



DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 250718-0126]

RIN 0690-XR11

Procedures for Considering Environmental Impacts; Correction

AGENCY: Office of the Secretary (OS), Department of Commerce (DOC).

ACTION: Notice of Availability; Request for Comments; Correction.

SUMMARY: A July 1, 2025, Notice in the *Federal Register* entitled “Procedures for Considering Environmental Impacts” announced an update of Department of Commerce (DOC or Department) Administrative Order 216-6, “Implementing the National Environmental Policy Act,” (NEPA) and NEPA implementing procedures specific to sub-components of DOC. As part of that Notice, the National Oceanic and Atmospheric Administration (NOAA) solicited comments on proposals to establish new categorical exclusions (CEs) and amend existing CEs. The description of CEs in that Notice included several technical errors. This correction provides revised CE text and a new deadline for public comments.

DATES: To ensure consideration, comments on NOAA’s revised proposal to establish new and amend existing CEs must be submitted by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please submit your comments by only one of the following means, identifying your submission by docket number. All electronic submissions must be made to <http://www.regulations.gov>.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* NOAA NEPA Coordinator, 1315 East-West Highway, Room 15877, Silver Spring, MD 20910.

Instructions: All comment submissions must include the agency name, docket name, and docket number (NOAA–HQ–2025–0207). Note that all comments received will be posted without change to *www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Katie Renshaw, Chief, Environmental Review and Coordination Section, Office of General Counsel, katherine.renshaw@noaa.gov, (301) 515-0324.

SUPPLEMENTARY INFORMATION:

I. Background

The July 1, 2025, notice in the *Federal Register* (90 FR 28717) announcing the Department’s updates to its NEPA implementing procedures specific to sub-components of DOC included several technical errors in the description of revised CEs proposed by NOAA. Rather than provide only the corrected language, the instant notice provides below the entirety of the updated section of the July 1 Notice entitled “Proposed Revisions to NOAA Categorical Exclusions; Request for Comments.”

II. Proposed Revisions to NOAA Categorical Exclusions; Request for Comments

In 2017, NOAA finalized its most recent revision to its NEPA procedures, including a wholesale overhaul of NOAA’s CEs, covering categories of actions that normally do not have a significant effect on the human environment, individually or in the aggregate, and therefore do not require preparation of an EA or EIS. 42 U.S.C. 4336(b)(2), 4336c, 4336e(1); 82 FR 4306 (January 13, 2017). As part of the review of its agency NEPA procedures, NOAA has also reviewed and is proposing revisions to its categorical exclusions. This proposal is based on NOAA’s experience implementing these CEs, a review of NOAA’s operational activities, input from the NOAA NEPA Working Group, and legal and mission changes. The changes to the CEs would prioritize efficient environmental review in tandem with NOAA’s revised NEPA procedures.

This section lists each proposed revision to the text of NOAA's CEs and summarizes NOAA's rationale for each proposed revision. Modifications to the examples of how to apply CEs are available in the substantiation record at <http://www.regulations.gov> and www.noaa.gov/nepa. The substantiation record provides a full and detailed discussion of and substantiation for each proposed revision to NOAA's CEs. This Notice does not discuss any CEs for which NOAA is proposing to modify only the examples and not change the scope of the CE.

Proposed New Categorical Exclusions

B13: Licensing of Private Remote Sensing Space Systems

NOAA is proposing a new CE to cover remote sensing licensing actions in response to regulatory and program changes under the Land Remote Sensing Policy Act (LRSPA), 51 U.S.C. 60101–60162, and its implementing regulations at 15 CFR Part 960. The proposed new CE would cover the issuance of licenses under the LRSPA by the Commercial Remote Sensing Regulatory Affairs (CRSRA) division of NOAA's Office of Space Commerce for private entities to operate space-based private remote sensing space systems. The CE would also cover associated actions related to the licenses such as the imposition of license conditions, shutter control directives issued in the interests of national security, the modification of such licenses, and disposal of the system "in a manner satisfactory to the President."

Proposed CE text: "B13: Issuance of licenses, conditions, or license modifications, and associated actions under the Land Remote Sensing Policy Act (51 U.S.C. 60101–60162) for the operation of private remote sensing space system activities."

