 778 are redesignated from Subchapter K to Subchapter L.

PARTS 777 AND 778— [REDESIGNATED TO SUBCHAPTER L]

Stanley F. Mires,

Chief Counsel, Legislative.

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