



DEPARTMENT OF ENERGY

[DOE-HQ-2025-0405]

Categorical Exclusion for Advanced Nuclear Reactors

AGENCY: Department of Energy.

ACTION: Notice of new categorical exclusion and request for comment.

SUMMARY: The U.S. Department of Energy (DOE or the Department) is establishing a categorical exclusion for authorization, siting, construction, operation, reauthorization, and decommissioning of advanced nuclear reactors for inclusion in its National Environmental Policy Act (NEPA) implementing procedures. DOE is including the categorical exclusion in the component of its NEPA implementing procedures that it maintains outside of the Code of Federal Regulations. The new categorical exclusion is based on the experience of DOE and other Federal agencies, current technologies, regulatory requirements, and accepted industry practice.

DATES: This new categorical exclusion is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments on the new categorical exclusion are due by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: This notice and the written record for this categorical exclusion are available on the DOE NEPA website at www.energy.gov/nepa. Also, documents relevant to this notice, including this notice and the written record, are posted on the Federal eRulemaking Portal at www.regulations.gov (Docket: DOE-HQ-2025-0405).

Submit comments, labeled “DOE categorical exclusion for advanced nuclear reactors,” using the Federal eRulemaking Portal: www.regulations.gov.

Instructions: All submissions must include the agency name, “Department of Energy,” and docket number, DOE-HQ-2025-0405, for this notice. All comments received will be posted without change to www.regulations.gov, including any personal information provided. Do not

submit any information you consider to be private, Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Docket: For access to the docket to read comments received, go to www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: For questions concerning this notice, contact Ms. Carrie Abravanel, Acting Director, Office of NEPA Policy and Compliance, at askNEPA@hq.doe.gov or (202) 586-4600.

SUPPLEMENTARY INFORMATION:

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I. Introduction

Executive Order (E.O.) 14301, *Reforming Nuclear Reactor Testing at the Department of Energy* (May 23, 2025), Section 6 *Streamlining Environmental Reviews*, directs the Secretary of Energy to create “categorical exclusions as appropriate for reactors within certain parameters.”

E.O. 14301 states, “[d]ecades of research and engineering have produced prototypes of advanced nuclear technologies that incorporate passive safety mechanisms, improve the physical architecture of reactor designs, increase reactor operational flexibility and performance, and reduce risk in fuel disposal. Advanced reactors—including microreactors, small modular reactors, and Generation IV and Generation III+ reactors—have revolutionary potential.”

Further, E.O. 14299, *Deploying Advanced Nuclear Reactor Technologies for National Security* (May 23, 2025), directs the Secretaries of Defense and Energy to consult with the Chairman of the Council on Environmental Quality regarding “applying the Department of Defense’s and the Department of Energy’s established categorical exclusions under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, for the construction of advanced nuclear reactor technologies on certain Federal sites within the United States and for any other appropriate

measures for the purposes of implementing this order” and “establishing new categorical exclusions for the same purposes,” among other things. E.O. 14299 states that “[a]dvanced nuclear reactors include nuclear energy systems like Generation III+ reactors, small modular reactors, microreactors, and stationary and mobile reactors that have the potential to deliver resilient, secure, and reliable power to critical defense facilities and other mission capability resources.”

NEPA establishes three types of environmental review for proposed major Federal actions that are not otherwise excused from the obligation to undergo NEPA review, *see* 42 U.S.C. 4336: environmental impact statement, environmental assessment, and categorical exclusion—each involving different levels of information and analysis. An environmental impact statement is a detailed analysis of reasonably foreseeable environmental effects prepared for a major Federal action significantly affecting the quality of the human environment (42 U.S.C. 4336(e)(6); 42 U.S.C. 4332). An environmental assessment is a concise public document prepared by a Federal agency to set forth the basis for its finding of no significant impact or its determination that an environmental impact statement is necessary (42 U.S.C. 4336(e)(4); 42 U.S.C. 4336(b)(2)). A categorical exclusion is a category of actions that the agency has determined, as established in its agency NEPA procedures, normally does not significantly affect the quality of the human environment and therefore does not require preparation of an environmental assessment or environmental impact statement (42 U.S.C. 4336e(1)).

