

## **Listing of Terms/Abbreviations**

- AA – Assistant Administrator for Fisheries
- APA – Administrative Procedure Act – The Administrative Procedure Act: P.L. 79-404 (July 11, 1946), as amended, establishes, among other things, minimum procedural requirements or models for federal agency rulemaking and certain types of hearings. For instance, the APA establishes procedures for informal rulemaking, which may include notice-and-comment requirements, or formal rulemaking, which includes trial-type hearings. Exemptions from rulemaking requirements are included in the Act. The APA provides standards for judicial review of final agency action.
- BA – Biological Assessment – Information on any species which is listed or proposed to be listed in an area considered for construction. If species are available, based on the best scientific evidence and commercial data available, agency shall conduct a biological assessment for the purpose of identifying any endangered species which is likely to be affected by such action. Such assessment must be completed within 180 days after the date on which initiated.
- BO – Biological Opinion – An opinion rendered as to whether a proposed action would jeopardize the continued existence of listed species or adversely modify their critical habitats.
- CE – Categorical Exclusion - "Categorical exclusion" means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations (Sec. 1507.3) and for which, therefore, neither an environmental assessment nor an environmental impact statement is required. An agency may decide in its procedures or otherwise, to prepare environmental assessments for the reasons stated in Sec. 1508.9 even though it is not required to do so. Any procedures under this section shall provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect.
- CI - Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- CEQ – Council on Environmental Quality Regulations – The President’s Council on Environmental Quality is the agency responsible for the oversight and development of national environmental policy. Created by NEPA, CEQ also shores this responsibility with EPA.
- CFR – Code of Federal Regulations – A compilation of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government of the United States.
- CPE – Comment Period Ends – end of mandatory public comment period.

- CZMA – Coastal Zone Management Act – Enacted by Congress to develop a national coastal management program that comprehensively manages and balances competing uses and impacts to any coastal use or resource. The national coastal management program is implemented by individual State management programs in partnership with the Federal Government.
- CZMP – Coastal Zone Management Plan.
- DOC – Department of Commerce.
- DOC/GC – Department of Commerce Office of General Council
- DQA – Data Quality Act – Enacted by Congress to set quality standards for information used by federal agencies to write regulations. It provides guidance to federal agencies to ensure and maximize the quality, objectivity and integrity of all disseminated information.
- EA – Environmental Assessment – A concise public document that analyzes the environmental impacts of a proposed federal action and provides sufficient evidence to determine the level of significance of the impacts.
- EIA – Environmental Impact Assessment – The process of surveying, predicting and assessing the likely impact that a project will have on various aspects of the environment; studying possible environmental protection measures relating to the project; and assessing the likely overall environmental impact of such measures.
- EIS – Environmental Impact Statement - The detailed statement required by NEPA when an agency proposed a major federal action significantly affecting the quality of the human environment.
- DEIS – Draft document
  - FEIS – Final document
  - SDEIS – Draft Supplemental document
  - SEIS – Supplemental document
- EFH – Essential Fish Habitat – Those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.
- EO – Executive Order - Executive orders are official documents, numbered consecutively, through which the President of the United States manages the operations of the Federal Government. The text of Executive orders appears in the daily Federal Register as each Executive order is signed by the President and received by the Office of the Federal Register. The text of Executive orders also appears in the sequential editions of Title 3 of the Code of Federal Regulations (CFR).
- EPA – Environmental Protection Agency – A federal agency whose mission is to protect human health and to safeguard the natural environment – air, water and land – upon which life depends. Pursuant to the National Environmental Policy Act, all DEISs and EISs must be filed with the EPA. EPA has special review status, and publishes a notice of document availability for public comment, triggering the start of mandatory minimum comment and cooling off periods.

- ESA – Endangered Species Act – The Endangered Species Act of 1973 requires federal agencies, in consultation with USFWS and the NMFS, to ensure that their actions do not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of the critical habitat of these species.
- F – Abbreviation of the NOAA Assistant Administrator for Fisheries (AA). The “F” abbreviation is used in the title of memos required to accompany decision packages on FMPs, amendments, and rules.
- Federalism – Federalism concerns the relationships between the Federal government and State, local, and tribal governments. It involves two main issues: (1) the need for the Federal government to consult regularly with such governments and (2) when and under what conditions, Federal law should pre-empt State, local, and tribal law. Executive Order 13132, issued in August 1999, states that Federal regulations may preempt State and local laws and rules only when Congress expressly dictates they do so or gives the executive agency clear authority to supersede state and local government. It specifies that where State rules directly conflict with Federal law, the latter shall be supreme. The Order also gives the Office of Management and Budget (OMB) authority to enforce E.O. 13132 by rejecting major proposed regulations that lack a federalism "impact statement" or have been written without consultation with State and local officials. The executive order also makes it easier for State and local governments to get waivers from Federal rules and requires Federal officials to defer to States whenever possible.
- Formal Rulemaking – Formal rulemaking is a type of rulemaking in which the agency, by statute, may issue a rule only after an opportunity for a "hearing on the record." Such a proceeding must be conducted according to the formal hearing provisions of the APA (5 U.S.C. §§ 556-557 of title 5). Because such procedures are quite cumbersome for rulemaking, few statutes now require formal rulemaking.
- FOIA – Freedom of Information Act - The Freedom of Information Act (FOIA) (5 U.S.C. § 552) requires that Federal agencies make certain information available to the public-either affirmatively or upon request. Prior to the enactment of FOIA in 1966, except for those types of information either subject to discovery in litigation with the Government, or required by law to be made public, Federal agencies could arbitrarily decide what documents to release to the public and who could receive certain types of information. Now agencies are required to release copies of documents to any requester that do not fall into one of nine specifically exempt categories. These categories are:
1. Classified national defense or foreign policy documents.
  2. Materials related solely to an agency's personnel rules and practices.
  3. Materials specifically exempted from disclosure by statute.
  4. Trade secrets and commercial or financial information obtained from a person and that is privileged or confidential.
  5. Inter-agency or intra-agency memoranda or letters.
  6. Personnel or medical files the disclosure of which would be an invasion of personal privacy.
  7. Investigatory records compiled for law enforcement purposes.
  8. Information concerning financial institutions.
  9. Geological information concerning wells.

