

**ENVIRONMENTAL ASSESSMENT OF
PROPOSED REGULATIONS CONCERNING
ENVIRONMENTAL QUALITY**

**The Presidio Trust
July 1999**

I. Purpose and Need

The Presidio Trust (“Trust”) is proposing to publish in the Federal Register the regulations included herewith (the “Regulations”) as proposed regulations supplementing the regulations issued by the Council on Environmental Quality (“CEQ”), 40 C.F.R. § 1500 *et seq.*, for implementing the procedural provisions of the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.* (“proposed action”). The CEQ regulations provide that each federal agency shall as necessary adopt procedures to supplement the CEQ regulations. 40 C.F.R. § 1507.3. These Regulations are proposed for adoption pursuant to the Trust’s rulemaking authority under § 104(j) of the Presidio Trust Act, Title I of P.L. 104-333 (enacted Nov. 12, 1996).

Pursuant to the Presidio Trust Act, the Trust obtained administrative jurisdiction over Area B, comprising nearly all of the built areas of the Presidio, on July 1, 1998. This property, over which the federal government has exclusive jurisdiction, was previously covered by regulations of the National Park Service. Upon receiving administrative jurisdiction over Area B, the Trust adopted, on an interim basis, the procedures of the National Park Service for implementing NEPA. These procedures are found in “NPS-12: National Environmental Policy Act Guidelines,” which was originally adopted by the National Park Service in 1982. *See* 63 FR 49142 (September 14, 1998). All Trust actions or projects are also subject to the National Park Service-Golden Gate National Recreation Area Standard Operating Procedures, Number 601 (“SOP 601”) establishing the National Park Service NEPA compliance process in accordance with the terms and conditions set forth in the Interagency Agreement between the National Park Service and the Trust for NEPA Compliance.

The Regulations included herewith would replace in their entirety the Trust’s interim procedures and guidelines for implementing NEPA and would allow the Trust to meet its compliance responsibilities under NEPA. They are intended to maintain the physical status quo in the Presidio and not to effect any significant change in the Presidio’s human environment or that of the surrounding environs.

II. Alternative

No Action. Under this alternative, the Trust would take no action, and instead rely on its interim procedures and guidelines for implementing NEPA. The environmental review of the major

actions of the Presidio would not adapt to the unique mission and mandate of the Trust as distinct from those of the National Park Service.

III. Alternative Considered but Rejected

Adopt Proposed NPS Handbook. Under this alternative, the Trust would adopt “NPS Handbook 12” (currently available on the Internet at <http://www.nps.gov/planning/nepa/nps12.pdf>) which the National Park Service is in the process of developing to replace the 1982 NPS-12. The Trust has considered and rejected this alternative because the scope and structure of the 129-page handbook is beyond what is necessary for the Trust’s purposes. Furthermore, the format and detailed nature of the handbook do not lend themselves to incorporation into the Code of Federal Regulations, where they will be readily available to the public and legally binding on the Trust. Although NPS Handbook 12 interweaves guidance on certain authorities that are inapplicable to the Trust, a number of categorical exclusions identified in the handbook are potentially applicable to the anticipated activities of the Trust and therefore have been incorporated into the proposed action.

IV. Impacts

A. Proposed Action

The publishing and adoption of the Regulations will have no significant adverse impacts on the human environment because the Regulations are effecting no significant change in the physical status quo. As such, these Regulations will have no adverse impacts on public health and well being, public safety, ecological systems, threatened or endangered species, sites listed on or eligible for the National Register of Historic Places, or other unique characteristics of the area. Promulgation of these Regulations will not violate any federal, state or local law; in fact, these Regulations will fulfill the requirements of the Presidio Trust Act and NEPA.

The Regulations maintain the substantive physical status quo in the Presidio and surrounding environs. Their proposal and promulgation therefore does not qualify as a “major Federal action significantly affecting the quality of the human environment,” 42 U.S.C. § 4332(C), which would require the preparation of an EIS under NEPA and its implementing regulations.

B. No Action

The impacts of no action would be similar to the proposed action.

V. Consultation and Coordination

In drafting these Regulations, the Trust consulted with officials of the National Park Service and the Department of the Interior. In addition, the Trust has consulted with CEQ concerning the Regulations, as required by the CEQ regulations for implementing the procedural provisions of NEPA. The Trust will also publish the Regulations in the Federal Register for public comment, pursuant to NEPA and the CEQ regulations for implementing the procedural provisions of NEPA. 40 C.F.R. § 1506.6(a).

A. Endangered Species Act Compliance

Under the Endangered Species Act of 1973, 16 U.S.C. § 1531 *et seq.*, federal agencies are required to consult with the U.S. Fish and Wildlife Service to ensure that certain actions authorized, funded or carried out by the agency do not jeopardize the continued existence of listed species or critical habitat. The Presidio is home to certain species listed under the Endangered Species Act. Because the proposed action will not change the physical status quo of the Presidio, the Trust has determined that consultation with the U.S. Fish and Wildlife Service is not required.

B. Section 106 Compliance

Section 106 of the National Historic Preservation Act (“NHPA”), 16 U.S.C. § 470 *et seq.*, mandates that federal agencies take into account the effects of their actions on properties listed or eligible for listing on the National Register of Historic Places. Because the Presidio is a National Historic Landmark, undertakings with the potential to affect the historic character of the Presidio require Section 106 compliance review to ensure protection of the Presidio’s resources. The Trust has adopted the National Park Service NHPA compliance program in order that the National Park Service may provide review and certification of Trust undertakings. Accordingly, all Trust projects are subject to the National Park Service-Golden Gate National Recreation Area Standard Operating Procedures, Number 606 (“SOP 606”) for Section 106 review and cultural resource compliance.

Although certain actions that may be taken by the Trust in the future under authority of these Regulations may require Section 106 review, the Trust has determined that the adoption of these Regulations is not an action that will, in and of itself, require Section 106 review. As discussed above, these Regulations are intended to maintain the physical status quo in the Presidio. As such, the Trust does not anticipate that its proposal or adoption of these Regulations will affect the characteristics and properties contributing to the Presidio’s status as a National Historic Landmark.