National Association of Environmental Professionals
Be Connected

2150 N 107th St. #205
Seattle, WA 98133

(206) 209-5286
www.naep.org
office@naep.org

March 10, 2020

Council on Environmental Quality
730 Jackson Place, NW
Washington, DC 20503

NAEP Comments on Proposed Rulemaking – Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act – Docket CEQ-2019-0003

Dear Associate Director Edward Boling,

The National Association of Environmental Professionals (NAEP) is an interdisciplinary organization dedicated to developing the highest standards of ethics and proficiency in the environmental profession. We represent more than 5,000 members and affiliated environmental professionals working across the country in the public and private sectors. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., has been a major focus area of the NAEP for many years and we work closely with CEQ and other agencies and organizations to promote efficient and effective compliance with NEPA.

We respectfully submit the attached comments on the subject notice of proposed rulemaking (NPRM). While the current NEPA regulations have been and remain effective, we support their updating to incorporate recent and evolving practices. We also support the continuing efforts to improve NEPA practices with the ultimate goals of more effective public involvement and improve decision-making. A hallmark of the current NEPA regulations has been their flexibility. As noted in our comments, some of the proposed revisions reduce this necessary flexibility and impose unnecessary constraints.

Thank you for consideration of these comments. We look forward to continuing to work closely with CEQ and other agencies to improve the implementation of NEPA. Should you have any questions about our comments, please contact Charles P. Nicholson at cpnicholson53@gmail.com or (865) 405-7948.

Sincerely,

Betty J. Dehoney, CEP, PMP, ENV SP
President, NAEP

Charles P. Nicholson, PhD
Chair, NAEP NEPA Practice

National Association of Environmental Professionals

Comments on Proposed Rulemaking Updating the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500 – 1508, Docket CEQ-2019-0003

Part I, Section K. CEQ Guidance Documents

The NPRM on page 1710 states that following the final rulemaking, CEQ will withdraw all previous NEPA guidance. We strongly oppose this withdrawal. Many of the changes in the proposed rulemaking codify practices that are the subject of this guidance. The relevant guidance usually provides much more detail on the practices than will be available in the final rulemaking. Other guidance documents describing process that are not codified in the proposed rulemaking contain practical and useful information helpful to NEPA practitioners, National Historic Preservation Act practitioners (the NEPA and NHPA integration handbook), and the general public (the Citizens Guide). In the event that particular items in the existing guidance conflict with the final rulemaking, CEQ should continue to make the guidance available but add a sheet pointing out the conflicting parts of the guidance. We are not aware of conflicts between the proposed rulemaking and the entirety of any current guidance. Based on the rate at which CEQ has issued guidance over the last several years and its need to process upcoming revisions to agency NEPA procedures, it will likely be many years before CEQ replaces all of the existing guidance with updated versions.

Public Involvement

Public involvement is embedded in NEPA and specifically required in several sections of the act. The proposed rulemaking makes several changes to public involvement during the NEPA process. Some of these changes will increase public involvement while others will have the opposite effect.

We strongly oppose the revision to §1500.3(c) authorizing agencies to impose bond or security requirements as a condition for challenging an agency's action under NEPA. This will have a chilling effect on NEPA litigation and likely result in irreparable harm that may otherwise have been avoided by an injunction. See *Critics Flag Host of Measures in NEPA Proposal That Chill Public Input*, Inside EPA, Jan. 31, 2020. We do not understand the justification for the statement in §1500.3(d) that "These regulations do not create a cause of action or right of action for violation of NEPA, which contains no such cause of action or right of action." A violation of a duly promulgated regulation in the CFR is a violation of law, which, in the case of NEPA, includes the Administrative Procedures Act (5 U.S.C. §702). This statement has consequences in terms of accountability, judicial review, and potential recourse for concerned and affected members of the public and may not survive a court challenge.

We support the requirement in §1507.4(a) that agencies provide a website or other means with information about their NEPA process, and a directory of final and pending NEPA documents, including all environmental assessments (EAs) and environmental impact statements (EISs). At a minimum, recently completed NEPA documents, NEPA documents for projects that are under construction, and NEPA documents for long-term plans that are in effect should be posted on the website. The websites should be user-friendly and not require a complex docket search, as is currently the case with online NEPA documents issued by some agencies.