After receiving a written request for information under FOIA, an agency has 20 working days (subject to one extension) to either comply with the request or send a written denial specifically invoking one or more of the exemptions. The denial letter must also contain instructions for appealing the decision within the agency. If an agency also rejects the appeal, the requester has the option of taking the agency to court.

If parts of documents are deemed exempt from release, the agency must release the rest of the document where feasible. Agencies retain the discretion to release exempt documents in many situations. The Act also provides rules concerning fees that may be charged to requesters.

In 1996 the FOIA was updated by the Electronic Freedom of Information Act Amendments (Pub. Law 104-231).

- FRFA – Final Regulatory Flexibility Analysis – a requirement of the Regulatory Flexibility Act.
- FWLS – U. S. Fish and Wildlife Service – A Federal agency in the Department of the Interior that is responsible for the protection, conservation and renewal of fish and wildlife and their habitats. Their mission is, working with others, to conserve, protect and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people.
- FMAT – Fishery Management Action Team
- FMP – Fishery Management Plan
- DFMP – Draft Fishery Management Plan
- FONSI – Finding of No Significant Impact - Finding of no significant impact" means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (Sec. 1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (Sec. 1501.7(a)(5)). If the assessment is included, the finding need not repeat any of the discussion in the assessment but may incorporate it by reference.
- FR – Federal Register -The *Federal Register* is a daily publication of the Federal government that provides official notification and record of Federal agency rulemaking actions, proposed rulemakings, and a host of notices and announcements of other agency actions and meetings. The *Federal Register* was established in 1935 by the Federal Register Act. Over the years numerous laws and Executive Orders have expanded and modified the use of the *Federal Register* in the Federal rulemaking process.
- GC – General Council.
- GCF – Office of the General Counsel for Fisheries, NOAA
- FMA – Fishery Management Action – Includes a full range of actions taken pursuant to the Magnuson-Stevens Act, from full-blown rulemakings to Fishery Management Plans with no implementing regulations, and including any substantive action by the agency that promulgates or is expected to lead to the promulgation of a final rule or regulation, including advance notices of proposed rulemaking, and notices of proposed rulemaking.
- HC – Office of Habitat Conservation.

- HQS – Headquarters staff responsible for reviewing and/or clearing an action. Includes:
- NOAA Office of Strategic Planning (OSP)
  - Office of General Counsel (GC)
  - Office of Sustainable Fisheries (OSF)
  - Habitat and Conservation (HC)
  - Protected Resources (PR)
  - Department of Commerce Office of General Counsel (DOC/OGC)
- IRFA – Initial Regulatory Flexibility Analysis – a requirement of the Regulatory Flexibility Act.
- MSA – Magnuson-Stevens Fishery Conservation and Management Act
- MMPA – Marine Mammal Protection Act – An Act, authorized by Congress, which established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and on the importing of marine mammals and marine mammal products into the United States.
- MNSA – Marine Natural Study Area – A portion of the natural tidal wetlands preserved and managed to enrich community life and add to the well being of the public.
- NAO – NOAA Administrative Order.
- NEPA – National Environmental Protection Act – Federal legislation that establishes environmental policy for the nation. It provides an interdisciplinary framework for federal agencies to prevent environmental damage and contains “action-forcing” procedures to ensure that federal agency decision makers take environmental factors into account.
- NPRM – Notice of Proposed Rulemaking - The notice of proposed rulemaking (NPRM) serves to inform the public that a Federal agency is considering a regulatory change. The NPRM must be published in the *Federal Register* unless all of the persons who would be subjected to the proposed change are named and either personally served or otherwise have actual notice. The NPRM describes the new rule or changes being considered in existing rules, and tells the public how they may participate in the rulemaking process. Most NPRMs now allow for a comment period of sixty days although the actual time may be shorter or longer. In most cases, the public is invited to participate by submitting written comments to the agency. If the agency plans to hold a public hearing, the time and place of the hearing are often announced in the NPRM. If the agency does not decide to hold a public hearing until after the NPRM is published, the hearing is usually announced in a separate *Federal Register* document.
- No particular format is required for written comments. They may be as simple as a letter or postcard or as formal as a printed legal brief. Agencies are increasingly allowing comments to be filed electronically as well. Most agencies maintain all of the comments received on a particular NPRM in a single file, usually referred to as the “docket.” Before an agency issues a final regulation, it is required to consider all comments it receives in response to an NPRM.
- NFRM – Notice of Final Rulemaking
- NMFS – National Marine Fishery Service

