

PART 1318—IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

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Authority: 16 U.S.C. 831 *et seq.*; 42 U.S.C. 4321 *et seq.*

Subpart A - General Information

§ 1318.10 Purpose and policy.

This part establishes procedures for Tennessee Valley Authority (TVA) to use for compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*).

(a) *Purpose.* The purpose of these procedures is to integrate NEPA into TVA's decision-making processes. Specifically, the procedures: describe the process by which TVA determines what actions are subject to NEPA's procedural requirements and the applicable level of NEPA review; ensure that relevant environmental information is identified and considered early in the process to ensure informed decision making; enable TVA to conduct coordinated, consistent, predictable and timely environmental reviews; reduce unnecessary burdens and delays; and implement NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental documents.

(b) *Procedural and Interpretive Rule.* This document sets forth TVA's procedures and practices for implementing NEPA. It further explains TVA's interpretation of certain key terms in NEPA. It does not, nor does it intend to, govern the rights and obligations of any party outside the Federal government. It does, however, establish the procedures under which TVA will typically fulfill its requirements under NEPA.

(c) *Consultation with the Council on Environmental Quality (CEQ).* In addition to the process for establishing or revising categorical exclusions set forth in § 1318.200(c), TVA will consult with CEQ while developing or revising proposed NEPA implementing procedures, in accordance with NEPA sec. 102(2)(B), 42 U.S.C. 4332(B).

§ 1318.20 Abbreviations.

- (a) CE - Categorical Exclusion
- (b) CEQ - Council on Environmental Quality
- (c) EA - Environmental Assessment
- (d) EIS - Environmental Impact Statement
- (e) FONSI - Finding of No Significant Impact
- (f) NEPA - National Environmental Policy Act
- (g) TVA - Tennessee Valley Authority

§ 1318.30 Definitions.

The following definitions apply throughout this part. Other applicable terms should be given the same meaning as set forth in section 111 of NEPA unless such a reading would make the terms inconsistent with the context in which they appear.

(a) *Authorization* means any license, permit, approval, finding, determination, or other decision issued by an agency that is required or authorized under Federal law to implement a proposed action.

(b) *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 may 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 TVA 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 effects 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.

(c) *Human environment* means comprehensively the natural and physical environment and the relationship of Americans with that environment. (*See also* the definition of “effects” in paragraph (b) of this section.)

(d) *Jurisdiction by law* means agency authority to approve, veto, or finance all or part of the proposal.

(e) *Mitigation* means measures that avoid, minimize, or compensate for effects caused by a proposed action or alternatives as described in an environmental document or decision document that have a nexus to those effects. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation may include:

(1) Avoiding the impact altogether by not taking a certain action or parts of an action.

(2) Minimizing effects by limiting the degree or magnitude of the action and its implementation.

(3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(5) Compensating for the impact by replacing or providing substitute resources or environments.

(f) *NEPA process* means all measures necessary for compliance with the requirements of section 2 and title I of NEPA sec. 102(2), 42 U.S.C. 4332(2).

(g) *Notice of intent* means a public notice that an agency will prepare and consider an environmental document.

(h) *Official responsible for NEPA compliance* refers to the TVA official(s) who manages the NEPA compliance staff and is responsible for overall review of TVA NEPA compliance.

(i) *Page* means an 8.5"x11" page with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5"x11", each such item will count as one page.

(j) *Project sponsor* refers to a private applicant, individual, or other non-Federal entity that proposes to undertake an action that will require TVA's authorization.

(k) *Publish* means a method found by TVA to efficiently and effectively make environmental documents and information available for interested persons, including publication on TVA's website.

(l) *Reasonable alternatives* means a reasonable range of alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.

(m) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(n) *Scope* consists of the range of actions, alternatives, and effects to be considered in an environmental document. The scope of an individual statement may depend on its relationships to other statements.

(o) *Tiering* refers to the coverage of general matters in a broader EIS or EA (such as a regional program or policy statements) with subsequent narrower statements or environmental analyses (such as site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared.

Subpart B -- Initiating the NEPA Process

§ 1318.100 Determining when NEPA applies.

(a) At the earliest possible time, TVA will determine whether a proposed action requires an environmental review under NEPA and, if so, the level of environmental review.

(b) TVA will determine that NEPA does not apply to a proposed agency action when:

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

(2) The proposed activity or decision is exempted from NEPA by law;

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

(4) In circumstances where Congress by statute has prescribed decisional criteria with sufficient completeness and precision such that TVA retains no residual discretion to alter its action based on the consideration of environmental factors, then that function of TVA is nondiscretionary within the meaning of NEPA sec. 106(a)(4) and/or sec. 111(10)(B)(vii) (42 U.S.C. 4336(a)(4) and 4336e(10)(B)(vii), respectively), and NEPA does not apply to the action in question;

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

(6) The proposed action is not a "major Federal action." The terms "major" and "federal action," each have independent force. NEPA applies only when both of these two criteria are met. Such a determination is inherently bound up in the facts and circumstances of each individual situation, and is thus reserved to the judgment of TVA in each instance.

(7) NEPA does not apply to "non-Federal actions." Therefore, under the terms of the statute, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the project. NEPA sec. 111(10)(B)(i), 42 U.S.C. 4336e(10)(B)(i). A but-for causal relationship is insufficient to make an agency responsible for a particular action under NEPA. By the same token, minimal Federal funding or involvement does not by itself convert that action into a Federal action within the meaning of the language of the statute.

(c) The issuance or update of TVA's NEPA procedures is not subject to NEPA review.

(d) In determining whether NEPA applies to a proposed agency action, TVA will consider only the action or project at hand.

§ 1318.101 Determining the appropriate level of NEPA review.

(a) If TVA determines under § 1318.100 that NEPA applies to a proposed action or decision, TVA will then determine the appropriate level of NEPA review in the following sequence and manner. At all steps in the following process, TVA will consider the proposed action or project at hand and its effects.

