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**Office of the Director of National Intelligence
Instruction 50.01
Category 50—Facilities**

Office of Primary Responsibility: Chief Operating Officer/Facilities and Mission Services

SUBJECT: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE

1. AUTHORITIES: The National Security Act of 1947, as amended; The National Environmental Policy Act of 1969 (NEPA) as amended (Public Law 91-190, 42 United States Code (U.S.C.) 4321 *et seq.*), and other applicable provisions of law.

2. REFERENCES: NEPA, Title 42 U.S.C. Section 4321 *et seq.*; Administrative Procedure Act (5 U.S.C. Section 551 *et seq.*); Council on Environmental Quality (CEQ) Memorandum for Heads of Departments and Agencies, *Implementation of the National Environmental Policy Act*, 29 September 2025 ("CEQ Guidance"); and ES 2024-01363, Chief Operating Officer Memorandum, *Designation of Senior Agency Officials as NEPA Compliance Officer and Chief Public Engagement Officer*.

3. PURPOSE: This Instruction establishes policy for ODNI compliance with NEPA and Executive Orders in a manner consistent with CEQ guidance.

4. APPLICABILITY: This Instruction applies to ODNI permanent cadre employees, ODNI staff reserve (i.e., time-limited) cadre employees, Highly Qualified Experts, federal civilian detailees, military detailees, Intergovernmental Personnel Act detailees, presidential appointees, special government employees, contractors, and assignees (hereinafter "ODNI personnel").

5. DEFINITIONS: For the purposes of this Instruction, the terms used hereinafter are defined in Appendix A.

6. POLICY: NEPA requires federal agencies to incorporate various environmental

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considerations in their planning and decision-making with regard to a “major federal action” (MFA).

A. ODNI’s program includes actions in three general areas:

(1) Administrative activities, such as budget and finance, management and oversight of grants, and formulation of internal administrative regulations;

(2) Functional activities, such as Intelligence Community activities of analysis, oversight, coordination, and information exchanges; and

(3) Facilities and logistics activities, such as the purchase, maintenance, replacement, displacement of personnel, or installation of equipment for the operation of an existing facility.

B. Many of these activities are routine in nature. Such actions are likely to fall outside the scope of MFAs or to otherwise be excluded from any requirement to develop an environmental document. To date, ODNI is not aware of any action that it has undertaken as the lead agency which constitutes an MFA with reasonably foreseeable significant environmental effects (see 42 U.S.C. Sections 4332(2)(C), 4336(b)). ODNI therefore deems it appropriate to establish its methods and procedures for compliance with NEPA (see 42 U.S.C. Section 102(2)(B)), through this nonregulatory Instruction.

C. ODNI must comply with NEPA where NEPA applies to ODNI’s actions and will incorporate environmental considerations into decision-making processes consistent with ODNI’s mission, statutory requirements, and relevant executive orders. Where applicable, and consistent with the process outlined in this Instruction, ODNI will initiate the NEPA process at the earliest possible time as an effective decision-making tool in the course of identifying a proposed action. During the NEPA process, ODNI will take no action on the proposed activity that would have an adverse impact on the environment or limit the choice of reasonable alternatives.

D. The Environmental Safety and Health Group (ESH), of ODNI’s Facilities and Mission Services (FMS), or its successor, shall be the Office of Primary Responsibility for ODNI’s NEPA efforts and compliance.

E. ESH shall create, maintain, and update, as appropriate, guidance on implementing internal methods, protocols, and procedures, for addressing NEPA matters.

F. ESH will employ the following process to determine whether NEPA applies to a proposed action and, if it applies, what process to follow.

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(1) Where NEPA does not apply, ODNI will move forward as proposed. NEPA does not apply to a proposed action when:

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

(b) The proposed action or decision is exempted from NEPA by law;

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

(d) Congress by statute has prescribed decisional criteria with sufficient completeness and precision such that ODNI retains no residual discretion to alter its action based on the consideration of environmental factors;

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

(f) The proposed action is not a "major federal action" as defined in NEPA, 42 U.S.C. Section 4336e(10). The terms "major" and "federal action" each have independent force. NEPA applies only when both of these two criteria are met.

(2) For proposed actions where NEPA may apply, such as developing a new campus, transferring or purchasing property, replacing underground transmission lines, installing large equipment requiring a new permit or changing an existing permit, or similar actions, ODNI will determine whether a categorical exclusion (CE) already adopted by ODNI and listed in Appendix B, or listed in another agency's NEPA implementing procedures, might apply to the proposed MFA. If the potentially applicable CE is not listed in Appendix B, but it is listed in another agency's NEPA implementing procedures, ESH will follow the process set forth in 42 U.S.C. Section 4336c to adopt and apply the CE, if appropriate. ESH will maintain a list of the adopted CEs in Appendix B.