We support the statements in several parts of the proposed rule (e.g., §§1502.21, 1503.1, 1506.6, 1508.1) encouraging the use of electronic communications. The various forms of electronic communication must be designed in a readily understandable and intuitive manner with user-friendly interfaces. This is particularly important for online commenting, where some systems currently used by agencies do not meet these standards. As noted on page 1710 of the NPRM, however, the lack of electronic communications resources suitable for fully participating in the NEPA process persists in many parts of the country, both rural and urban. Many communities lacking these resources have high proportions of minority and low income residents and some have historically been disproportionately

affected by the adverse environmental impacts of a range of actions. Agencies must continue and increase efforts to fully involve all of the affected public in the NEPA process.

§1500.3(a) NEPA Compliance – Mandate

This section contains the following: "[a]gency NEPA procedures to implement these regulations shall not impose additional procedure or requirement beyond those set forth in these regulations, except as otherwise provided by law or for agency efficiency." This sentence limits agencies in different ways that would be contrary to improved agency decisionmaking. First, agencies differ in their efforts to meet the policy established in NEPA Section 101, which is implemented in part through the NEPA review process established in NEPA Section 102. An agency may, for example, conduct increased public participation and involvement or other NEPA processes that extend beyond the limits in the NPRM, leading to a better decision and more fully meeting the goals of the law. Second, the language is vague and unclear; agencies will have difficulty meeting the spirit and intent of this proposal, especially, when they must undergo Office of Management and Budget review.

§1501.1 NEPA Threshold Applicability Analysis

One of the factors listed in determining whether NEPA applies is (a)(1) “Whether the proposed action is a major Federal action.” It is long established NEPA practice, long supported by case law, part of §1508.18 in the current regulations, and NEPA §102(2)(C), that major does not have a meaning independent of significantly and both major and significant are relevant to the decision of whether to prepare an EIS and not whether NEPA applies. “Major Federal action” is defined in §1507.4(q), in part, as a Federal action with effects that may be significant. This reinforces the need to prepare an EIS for major Federal actions. §1501.1(a)(1) therefore states that NEPA does not apply to proposed actions that are not major Federal actions, and under the current NEPA regulations would be the subject of an environmental assessment or eligible for a categorical exclusion.

§1501.1(a)(2), the applicability criteria of whether the proposed action is in whole or in part non-discretionary, is unnecessarily vague. The boundaries of this discretion need to be more particularly described. For example, what is the threshold for the proportion of the proposed action that is non-discretionary that determines whether NEPA applies? Is this to be determined through litigation? Are agencies to define the threshold in their NEPA procedures? This will result in different agencies defining different thresholds, and therefore different levels of environmental impacts that result from their actions but exempted from NEPA review. This is likely to result in unforeseen consequences, including litigation.

Overall, §1501.1 promotes the concept that an increased proportion of agency actions are not subject to NEPA. This is contrary to NEPA Sections 101 and 102.

§1501.1(a)(3) and §1506.9 Functional Equivalents of NEPA

These sections state that NEPA does not apply to actions that are the subject of environmental review processes that are the functional equivalent of NEPA. Such functionally equivalent processes are at present extremely limited and mostly or entirely actions undertaken by the Environmental Protection Agency. Courts have rejected arguments by some other agencies to substitute processes the agencies claim are functional equivalents. Such processes claimed to be functional equivalents are often not equivalent due to restricted public involvement, limited range of action alternatives, and narrow scope of impact analyses, including the omissions of specific requirements listed in NEPA Section 102(2)(C). The purported functionally equivalent documents, including documents produced by the Environmental Protection Agency, are also often highly technical and much less reader-friendly than are well-written EAs and EISs. We believe that the substitution of functionally equivalent processes and documents will be best remain very limited and oppose its widespread use.

§1501.4 Categorical Exclusions

We support the establishment of government-wide categorical exclusions. Due to the large differences in agency actions and missions, we recommend that the actions addressed in such categorical exclusions be limited to routine administrative actions and other actions that normally have no or very minimal direct effect on the environment. Agencies with such categorical exclusions do not, however, normally review the actions they address for extraordinary circumstances or document eligibility determinations each time the actions are taken. Therefore, we believe the establishment of government-wide categorical exclusions will result in minimal time savings, cost savings, or other efficiencies.

