



INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Notice of Adoption of the National Aeronautics and Space Administration (NASA)'s Categorical Exclusion for Real Property Federal Transfer Pursuant to Section 109 of the National Environmental Policy Act (NEPA)

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC).

ACTION: Notice of adoption of categorical exclusion

SUMMARY: Pursuant to section 109 of the National Environmental Policy Act (NEPA), USIBWC is adopting National Aeronautics and Space Administration's (NASA) Categorical Exclusion (4)(iv) for the transfer of real property administrative control to another Federal agency. This notice describes the proposed action for which USIBWC intends to use NASA's Categorical Exclusion and describes the consultation between the agencies.

DATES: The categorical exclusion is adopted [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Elizabeth Verdecchia, Natural Resources Specialist, Environmental Management Division, USIBWC, by phone at (915) 832-4701 or by email elizabeth.verdecchia@ibwc.gov.

SUPPLEMENTARY INFORMATION:

I. NEPA and Categorical Exclusions

The National Environmental Policy Act, as amended (42 United States Code (U.S.C.) 4321-4347) (NEPA) 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.

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, a Federal agency must establish in its own NEPA implementing procedures, including establishing categorical exclusions, which are categories of actions the agency has determined normally do not significantly affect the quality of the human environment (42 U.S.C. 4336e). If an agency determines that a categorical exclusion covers a proposed action, it then evaluates whether there are any extraordinary circumstances in which a normally excluded action may have a significant effect. 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.

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 (42 U.S.C. 4336(c)). To adopt and use 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 USIBWC's adoption of NASA's categorical exclusion under section 109 of NEPA.

II. Identification of the Categorical Exclusion

NASA's categorical exclusion 14 CFR 1216.304(d)(4) is for Real and Personal Property Activities including... "(iv) Transferring real property administrative control to another Federal agency, including the return of public domain lands to the Department of the Interior (DoI) or other Federal agencies, and reporting of property as excess and surplus to the General Services Administration (GSA) for disposal, when the agency receiving administrative control (or GSA, following receipt of a report of excess) shall complete any necessary NEPA review prior to any change in land use.." The Categorical exclusion is codified in NASA's NEPA procedures in 14 CFR 1216.304(d)(4)(iv).

III. Proposed USIBWC Category of Actions

The USIBWC intends to apply NASA's categorical exclusion (4)(iv) to transfer USIBWC-administered lands to Department of Defense, or any division thereof (collectively "DOD") through a conditional report of excess to General Services Administration (GSA). This is in compliance with President Trump's Executive Order 14167 dated January 20, 2025, and National Security Presidential Memorandum/NSPM-4 dated April 11, 2025, through which the President instructed DOD to establish a National Defense Area (NDA) and, with the cooperation

of other federal agencies, to assume administrative jurisdiction over Federal lands along the southern border. There may be multiple transactions or multiple requests for transfer.

IV. Rationale for the Categorical Exclusion

The USIBWC's report of excess and transfer to DOD is administrative in nature. the Transferred property will become DOD property and will be under the jurisdiction of DOD, the USIBWC will continue to operate and maintain its infrastructure under a Memorandum of Agreement and the DOD will be responsible for environmental compliance (pursuant to its rules and regulations) for any new ground-disturbing activity that DOD undertakes.

NASA first added this categorical exclusion to their NEPA implementing procedures in July 2011; in that Federal Register notice, NASA noted, "In the rare case that NASA has land to be excessed, as the Federal agent, NASA is required to declare the property excess to GSA. In such situations, NASA's action with regard to the United States' real property interest is merely an administrative action, and GSA and/or any receiving agency would conduct a NEPA review for any potential change in use."

While many other agencies have categorical exclusions for transfer of property between federal agencies via excess to GSA, few, if any, specifically call out that the receiving agency will be responsible for the NEPA compliance for change in use. USIBWC intends to apply this categorical exclusion in a manner consistent with NASA's application.

V. Consideration of Extraordinary Circumstances

USIBWC has considered whether the proposed action has the potential to result in significant effects by considering the factors listed in NASA's definition of extraordinary circumstances (14 CFR 1216.304). Because the issuance of a report of excess to GSA and the transfer of administrative jurisdiction to the DOD is an administrative activity, there are no extraordinary circumstances related to these transfers.

USIBWC's consideration of extraordinary circumstances will be consistent with federal law.

When applying the categorical exclusion, USIBWC will evaluate the proposed action and ensure each circumstance prescribed USIBWC's NEPA implementing regulations is carefully considered and do not apply to USIBWC's proposed action. If an extraordinary circumstance, or circumstances, exists, USIBWC will determine whether the proposed action has the potential to result in a significant environmental impact before applying the categorical exclusion.

VI. Consultation with NASA and Determination of Appropriateness

USIBWC and NASA consulted on the appropriateness of USIBWC's adoption of the categorical exclusion in May and June 2025. The consultation included a meeting, email exchange, and a review of NASA's documentation applying the categorical exclusion. Following this consultation and review, USIBWC has determined that the proposed action, to administratively transfer real property to another federal agency via report of excess to GSA, is similar to the projects for which NASA has or may apply the categorical exclusion. Therefore, USIBWC has determined that its proposed use of NASA's categorical exclusion 4(iv) as described within this notice is appropriate.

VII. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document USIBWC's adoption of NASA's categorical exclusion listed above, in accordance with 42 U.S.C. 4336(c). The categorical exclusion is available for use by USIBWC, effective immediately.

Dated: June 5, 2025.

Rebecca Rizzuti,

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