(3) Where there is no applicable CE as set forth in paragraph 6.F.(2), and ODNI's proposed action is the same or substantially the same as an action that another federal agency reviewed under NEPA, ESH will determine if it can rely on the CE determination, environmental assessment, or environmental impact statement that the other agency prepared for that other agency's action. In such cases, ESH will cite to and briefly describe the content and relevance of the other agency's NEPA document to the action in connection with which ESH has determined ODNI can rely on that document.

(4) If ESH determines with respect to a particular action that ODNI cannot apply a CE listed in Appendix B, adopt and apply a CE per 42 U.S.C. Section 4336c, or rely upon another agency's NEPA document (as described in paragraphs 6.F.(2) and 6.F.(3), above), ESH will consult with CEQ to develop an appropriate procedure for complying with NEPA.

G. ESH shall oversee the planning, development, implementation, and operational phases of NEPA for ODNI MFAs, and engage with other agencies in situations requiring multi-agency coordination for NEPA compliance. In multi-agency situations, ESH shall coordinate with the other agencies to ensure timely NEPA review for all agencies, including preparation and reliance on a single environmental document or CE determination.

H. ESH has consulted and will consult and engage with CEQ when revising and establishing its NEPA implementing procedures, per 42 U.S.C. Section 4332(2)(B).

I. ESH will ensure a periodic review and documentation of ODNI activities for NEPA and environmental compliance.

7. RESPONSIBILITIES

A. The Chief Operating Officer will provide policy oversight.

B. The Deputy Chief Operating Officer, or designee, is designated as the ODNI NEPA Compliance Officer (NCO), and will ensure NEPA compliance.

C. FMS/ESH will:

(1) Implement the ODNI NEPA Program, ensuring implementation is consistent with all applicable federal, state, and local laws, regulations, and Executive Orders;

(2) Engage with the NCO on any matter requiring attention or engagement, including identifying the action proponent, the lead individual for the action proponent, and the appropriate ODNI decision maker(s) for any NEPA-related projects;

(3) Create, maintain, and update, as appropriate, implementation guidance for internal methods, protocols, and procedures for addressing NEPA matters;

(4) Assess situations to determine whether the NEPA process or reviews are warranted, take appropriate actions, and create and maintain relevant documentation;

(5) Provide training and guidance on NEPA compliance to projects, programs, offices, or personnel who submit projects for NEPA review; and

(6) Review any project request submitted for potential environmental impact and determine if the action is an MFA, as well as the level of NEPA review and documentation for proposed ODNI projects.

D. Strategic Communications will include ODNI NEPA information on the ODNI public website to make ODNI NEPA information available to the public.

E. The Chief, Information Management Office, in coordination with the Chief Public Engagement Officer, will prepare and submit for publication all public notices and documentation required under NEPA and this Instruction.

F. ODNI's Office of General Counsel will advise ODNI on all legal matters pertaining to NEPA compliance and coordinate ODNI legal positions with the Department of Justice and U.S. Government Legal Officials, as appropriate.

G. Directorate, Center, and Office (DCO) leadership or designee, will:

(1) Integrate the requirements of this Instruction into their respective mission activities and ensure that any commitments made in NEPA decision documents are implemented as approved and monitored for effectiveness;

(2) Coordinate with ESH on any proposed action requiring NEPA documentation;

(3) Ensure the environmental impacts of the proposed action are taken into consideration during the decision-making processes;

(4) Collaborate with ESH and other parties and stakeholders, both internal and external, to prepare documentation that supports NEPA compliance; and

(5) Facilitate the selection, with the NCO's direction, of the official who shall act as the action proponent, complying with implementation guidance provided by ESH, and handle all duties in accordance with guidance provided by FMS/ESH or the NCO's direction.

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8. EFFECTIVE DATE: This Instruction is effective upon signature.



John H. Douglas
Chief Operating Officer



Date

Appendix A, Definitions
Appendix B, Categorical Exclusions

Appendix A

Definitions

For the purposes of this Instruction, terms have the meaning provided in NEPA Section 111, 42 U.S.C. Section 4336e. In addition:

A. **Action Proponent** means the ODNI DCO that initiates a proposal for an action or project. The general rule is that the action proponent is the organizational component that “controls or leads” the entire proposed action.

B. **Categorical Exclusion** means a category of actions that ODNI has determined, in its NEPA procedures or pursuant to the CE adoption process per 42 U.S.C. Section 4336c, normally does not have a significant effect on the human environment.

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

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

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

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Appendix B

Categorical Exclusions

ODNI has adopted the following categorical exclusions from other agency NEPA implementing procedures, consistent with 42 U.S.C. Section 4336c:

As of the signing of this Instruction, there are no categorical exclusions to identify in this Appendix. This Appendix will be updated as needed.