E5: Shellfish Outplanting

This proposed CE would cover the limited collection of shellfish from healthy, abundant wild populations using minimally invasive procedures and resulting in collection of few animals relative to the overall wild population. The farms and lease sites covered by the proposed CE are those that employ recommended protocols that prevent the introduction of disease, chemicals, toxins, and non-native species; safeguard genetic integrity of native populations; and conduct

their operations in compliance with established Federal and state regulatory guidelines and best management practices. The CE would cover small-scale, limited research that does not involve the introduction or use of new or modified gear, use of new or non-approved chemical compounds or chemicals, introduction of a species not previously present within the waterbody, an increase in the operational footprint of an existing farm or lease site, or the creation of a new commercial aquaculture farm or research lease site.

Proposed CE text: “E5: Research involving the limited collection and placement of native, naturalized, or shellfish species already found in the watershed (‘outplanting’). This CE covers a limited collection of shellfish from healthy, abundant wild populations using minimally invasive procedures and resulting in collection of few animals relative to the overall wild population. This CE covers outplanting on existing commercial aquaculture farms or aquaculture research lease sites or in an established Floating Upweller System (FLUPSY) for experimental purposes. The farms and lease sites covered by this CE are those that employ recommended protocols that prevent the introduction of disease, chemicals, toxins, and non-native species, safeguard genetic integrity of native populations, and conduct their operations in compliance with established Federal and state regulatory guidelines and best management practices. This CE covers small-scale, limited research that does not involve the introduction or use of new or modified gear, use of new or non-approved chemical compounds or chemicals, a species not previously present within the waterbody, an increase in the operational footprint of an existing farm or lease site, or the creation of a new commercial aquaculture farm or research lease site.”

F8: Release response and cleanup

NOAA is proposing to add a new CE to cover environmental assessment, response, and cleanup for real property management purposes at sites and facilities that NOAA is responsible for managing. This CE will ensure increased effective response and management across NOAA properties while bringing NOAA’s program into alignment with similar management regimes at sister agencies.

Proposed CE text: “F8: Activities related to release response and cleanup from releases for which NOAA is responsible. This includes, but is not limited to, release response activities, site characterization studies, and environmental monitoring (including sampling, analytical testing, waste disposal, siting, construction, operation, surveying, as well as installation and decommissioning of characterization and monitoring devices).”

G10, G11, & G12: Aircraft Operations

NOAA’s Office of Marine and Aviation Operations (OMAO) manages and operates NOAA’s fleet of fifteen research and survey ships and ten specialized environmental data-collecting aircraft. NOAA aircraft operate throughout the world providing a wide range of capabilities including hurricane reconnaissance and research, marine mammal and fisheries assessment, and coastal mapping. NOAA aircraft carry scientists and specialized instrument packages to conduct research for NOAA’s missions.

These proposed CEs would incorporate and adopt language and parameters similar to those established by other agencies that operate and maintain aircraft fleets such as the U.S. Air Force and U.S. Navy. NOAA is proposing these CEs in order to ensure NEPA coverage for routine use of aircraft in NOAA’s missions. NOAA’s existing CEs are limited to the use of systems to collect data and the repositioning of assets, not fully covering the broad scope of NOAA’s aviation missions. These CEs would fill this gap by extending CE coverage to OMAO’s training operations, special use airspace requests, airfield procedures, and routine use of aircraft for both operational and support purposes. In addition to bringing NOAA’s CE use into alignment with other operational agencies, these CEs will help ensure mission readiness across NOAA’s aircraft fleet.

Proposed CE text: “G10: Aircraft operations training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use.”

“G11: Formal requests to the Federal Aviation Administration, or host-nation equivalent agency, to establish or modify special use airspace.”

“G12: Adopting airfield approach, departure, and en route procedures that are less than 3,000 feet above ground level and that also do not route air traffic over noise-sensitive areas, including residential neighborhoods or cultural, historical, and outdoor recreational areas.”

Proposed Technical and Editorial Changes

NOAA is proposing technical and editorial corrections to several of its existing CEs. NOAA has determined these proposed changes do not substantively affect the scope or change the meaning of the CEs. NOAA is proposing these revisions to correct grammatical errors, eliminate duplicative text, provide clarification for practitioners, ensure consistency, update examples, and use plain language. The proposed text of each of the CEs for which NOAA proposes technical and editorial changes are as follows: “A2: Preparation of a recovery plan pursuant to Section 4(f)(1) of the Endangered Species Act (16 U.S.C. 1553(f)(1)). Such plans are advisory documents that provide consultative and technical assistance in recovery planning and do not implement site-specific or species-specific management actions. However, implementation of specific tasks identified in a recovery plan may require additional NEPA analysis depending on the nature of the action.