(1) If TVA has established, or adopted pursuant to NEPA sec. 109, 42 U.S.C. 4336c, a categorical exclusion that covers the proposed action, TVA will analyze whether to apply the categorical exclusion to the proposed action and apply the categorical exclusion, if appropriate, pursuant to subpart C of this part.

(2) If another agency has already established a categorical exclusion that covers the proposed action, TVA will consider whether to adopt that exclusion pursuant to § 1318.200(d) so that it can be applied to the proposed action at issue, and to future actions or decisions of that type.

(3) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, pursuant to § 1318.200(c), TVA will consider whether to establish or revise, and then apply the categorical exclusion to the proposed action pursuant to subpart C of this part.

(4) If TVA cannot apply a categorical exclusion to the proposed action consistent with paragraphs (a)(1) through (3) of this section, TVA will consider the proposed action's reasonably foreseeable effects consistent with paragraph (b) of this section, and then will:

(i) if the proposed action is not likely to have reasonably foreseeable significant effects or the significance of the effects is unknown, develop an EA, as described in subpart D of this part; or

(ii) if the proposed action is likely to have reasonably foreseeable significant effects, develop an EIS, as described in subpart E of this part.

(b) When considering whether the reasonably foreseeable effects of the proposed action are significant, TVA will analyze the potentially affected environment and degree of the effects of the proposed action. TVA may use any reliable data source and will not undertake new research unless it is essential to evaluating alternatives and the cost and time of obtaining it are not unreasonable.

(1) In considering the potentially affected environment, TVA may consider, as appropriate to the specific proposed action, the affected area and its resources.

(2) In considering the degree of the effects, TVA may consider the following, as appropriate to the specific proposed action:

(i) Both short- and long-term effects.

(ii) Both beneficial and adverse effects.

(iii) Effects on public health and safety.

(iv) Economic effects

(v) Effects on the quality of life of the American people.

§ 1318.102 Determination of NEPA Adequacy.

TVA will determine whether a proposed action is already evaluated by an existing NEPA review, including a programmatic or generic review. In making a determination, TVA will evaluate and document whether the following conditions are met:

(a) The new proposed action is substantially similar to an action previously analyzed in an existing environmental document(s);

(b) The reasonably foreseeable environmental effects that would result from the new proposed action are similar to those analyzed in an existing environmental document(s); and

(c) Any new information or circumstances relevant to environmental concerns would not substantially change the analysis in an existing environmental document(s).

§ 1318.103 Supplements.

(a) After completion of an environmental document, if TVA makes substantial changes in the proposed action that are relevant to environmental concerns or there is substantial new circumstances or information about the significance of the adverse effects that bear on the

proposed action or its impact, and important components of the proposed action remain to be implemented, TVA will determine how the environmental document should be supplemented or modified. TVA may supplement an environmental document by issuing a new document that addresses changes in the proposed action or new circumstances or information or may modify the existing document so that revisions and edits to the original document are apparent. A supplemented or modified environmental document will be published.

(b) After completion of an environmental document, if TVA determines that changes to the proposed action that are relevant to environmental concerns are not substantial or new circumstances or information are not significant or relevant to environmental concerns, and therefore supplemental analysis is not warranted, TVA will document this determination consistent with § 1318.102.

§ 1318.104 Reliance on existing environmental documents.

(a) TVA may rely on another Federal agency's EA or EIS (including an EA or EIS prepared by a Tribal, State, or local agency on behalf of a Federal agency), or a portion thereof, if TVA determines that TVA's proposed action is substantially the same or similar to the other agency's action, and the other agency's document meets the standards for an adequate statement or assessment under these procedures.

(b) In making this determination, TVA will consider whether the scope and analyses in the other agency's EA or EIS adequately address the TVA action. TVA will cite, briefly describe the content and relevance to the environmental document, and may make modifications that are necessary to render the relied-upon document, or portion thereof, fit for fulfilling NEPA analytic requirements for the action at hand. TVA will publish this determination and the EA or EIS relied upon and notify affected Federal, Tribal, State, and local agencies and other interested entities.

(c) TVA may supplement another agency's EA or EIS in accordance with § 1318.103.

§ 1318.105 Lead and cooperating agency determinations.

(a) As soon as practicable after the determination is made to prepare an EA or EIS, TVA will determine whether inviting other Federal, Tribal, State, or local agencies to participate in the preparation of the EA or EIS as lead, joint lead, or cooperating agencies is appropriate (NEPA sec. 107(a), 42 U.S.C. 4336a, and NEPA sec. 111, 42 U.S.C. 4336e). TVA will typically serve as the lead Federal agency for TVA actions. Any designation of lead federal agency will be made in accordance with NEPA sec. 107, U.S.C. 4336a.

(b) If TVA is participating with other Federal agencies in a NEPA review, TVA will cooperate with the other Federal agency(ies) to designate agency roles (e.g., lead agency, joint lead agency, cooperating agency).

(c) When participating with other Federal agencies, TVA will, to the extent practicable, work with the other Federal, Tribal, State, or local agencies to prepare a single environmental document.

§ 1318.106 Schedule for the NEPA process.

(a) Once TVA has made a determination of the level of NEPA review, TVA, and if applicable, project sponsors or other participating agencies, will establish a schedule for the completion of the environmental document, consistent with deadlines identified in NEPA sec. 107(g), 42 U.S.C. 4336a(g). Prior to establishing the schedule, TVA will review for completeness any information, data, materials, and/or any applications or agreements that are necessary to determine the level of NEPA review.

(b) TVA will address in the schedule, as appropriate, any concurrent and integrated surveys and studies required by other applicable environmental review laws and Executive Orders, including but not limited to the National Historic Preservation Act of 1966 (54 U.S.C. 300101 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

(c) As the Supreme Court has repeatedly held, NEPA is governed by a “rule of reason.” Congress supplied the measure of that reason in the 2023 revision of NEPA by setting the deadlines in NEPA sec. 107(g), 42 U.S.C. 4336a(g). These deadlines indicate Congress’s determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is necessary to complete the analysis.

