



[Notice-PBS-2024-04; Docket No. 2024-0002; Sequence No. 12]

Notice of Adoption of the U.S. Department of Energy's Electric Vehicle Charging Stations Categorical Exclusion Pursuant to Section 109 of the National Environmental Policy Act

AGENCY: Public Buildings Service, U.S. General Services Administration (GSA).

ACTION: Notice.

SUMMARY: GSA is adopting the U.S. Department of Energy's (DOE) electric vehicle charging stations categorical exclusion (CATEX) pursuant to section 109 of the National Environmental Policy Act (NEPA) to use for proposed GSA actions. This notice describes the categories of proposed actions for which GSA intends to use DOE's electric vehicle charging stations CATEX and details the consultation between the agencies.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: Greg Graybadger, Director, Real Property Valuation Division, GSA Public Buildings Service, Office of Portfolio Management & Customer Engagement, by phone at 208-863-5969 or by email at gregory.graybadger@gsa.gov.

SUPPLEMENTARY INFORMATION:

- **Background**

NEPA, as amended at 42 U.S.C. 4321-4347, requires all Federal agencies to assess the environmental impact of their actions. Congress enacted NEPA in order to encourage productive

and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321. NEPA's twin aims are to ensure that agencies consider the environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process. 42 U.S.C. 4331. NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA implementing regulations, 40 CFR parts 1500 through 1508 (CEQ regulations).

To comply with NEPA, agencies determine the appropriate level of review – an environmental impact statement (EIS), an environmental assessment (EA), or a CATEX. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336. If the proposed action is not likely to have significant environmental effects or the effects are unknown, the agency may instead prepare an EA, which involves a more concise analysis and process than an EIS. 42 U.S.C. 4336. Following the EA, the agency may conclude the process with a finding of no significant impact if the analysis shows that the action will have no significant effects. If the analysis in the EA finds that the action is likely to have significant effects, however, then an EIS is required.

Under NEPA and the CEQ regulations, a federal agency also can establish in its NEPA implementing procedures CATEXs, which are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment. 42 U.S.C. 4336(e)(1), 1507.3(e)(2)(ii), 1508.1(d). If an agency determines that a CATEX covers a proposed action, it then evaluates the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b). If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental impacts, the agency may apply the CATEX to the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2), 40 CFR 1501.4. If the extraordinary circumstances have the potential to result in significant effects, the agency is required to prepare an EA or EIS.

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to adopt a CATEX listed in another agency's NEPA procedures for a category of proposed agency actions. 42 U.S.C. 4336. To use another agency's CATEXs under Section 109, an agency must identify the relevant CATEXs listed in that agency's (the "establishing agency") NEPA procedures that cover its category of proposed actions or related actions; consult with the establishing agency to ensure that the proposed adoption of the CATEX to a category of actions is appropriate; identify to the public the CATEX that

the agency plans to use for its proposed actions; and document adoption of the CATEX. 40 CFR 1506.3.

This notice documents GSA's adoption of DOE's electric vehicle charging stations CATEX under section 109 of NEPA.

- **Identification of the Categorical Exclusion**

DOE's Electric Vehicle Charging Stations CATEX

DOE's electric vehicle charging stations CATEX is codified in DOE's NEPA procedures as CATEX B5.23 of 10 CFR part 1021, subpart D, appendix B, as follows:

B5.23 Electric Vehicle Charging Stations: The installation, modification, operation, and removal of electric vehicle charging stations, using commercially available technology, within a previously disturbed or developed area. Covered actions are limited to areas where access and parking are in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.

"Previously disturbed or developed" refers to land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed State, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available. 10 CFR 1021.410(g)(1).

The DOE electric vehicle charging stations CATEX also includes additional conditions referred to as integral elements. (10 CFR part 1021) In order to apply this CATEX, the proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of GSA or executive orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;

(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;

(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, State, or local government, or a federally recognized Indian Tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer

or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:

(i) Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, State, or local government, federally recognized Indian Tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places;

(ii) Federally listed threatened or endangered species or their habitat (including critical habitat) or federally proposed or candidate species or their habitat (Endangered Species Act); State-listed or State-proposed endangered or threatened species or their habitat; federally protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise federally protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);

(iii) Floodplains and wetlands;

(iv) Areas having a special designation such as federally and State-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, State and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;

(v) Prime or unique farmland, or other farmland of Statewide or local importance, as defined at 7 CFR 658.2(a), "Farmland Protection Policy Act: Definitions," or its successor;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests; or

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health.

Proposed GSA Category of Actions

DOE's electric vehicle charging stations CATEX allows for the installation, modification, operation, and removal of electric vehicle charging stations. GSA intends to apply this CATEX to electric vehicle charging station projects undertaken directly by GSA, to electric vehicle charging station actions requiring an approval by GSA, or to electric vehicle charging station projects financed in whole or in part through Federal funds made available by GSA.

GSA will consider each proposal for electric vehicle charging stations to ensure that the proposal is within the

scope of the CATEX. GSA intends to apply this CATEX in a manner consistent with DOE's application to the same types of proposals.

- **Consideration of Extraordinary Circumstances**

When applying this CATEX, GSA will evaluate the proposed action to ensure evaluation of integral elements listed above. In addition, in considering extraordinary circumstances, GSA will consider whether the proposed action has the potential to result in significant effects as described in DOE's extraordinary circumstances listed at 10 CFR 1021.410(b)(2). DOE defines extraordinary circumstances as unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources.

- **Consultation with DOE and Determination of Appropriateness**

GSA and DOE consulted on the appropriateness of GSA's adoption of the CATEX in January 2024. This consultation included a review of DOE's experience developing and applying the CATEX, as well as the types of actions for which GSA plans to utilize the CATEX. Based on this consultation and review, GSA has determined that the types of projects it intends to undertake to install, operate, modify, or remove electric vehicle charging stations are substantially similar to such projects for which DOE has applied the CATEX. Accordingly, the

impacts of GSA projects will be very similar to the impacts of DOE projects, which are not significant, absent the existence of extraordinary circumstances that could involve potentially significant impacts. Therefore, GSA has determined that its proposed use of the electric vehicle charging stations CATEX as described in this notice would be appropriate.

- **Notice to the Public and Documentation of Adoption**

This notice serves to identify to the public and document GSA's adoption of DOE's CATEX for electric vehicle charging stations. The notice also identifies the types of actions to which GSA will apply the CATEX, as well as the considerations that GSA will use in determining whether an action is within the scope of the CATEX. Upon issuance of this notice, the adopted electric vehicle charging stations CATEX will be available to GSA.

Elliot Doomes,

*Commissioner, Public Buildings Service,
U.S. General Services Administration.*

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