In preparing this categorical exclusion, DOE developed supporting technical information briefly summarized in section III of this notice and consulted with the Council on Environmental Quality, the Department of War (formerly the Department of Defense), and the Nuclear Regulatory Commission.

DOE consulted with the Department of War on this categorical exclusion in alignment with E.O. 14299, *Deploying Advanced Nuclear Reactor Technologies for National Security* (May 23, 2025) with respect to a potential future siting, construction, and operation of advanced

nuclear reactor technologies on Department of War installations to accelerate deployment of resilient power solutions in support of mission assurance objectives for critical infrastructure, and ensure military readiness.

DOE consulted with the Nuclear Regulatory Commission for establishing this categorical exclusion and to help the Nuclear Regulatory Commission understand DOE's approach for considering extraordinary circumstances when applying this categorical exclusion as well as a discussion of how DOE's integral elements for all categorical exclusions listed in 10 CFR part 1021 and DOE's NEPA implementing procedures outside the CFR, appendix B, condition application of this categorical exclusion.¹

In deciding whether to apply this categorical exclusion to a particular project, DOE would consider each of the conditions in the categorical exclusion itself, the integral elements listed in appendix B of DOE's NEPA implementing procedures, and other conditions contained in DOE's NEPA implementing procedures, including whether extraordinary circumstances exist such that a normally excluded action may have a significant environmental effect.

As mentioned previously, DOE's NEPA implementing procedures include "integral elements" that apply to all categorical exclusions listed in appendix B to DOE's NEPA implementing procedures. 10 CFR part 1021 and DOE's NEPA implementing procedures outside the CFR, appendix B, paragraphs (1) through (5).² Although the integral elements are not repeated for each categorical exclusion, they are part of the definition of each categorical exclusion listed in appendix B, and DOE must consider them as part of its determination of whether the proposed action fits within a categorical exclusion (10 CFR 1021.102(b)(1) and Section 5.4(c)(1) of DOE's NEPA implementing procedures). Integral elements require that, to fit within a categorical exclusion, the proposed action must not threaten a violation of applicable

¹ DOE's NEPA implementing procedures outside the CFR are available at: <https://www.energy.gov/nepa/articles/doe-nepa-implementing-procedures-june-2025>.

² See 10 CFR part 1021, appendix B, and DOE's NEPA implementing procedures, appendix B: www.ecfr.gov/current/title-10/chapter-X/part-1021 and <https://www.energy.gov/nepa/articles/doe-nepa-implementing-procedures-june-2025>.

environment, safety, and health requirements; require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities; disturb hazardous substances, pollutants, or contaminants that preexist in the environment such that there would be uncontrolled or unpermitted releases; have the potential to cause significant impacts on environmentally sensitive resources; or involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless certain conditions are met.³ DOE defines “environmentally sensitive resource” as a resource that has typically been identified as needing protection through Executive order, statute, or regulation by Federal, state, or local government, or a federally recognized Indian tribe. Environmentally sensitive resources include historic properties, threatened and endangered species or their habitat, floodplains, and wetlands, among others (appendix B of 10 CFR part 1021 and DOE’s NEPA implementing procedures).

In determining whether a proposed action fits within a categorical exclusion, DOE may review information provided by an applicant, in its application and during follow-up requests; information from systems maintained by DOE, another Federal agency, or external party (*e.g.*, geographic information systems); information from site visits; information from discussions or consultations with Federal, state, local, or tribal governments; and information from other sources as needed. During this review, DOE can determine that additional information is needed to decide whether to make a categorical exclusion determination or decide to prepare an environmental assessment or environmental impact statement. Only if DOE determines that all the applicable requirements and conditions of the categorical exclusion (including the integral elements, as applicable) have been met will it proceed to review the proposed action for extraordinary circumstances, and potentially proceed to issue a categorical exclusion determination, thus completing NEPA review, or to prepare an environmental assessment or

³ This is a summary description of the integral elements. *See* 10 CFR part 1021, appendix B, and DOE’s NEPA implementing procedures, appendix B, for the full text: www.ecfr.gov/current/title-10/chapter-X/part-1021 and <https://www.energy.gov/nepa/articles/doe-nepa-implementing-procedures-june-2025>.

environmental impact statement. DOE regularly posts its categorical exclusion determinations at www.energy.gov/nepa/doe-categorical-exclusion-cx-determinations.