(1) TVA will complete an EIS not later than the date that is 2 years after the sooner of the date on which TVA determines that NEPA requires the preparation of an EIS with response to the proposal; the date on which TVA notifies the applicant that the application to establish a right-of-way for the proposal is complete; and the date on which TVA issues a notice of intent to prepare the EIS. (42 U.S.C. 4336a(g)(1)(A))

(2) TVA will complete an EA not later than the date that is 1 year after the sooner of the date on which TVA determines that NEPA requires the preparation of an EA with response to the proposal; the date on which TVA notifies the applicant that the application to establish a right-of-way for such action is complete; and the date on which TVA issues a notice of intent to prepare the EA for the proposal. (42 U.S.C. 4336a(g)(1)(B))

(3) TVA will calculate EIS or EA schedules from the applicable start date to the date TVA publishes the EIS or a finding of no significant impact as the end date. Where TVA has prepared an EA that results in a decision to prepare an EIS, TVA will use the start date for the EA as the start date for the EIS unless it exercises its discretion to determine otherwise by direction of the TVA official responsible for NEPA.

(4) The EIS or EA will publish (unless the deadline is extended pursuant to the provision below) on the day the deadline elapses, in as substantially complete form as is possible.

(5) TVA will document the start and completion dates of each EIS or EA to assist TVA in tracking the schedule and preparing a report to congressional committees required by NEPA § 107(h), 42 U.S.C. 4336a(h).

(d) If TVA determines it is not able to meet the deadline prescribed by NEPA sec. 107(g)(1), 42 U.S.C. 4336a(g)(1), TVA will consult with the applicant, if any, pursuant to NEPA sec. 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, TVA may establish a new deadline and appropriately document the cause. Cause for

establishing a new deadline is only established if the EIS or EA is so incomplete, at the time at which TVA determines it is not able to meet the statutory deadline, that issuance would, in TVA's view, result in an inadequate analysis. Such new deadline must provide only so much additional time as is necessary to complete such EIS or EA. The announcement of the new deadline will specify the reason why the EIS or EA was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline.

(e) When the EIS or EA is published, a responsible official will certify (and the certification will be incorporated into the EIS or EA) that the resulting EIS or EA represents TVA's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the TVA's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in TVA's judgment, the analysis contained therein is adequate to inform and reasonably explain TVA's final decision regarding the proposed federal action.

§ 1318.107 Scoping process.

(a) TVA will publish a notice of intent for an EIS and request public comment on the proposed action and alternatives.

(b) TVA may use the scoping process to identify for analysis in an EA or EIS the substantive issues that meaningfully inform the consideration of environmental effects and reasonable alternatives to be considered. Scoping may also identify non-substantive issues that do not require analysis and/or alternatives that are determined not to be reasonable. Scoping may include work conducted prior to publication of the notice of intent or formal initiation of the NEPA process, including prior public engagement to identify issues and alternatives that may inform the eventual alternatives analyzed.

(c) The scoping process may include interagency scoping sessions to coordinate an action with and obtain inputs from other interested agencies (including likely affected Federal, Tribal, State, and local agencies).

(d) On the basis of input received during the scoping process, TVA will determine whether to modify the scope, schedule, or the type of environmental document.

Subpart C -- Categorical Exclusions

§ 1318.200 Purpose and scope.

(a) Categories of actions addressed in this section are those that do not normally have a significant effect on the human environment and therefore do not require the preparation of an EA or an EIS. Such categories of actions (categorical exclusions) include those:

- (1) Identified in appendix A of this part;
- (2) Adopted by TVA consistent with NEPA sec. 109, 42 U.S.C. 4336c; or
- (3) Identified by TVA pursuant to paragraph (c) of this section.

(b) A proposed action may be categorically excluded if a single categorical exclusion encompasses the proposed action or multiple categorical exclusions collectively encompass the proposed action, subject to a review for extraordinary circumstances pursuant to § 1318.201. A proposed action will not be impermissibly segmented into smaller parts such that the use of a categorical exclusion for any such smaller part would irreversibly and irretrievably commit TVA to a particular plan of action for a broader proposed action.

(c) TVA may update or revise the categorical exclusions listed in appendix A of this part when it identifies new categories of actions or determines that the definition of actions listed in appendix A of this part warrants revision or removal, based on TVA's experience. In making this determination, TVA will:

(1) Develop a written record containing information to substantiate its determination or to justify its removal;

(2) Consult with the CEQ on its proposed categorical exclusion or revision, including the written record, for a period not to exceed 30 days prior to providing public notice as described in paragraph (3); and

(3) Provide public notice of TVA's establishment, revisions, or removal of the categorical exclusion and publish the written record.

(d) Consistent with NEPA sec. 109, 42 U.S.C. 4336c, TVA may adopt a CE listed in another agency's NEPA procedures. If, after consulting with the agency, TVA determines such an adoption is appropriate, TVA will provide public notification of the adoption. The notification will briefly describe the agencies' consultation, the category of actions to which TVA would apply the CE, and any information relevant to the application of the adopted CE. The CEs adopted by TVA under NEPA sec. 109, 42 U.S.C. 4336c, will be listed on TVA's webpage.

(e) TVA may rely on another Federal agency's determination that a categorical exclusion applies to a particular proposed action if the action covered by that determination and TVA's proposed action are substantially the same. In these instances, TVA will review the records of the other Federal agency to ensure the records address the TVA proposed action. TVA will document that TVA is relying on the categorical exclusion determination and that no extraordinary circumstances are present that require the preparation of an environmental document.

§ 1318.201 Extraordinary circumstances.

(a) If TVA determines that a categorical exclusion(s) covers a proposed action, TVA will evaluate the action for extraordinary circumstances in which a normally excluded action may have a significant effect.

(1) If an extraordinary circumstance exists, TVA may categorically exclude the proposed action if it determines that there are circumstances that lessen the impacts or other conditions sufficient to avoid significant effects or that the action may be modified to avoid the potential to result in significant effects.

