

NEPA Reporting Guidelines

Dakota Prairie Grasslands

U.S. Forest Service

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Description

This document provides a detailed outline of expected interactions between the United States Department of Agriculture, Forest Service (Forest Service) and a Contractor hired by the Applicant to prepare an Environmental Assessment (EA) for a proposed project on the Little Missouri National Grasslands portion of the Dakota Prairie Grasslands (DPG).

Even though the Applicant is obtaining the services of the Contractor, and will pay for the work accomplished by that Contractor, the Contractor must meet Forest Service rules and regulations. The Forest Service must review the Contractor's work, make suggestions for—and sometimes direct—changes, seek public comment, and issue a final decision for the proposal based on the Contractor's analysis and documentation. In making its decision, the Forest Service is not obligated to approve the proposed use.

Objective

The Contractor shall prepare an EA document that will assess the impact of proposed project. The EA must provide sufficient evidence and analysis to support agency determination to either prepare an EIS or not (see 40 CFR 1508.9(a)(1)); keeping in mind that “sufficient,” as used here, is normally reviewed under the “arbitrary and capricious” standard of the Administrative Procedures Act (5 U.S.C. 706). The document will be site-specific. The document shall meet all necessary requirements of the National Environmental Policy Act (NEPA), Council on Environmental Quality direction, Forest Service Regulation, Direction and Policy, and other relevant Federal laws and regulations.

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Action Items to Prepare an Environmental Assessment

Phase 1 - Project Development

Task 1.1 – Prewrite Meeting

The Contractor, the Forest Service (FS) NEPA Planner, and likely other FS Resource Specialists will meet to discuss tasks and timelines. The Contractor will discuss their work plan. Both parties will agree on methods, format, and logistics of information transfer. It is crucial that prior to this prework meeting both the Contractor and FS NEPA Planner review the proposed project, identify any ‘red flags’ or areas of concern, identify any connected actions and project design features or mitigation measures, and review consistency with the Dakota Prairie Grasslands Land and Resource Management Plan. The FS will supply example documents and copies of other necessary information.

Deliverable	Who
Schedule prework meeting with FS NEPA Planner	Contractor
Provide a narrative statement of the Purpose and Need for the Action; including authority and the Proposed Action	FS NEPA Planner
Supply example documents (scoping/comment letter, legal notice for comment, publication date guide of The Bismarck Tribune, response to comments table, EA template, legal notice of opportunity to object)	FS NEPA Planner

Phase 2 - NEPA

Task 2.1 – Combined Scoping/Comment Letter

Typically, the Dakota Prairie Grasslands completes a combined scoping/comment letter. There is potential to separate the scoping and comment period, which is the decision of the Responsible Official. The combined scoping/comment letter will include the Proposed Action (including any needed access routes, utilities, above ground features, powerlines, topsoil pile locations, any ground disturbing locations), Purpose and Need for the Action, a detailed map of the Proposed Action and other maps, as needed, and language on how the public may provide comment within the 30-day comment period. The FS will provide the Contractor the regulatory language to include as described in 36 CFR 218.

Deliverable	Who
Draft the scoping/comment letter and submit to the FS NEPA Planner	Contractor
Review and provide comments/edits on the drafted scoping/comment letter	FS NEPA Planner
Mail and/or use automated mailing application GovDelivery to send out scoping/comment letter to all interested parties	FS NEPA Planner
Upload scoping/comment letter to the Planning Administrative Reviews and Litigation System (PALS) to initiate a project webpage	FS NEPA Planner
Collect comments and email to Contractor at the end of the comment period	FS NEPA Planner

Task 2.2 – Legal Notice for Comment

A legal notice is printed in the Newspaper of Record for the DPG (The Bismarck Tribune) initiating the comment period. The FS will provide the Contractor the regulatory language to include as described in 36 CFR 218.

Deliverable	Who
Draft the legal notice and submit to the FS NEPA Planner <i>prior to printing</i> in The Bismarck Tribune	Contractor
Coordinate with the FS NEPA Planner regarding the publication date of the legal notice	Contractor
Contact The Bismarck Tribune to print the legal notice (email: legals@bismarcktribune.com) required cc to the FS NEPA Planner	Contractor
Upload the legal notice to the project webpage	FS NEPA Planner

Task 2.3 – Content Analysis of Public Comments and Determination of Issues; Alternatives

This task includes receiving and analyzing the comments received regarding the Scoping/Comment Letter. Analyzing the comments will require preparing, reviewing, and finalizing a response to comments table. A check-in is necessary between the Contractor and FS NEPA Planner to discuss comments received, internal resource documents, and the range of Alternatives to be Analyzed in Detail. The Contractor will need to document those Alternatives Discussed but Not Analyzed in Detail which would include any discussed during onsite reviews, reroutes, resource avoidance (TES, Cultural), or others. Any consultation with Tribes or regulatory agencies, including U.S. Fish and Wildlife Service and the North Dakota State Historic Preservation Office, will be completed by the Forest Service.