The explanation of the revised §1501.4 on page 1696 states that it provides additional clarity on the process of applying a categorical exclusion. “Extraordinary circumstances,” however, remains undefined in the proposed regulations and subject to different interpretations by different agencies. We note that the practice of categorically excluding actions where potentially significant impacts are mitigated to insignificant levels is already common practice at some agencies. With the proposed revision to §1501.4(1), we are concerned that agencies will increasingly use categorical exclusions with multiple required, substantial mitigation measures necessary to avoid significant impacts and comply with multiple other environmental regulations. Such actions would otherwise likely have been the subject of environmental assessments with public involvement. Many Federal agencies have little or no public involvement in making categorical exclusion determinations and categorically exclude actions with otherwise multiple potentially significant impacts is contrary to the public involvement spirit of NEPA. This may be an invitation for litigation.

§1501.5 Environmental Assessments

§1501.5(c)(2) states that EAs briefly discuss alternatives as required by section 102(2)(E) of NEPA. This discussion must include sufficiently detailed descriptions of the action alternatives that allow a reader to evaluate the accuracy of the descriptions of the environmental impacts. The EA should also contain a discussion of any alternatives it eliminated from detailed analysis, including those suggested in public comments, and a discussion of the reasons the alternatives were eliminated.

§1501.5 and 1502.7 Page Limits

Complex proposals with multiple reasonable alternatives can require lengthy EAs and EISs. Text that otherwise would have been in the body of the EA or EIS will be moved to appendices, resulting in more summary descriptions of alternatives, existing environment, and environmental consequences in the body of the EA or EIS. This may make the body of the EA or EIS more readable, as it will contain less detailed information. It will, however, be necessary for readers to read detailed explanations in appendices to fully understand the alternatives and their impacts. We do not see how this will substantively reduce preparation time or cost. We also question how CEQ determined that 75 pages is an appropriate page limit for EAs.

While §1501.5 and 1502.7 allow for increased page limits upon written approval by the “senior agency official” who is unlikely to be the decision-maker, this approval process is likely to cause delays in meeting the EA and EIS time limits. This concern also applies to the senior agency official written approval required to exceed the §1501.10 time limits.

§1501.6 Finding of No Significant Impact

§1501.6(a)(2) should be revised to state that the agency should provide a draft of the environmental assessment and a draft of the finding of no significant impact available for public review before making the formal determination of whether an EIS is necessary. Providing only the draft finding for review will not provide the public with sufficient information to evaluate its conclusions.

§1501.6(c) requires agencies to state the “means of and authority for” included mitigation measures. We understand “means of” to be a listing of the mitigation measures that will be implemented. This is already a standard practice at many agencies. We presume “authority for” means stating the statute that requires the particular mitigation measure. More clarification and examples of this would be helpful. Is NEPA itself, for example, the statute that will be cited for mitigation measures that are not required by any of the resource-specific statutes, such as for scenic impacts in many areas? Requiring citations to specific statutes may also discourage agencies from including mitigation measures for impacts that are not associated with a resource-specific statute. Another problem with this requirement is that some permitting processes result in the issuance of the permit, including it required mitigation measures, after the issuance of the FONSI. In such cases, the list of mitigation measures in the FONSI would not be complete, particularly with the 1-year time limit.

§§1501.9, 1501.10, 1506.1 Scoping, Time Limits, and Limitations on Actions during NEPA Process

Because the 2-year timespan for completing an EIS begins with the publication of the NOI, more extensive pre-NOI planning activities will be required for many proposed actions. This will not necessarily reduce the overall environmental review and planning time as it will shift part of the process to precede the NOI. To be successful and fully meet the intent and spirit of NEPA, these expanded pre-NOI activities must be undertaken with extensive public involvement as they will largely define the proposed action, other action alternatives, and the scope of the impact analyses. Otherwise, the pre-NOI activities, in concert with the proposed revision to §1506.1 relaxing restrictions on commitments on resources during the NEPA process, will increase the perception that the formal scoping process is perfunctory and any public scoping comments are after-the-fact. We have, for example, observed how the purchase of land and site preparation by agencies and applicants both before and during the formal NEPA process has influenced the range of alternatives. This is likely to occur more often under the revised §1506.1. And, with the time limit, agencies may be averse to adding new, reasonable alternatives suggested during formal scoping that require extensive analysis, including seasonally constrained fieldwork, beyond that completed or underway for the previously defined alternatives. The proposed §1502.17 and §1502.18 do not ameliorate this concern because they do not require an explanation of why the new alternatives and other information submitted during scoping were not analyzed.