(2) If TVA cannot categorically exclude the proposed action due to the presence of an extraordinary circumstance, TVA will prepare an EA or EIS, as appropriate.

(b) Examples of extraordinary circumstances to be considered are:

(1) The proposed action has the potential to significantly impact environmental resources, including the following resources:

(i) Species listed or proposed to be listed under the Endangered Species Act, or the proposed or designated Critical Habitat for these species;

(ii) Wetlands or floodplains;

(iii) Cultural or historical resources;

(iv) Areas having special designation or recognition such as wild and scenic rivers, sacred sites, parklands, or wilderness areas; and

(v) Important farmland, as defined in 7 CFR part 657; and

(2) There is substantial scientific controversy regarding the significance of the environmental impacts of the proposed action.

(c) The mere presence of one or more of the resources under paragraph (b)(1) of this section does not by itself preclude the use of a categorical exclusion. Rather, the determination that an extraordinary circumstance(s) exists depends upon the finding of a causal relationship between a proposed action and the potential effect on these resource conditions, and, if such a relationship exists, the relative degree of the potential effect of a proposed action on these resource conditions.

(d) TVA will document its review for extraordinary circumstances for categories of actions that are likely to result in a physical effect on the environment. No documentation of the extraordinary circumstances review is required for categories of actions that would not result in a physical effect on the environment or carry little risk of significant environmental effects.

§ 1318.202 Public notification.

TVA may, in its sole discretion, provide public notification on any action for which a categorical exclusion is used if TVA determines that the public may have relevant and important information relating to the proposal that will assist TVA in its decisionmaking.

[See Below - Appendix A to Subpart C of Part 1318 -- Categorical Exclusions]

Subpart D -- Environmental Assessments

§ 1318.300 Purpose and scope.

(a) If an action is subject to NEPA and unless TVA finds that the proposed action is excluded from having to prepare an EA or EIS pursuant to a categorical exclusion as determined following the procedures in subpart C of this part, or by another provision of law, TVA will

prepare an EA with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown. TVA is mindful of Congress' direction that EAs are to be "concise." NEPA sec. 106(b)(2); 42 U.S.C. 4336(b)(2)

(b) An EA will concisely communicate information and analyses about issues that are potentially significant and a reasonable range of alternatives.

§ 1318.301 EA preparation.

(a) The EA will briefly describe the proposed action and include brief discussions of the purpose and need for action, alternatives required by NEPA sec. 102(2)(H), 42 U.S.C. 4332(2)(H), and the environmental effects of the proposed action and alternatives.

(b) TVA may, in its sole discretion, request public and stakeholder involvement in the preparation of an EA and provide a public comment period. When public comment is requested, the EA will address substantive comments made in accordance with § 1318.500.

(c) The EA will briefly provide sufficient data and analysis for determining whether to sign a FONSI or prepare an EIS.

(d) The text of an EA is strictly prohibited from exceeding 75 pages, not including citations or appendices.

(e) Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the EA. Appendices are not to be used to provide additional substantive analysis, because that would circumvent the congressionally mandated page limits.

(f) The breadth and depth of analysis in an EA will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the EA, a responsible official will certify (and the certification will be incorporated into the EA) that TVA has considered the factors mandated by NEPA; that the EA represents TVA's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects TVA's expert judgment; and that any considerations addressed briefly or left unaddressed were, in TVA's judgment, comparatively not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed. Such certification may be combined with the certification required under § 1318.106(e).

§ 1318.302 Finding of No Significant Impact.

(a) TVA will prepare a finding of no significant impact if TVA determines, based on the EA, not to prepare an EIS because the proposed action will not have significant effects. The finding of no significant impact will:

(1) Include the EA or incorporate it by reference;

(2) Document TVA's determination that the proposed action will not have a significant effect on the quality of the human environment;

(3) State the authority for any mitigation that TVA has adopted and any applicable monitoring or enforcement provisions. If TVA finds no significant effects based on mitigation, the mitigated finding of no significant impact will state any mitigation requirements enforceable by TVA or voluntary mitigation commitments that will be undertaken to avoid significant effects;

(4) Identify any other documents related to the finding of no significant impact; and

(5) State that an EIS will not be prepared, concluding the NEPA process for the action.

(b) TVA will publish a FONSI as part of an EA or as a separate document.

Subpart E -- Environmental Impact Statements

§ 1318.400 Purpose and scope.

(a) TVA will prepare an EIS for major Federal actions significantly affecting the quality of the human environment. The EIS will address each of the elements identified in section 102(2)(C) of NEPA.

(b) TVA will focus its analysis on whether the environmental effects of the proposed action are significant.

(c) Similarly, TVA will document in the EIS where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the action or project at hand that extend outside the geographical territory of the project or might materialize later in time.

§ 1318.401 EIS preparation.

(a) The following standard format may be used unless TVA determines that a different format is more appropriate:

(1) Executive summary.

(2) Purpose and need.

(3) Reasonable range of alternatives including the proposed action.

(4) Affected environment.

(5) Environmental consequences.

(6) Appendix.

(b) During the process of preparing an EIS, TVA will obtain the comments of any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved and appropriate Federal, Tribal, State, and local agencies that are authorized to develop and enforce environmental standards. Consistent with § 1318.500, TVA may, in its sole discretion, seek comments from the public and Tribal, State, and local agencies that may be

affected by the proposed action or have expressed interest in the proposed action. TVA will address any substantive comments received in the EIS and will determine whether modifications to the EIS are necessary.

(c) TVA will publish the EIS and notify the Environmental Protection Agency; other interested Federal, Tribal, State, and local agencies; and other entities and individuals who have expressed interest in the proposed action.

(d) Except as provided in paragraph (e) of this section, the text of an EIS will not exceed 150 pages, not including citations or appendices.

(e) An EIS for a proposed agency action of extraordinary complexity is strictly prohibited from exceeding 300 pages, not including any citations or appendices. TVA will determine at the earliest possible stage of preparation of an EIS whether the conditions for exceeding the page limit in paragraph (d) of this section are present.