“A3: Temporary fishery closures or extensions of closures under Section 305(c)(3)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(c)(3)(C)) to ensure public health and safety.

“A6: Review and approval of changes to state coastal management programs under Section 306(e) of the Coastal Zone Management Act (16 U.S.C. 1455(e)) and NOAA’s regulations at 15 CFR. Part 923.

“B1: Issuance of permits or permit modifications under Section 10(a)(1)(A) of the Endangered Species Act (ESA) (16 U.S.C. 1539(a)(1)(A)) for take, import, or export of endangered species for scientific purposes or to enhance the propagation or survival of the

affected species, or in accordance with the requirements of an ESA Section 4(d) regulation for threatened species.

“B2: Issuance of permits or permit amendments under Section 104 of the Marine Mammal Protection Act (16 U.S.C. 1374) for take or import of marine mammals for scientific research, enhancement, commercial or educational photography or public display purposes; and issuance of Letters of Confirmation under the General Authorization for scientific research involving only Level B harassment.

“B3: Issuance of, and amendments to, ‘low effect’ Incidental Take Permits and their supporting ‘low effect’ Habitat Conservation Plans under Section 10(a)(1)(B) of the Endangered Species Act (16 U.S.C. 1539(a)(1)(B)).

“B4: Issuance of incidental harassment authorizations under Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(A) and (D)) for the incidental, but not intentional, take by harassment of marine mammals during specified activities and for which no serious injury or mortality is anticipated.

“B5: Issuance of, or amendments to, general permits for activities that are included in established permit categories at 15 CFR Part 922 subpart D and that meet the regulatory review criteria at 15 CFR. Part 922 subpart D, and any applicable site-specific regulations.

“B6: Issuance of, or amendments to, special use permits for activities in a national marine sanctuary that are necessary to establish conditions of access to and use of any sanctuary resource or promote public use and understanding of a sanctuary resource and must be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources in accordance with Section 310 of the National Marine Sanctuaries Act (16 U.S.C. 1441).

“B7: Issuance of, or amendments to, authorizations for activities allowed by a valid Federal, regional, state, local or tribal government approval (e.g., leases, permits, and licenses) issued after the effective date of designation or expansion, so long as such authorizations are based upon a consideration of the regulatory review criteria at 15 CFR Part 922, Subpart D.

“B8: Issuance of, or amendments to, certifications for pre-existing activities authorized by a valid Federal, regional, state, local, or tribal government approval (e.g., leases, permits, and licenses) or rights of subsistence use or access in existence on the effective date of the final regulations for a designation or revised terms of designation of any national marine sanctuary where the Office of National Marine Sanctuaries issues terms and conditions that are either ministerial or prescribe avoidance, minimization, or mitigation measures.

“B9: Issuance of, or amendments to, Papahānaumokuākea Marine National Monument (as originally established by Presidential Proclamation 8031, and named Papahānaumokuākea by Presidential Proclamation 8112) permits for activities that are included in established permit categories (50 CFR Part 404) and that meet the regulatory review criteria (50 CFR 404.11), that limit any potential impacts so that the proposed activity will be conducted in a manner compatible with the monument’s primary objective of resource protection.

“B12: Issuance of Exempted Fishing Permits, Scientific Research Permits, and other permits for research that may impact species regulated under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. This CE is limited to permits that authorize activities that are limited in size, magnitude, or duration with no potential for significant individual or cumulative impacts.

“C1: 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 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.

“Note on the application of C1: 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 the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Oil Pollution Act (OPA), or National Marine Sanctuaries Act (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. The decision maker should consider the scope and scale of response and restoration actions proposed under CERCLA, OPA, or NMSA, which may preclude the use of this CE.

“D2: Provision of a grant, a contract or other financial assistance to a State, Fishery Management Council, or Marine Fisheries Commission under Section 402(d) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881a(d)).

“E2: Social science projects and programs, including economic, political science, human geography, demography, and sociology studies.

“E6: Research that involves the development and testing of new and modified fishing gear and technology in order to reduce adverse effects from fishing gear on non-target species, and is limited in size, magnitude, or duration.