Deliverable	Who
Schedule a check-in meeting with FS NEPA Planner within 2 weeks of the closed comment period	Contractor
Draft and provide a response to comments table to the FS NEPA Planner	Contractor
Provide internal resource reviews to Contractor	FS NEPA Planner
Develop a list of resources for effects analysis	Contractor
Review the need for a No Action Alternative with the FS NEPA Planner	Contractor
Decide on the range of Alternatives Analyzed in Detail	FS NEPA Planner
Document Alternatives Discussed but Not Analyzed in Detail	Contractor

Task 2.4 – Environmental Assessment Preparation

This task includes preparing, reviewing, editing, and finalizing the Environmental Assessment. The Contractor will compile the EA, meeting the requirements of 36 CFR 220.7(b). The Contractor will not add mitigations measures without first discussing with FS NEPA Planner. During this task, the Forest Service will determine the potential need for a second comment period.

Deliverable	Who
Draft EA using template provided by the FS NEPA Planner	Contractor
Review and incorporate the FS internal specialists reviews, reports, and/or concurrence letters into the EA, emphasizing FS mitigation and design criteria	Contractor
Provide technical analysis that predicts the resource effects of the Proposed and Alternative Actions	Contractor
Contact the FS NEPA Planner if there are questions or concerns on potential for effects, or the spatial or temporal scale of analyses	Contractor
Provide 508-compliant word document EA to FS NEPA Planner	Contractor
Complete review of the draft EA and schedule check-in with Contractor to discuss edits, comments, concerns	FS NEPA Planner
Complete any necessary edits of the EA to address the review and concerns of the FS, within a timeframe discussed with the FS NEPA Planner	Contractor

Task 2.5 – Draft Decision Notice and Finding of No Significant Impact

The FS is responsible for drafting all decision documents.

Deliverable	Who
Draft Decision Notice and FONSI	FS NEPA Planner

Task 2.6 – Distribute the EA, Draft Decision Notice and FONSI

The EA and draft decision are released together with a legal notice in the Bismarck Tribune. The legal notice in the Bismarck Tribune starts the 45-day objection period. Only those who commented during the scoping/comment period(s) have standing to object and can object only on the issues brought forward in the comments during the comment/scoping period(s), unless it is new information.

Deliverable	Who
Draft the legal notice of “Opportunity to Object”	Contractor
Coordinate with the FS NEPA Planner regarding the publication date of the legal notice	Contractor
Contact The Bismarck Tribune to print the legal notice (email: legals@bismarcktribune.com) required cc to the FS NEPA Planner	Contractor
Upload the EA, draft decision notice, objection legal notice, and other supporting documentation to the Project Website	FS NEPA Planner
Prepare letter and mail and/or use automated mailing application GovDelivery to send to all persons or groups eligible to object to the project	FS NEPA Planner

Task 2.7 – Objections

The FS NEPA Planner will notify the Contractor if objection(s) are received by previous commenters. If objections are received, the Contractor will provide Project Record, as it stands. All electronic documents must be in their ‘native document format’. FS responds to objections with a FS Objection Reviewing Officer letter within 45 days (which can be extended by 30 days).

Deliverable	Who
Send Project Record (as it stands) if objections are received using an online platform that can be accessed by FS personnel, USB Drive, or CD	Contractor
Edit EA, if necessary, based on the direction(s) in the FS Objection Reviewing Officer letter	Contractor
Edit the Decision Notice and FONSI, if necessary, based on the direction(s) in the FS Objection Reviewing Officer letter	FS NEPA Planner

Task 2.8 – EA, Decision Notice and FONSI

The FS Responsible Official approves, signs and dates the Decision Notice and FONSI.

Deliverable	Who
Prepare postcard on notice of the Decision and mail and/or use automated mailing application GovDelivery to send to all interested parties	FS NEPA Planner
Upload EA, signed Decision Notice and FONSI to Project Website	FS NEPA Planner

Task 2.9 – Finalize and Deliver Project Record

Deliverable	Who
Deliver Project Record to FS NEPA Planner within 30 days of the final decision date, using an online platform that can be accessed by FS personnel, USB Drive, or CD	Contractor
Request any missing documents from the Project Record	FS NEPA Planner

Phase 3 - Post Decision

Task 3.1 – Consultation and Support on Litigation

Litigation in federal court could occur. The Contractor may be called upon for clarification and explanation relating to Contractor-prepared products.

Task 3.2 – Process Review

Upon completion of the NEPA process, the FS NEPA Planner will contact the Contractor to discuss the process. We are interested to hear what worked well, what didn’t work well, and how can it be improved for future projects.

Important Links

[Land and Resource Management Plan for the Dakota Prairie Grasslands](#)

[Dakota Prairie Grasslands Projects](#)

[Forest Service Handbook 1909.15](#)

[The Bismarck Tribune Public Notices](#)
