National Environmental Policy Act (NEPA) Environmental Assessment (EA) Guidance for Northern Border Regional Commission (NBRC) Applicants

Guidance Overview[1]

This guidance is for NBRC applicants that need to complete an Environmental Assessment (EA) for the purposes of compliance with NEPA as a requirement to receive NBRC funding. This guidance is an overview of the process that provides 1) an introduction to NEPA, and 2) an overview of what information should be included in an EA. It is not a comprehensive step-by-step guide on how to complete an EA and does not detail all required process steps. Applicants should use this guide to gain a basic understanding of EA requirements but should continue to coordinate with NBRC to ensure all proper NEPA process steps are completed.

What is NEPA?

NEPA is a long-standing statute, signed into law in 1970, that establishes the continuing responsibility of the federal government to balance social and economic goals with environmental sustainability. NEPA is a decision-making tool intended to foster better and more informed decisions by the federal government and to provide for public input into the decision-making process. NEPA requires that federal agencies consider the potential impacts of their actions on the human environment before taking action. For the purposes of NEPA, the human environment includes the typical environmental resources such as air and water quality, but also includes other resources such as the character of historic structures and socioeconomic impacts. NEPA does not require a particular course of action be taken, but it can help federal agencies identify a preferred action in light of potential environmental impacts, alongside economic and technical considerations. NEPA is triggered when a federal agency proposes to engage in any action that may have environmental effects, such as providing grant funding to an applicant.

What is an EA?

The purpose of an EA is to determine if the Proposed Action will result in significant impacts on the human environment. See the figure below for an overview of the high-level steps of an EA analysis.

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[1] This guidance is consistent with the 2022 Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) that went into effect on May 20, 2022. Phase 2 of the notice of proposed rulemaking published on October 7, 2021 is still forthcoming. This guidance is subject to change if/when the second phase of this rulemaking is complete.

Sample EA Table of Contents

A sample Table of Contents is provided below to give an overview of what should be included in an EA document. A description of what should be included in each section identified in this Table of Contents is provided in the following sections.

1   Purpose and Need

1.1 Background

The background section should 1) describe NBRC's involvement with the project as a federal funder, and 2) state the requirement that the Proposed Action must comply with NEPA. Sample language that may be included in this section is provided below:

> *The Northern Border Regional Commission (NBRC) is a federal-state partnership that funds economic and community development within the most distressed counties of Maine, New Hampshire, Vermont, and New York. Receipt of funding from NBRC's programs requires compliance with the National Environmental Policy Act (NEPA).*

1.2 Purpose and Need

The purpose and need for the Proposed Action must clearly identify the problem you are trying to address and must answer the question "Why is the action being proposed?".

- **Purpose:** A concise statement of the objective that you are trying to achieve. What is the desired outcome? The defined purpose must be specific to the goal of the project, but general enough to allow for the consideration of reasonable alternatives.
- **Need:** A brief description of the problem you are trying to address.

1.3 Purpose of the EA

This section includes a description of what an EA analysis entails and the purpose of preparing the analysis. Sample language that may be included in this section is provided below:

The purpose of this EA is to evaluate the potential environmental impacts of the Proposed Action to support NBRC in determining whether to fund the project. This EA has been prepared pursuant to Section 102(2)(c) of NEPA, (42 USC 4321 et seq.) and the regulations of the Council on Environmental Quality (40 CFR Parts 1500- 1508). NEPA requires that federal agencies consider the effects of a proposed action and any reasonable alternatives on the human environment.

The information presented in this document will serve as the basis for deciding whether implementing the Proposed Action would result in a significant impact on the environment, requiring the preparation of an Environmental Impact Statement (EIS) or that no significant impacts would occur, which would therefore make a Finding of No Significant Impact (FONSI) appropriate. This EA evaluates the impacts of actions resulting from implementation of the Proposed Action as compared to the No Action alternative.[2]

1.4 Public Notice and Participation

This section only needs to be included in the Final EA document. The Final EA should include a summary of the public notice period that was conducted and whether comments were received. If comments were received, this section should include a summary of the comments and explain how the comments were considered and/or incorporated in the Final EA. Public comments should also be appended to the final EA.

2 Description of Alternatives

2.1 Proposed Action

The description of the Proposed Action provided for the purposes of an EA is often different from the project description you may have provided for the NBRC application process. The description of the Proposed Action should be focused on what will physically be taking place in order to carry out the Proposed Action. See below for a list of questions that should be considered when writing the description of the Proposed Action. All of the questions listed below do not need to be addressed for every Proposed Action but are included to provide some guidance on what type of information should be included.