- NOA – Notice of Availability
- NOAA – National Oceanographic and Atmospheric Administration
- NOI – Notice of Intent - Notice of intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:
- (a) Describe the proposed action and possible alternatives.
  - (b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.
  - (c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.
- NPR – Notice of Proposed Rulemaking
- OG – Operating Guide
- OFR – Office of Federal Register
- OLE – Office of Law Enforcement
- OMB – The White House Office of Management and Budget
- OSF – Office sustainable Fisheries (Headquarters)
- OSP/PPI – The NOAA Office of Strategic Planning/Program Planning and Integration – NOAA's NEPA Office, currently vested with responsibility to sign off on EISs.
- PBO – Preliminary Biological Opinion – a provision under the Endangered Species Act.
- PR – Office of Protective Resources.
- PRA – Paperwork Reduction Act. – The Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501-3520) superseded the older Federal Reports Act (1942) and reestablished the Office of Management and Budget (OMB) as the central coordinator of Federal information policy. The Paperwork Reduction Act was reenacted and updated in 1995. The Act requires all agencies to obtain the approval of the Office of Information and Regulatory Affairs (OIRA) in OMB before requesting the same type of information from ten or more businesses and individuals. OIRA also decides whether or not the information requested is duplicative or puts an excessive burden on the public.
- OIRA's regulations provide for a somewhat different process for reviewing and clearing free-standing information collection requests (e.g., tax forms) and information requests that are embedded in proposed regulations.
- PREE – Preliminary Regulatory Economic Evaluation - an analysis required by NOAA Economic Analysis guidelines for complying with the Regulatory Flexibility Act.
- RA – Regional Administrator
- RCCP – Regulatory Critical Control Point
- Regs Unit – A division within the NOAA Fisheries Office of Sustainable Fisheries that prepares documents for submission to the Federal Register.

RFA – Regulatory Flexibility Act - The Regulatory Flexibility Act ("Reg Flex") (1980) (5 U.S.C. §§ 601-612), requires regulatory agencies to consider the effects of any proposed rule on "small entities" (i.e., small businesses, small governmental units, and small not-for-profit organizations). For any rule that an agency determines will affect a significant number of small entities, a Regulatory Flexibility Analysis (RFA) must be prepared at both the proposed rule and final rule stages. This analysis must include: (1) an estimate of the number and type of small entities to be affected; (2) a detailed description of the recordkeeping and compliance requirements for the rule; and (3) a discussion of the alternatives that the agency has considered that would reduce the burden that the rule would impose on small entities. In April and October of each year all regulatory agencies are required to publish in the *Federal Register* a "regulatory flexibility agenda" listing all rules that the agency is likely to issue in proposed or final form that are expected to have significant impact on small entities. Each year the agency must publish a list of those rules it intends to review within the next 12 months. (See Regulatory Agendas.)

The Regulatory Flexibility Act was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Public Law 104-121, Title II). SBREFA added a provision allowing court challenges to an agency's non-compliance with Reg Flex. SBREFA also requires that agencies develop guidelines and provide other assistance to, and modify enforcement policy for, small businesses. It also created a system of Congressional review of agency rules. (See Congressional Review of Rules)

FRFA – Final Regulatory Flexibility Analysis

IRFA – Initial Regulatory Flexibility Analysis

RIR – Regulatory Impact Review - a cost-benefit analysis required by NOAA Fisheries to comply with the requirements of Executive Order 12866

DRIR – Draft document

ROA – Regional Operating Agreement

ROD – Record of Decision – A public document that reflects the agency's final decision, rationale behind that decision, and commitments to monitoring and mitigation.

RSP – Regulatory Streamlining Project

SBA – Small Business Administration

Scoping – Actions to be included in a project, the range of alternatives and the impacts to be considered.

Scope consists of the range of actions, alternatives, and impacts to be considered in an environmental impact statement. The scope of an individual statement may depend on its relationships to other statements (Secs.1502.20 and 1508.28). To determine the scope of environmental impact statements, agencies shall consider 3 types of actions, 3 types of alternatives, and 3 types of impacts. They include:

(a) Actions (other than unconnected single actions) which may be:

1. Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

- (i) Automatically trigger other actions which may require environmental impact statements.
  - (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
  - (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.
2. Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.
  3. Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.
- (b) Alternatives, which include:
1. No action alternative.
  2. Other reasonable courses of actions.
  3. Mitigation measures (not in the proposed action).
- (c) Impacts, which may be: (1) Direct; (2) indirect; (3) cumulative.

TIA – Takings Implication Assessment

Tiering – Refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

- (a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.
- (b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.