“F5: Installation, operation, maintenance, improvements, repair, upgrade, removal, and/or replacement of instruments or instrument systems in or on: (1) An existing structure or object (e.g., tower, antenna, building, pier, buoy, terrestrial vehicle, or bridge), (2) On previously disturbed (e.g., filled, paved, or cleared) ground, or (3) On undisturbed ground, if the equipment installation, operation, and removal will require no or minimal ground disturbance. Microwave/radio communications towers and antennas must be limited to 200 feet in height without guy wires.

“F6: The determination that real property is excess to the needs of NOAA, when the real property is excessed in conformity with General Services Administration procedures or is legislatively authorized to be excessed.

“G1: Routine administrative actions such as (1) program planning, direction and evaluation, (2) administrative tasks, services, and support including personnel and fiscal management, advisory services, document and policy preparation, and records management, and (3) development, establishment, or modification of an interagency agreement, memorandum of understanding, memorandum of agreement, cooperative agreement, or university agreement for administrative purposes. This CE does not include any associated activities proposed in these documents beyond the administrative task of creating and establishing the document. Actions subsequently funded by or undertaken pursuant to the approved documents may require additional NEPA review at the time those actions are proposed.

“G5: Enforcement operations conducted under statutory mandate. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA.

“G8(a): Activities that take place in existing facilities and are purely educational, informational, or advisory to other agencies, public and private entities, visitors, individuals, or the general public, including meetings, virtual training exercises, and simulations.

“G8(b): Activities that take place outside of existing facilities and are educational, information, or advisory to other agencies, public and private entities, visitors, individuals, or the general public, including field training exercises.

“H7: Transferring real property to a non-Federal entity, an agency other than the General Services Administration, as well as to States, local agencies, and Indian Tribes, including return of public domain lands to the Department of the Interior.”

Proposed Substantive Changes

NOAA's review of its CEs determined that the following four CEs would benefit from revisions that clarify the scope and applicability of the CEs. Internal discussions also resulted in many instances in the addition or revision of examples provided for the CEs for the benefit of NOAA NEPA practitioners. This section explains the substantive revisions NOAA is proposing to its CEs and the rationale for those revisions.

A1: Updates to Fishery Management Actions

NOAA is proposing to amend A1 in order to increase clarity for NOAA staff on its scope and purpose. This CE is intended to cover fishery management actions under the Magnuson-Stevens Fishery Conservation and Management Act that do not substantially change fishing location, timing, effort, gear type or harvest levels. This class of fishery management actions tends to be changes or corrections to previously implemented actions such as technical corrections; changes to reporting and notification requirements; changes to provisions for allowable gear when transiting through closed areas; setting annual catch limits, quotas, retention limits, possession limits, trip limits, or size limits; implementation of regional fishery management organization decisions that are similar to annual catch or retention limits (e.g., authorized harvest levels, adjustments for exceeding or not fully harvesting a U.S. catch limit, adjustments for transferring U.S. quota to another country per negotiations, adjustments to size limits, conservation equivalency); adjustment to catch share program rules (e.g., methods of accountability or distribution); and measures intended to improve human safety at sea.

The proposed text is as follows: "A1: A fishery management action, including those that change regulations, which does not result in a substantial change in any of the following: fishing location, timing, effort, authorized gear types, or harvest levels."

A5: Updates to National Estuarine Research Reserve Actions

NOAA is proposing to amend A5 to allow for National Estuarine Research Reserve (NERR) boundary changes so long as certain conditions are met. Additionally, the CE would be limited in that it does not apply to new NERR management plans, the addition of a new

component to the NERR, or to the execution of any specific action subsequently funded to support the updated NERR management plan. The proposed changes and revisions would not result in a substantial change in scope or applicability from the listed CEs.

The proposed text is as follows: “A5: Updates to existing National Estuarine Research Reserve (NERR) management plans and boundary changes, as long as these changes do not significantly change allowable uses, uses requiring a permit, or restrictions on uses. This CE includes changes to the NERR boundary where the following conditions are met: (1) The boundary change meets site selection and feasibility criteria. 15 CFR 921.11; (2) The proposed management of the properties is consistent with the NERRS regulations. 15 CFR 921.1, 921.13; and (3) The state has adequate state control over the parcels. 15 CFR 921.30(a). This CE does not apply to management plans for newly designated NERRs, the addition of a new component to a multiple-site NERR, or to the execution of any specific action subsequently funded by NOAA to support the updated NERR management plan.”