Renovation/construction of buildings:
- If the Proposed Action involves renovation, what is the structure currently used for and what are the specific renovation activities that will be carried out (ex. demolition or construction of walls, installation of new equipment)?
- If the Proposed Action involves new construction of a building, what is the square footage of the proposed building footprint?
- Does the project scope involve the establishment of transportation infrastructure, such as a driveway or parking area?
- Does the Proposed Action require establishing or improving public infrastructure (such as water, energy, or broadband) to serve the building?
- How will the facility be utilized after construction/renovation is complete (ex. office space, a community center, business incubator space, workforce training space, health clinic)?

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[2]Additional alternatives should be listed here if more are being considered as part of the EA analysis (see Section 2.2 for more information on alternatives).

Establishment/improvement of infrastructure:
- What type(s) of infrastructure will be newly established or improved as part of the Proposed Action? Examples Include:
    - Public infrastructure (such as water, energy, or broadband)
    - Transportation infrastructure (such as roads, railways, airport infrastructure, railway or bus stations, or refueling depots)
    - Outdoor recreation infrastructure (such as bike trails, bridges, resource conservation, or signage)
- What is the approximate land area where development will take place and what will physically need to take place to construct or improve the infrastructure?

All project types:
- What is the current use of the project location and the surrounding area?
- Does the Proposed Action involve demolition?
- What will be required for site preparation?
- What ground disturbing activities will be required (if any)?
- Will any vegetation be removed?
- What tools/equipment/machinery will be used?
- What is the anticipated schedule of the project and what phases are involved?

Multiple paragraphs may need to be drafted to fully describe the Proposed Action. Visual tools such as maps and photographs of the Proposed Action's location and the surrounding area should also be included within this section to assist with clearly presenting the scope of the Proposed Action.

2.2 Alternatives (Optional)

For an EA, the analysis of reasonable alternatives to the Proposed Action is recommended but not required. Alternatives considered should meet the defined purpose and need of the Proposed Action and must also be technically and economically feasible. If an alternative does not meet these qualifications, it should not be analyzed under the EA. If one or more alternatives are identified, they should be described with the same level of detail as the Proposed Action (as described in Section 2.1 above). The potential environmental impact of each alternative identified is analyzed along with the Proposed Action in the Environmental Impacts Analysis section of the EA (discussed in more detail later).

2.3 No Action Alternative

EAs must, at minimum, consider the No Action Alternative. The description of the No Action Alternative is generally brief and provides an overview of the conditions and trends that would continue if no action were taken. The No Action Alternative provides the context of environmental impacts that would result if the Proposed Action was not implemented and "business as usual" were to continue. The No Action Alternative does not satisfy the purpose and need, but it establishes an environmental baseline against which potential impacts and their significance can be analyzed. The potential environmental impact of the No Action Alternative is analyzed along with the Proposed Action in the Environmental Impacts Analysis section of the EA (discussed in more detail later).

3 Affected Environment

The Affected Environment section describes the existing conditions of resources that have the potential to be impacted by the Proposed Action. The Affected Environment section should begin by defining the affected environment boundary, which is the geographic scope that will be considered in the EA analysis.

This should be done by defining the affected environment boundary on a map and should be defined more broadly than the Proposed Action's location. The affected boundary map can be created by annotating publicly available satellite imagery (such Google Maps), or you can use other software that may be available to you (such as GIS).[3]

The affected environment includes the existing properties, land, and environmental resources within the defined affected environment boundary, as well as current environmental, development, demographic, and economic trends of the area. Information provided in the Affected Environment section should not speak to how the Proposed Action will fit into or impact the existing conditions or trends of the area; this information is discussed in the Environmental Impacts Analysis section that follows.

Within the Affected Environment section, there should be a subsection for each resource area that has the potential to be impacted by the Proposed Action. The table provided below provides the following guidance: 1) identifies some resource areas you may include as subsections in the Affected Environment section for your EA, 2) provides some questions to consider when defining the affected environment for each resource area, and 3) lists some sources you may utilize in order to gather the information needed to adequately define the affected environment.