(f) Appendices are to be used for voluminous materials, such as scientific tables, collections of data, statistical calculations, and the like, which substantiate the analysis provided in the EIS. Appendices are not to be used to provide additional substantive analysis, because that would circumvent the congressionally mandated page limits.

(g) The breadth and depth of analysis in an EIS will be tailored to ensure that the EIS does not exceed these page limits. In this regard, as part of the finalization of the EIS, a responsible official will certify that TVA has considered the factors mandated by NEPA; that the EIS represents TVA's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects TVA's expert judgment; and that any considerations addressed briefly or left unaddressed were, in TVA's judgment, comparatively unimportant or frivolous. Such certification may be combined with the certification required under § 1318.106(e).

§ 1318.402 Agency decision.

(a) When TVA is considering a proposed action, TVA will not take action that would have a significant adverse environmental effect or limit the choice of reasonable alternatives until TVA determines that the requirements of these procedures have been met.

(b) After completion of the EIS, TVA may prepare and timely publish a concise decision document notifying the public that TVA has considered all relevant information raised in the NEPA process in making its decision.

(c) The decision document would normally address the decision, the basis for the decision, and any monitoring and/or mitigation commitments.

Subpart F -- Miscellaneous Procedures

§ 1318.500 Public and stakeholder involvement.

(a) TVA may, in its sole discretion, request public involvement in the preparation of an environmental document. The type of and format for notification and public participation will be selected as appropriate to best facilitate timely and meaningful public input. Any process of obtaining and requesting comments may be undertaken at any time that is reasonable in the process of preparing the environmental document. TVA will ensure that the process of obtaining and requesting comments, and TVA's analysis of and response to those comments, does not cause TVA to violate NEPA's deadlines for completion of an environmental document.

(b) TVA will maintain a public website on which it publishes completed environmental documents, decision documents, relevant notices, the list of established and adopted categorical exclusions, and other information relating to TVA's NEPA compliance program.

(c) When TVA seeks comments from the public, TVA will publish the document and provide it by other reasonable means upon request. TVA will specify an appropriate comment period and method for submission of comments. TVA will consider substantive comments submitted within the period and method specified. TVA is not required to respond to comments or objections of any kind that were not submitted in the time or manner specified, and any such comments shall be considered not properly submitted.

(d) When opportunities for public participation are provided, TVA will notify the public that comments submitted to TVA on the NEPA document and the names and addresses of those commenting may be made available for public inspection.

(e) If TVA determines that an individual comment or group of comments is substantive, TVA will respond in the environmental document by:

- (1) Modifying alternatives including the proposed action;
- (2) Developing and evaluating alternatives not previously given serious consideration;
- (3) Supplementing, improving, or modifying its analyses;
- (4) Making factual corrections; or
- (5) Stating that no action is needed.

(f) Changes to the document resulting from substantive comments will be briefly summarized in the environmental document.

(g) TVA will publish all comments received during the comment period when the environmental document is published.

(h) TVA may provide notification on its website if TVA withdraws, cancels, or otherwise ceases the consideration of a proposed action before completing an environmental document.

§ 1318.501 Mitigation.

(a) TVA will identify, as appropriate, measures to mitigate expected significant adverse environmental effects in an environmental document. Those mitigation measures to which TVA commits must be identified in the associated FONSI or decision document (or the documentation, if any, prepared for a categorical exclusion).

(b) Circumstances may arise that warrant modifying or cancelling previously made commitments. TVA may modify or cancel a commitment after considering the environmental significance of such a change.

§ 1318.502 Programmatic environmental documents and tiering.

(a) A programmatic environmental document may be prepared to address a proposed program, policy, or plan, or a proposed action that has a wide geographic scope.

(b) A programmatic environmental document can support high-level or broad decisionmaking and can provide the foundation for the efficient review of specific tiered implementing actions. When TVA has prepared an environmental document for programs, plans, and policies, the tiered document need only summarize and incorporate by reference the issues discussed in the broader document. The tiered document will concentrate on the subsequent proposed action.

(c) Ongoing or previously planned and approved actions that are within the scope of a programmatic review may continue during the programmatic review period, so long as the planned and approved actions are justified independently of the program, are accompanied by an adequate environmental review, and would not prejudice the ultimate decision on the contemplated program.

(d) The identification of significant impacts in a programmatic EIS does not preclude the review of specific implementing actions in a subsequent tiered NEPA review if the implementing actions would not result in new or different significant impacts.

(e) TVA will rely on programmatic environmental documents in accordance with section 108 of NEPA.

§ 1318.503 Coordination with project sponsors and procedures for project sponsor-prepared environmental documents.

(a) When a project sponsor proposes to undertake an action that will require TVA's authorization, TVA will determine whether NEPA is triggered and the scope of the review of TVA's proposed action.

(b) When TVA prepares an environmental document to consider authorization of a project sponsor's action, TVA will provide the project sponsor with information on its responsibilities for assisting TVA in conducting the necessary NEPA review. At TVA's discretion, this assistance can include providing TVA detailed information about the scope and

nature of the proposed action, environmental analyses and studies, and copies of associated environmental permit applications submitted to other Federal, Tribal, State, or local agencies. TVA will independently evaluate the submitted information for accuracy.

(c) In accordance with NEPA sec. 107(f), 42 U.S.C. 4336a(f), TVA allows project sponsors, or contractors hired by project sponsors, to prepare NEPA documents under TVA's supervision.

(d) TVA will independently evaluate the environmental document and will take responsibility for its contents.

(e) TVA will assist project sponsors and project sponsor-hired contractors by providing guidance and outlining the types of information required for the preparation of the environmental document. TVA will work with the project sponsor to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(f) A project sponsor normally will be required to reimburse TVA for all of the costs in reviewing the project sponsor's proposed action or environmental document. (*See* 16 U.S.C. 831c(d); 18 CFR Part 1310.) Participation of a project sponsor in a TVA NEPA review, including reimbursement of TVA's costs, does not commit TVA to any favorable action on a request for authorization.

