



DEPARTMENT OF DEFENSE

Office of the Secretary

Adoption of National Oceanographic and Atmospheric Administration Categorical

Exclusion Pursuant to a Section of the National Environmental Policy Act (NEPA)

AGENCY: Defense Advanced Research Projects Agency (DARPA), Department of Defense (DoD).

ACTION: Notice of adoption of the National Oceanic and Atmospheric Administration (NOAA) categorical exclusion for habitat restoration.

SUMMARY: DARPA is adopting the NOAA categorical exclusion C1 for the restoration of coral reefs in south Florida. This notice describes the proposed action for which DARPA intends to use the NOAA categorical exclusion and details the consultation between the agencies.

DATES: This action is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Dr. Catherine Campbell, 703-526-2044 (Voice), Catherine.Campbell@darpa.mil (Email).

SUPPLEMENTARY INFORMATION:

I. Background

National Environmental Policy Act and Categorical Exclusions

NEPA, 42 U.S.C. 4321–4347 requires all Federal agencies to assess the environmental impacts of their actions. Congress enacted NEPA 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. NEPA seeks to ensure agencies consider the environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process. NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA

implementing regulations, 40 Code of Federal Regulations (CFR) parts 1500 through 1508 (CEQ regulations).

To comply with NEPA, agencies determine the appropriate level of review—an Environmental Impact Statement (EIS), Environmental Assessment (EA), or categorical exclusion. (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. *Id.* 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. *Id.* 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 may establish in its NEPA implementing procedures categorical exclusions, which are categories of actions the agency has determined normally do not significantly affect the quality of the human environment. (40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d)). If an agency determines that a categorical exclusion 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 categorical exclusion to the proposed action without preparing an EA or EIS. (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 categorical exclusion listed in another agency's NEPA procedures for a category of proposed agency actions for which the categorical exclusion was established (42 U.S.C. 4336(c)). To adopt another agency's categorical exclusion under Section 109, an agency

must identify the relevant categorical exclusion listed in that agency's ("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 categorical exclusion to a category of actions is appropriate; identify to the public the categorical exclusion that the agency plans to use for its proposed actions; and document adoption of the categorical exclusion. *Id.* This notice documents DARPA's adoption of NOAA's categorical exclusion under Section 109 of NEPA.

II. Identification of the Categorical Exclusion

NOAA's categorical exclusion, C1, for habitat restoration actions is codified in NOAA's procedures for implementing NEPA (<https://www.noaa.gov/sites/default/files/2021-10/NOAA-NAO-216-6A-Companion-Manual-03012018%20%281%29.pdf>) and related authorities, as contained in the Companion Manual to NOAA Administrative Order NAO 2-16-6A. The text of categorical exclusion C-1 is as follows, "Habitat restoration actions, provided that such action: (1) transplants only organisms currently or formerly present at the site or in its immediate vicinity (if transplant is a component of the action); (2) does not require substantial placement of fill or dredging; (3) does not involve any removal of debris, excavation, or conditioning of soils unless such removal of debris, excavation, or conditioning of soils is geographically limited to the impact area such that site conditions will not impede or negatively alter natural processes, is in compliance with all permit and disposal requirements, and will not impact critical aquifers or recharge areas; and (4) does not involve an added risk of human or environmental exposure to toxic or hazardous substances, pathogens, or radioactive materials. Notes: If applicable, limitations and mitigation measures identified in the NOAA Restoration Center Programmatic Environmental Impact Statement for Habitat Restoration Actions must be followed. This CE includes, but is not limited to, response or restoration actions under CERLCA, OPA, or NMSA, if such actions help to restore an ecosystem, habitat, biotic community, or population of living resources to a determinable pre-impact condition prior to the incident leading to the response or

restoration.”

Proposed Action

DARPA proposes to deploy and field test ecological engineering and biological adaptation strategies for corals in south Florida that have been tested in laboratory settings. The need to field test these strategies is to determine the best methods for coral translocation that will maximize wave attenuation, promote coral growth, mimic natural reef building and self-repair, increase the adaptive capacity of coral, and provide for long-term resiliency of the artificial reef that will be a part of DARPA’s Reefense program in south Florida.

III. Consideration of Extraordinary Circumstances

If an agency determines that a categorical exclusion covers a proposed action, the agency must evaluate the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. (40 CFR 1501.4(b)). DARPA does not currently have its own NEPA implementing procedures to guide its application of extraordinary circumstances. Until DARPA establishes NEPA implementing procedures, for purposes of considering extraordinary circumstances in connection with the NOAA categorical exclusion discussed in this notice, DARPA has considered whether the proposed action has the potential to result in significant effects. DARPA has assessed extraordinary circumstances and determined they are not present.

IV. Consultation with NOAA and Determination of Appropriateness

DARPA and NOAA consulted on the appropriateness of DARPA’s adoption of the categorical exclusion. This consultation included a review of NOAA’s experience applying the categorical exclusion and the proposed action for which DARPA plans to utilize it. Following this consultation and review, DARPA has determined that the impacts of the proposed action to deploy and field test ecological engineering and biological adaptation strategies for corals that have been tested in laboratory settings are similar to the impacts, which are not significant, of projects for which NOAA may apply the categorical exclusion. Additionally, DARPA

determined that there are no extraordinary circumstances. Therefore, DARPA has determined that its proposed use of NOAA's categorical exclusion C1, as described within this notice, would be appropriate.

Notice to the Public and Documentation of Adoption

This notice documents adoption of the NOAA categorical exclusion listed above and is available for use by DARPA, effective immediately.

Dated: May 22, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer,

Department of Defense.

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