The guidance provided in the table below is not intended to be comprehensive. There may be other resource areas that are specific to a particular project location or Proposed Action that should also be considered. Alternatively, there may be some resource areas listed below that are not applicable to your Proposed Action and do not need to be included as part of the affected environment. Furthermore, all of the questions listed below do not need to be addressed for every Proposed Action but are included to provide some guidance on what type of information should be included for each resource area. **The preparer of the EA must complete their due diligence to identify and utilize the best available information to define the affected environment for all relevant resource areas, including current conditions and trends (in some cases this may include performing site visits/field work to gather sufficient data).** The affected environment for each resource area should incorporate maps, graphics, and other data as applicable.

Resource Areas, Guidance, and Information Sources for defining the Affected Environment
Land Use and Zoning
Questions to consider when defining the affected environment for this resource area: • What is the current land use of the affected environment area? • What are the current zoning requirements of the affected environment area? • Are there any land use plans/restrictions at the local, regional, state, or federal level for the affected environment area?
Information Sources: • Existing land use plans • State-level land use planning laws and resources

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[3] The guidance in this section assumes that the affected environmental boundary identified for the Proposed Action is also applicable to the other alternatives that are being considered under the EA analysis. However, in some circumstances an alternative may require a separate affected environment boundary and corresponding Affected Environment section be developed.

Resource Areas, Guidance, and Information Sources for defining the Affected Environment
Transportation
Questions to consider when defining the affected environment for this resource area:
• What transportation infrastructure is currently in the area (including public transportation and parking infrastructure)? • What is the condition of the existing transportation infrastructure? • Is the existing transportation infrastructure sufficient for the current transportation needs of the area?
Information Sources:
• Existing land use and/or transportation plans
Aesthetics
Questions to consider when defining the affected environment for this resource area:
• What are the current aesthetics of the area? This includes the natural and built visual components and considers the visual character and quality. • Are there any current trends of the development/aesthetics of the area?
Information Sources:
• Local municipal/community plans
Air Quality
Questions to consider when defining the affected environment for this resource area:
• What is the current air quality in the area? • Is the affected environment area identified as being a non-attainment or maintenance area for any of the criteria pollutants identified in the Clean Air Act? • Are there any land uses or populations within the affected environment area that are particularly sensitive to air quality?
Information Sources:
• EPA's Nonattainment of Criteria Pollutants Green Book (can be searched by state)
Geology, Topography, and Soils
Questions to consider when defining the affected environment for this resource area:
• What is the topography of the area and does this limit what can be done at the proposed project location? • What is the soil and geologic makeup of the area and does this limit what can be done at the proposed project location? • Does the project location have a history of earthquakes or other seismic activity?
Information Sources:
• USGS The National Map • NRCS Web Soil Survey • Geological studies conducted for the proposed project location
Prime and Unique Farmland
Questions to consider when defining the affected environment for this resource area:
• Does the affected environment area contain prime or unique farmland, or farmland of statewide importance?
Information Sources:
• NRCS Web Soil Survey • TIGERweb (urban areas, as designated by the US Census Bureau, are exempt from the Farmland Protection Policy Act)
Solid and Hazardous Waste
Questions to consider when defining the affected environment for this resource area:
• Is there existing solid or hazardous waste at the proposed project location? • What is the capacity of local waste facilities? • Are there any existing waste management associated with the existing facility or project area?
Information Sources:
• Local municipal/community plans • Waste management protocols at an existing facility

Resource Areas, Guidance, and Information Sources
for defining the Affected Environment

Contaminated Sites

Questions to consider when defining the affected environment for this resource area:

- Does the affected environment area contain sites that have known hazardous material, contamination, toxic chemicals, gasses, or radioactive substances (such as a Brownfield or Superfund site)?

Information Sources:

- State-level contaminated sites database
- EPA Corrective Action Sites

Energy

Questions to consider when defining the affected environment for this resource area:

- What are the energy sources available for the project area?
- What is the energy capacity of the energy provider in the project area?
- Does the project area have a history of energy shortages or outages?
- If the Proposed Action involves an existing facility, does the facility have an energy usage or conservation plan in place?

Information Sources:

- Local, municipal, county, or metropolitan region's energy plans, codes, and policies (including climate action plans)
- A facility's energy usage or conservation plan

Noise

Questions to consider when defining the affected environment for this resource area:

- What are the current noise sources in the project area (consider surrounding land use and transportation)?
- If the Proposed Action involves an existing facility, do the current operations contribute to community noise levels?
- Are there any noise sensitive uses located within the affected environment area?
- Are there existing community noise ordinances for the project area?