It is not uncommon for the resource-specific review processes necessary for some proposed actions to exceed one and even two years. The National Historic Preservation Act Section 106 compliance process is a good example of this. Proposed actions that are likely to adversely affect historic resources, particularly infrastructure projects that impact large land areas, often require extensive and time-consuming Phase 1 and Phase 2 studies, which may be seasonally constrained, and the development of a Memorandum of Agreement that must be approved by the consulting parties before the NEPA decision document is issued.

§1501.9(d) requires notices of intent to include a summary of the expected environmental impacts. Depending on the amount of pre-NOI work, such a summary will either be speculative or will be definitive despite not having addressed topics raised during public scoping. The latter case may discourage public participation during scoping as it would reinforce the opinion that the scoping process is perfunctory. Any such summary should state that it is speculative and subject to revision based on the results of additional analyses.

§1501.10 Time Limits

The start of the 1-year timeframe for completing an environmental assessment is defined as the date the decision is made to prepare the environmental assessment. This date will likely be defined differently by different agencies, and, as with the timing of the issuance of NOIs for EISs, will be set as late in the overall review process as necessary to meet the timeframe. Extensive prework will be required for many proposed actions. The degree to which the overall process timeframe will be shortened is questionable.

§1502.10 Recommended Format

We support the elimination of the distribution list from EISs. Such lists are normally incomplete because they only reflect the initial distribution and do not include many who access the EISs online. We note, however, that elimination of the distribution list may cause some agencies to neglect notifying agencies and organizations that would otherwise have been on the list and routinely receive distribution notifications. For administrative record purposes, agencies should be required to maintain a list of agencies, organizations, and individuals that the agency notified during public scoping and on the availability of the draft and final EISs. This list should be posted on the agency's project webpage or otherwise be made readily available without requiring a FOIA request.

§1502.11 Cover

We strongly oppose §1502.11(g) on disclosing the cost of preparing the EIS in its present form because it does not adequately define how agencies are to determine this cost. Some of the highest costs incurred while the NEPA process is underway are for designing the project and compliance with other laws that are usually addressed simultaneously with and under the general umbrella of NEPA. The sometimes high cost of field surveys necessary for National Historic Preservation Act and Clean Water Act compliance are examples of the latter. Different agencies have different methods of accounting for such costs. Project proponents likewise have different methods of accounting for "NEPA compliance" costs. Consequently, the reported costs are likely to be misleading and can inflate the true EIS preparation cost. An example is the Proposed East Smoky Panel Mine Project at Smoky Canyon Mine FEIS for which the Notice of Availability was published on February 28, 2020. It reports preparations costs of $92,000 for the Bureau of Land Management and $8.2 million for the project proponent. We question the proportion of the proponent's $8.2 million that was for NEPA compliance, *sensu stricto*, and suspect that the majority of this was for general project planning and compliance with other laws and regulations. The proponent would likely have incurred the majority of the $8.2 million had its proposal not been the subject of the EIS. §1502.11 should contain explicit instructions on reporting EIS preparation costs that differentiate the cost of NEPA compliance, *sensu stricto*, from any other costs reported by the agencies involved, contractors and project proponents.

The intent of publishing the cost is not clear and, regardless of the amount and the proportion paid by Federal or state revenues, will be seen by many as an unnecessary expenditure. We also note that the cost of preparing a NEPA document is, at best, weakly correlated with the quality and adequacy of the document. We strongly recommend that, should the requirement for publishing the EIS preparation cost be maintained, agencies are required to publish the costs of implementing the action that are borne by both agencies and project proponents. This will provide a better perspective of the cost of the EIS in relation to the overall project costs and lessen the likely punitive perception of the EIS cost.

§1502.13 and §1501.5(c)(2) Purpose and Need

"Purpose and need" for the proposed action have long been described in NEPA documents as either a single concept or the separate concepts. The proposed revisions do not clarify this ambiguity. Most references to purpose and need in the proposed rulemaking treat it as a single concept, i.e., "the purpose and need." It is unclear whether this is the intent in the proposed rulemaking. We recommend that CEQ replace "purpose and need" with "need." Otherwise, CEQ should explain the differences between the "purpose" and the "need" for a proposed action.