(g) Project sponsors or contractors assisting in the preparation of the environmental documents will submit a disclosure statement to TVA that specifies any financial or other interest in the outcome of the action.

(h) Project sponsors intending to pay a fee for an expedited EA or EIS deadline pursuant to NEPA sec. 112, 42 U.S.C. 4336f, for which TVA would be the lead agency should consult with TVA before submitting a request to CEQ. TVA will use such consultation to assist the project sponsor in providing an accurate description of the project as it relates to the anticipated EA or EIS-associated costs and understanding the anticipated scope of the environmental review including whether to prepare an EA or an EIS.

(i) TVA's compliance with NEPA sec. 107(g), 42 U.S.C. 4336a(g), and NEPA sec. 112, 42 U.S.C. 4336f, is contingent on receipt of complete and accurate project information from a project sponsor.

(j) Project sponsors must not take actions concerning a proposal that may have an environmental impact or that would limit or affect TVA's decision until TVA determines that the requirements of these procedures have been met. If such actions are taken prior to that determination, TVA may deny the project sponsor's request for TVA's authorization. This section does not preclude a project sponsor from developing plans or designs or taking other actions that will not have environmental impact to support an application or proposal for TVA's authorization.

§ 1318.504 Reducing paperwork and delay.

(a) To reduce paperwork and delay and to meet NEPA's page limits and time limits, TVA will prepare analytic and concise environmental documents, with emphasis placed on portions of

the environmental documents that are useful to decision makers and the public. Data and analyses will be commensurate with the importance of associated impacts. Less important material will be briefly discussed, summarized, consolidated, or referenced as appropriate.

(b) TVA may incorporate material, such as planning studies, analyses, or other relevant information, into environmental documents by reference. TVA will cite to incorporated material in the document and briefly describe its content.

(c) Environmental documents will be written in plain language and follow a clear format that excludes content that is not critical to compliance with NEPA section 101.

(d) An environmental document may be combined with any other document to reduce duplication, paperwork, and delay.

§ 1318.505 Information requirements.

(a) *Methodology and scientific accuracy.* To ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental documents, TVA will rely on reliable existing applicable data and resources. TVA will identify any methodologies used and reference to scientific and other sources relied upon for its conclusions in environmental documents. TVA is not required to undertake new scientific and technical research to inform the analysis but may do so at its discretion.

(b) *Incomplete and unavailable information.* When there is incomplete or unavailable information relating to the reasonably foreseeable significant adverse effects on the human environment, TVA will make clear that such information is lacking in the EIS. If the incomplete but available information is essential to a reasoned choice among alternatives and costs of obtaining it are reasonable, TVA will include the information in the EIS. If information cannot be obtained because the cost is unreasonable or the means to obtain it are not known, TVA will state in the EIS that the information is unavailable, explain the extent to which the information is relevant to its evaluation of reasonably foreseeable significant adverse effects, and summarize existing scientific evidence addressing the reasonably foreseeable significant adverse effects. TVA will include its evaluation of effects based upon theoretical approaches or research methods generally accepted in the scientific community.

§ 1318.506 Causes of action.

This part establishes the procedures by which TVA will typically fulfill the requirements of NEPA. Minor deviations do not establish that TVA failed to comply with NEPA and do not create a substantive right or cause of action for violation of NEPA.

§ 1318.507 Emergency actions.

(a) TVA may consolidate, modify, or omit provisions of these procedures for actions necessary in an emergency and ensure such changes would substantially comply with the intent of these procedures.

(b) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, TVA will consult with the CEQ about alternative arrangements for those actions necessary to control the immediate impacts of the emergency.

(c) TVA will document the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists. The form and content of that documentation is within TVA's discretion.

§ 1318.508 Unique identification numbers.

For all environmental documents, TVA will provide a unique identification number for tracking purposes, which TVA will reference on all associated environmental review documents prepared for the proposed agency action and in any database or tracking system for such documents. TVA will coordinate with the CEQ and other federal agencies to ensure uniformity of such identification numbers across federal agencies.

Appendix A to Subpart C of Part 1318 -- Categorical Exclusions

TVA has established the following classes of actions as categorical exclusions. Individual actions must be reviewed to determine whether extraordinary circumstances are present (see §1318.201). If an extraordinary circumstance cannot be addressed sufficiently to render the action's impacts not significant, an EA or an EIS must be prepared.

1. Educational or informational activities undertaken by TVA alone or in conjunction with other agencies, public and private entities, or the general public.
2. Technical and planning assistance provided to State, local and private organizations and entities.
3. Personnel actions.
4. Procurement actions.
5. Accounting, auditing, financial reports and disbursement of funds.
6. Contracts or agreements for the sale, purchase, or interchange of electricity.
7. Administrative actions consisting solely of paperwork.
8. Communication, transportation, computer service and office services.
9. Property protection activities that do not physically alter facilities or grounds, law enforcement and other legal activities.
10. Emergency preparedness actions not involving the modification of existing facilities or grounds.
11. Minor actions to address threats to public health and safety, including, but not limited to, temporary prohibition of existing uses of TVA land or property, short-term closures of sites, and selective removal of trees that pose a hazard.
12. Site characterization, data collection, inventory preparation, planning, monitoring, and other similar activities that have little to no physical impact.
13. Engineering and environmental studies that involve minor physical impacts, including but not limited to, geotechnical borings, dye-testing, installation of monitoring stations and groundwater test wells, and minor actions to facilitate access to a site.
14. Conducting or funding minor research, development and demonstration projects and programs.
15. Reserved.
16. Construction of new transmission line infrastructure, including electric transmission lines generally no more than 10 miles in length and that require no more than 125 acres of new developed rights-of-way and no more than 1 mile of new access road construction outside the right-of-way; and/or construction of electric power substations or interconnection facilities,

including switching stations, phase or voltage conversions, and support facilities that generally require the physical disturbance of no more than 10 acres.