Information Sources:

- Publicly available maps to identify potential noise sources / noise sensitive facilities/uses
- Traffic count information from the state's department of transportation (or similar)
- AirNav for aircraft operation information
- Federal Railroad Administration for rail operations
- Local municipal/community plans

Federally Protected Species

Questions to consider when defining the affected environment for this resource area:

- Is the affected environment area identified as having the potential for federally threatened or endangered species to be present? If yes, what are the habitat requirements of the listed species?
- Does the affected environment area contain the habitat requirements of the listed species?
- Does the affected environment area contain critical habitats?
- Is the affected environment area identified as having the potential for migratory birds or birds of conservation concern to be present?

Information Sources:

- US Fish & Wildlife Service Information for Planning and Consultation (IPaC)
- US Fish & Wildlife Environmental Conservation Online System (ECOS)

Vegetation, Wildlife, and Habitat

Questions to consider when defining the affected environment for this resource area:

- What vegetation is present within the affected environment area?
- What wildlife and habitat are present within the affected environment area?
- What are the habitat needs and requirements of the wildlife present?
- Is the wildlife in the area sensitive to noise?
- What are the breeding seasons of the wildlife in the area?

Information Sources:

- Biological studies conducted for the proposed project location

Resource Areas, Guidance, and Information Sources for defining the Affected Environment

Floodplains

Questions to consider when defining the affected environment for this resource area:

- Is the proposed project location in a Federal Flood Risk Management Standard (FFRMS) floodplain as defined by Executive Order 13690?
- Is there a history of flooding and what are the future trends for floods/major storm events in the affected environment area?
- If the Proposed Action involves an existing facility, does the facility currently maintain flood insurance or have any other flood mitigation measures in place (such as building elevation or an evacuation plan)?

Information Sources:

- FEMA Flood Map Service Center
- Sea Level Rise and Coastal Flood Web Tools Comparison
- National Oceanic Atmospheric Administration (NOAA) Sea Level
- Project area's Hazard Mitigation Plan (if available)
- Project area's Discovery Report developed from a RiskMAP process (if available)

Wetlands

Questions to consider when defining the affected environment for this resource area:

- Are there any federally or state mapped wetlands located within the affected environment area?
- Are there any unmapped wetlands located within the affected environment area?

Information Sources:

- National Wetlands Inventory
- State-level wetland database

Surface Water

Questions to consider when defining the affected environment for this resource area:

- Are there any surface water resources within the affected environment area? If yes, what is the water quality of the surface water resource?
- Is surface water the water source for the project area?

Information Sources:

- State-level database on surface waters/impaired waters

Groundwater

Questions to consider when defining the affected environment for this resource area:

- Are there any groundwater resources within the affected environment area? If yes, what is the water quality of the groundwater resource?
- Is groundwater the water source for the project area?
- Is there a sole source aquifer (SSA) that is utilized as the primary drinking water resource for the project area? If yes, what is the current capacity of maintaining the viability of the SSA?

Information Sources:

- EPA Map of Sole Source Aquifer Locations
- State-level database on groundwater/impaired waters

Federally Protected Water Resources

Questions to consider when defining the affected environment for this resource area:

- Is there a Wild & Scenic designated river located within the affected environment area?
- Is there a Nationwide River Inventory (NRI) river located within the affected environment area? If yes, what is/are the outstandingly remarkable value(s) of the river segment in question?
- Is the proposed project location in proximity to a coastal zone, as defined by the Coastal Zone Management Act (CZMA)?
- Is the proposed project location in proximity to a coastal barrier resource system, as defined by the Coastal Barrier Resources Act (CBRA)?

Information Sources:

- Wild and Scenic Rivers Map
- National River Inventory Map
- Coastal Barrier Resource System Mapper
- Coastal Zone Management Programs

Resource Areas, Guidance, and Information Sources for defining the Affected Environment
Historic Structures
Questions to consider when defining the affected environment for this resource area:
• Does the affected environment area contain a designated historic district?
• Are there any structures within in the affected environment area that are currently listed on the National Register of Historic Places or eligible for listing?
• Are there any structures within the affected environment area 50 years of age or older?
• Are there any historical monuments or landmarks located within the affected environment area?
Information Sources:
• National Register of Historic Places Map
• Applicable state register of historic places
• Applicable State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO)
Archaeological Resources
Questions to consider when defining the affected environment for this resource area:
• Are there any known archaeological resources at the proposed project location?
• Does the proposed project location present the potential of being archaeologically sensitive?
Information Sources:
• In order to discourage looting, data bases of archaeological locations are typically not available to the general public. If your Proposed Action involves ground disturbing activities, you should consult with the applicable SHPO and/or THPO for your project location. You might also need to engage with a professional archeologist to gather sufficient information about your proposed project location with respect to archaeological resources.
Environmental Justice
Questions to consider when defining the affected environment for this resource area:
• Are there environmental justice communities in the affected environment area?
Information Sources:
• EPA's Environmental Justice Screening and Mapping Tool