We question using an applicant's goals as a basis for the purpose and need for the proposed action. The proposed action is the agency's action and not the applicant's action. The agency's action is to make the decision on whether to authorize, fund, license, or otherwise approve the applicant's proposed action. The goals of private applicants are almost always to make money.

§1502.14 Alternatives Including the Proposed Action

We recommend reinserting the discussion that alternatives are the "heart of the EIS." In addition, the NPRM invites comments on establishing a limit on the number of alternatives. We are concerned that such a limit is arbitrary and may not give agencies enough discretion to fully consider its impacts except in certain limited circumstances. Therefore, we disagree with setting any limit on the number of action alternatives in an EIS. Setting such a limit will unnecessarily constrain some EISs, particularly EISs that address long-term plans and programs, where there are often several reasonable alternatives that achieve the agency goals. In some EISs, alternatives are presented as a matrix of various combinations of, for example, routing, siting, and/or process options. The number of discrete action alternatives is difficult to determine in such EISs.

Although it has long been standard practice, mandated by the current regulations, to include a comparison of the impacts of the proposed actions in the alternatives section, this comparison is also a component of the EIS Summary and is the comparison is frequently identical in the two EIS sections. Including it in the alternatives section is therefore duplicative and should not be required.

§1502.17 Summary of Submitted Alternatives, Information, and Analyses

It is already a standard practice for agencies to describe submitted alternatives, information, and analyses received during public scoping and how the agency is addressing this information in the draft and final EIS. Similarly, it is already a requirement that agencies consider this information when it is submitted in comments on the draft EIS and that agencies describe their consideration of this information in the responses to such comments. The inclusion of a new separate section in the EIS to address this information is therefore superfluous.

We also question the utility of the required "senior agency official" certification of the summary of submitted alternatives, information, and analyses. The fact that the agency is publishing the EIS, which would otherwise summarize this information received during scoping and in comments on the draft EIS as well as a description of how the agency utilizes the submitted information, implies agency certification of the entirety of the contents of the EIS. Similarly, the Record of Decision represents the decision of the agency and should not need any additional certification by a "senior agency official." And finally, a mere summary of the submitted information, without an explanation of how the agency utilized the information in developing the EIS is not responsive to public involvement.

We also question the associated and required 30-day public comment period on the summary of submitted information section in the final EIS (§1503.1). How will this work with the increased use of joint final EISs and RODs?

§1502.24 Methodology and Scientific Accuracy

The current §1502.24 implicitly allows agencies to utilize any reliable source of information, including remote sensing and statistical modeling. Agencies have been using such information for many years and we are not aware of court rulings that have invalidated the use of such information. We strongly oppose the addition of the statement that "agencies are not required to undertake new scientific and technical research to inform their analyses." If a similar statement must be included, we recommend it be revised to state "agencies should undertake new scientific and technical research necessary to inform their analyses consistent with §1502.22(b)." This should also apply to environmental assessments.

The rationale for this change is not stated and we assume it is to reduce cost and preparation time. We strongly oppose this change because existing environmental information is frequently inadequate to make the informed decisions mandated by NEPA. Reliance on reliable existing data only, and not undertaking new scientific and technical research is contrary to the long-standing "hard look" principle and will result in poorly informed or uninformed decisions on numerous proposed actions. While there are numerous reliable data sources for a variety of resources analyzed in NEPA documents, these data are frequently

incomplete, outdated, and/or not readily accessible. Relying solely on these data will, in many cases, lead to unsupportable conclusions that impacts are not significant.

New research is often essential to designing the proposed action; an example is hydrologic modeling for a water resources project. New research is also often essential for complying with many of the environmental laws and regulations addressed in NEPA reviews. Examples include monitoring and modeling for Clean Air Act compliance; wetland delineations for Clean Water Act compliance; field surveys and habitat assessments for Endangered Species Act compliance; and field surveys for National Historic Preservation Act compliance. It is unclear whether the proposed revision applies to these acts. Adequately assessing impacts to several other resources normally assessed in NEPA reviews that are not the subject of specific laws and regulations is also frequently necessary. Such resources include vegetation and wildlife, aesthetics, recreation, and transportation.