17. Routine modification, repair, and maintenance of, and minor upgrade of and addition to, existing transmission infrastructure, including the addition, retirement, and/or replacement of breakers, transformers, bushings, and relays; transmission line uprate, modification, reconductoring, and clearance resolution; and limited pole replacement. This exclusion also applies to improvements of existing access roads and construction of new access roads outside of the right-of-way that are generally no more than 1 mile in length.

18. Construction, modification and operation of communication facilities and/or equipment, including power line carriers, insulated overhead ground wires/fiber optic cables, devices for electricity transmission control and monitoring, VHF radios, and microwaves and support towers.

19. Removal of conductors and structures, and/or the cessation of right-of-way vegetation management, when existing transmissions lines are retired; or the rebuilding of transmission lines within or contiguous to existing rights-of-way involving generally no more than 25 miles in length and no more than 125 acres of expansion of the existing right-of-way.

20. Purchase, conveyance, exchange, lease, license, and/or disposal of existing substations, substation equipment, switchyards, and/or transmission lines and rights-of-way and associated equipment between TVA and other utilities and/or customers.

21. Purchase or lease and subsequent operation of existing combustion turbine or combined-cycle plants for which there is existing adequate transmission and interconnection to the TVA transmission system and whose planned operation by TVA is within the normal operating levels of the purchased or leased facility.

22. Development of dispersed recreation sites (generally not to exceed 10 acres in size) to support activities such as hunting, fishing, primitive camping, wildlife observation, hiking, and mountain biking. Actions include, but are not limited to, installation of guardrails, gates and signage, hardening and stabilization of sites, trail construction, and access improvements/controls.

23. Development of public use areas that generally result in the physical disturbance of no more than 10 acres, including, but not limited to, construction of parking areas, campgrounds, stream access points, and day use areas.

24. Minor actions conducted by non-TVA entities on TVA property to be authorized under contract, license, permit, or covenant agreements, including those for utility crossings, agricultural uses, recreational uses, rental of structures, and sales of miscellaneous structures and materials from TVA land.

25. Transfer, lease, or disposal (sale, abandonment or exchange) of (a) minor tracts of land, mineral rights, and landrights, and (b) minor rights in ownership of permanent structures.

26. Approvals under Section 26a of the TVA Act of minor structures, boat docks and ramps, and shoreline facilities.

27. Installation of minor shoreline structures or facilities, boat docks and ramps, and actions to stabilize shoreline (generally up to 1/2 mile in length) by TVA.
28. Minor modifications to land use allocations outside of a normal land planning cycle to: rectify administrative errors; incorporate new information that is consistent with a previously approved decision included in the land use plan; or implement TVA's shoreline or land management policies affecting no more than 10 acres.
29. Actions to restore and enhance wetlands, riparian, and aquatic ecosystems that generally involve physical disturbance of no more than 10 acres, including, but not limited to, construction of small water control structures; revegetation actions using native materials; construction of small berms, dikes, and fish attractors; removal of debris and sediment following natural or human-caused disturbance events; installation of silt fences; construction of limited access routes for purposes of routine maintenance and management; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.
30. Actions to maintain, restore, or enhance terrestrial ecosystems that generally involve physical disturbance of no more than 125 acres, including, but not limited to, establishment and maintenance of non-invasive vegetation; bush hogging; prescribed fires; installation of nesting and roosting structures, fencing, and cave gates; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.
31. The following forest management activities:
 - a. Actions to manipulate species composition and age class, including, but not limited to, harvesting or thinning of live trees and other timber stand improvement actions (e.g., prescribed burns, non-commercial removal, chemical control), generally covering up to 125 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction;
 - b. Actions to salvage dead and/or dying trees including, but not limited to, harvesting of trees to control insects or disease or address storm damage (including removal of affected trees and adjacent live, unaffected trees as determined necessary to control the spread of insects or disease), generally covering up to 250 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction; and
 - c. Actions to regenerate forest stands, including, but not limited to, planting of native tree species upon site preparation, generally covering up to 125 acres and requiring no more than 1 mile of temporary or seasonal permanent road construction.
32. Actions to manage invasive plants including, but not limited to, chemical applications, mechanical removal, and manual treatments that generally do not physically disturb more than 125 acres of land.

33. Actions to protect cultural resources including, but not limited to, fencing, gating, signing, and bank stabilization (generally up to 1/2 mile in length when along stream banks or reservoir shoreline).

34. Reburial of human remains and funerary objects under the Native American Graves Protection and Repatriation Act that are inadvertently discovered or intentionally excavated on TVA land.

35. Installation or modification (but not expansion) of low-volume groundwater withdrawal wells (provided that there would be no drawdown other than in the immediate vicinity of the pumping well and that there is no potential for long-term decline of the water table or degradation of the aquifer), or plugging of groundwater or other wells at the end of their operating life. Site characterization must verify a low potential for seismicity, subsidence, and contamination of freshwater aquifers.

36. Routine operation, repair or in-kind replacement, and maintenance actions for existing buildings, infrastructure systems, facility grounds, public use areas, recreation sites, and operating equipment at or within the immediate vicinity of TVA's generation and other facilities. Covered actions are those that are required to maintain and preserve assets in their current location and in a condition suitable for use for its designated purpose. Such actions will not result in a change in the design capacity, function, or operation. (Routine actions that include replacement or changes to major components of buildings, facilities, infrastructure systems, or facility grounds, and actions requiring new permits or changes to an existing permit(s) are addressed in CE 37). Such actions may include, but are not limited to, the following:

- a. Regular servicing of in-plant and on-site equipment (including during routine outages) such as gear boxes, generators, turbines and bearings, duct work, conveyers, and air preheaters; fuel supply systems; unloading and handling equipment for fuel; handling equipment for ash, gypsum or other by-products or waste; hydropower, navigation and flood control equipment; water quality and air emissions control or reduction equipment; and other operating system or ancillary components that do not increase emissions or discharges beyond current permitted levels;
- b. Regular servicing of power equipment and structures within existing transmission substations and switching stations;
- c. Routine testing and calibration of facility components, subsystems, or portable equipment (such as control valves, in-core monitoring devices, transformers, capacitors, monitoring wells, weather stations, and flumes);
- d. Routine cleaning and decontamination, including to surfaces of equipment, rooms, and building systems (including HVAC, septic systems, and tanks);
- e. Repair or replacement of plumbing, electrical equipment, small HVAC systems, sewerage, pipes, and telephone and other communication service;
- f. Repair or replacement of doors, windows, walls, ceilings, roofs, floors and lighting fixtures in structures less than 50 years old;