II. Categorical Exclusion

DOE is adding the following new categorical exclusion to appendix B of the DOE NEPA implementing procedures, which is published outside the Code of Federal Regulations and available at www.energy.gov/nepa:

B5.26 Advanced nuclear reactors

Authorization, siting, construction, operation, reauthorization, and decommissioning of advanced nuclear reactors, provided DOE determines that:

- (1) the project's attributes, including potential fission product inventory, fuel type, reactor design, and operational plans, reduce sufficiently the risk of adverse offsite consequences from the release of radioactive or hazardous materials, and
- (2) the project demonstrates that any hazardous waste, radioactive waste, or spent nuclear fuel generated by the project can be managed in accordance with applicable requirements.

For the purposes of this category, a project may include multiple reactors within a nuclear facility.

III. Support

DOE's full written record to explain the basis for the new categorical exclusion, including a discussion of relevant NEPA reviews, is available at www.energy.gov/nepa.

In summary, advanced nuclear reactors have key attributes such as safety features, fuel type, and fission product inventory that limit adverse consequences from releases of radioactive or hazardous material from construction, operation, and decommissioning. Although past advanced reactor projects have been for solely experimental, testing and demonstration purposes, the advanced fuel forms, inherently safe designs, and inventories of potential fission products associated with these reactors indicate that reactors in this category developed for additional

purposes, such as power production and industrial applications, are also appropriate for this categorical exclusion.

Advanced reactor projects in this category typically employ inherent safety features and passive safety systems, in addition to well-established fuel, coolant, and structural materials that support their associated DOE safety design basis. Performance of these fuels, systems, and materials is sufficient to provide reasonable assurance of adequate protection to the public, workers, and environment. New reactor designs and their associated fuels ensure containment of radionuclides in the event of an accident. Operational periods for these projects will be bounded by the potential fission product inventory and will vary depending on the design and fuel type. Previously completed NEPA reviews have established that advanced reactors, including construction, operation, and decommissioning, characterized by technologies and materials (1) that have been verified to prevent adverse offsite consequences from release of radioactive or hazardous materials and (2) demonstrate that any hazardous waste, radioactive waste, or spent nuclear fuel generated by the project can be managed in accordance with applicable requirements do not significantly affect the quality of the human environment.

IV. DOE Solicits Comment

As explained previously, DOE is adding the new categorical exclusion for advanced nuclear reactors to its NEPA implementing procedures published outside the Code of Federal Regulations. DOE previously received public comments requesting that DOE add a categorical exclusion for nuclear power reactors (*e.g.*, 84 FR 34074). DOE has elected voluntarily to solicit comments on its new categorical exclusion for advanced nuclear reactors. DOE is soliciting comment on this new categorical exclusion and the associated written record, and may make revisions to this categorical exclusion, if DOE's review of any comments submitted suggests that

further revisions are warranted. Commenters have 30 days from the date of publication of this notice to submit comments.⁴

Signing Authority

This document of the Department of Energy was signed on January 28, 2026, by Chris Wright, Secretary of Energy, U.S. Department of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on January 29, 2026.

Jennifer Hartzell,
Alternate Federal Register Liaison Officer,
U.S. Department of Energy.

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⁴ Before February 2025, the executive branch’s historical practice was to receive public comments before promulgating a categorical exclusion. This practice was established by CEQ’s NEPA implementing regulations. See 43 FR 56003 through 56004 (November 29, 1978) (establishing 40 CFR 1508.4, which defined, in part, a categorical exclusion as “procedures adopted by a Federal agency in implementation of these regulations” and cross-cited 40 CFR 1507.3 which required those procedures to be “publish[ed] . . . in the *Federal Register* for comment and . . . adopted only after an opportunity for public review”); see also 89 FR 35573-35575 (May 1, 2024) (analogous provisions in the 2024 final rule revising CEQ’s NEPA implementing regulations). This historical practice is no longer applicable to the executive branch given that CEQ’s NEPA implementing regulations have been rescinded in their entirety. See 90 FR 10610 (February 25, 2025); see also 90 FR 8353 (January 29, 2025) Executive Order 14154 (Unleashing American Energy), section 5(c) (directing revision of agency NEPA implementing procedures to “[c]onsistent with applicable law, . . . prioritize efficiency” over all other policy objectives).