§1503.4 Response to Comments

§1503.4(a) states "[a]n agency preparing a final environmental impact statement shall consider substantive comments timely submitted during the public comment period…" This implies that agencies are not to consider substantive comments submitted outside of formal comment periods. Such comments can contain useful information and agencies should have the ability to consider these comments. Ignoring such comments is can also discourage stakeholder participation in the NEPA process.

§1506.5 Agency Responsibility for Environmental Documents

We oppose the elimination of the requirement that contractors preparing EISs for the lead agency or for a project proponent execute a disclosure statement on their interest in the outcome of the project. We also recommend that the lead agency approve the project proponent's selection of a contractor to prepare the EIS. We have seen instances where project proponents have selected poorly qualified contractors, resulting in costly and time-consuming rework by the lead agency.

§§1506.13 and 1507.3 Effective Date and Agency NEPA Procedures

These sections should be clarified to state whether agencies are to comply with the revised final regulations upon their publication or whether their compliance is delayed until agencies revise their agency-specific NEPA procedures.

§1507.2 Agency Capability to Comply

We support the revisions to this section and the reiteration of the requirement that each agency shall have adequate personnel and other resources necessary to fully comply with NEPA. This is particularly important in light of the proposed changes in §1506.5 to encourage project sponsors to prepare NEPA documents evaluating their proposed actions. In our experience, some agencies do not presently have adequate resources to oversee the preparation of such documents and conducted an informed evaluation of their accuracy. This oversight and evaluation is inherently an agency function. The time limits imposed on preparing EAs and EISs in §1501.10 may constrain the evaluation of applicant-prepared NEPA documents, particularly when the agency does not have adequate qualified staff. This evaluation frequently requires at least two rounds, and sometimes three rounds, of agency review.

§1508.1(g) Effects or Impacts

We recognize that the elimination of the requirement to analyze indirect and cumulative impacts is one of the most controversial items in the proposed rulemaking. Whether or not the elimination of the differentiation between direct, indirect, and cumulative impacts reduces confusion and unnecessary litigation, however, remains to be seen. We believe that, at least in the short term, it will increase litigation based on the courts' interpretation of NEPA Section 102. We agree that differentiating between the three types of effects has, at times, been confusing and resulted in unnecessary hair-splitting. Nevertheless,

the three types of effects are valid and necessary concepts. In many cases, the causal chain does include clearly identifiable impacts caused by the action alternatives that are not necessarily under the direct control of the lead and cooperating agencies. Eliminating the discussion of such impacts will result in less-informed decision making. Restricting the scope of the impact analysis in time, as the revisions attempt to do, contradicts the NEPA Section 101(b) mandate to "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations. Restricting the scope of the impact analysis in geography is contrary to NEPA Section 2 – Purpose "to promote efforts which will prevent or eliminate damage to the environment and biosphere." Restricting the scope of the impact analysis will also result in possible environmental justice implications, as indirect and cumulative effects may disproportionately impact minority and low income populations. This is contrary to the intent of Executive Order 12898 on environmental justice.

The cumulative aspect of impacts to several environmental resources is important and must be considered to properly comply with NEPA and some other environmental laws and regulations. Examples include air quality and the emissions of air pollutants including greenhouse gases, water quality and discharges of pollutants, and noise levels. In such cases, it is essential to define both present and future quantities and thresholds, and how those will change both with and without the implementation of the action alternatives. A cumulative impact analysis is also necessary for many proposed actions that are to be implemented in phases. Predicting the impacts of the phases to be implemented in the future requires describing the changed future conditions resulting from predicted environmental trends, as well as the impacts of the other reasonably foreseeable actions by the lead and cooperating agencies and by other entities.

§1508.4(q) Major Federal Action

Major Federal action is defined, in part, as excluding non-Federal projects with minimal Federal funding or minimal Federal involvement where the agency cannot control the outcome of the project. We request that CEQ clarify federal control and minimal federal involvement. The current language is unclear and vague as different agencies will have different definitions "minimal." We also note that Federal agencies providing "minimal" funding or involvement frequently exert some level of control over many non-Federal actions. Although such actions may not be major Federal actions requiring an EIS, they are still subject to NEPA.