4 Environmental Impacts Analysis

The purpose of the impacts analysis is to determine if the Proposed Action and alternatives have the potential to result in significant environmental impacts or not. Within the Environmental Impacts Analysis section, there should be a subsection for each resource area that was identified in the Affected Environment section. Each resource area section should address the following questions:

- o How does the Proposed Action present the potential to impact this resource area?
- o How does this resource area present the potential to impact the Proposed Action?
- o Compliance/consultation for any other local, regional, state, tribal, or federal environmental requirements triggered by the Proposed Action should also be discussed in the Environmental Impacts Analysis section under the applicable resource area. Examples include if the Proposed Action requires a wetland permit from the Army Corps of Engineers or consultation under Section 106 of the National Historic Preservation Act.
- o Potential impacts should be clearly stated and defined in terms of short-term, long-term, direct, and/or indirect.
- o The identification of any best management practices and/or mitigation measures that would be implemented to reduce or avoid impacts.
- o A clear conclusionary statement that states whether the Proposed Action results in significant impacts to the resource area or not. Significance considers the context and intensity of the impacts as it relates to the existing environment, the Proposed Action, and the environmental baseline defined by the No Action Alternative.

Under some circumstances, it may be appropriate to dismiss resource areas that were discussed within the Affected Environment section from further analysis. This should only be done if there is no potential for the Proposed Action to impact the resource area in question. For example, if the data gathered for the Affected Environment determined that there were no mapped or unmapped wetlands in proximity to the proposed project location, it would generally be appropriate to dismiss wetlands from further analysis. Alternatively, if analysis is required to determine that the Proposed Action would not impact the resource in question, the resource should not be dismissed from analysis. For example, if the Proposed Action takes place within a historic building or historic district, this resource area should not be dismissed from analysis, even if the determination is that the Proposed Action will result in no impacts to this resource. Because the resource area is present, analysis is required to make this determination; therefore, dismissal is not appropriate. If the dismissal of one or more resource area(s) is appropriate, the Environmental Impacts Analysis should begin with a section that identifies what resource area(s) have been dismissed from further analysis, including a short description as to why the Proposed Action does not present the potential to impact the resource area.

It is important to note that the Environmental Impacts Analysis is critical to the EA, as the purpose of the EA is to determine if the Proposed Action will result in significant impacts to the human environment. Even though the guidance in this section is brief, the impacts analysis in the EA should be commensurate to the potential for impacts and should not necessarily be brief unless warranted for your project. Based on the scope of the Proposed Action, the existing conditions of the environment, and the other regulatory requirements that may be triggered, the content of the Environmental Impacts Analysis will vary significantly between EAs. However, a sufficient Environmental Impacts Analysis will address the high-level questions listed above.

4.1 Cumulative Effects

The Environmental Impacts Analysis section must identify and include an analysis of potential cumulative effects. Cumulative effects are effects on the environment that result from the incremental effects of a Proposed Action when added to the effects of other past, present, and reasonably foreseeable actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.1(g)(3)).

4.2 Summary of Impacts

It is often helpful for the Environmental Impacts Analysis section to end with a summary table that identifies all of the best management practices, mitigation measures, and required permits (or similar) that were identified as a result of the Environmental Impacts Analysis.

4.3 Determination

An EA should conclude with a clear statement determining if the analysis presented supports a Finding of No Significant Impact (FONSI), or if the Proposed Action will result in significant impacts.

If the EA for your Proposed Action results in a FONSI, after the required public comment period has passed (see Section 1.4 above), NBRC will develop and sign a decision document known as a FONSI. This FONSI will indicate the completion of the EA process. The FONSI may include mitigation that you are required to implement as part of your project.

Appendix A: List of Preparers

A list of preparers is required to be included as part of the EA document and should include…

Appendix B: References

A reference section should be included to provide the list of references cited throughout the EA.

Appendix C: Supporting Documentation

Additional appendices should be provided as needed to include relevant maps, reports, consultation letters, studies, and other supporting documentation that was referenced but not included in the body of the EA.