E1 & E3 Updates to Research-Related Actions

NOAA is proposing to create a streamlined E3 CE that combines a portion of the E1 CE with the E3, E4, and E5 CEs in an effort to consolidate research-related activities. This consolidation would increase certainty and efficiency in practice and align NOAA’s NEPA procedures more closely to other agencies’ NEPA procedures, which often only have a single research-related CE. This change is not intended to change the scope of actions covered under the existing CEs. The past several years implementing the 2017 CEs have revealed practical inefficiencies and confusion around selecting the appropriate research-related CE—between E1, which largely focused on laboratory-based activities; E3, which largely focused on nondestructive data collection techniques; E4, which largely focused on the observation of living resources, without physical contact; and E5, which largely focused on physical interaction with living resources. It was not uncommon for a proposed action to involve activities that fell within the gambit of more than one of these research-related CEs. Because the activities under each of

these CEs have already been determined by NOAA to not have individual or aggregate significant impacts on the human environment and the research activities considered are at times a single proposed action, NOAA has determined it is appropriate to combine E1 (in part), E3, E4, and E5 into a single research-related CE. The consolidation of E1 (in part), E3, E4, and E5 will rectify the unnecessary administrative burden present in the current NOAA NEPA Procedures and reduce uncertainty, increase efficiency, and ensure compliance with NEPA when applying CEs. Although this change is not intended to change the scope of actions covered under the 2017 CEs, NOAA is proposing to clarify the bounds of the proposed revised E3 by identifying two prerequisites for its use. Specifically, any activities covered by the proposed CE would be required to: (1) use scientifically accepted best management practices (BMPs) or peer-reviewed scientifically accepted methods that minimize impacts, as applicable, and (2) avoid locations or times that would normally result in long-term adverse ecosystem impacts. These changes, along with a new definition of “long-term adverse ecosystem impacts” and examples of best management practices in the substantiation record, are intended to elucidate the types of “methodologies and locations to ensure that there are no long-term adverse impacts to ecosystems” that were considered in the 2017 version of E5.

The proposed text is as follows: “E1: Computational and dry laboratory activities including data input and analysis; database and software development and maintenance; virtual simulations and modeling; and bench-scale fabrication, development, calibration, and testing of prototypes.”

“E3: Scientific research activities that involve: field observation, measurements, or surveys; collecting, analyzing, processing, or archiving samples or data; capturing, handling, marking, or tagging living specimens; or any combination thereof.

“This CE applies so long as the activities: (1) use scientifically accepted best management practices (BMPs) or peer-reviewed scientifically accepted methods that minimize impacts, as applicable, and (2) avoid locations or times that would normally result in long-term

adverse ecosystem impacts. Long-term adverse ecosystem impacts means an impact that persists after the project has concluded that alters or disrupts ecosystem functioning, such as modifying species behavioral patterns or altering habitat functions. The Administrative Record to this CE presents a non-exhaustive list of available resources on BMPs and peer-reviewed scientifically accepted methods that apply to many of the activities encompassed by this CE.”

E4: Updates to Aquaculture Research Actions

The proposed edits to the aquaculture research CE, E8, would reduce unnecessary administrative burden for aquaculture activities with no potential for significant impacts to the human environment, reduce uncertainty, increase efficiency, and ensure compliance with NEPA. This CE would be limited to research activities conducted at land-based facilities and does not extend to operations of the facility that are independent of research activities. The scope of this CE would not extend to aquaculture farms or aquaculture research sites operating in marine or coastal waters.

The proposed text is as follows: “E4: Biological, chemical, food production, ecological, or toxicological research conducted in an established, land-based mesocosm or aquaculture facility (e.g., recirculating aquaculture system, biofloc system, hatchery) that employs recommended protocols providing for containment and disposal of waste, chemicals, toxins, non-native species, etc., in compliance with established Federal and state regulatory guidelines, and best management practices.”

NOAA requests comments from the public on its proposed revisions to existing CEs and new CEs. NOAA also invites comment on the substantiation record and supporting materials it has prepared to substantiate this proposal. The agency will consider input from the public and consult with CEQ for a conformity determination before finalizing its proposal.

Dated: July 18, 2025.

David Langdon,
Deputy Director of Policy,
Department of Commerce.