- g. Painting and paint removal at structures less than 50 years old, including actions taken to contain, remove, or dispose of lead-based paint when in accordance with applicable requirements;
- h. Recycling and/or removal of materials, debris, and solid waste from facilities, in accordance with applicable requirements;
- i. Groundskeeping actions, including mowing and landscaping, snow and ice removal, application of fertilizer, erosion control and soil stabilization measures (such as reseeding and revegetation), removal of dead or undesirable vegetation with a diameter of less than 3 inches (at breast height), and leaf and litter collection and removal;
- j. Repair or replacement of gates and fences;
- k. Maintenance of hazard buoys;
- l. Maintenance of groundwater wells, discharge structures, pipes and diffusers;
- m. Maintenance and repair of process, wastewater, and stormwater ponds and associated piping, pumping, and treatment systems;
- n. Maintenance and repair of subimpoundments and associated piping and water control structures;
- o. Debris removal and maintenance of intake structures and constructed intake channels including sediment removal to return them to the originally-constructed configuration; and
- p. Clean up of minor spills as part of routine operations.

37. Modifications, upgrades, uprates, and other actions that alter existing buildings, infrastructure systems, facility grounds, and plant equipment, or their function, performance, and operation. Such actions, which generally will not physically disturb more than 10 acres, include but are not limited to, the following:

- a. Replacement or changes to major components of existing buildings, facilities, infrastructure systems, facility grounds, and equipment that are like-kind in nature;
- b. Modifications, improvements, or operational changes to in-plant and on-site equipment that do not substantially alter emissions or discharges beyond current permitted limits. Examples of equipment include, but are not limited to: gear boxes, generators, turbines and bearings, duct work, conveyers, superheaters, economizers, air preheaters, unloading and handling equipment for fuel; handling equipment for ash, gypsum or other by-products or waste; hydropower, navigation and flood control equipment; air and water quality control equipment; control, storage, and treatment systems (e.g. automation, alarms, fire suppression, ash ponds, gypsum storage, and ammonia storage and handling systems); and other operating system or ancillary components;
- c. Installation of new sidewalks, fencing, and parking areas at an existing facility;
- d. Installation or upgrades of large HVAC systems;

- e. Modifications to water intake and outflow structures provided that intake velocities and volumes and water effluent quality and volumes are consistent with existing permit limits;
- f. Repair or replacement of doors, windows, walls, ceilings, roofs, floors and lighting fixtures in structures greater than 50 years old; and
- g. Painting and paint removal at structures greater than 50 years old, including actions taken to contain, remove and dispose of lead-based paint when in accordance with applicable requirements.

38. Siting, construction, and use of buildings and associated infrastructure (e.g., utility lines serving the building), physically disturbing generally no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed.

39. Siting and temporary placement and operation of trailers, prefabricated and modular buildings, or tanks on previously disturbed sites at an existing TVA facility.

40. Demolition and disposal of structures, buildings, equipment and associated infrastructure and subsequent site reclamation, subject to applicable review for historical value, on sites generally less than 10 acres in size.

41. Actions to maintain roads, trails, and parking areas (including resurfacing, cleaning, asphalt repairs, and placing gravel) that do not involve new ground disturbance (i.e., no grading).

42. Improvements to existing roads, trails, and parking areas, including, but not limited to, scraping and regrading; regrading of embankments; installation or replacement of culverts; and other such minor expansions.

43. Actions to enhance and control access to TVA property including, but not limited to, construction of new access roads and parking areas (generally no greater than 1 mile in length and physically disturbing no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed) and installation of control measures such as gates, fences, or post and cable.

44. Small-scale, non-emergency cleanup of solid waste or hazardous waste (other than high-level radioactive waste and spent nuclear fuel) to reduce risk to human health or the environment. Actions include collection and treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action.

45. Installation, modification, and operation of the following types of renewable or waste-heat recovery energy projects which increase generating capacity at an existing TVA facility, generally comprising of physical disturbance to no more than 10 acres of land not previously disturbed by human activity or 25 acres of land so disturbed:

- a. Combined heat and power or cogeneration systems at existing buildings or sites; and

- b. Solar photovoltaic systems mounted on the ground, an existing building or other structure (such as a rooftop, parking lot or facility and mounted to signage lighting, gates or fences).

46. Transactions (contracts or agreements) for purchase of electricity from new methane gas electric generating systems using commercially available technology and installed within an area previously developed or disturbed by human activity.

47. Modifications to the TVA rate structure (i.e., rate change) that result in no predicted increase in overall TVA-system electricity consumption.

48. Financial and technical assistance for programs conducted by non-TVA entities to promote energy efficiency or water conservation, including, but not limited to, assistance for installation or replacement of energy efficient appliances, insulation, HVAC systems, plumbing fixtures, and water heating systems.

49. Financial assistance including, but not limited to, approving and administering grants, loans and rebates for the renovation or minor upgrading of existing facilities, established or developing industrial parks, or existing infrastructure; the extension of infrastructure; geotechnical boring; and construction of commercial and light industrial buildings. Generally, such assistance supports actions that physically disturb no more than 10 acres of land not previously disturbed by human activity or no more than 25 acres of land so disturbed.

50. Financial assistance for the following actions: approving and administering grants, loans and rebates for continued operations or purchase of existing facilities and infrastructure for uses substantially the same as the current use; purchasing, installing, and replacing equipment or machinery at existing facilities; and completing engineering designs, architectural drawings, surveys, and site assessments (except when tree clearing, geotechnical boring, or other land disturbance would occur).