



Notice of Adoption of Categorical Exclusions under Section 109 of the National Environmental Policy Act

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Adoption of Categorical Exclusions pursuant to Section 109 of the National Environmental Policy Act, 42 U.S.C. 4336c.

SUMMARY: The Department of Homeland Security (DHS or Department) is notifying the public and documenting the adoption of thirty-five categorical exclusions (CEs) under the National Environmental Policy Act (NEPA). This notice identifies the types of actions to which DHS will apply the CEs, the considerations that DHS will use in determining the applicability of the CEs, and the consultation between the agencies on the use of the CEs, including application of extraordinary circumstances.

DATES: The adoption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jennifer DeHart Hass, Director, Environmental Planning Branch, by email at jennifer.hass@hq.dhs.gov or by telephone at (202) 834-4346.

SUPPLEMENTARY INFORMATION:

I. Background

National Environmental Policy Act and Categorical Exclusions

The National Environmental Policy Act, 42 U.S.C. 4321–4347, as amended (NEPA), requires all Federal agencies to consider the environmental effects of their proposed actions as a part of agencies’ decision-making processes. 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. 42 U.S.C. 4321, 4331. NEPA's aims are to ensure that agencies consider the potential environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process. 42 U.S.C. 4332. To comply with NEPA, agencies determine the appropriate level of review for a proposed action. 42 U.S.C. 4336. Where required, these levels of review may be documented in an environmental impact statement (EIS), an environmental assessment (EA), or CE. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, DHS will prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336(b)(1). If the proposed action is not likely to have significant environmental effects or where the level of significance is unknown, the agency may instead prepare an EA, which involves preparing a concise public document that may reach a finding of no significant impact. 42 U.S.C. 4336(b)(2). If, following preparation of an EA, the agency finds that the proposed action may have significant effects, then an EIS is required.

Under NEPA, a Federal agency may establish CEs – categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in its agency NEPA procedures. 42 U.S.C. 4336e(1). If an agency determines that a CE covers a proposed action, the agency will then evaluate the proposed action for 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 rely on the CE to approve the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2). If the Department determines that the proposed action has extraordinary circumstances that may result in reasonably foreseeable significant effects on the quality of the human environment, the DHS will determine the CE cannot apply to the proposed action and

will prepare an EA or EIS, as appropriate.

Section 109 of NEPA, 42 U.S.C. 4336c, 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. 4336c. To adopt another agency’s CE under section 109, the adopting agency must: (1) identify the relevant CE listed in another agency’s (“establishing agency”) NEPA procedures “that covers a category of proposed actions or related actions”; (2) consult with the establishing agency “to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate”; (3) “identify to the public the categorical exclusion that the [adopting] agency plans to use for its proposed actions”; and (4) document adoption of the CE. 42 U.S.C. 4336c.

This notice documents the Department’s adoption of thirty-five CEs for DHS use and notifies the public of these adoptions. Two CEs were established by the Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) at 7 CFR 1b.4(d)(3) and (d)(10). Seven CEs were established by the USDA, Rural Development (RD) at 7 CFR 1b.4(d)(24)(i), (d)(24)(ii), (d)(24)(iii)(G)-(J), and (d)(24)(iii)(L). Two CEs were established by the USDA, United States Forest Service (USFS) at 7 CFR 1b.4(d)(41) and (d)(31). One CE for adoption was established by Department of Commerce (DOC), First Responder Network Authority (FirstNet Authority) at First Responder Network Authority Procedures for Implementing the National Environmental Policy Act, Appendix B, paragraph B.3.¹ One CE for adoption was established by Department of Commerce (DOC), National Telecommunications and Information Administration (NTIA) at Guidance on NTIA National Environmental

¹ <https://www.firstnet.gov/newsroom/resources/policy/revised-firstnet-authority-nepa-implementing-procedures>.

Policy Act Compliance, Appendix B, C-8.² Fifteen CEs were established by the Department of Energy (DOE) in the DOE NEPA regulations at 10 CFR, Appendix B to part 1021, paragraphs B1.13, B1.15, B1.19, B1.22, B1.23, B1.26, B1.29, B1.33, B1.35, B3.9, B5.18, B5.20, B5.24, B5.4, and B5.5 and at DOE NEPA Implementing Procedures, Appendix B, paragraphs B1.13, B1.15, B1.19, B1.22, B1.23, B1.26, B1.29, B1.33, B1.35, B3.9, B5.18, B5.20, B5.24, B5.4, and B5.5.³ One CE for adoption was established by the Department of Health and Human Services (HHS), Indian Health Service (IHS) at Federal Register Notice, National Environmental Policy Act; Categorical Exclusions (58 FR 569), C.⁴ Two CE categories for adoption were established by the Department of Transportation (DOT), Federal Highway Administration (FHWA) at 23 CFR 771.117(c)(6) and (c)(24). One CE for adoption was established by the Department of War (DOW), Department of Army (DA) at Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section I, DoW A10-10.⁵ One CE for adoption was established by the DOW, Department of Navy (DON) at Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section III, DoW A134-14.⁶ One CE for adoption was established by the DOW, United States Army Corps of Engineers (USACE) at Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section VIII, DoW A263-1.⁷ One CE was established by the Tennessee Valley Authority (TVA) at 18 CFR, Appendix A to Subpart C to Part 1318(29).

The DHS NEPA procedures are contained within Department of Homeland

² https://broadbandusa.ntia.gov/sites/default/files/2025-06/NTIA_NEPA_Procedures_June_2025.pdf

³ <https://www.energy.gov/nepa/doe-nepa-implementing-procedures>.

⁴ <https://www.loc.gov/item/fr058003/>.

⁵ https://www.denix.osd.mil/nepa/denix-files/sites/55/2026/05/DOW-Procedures-Combined_05252026_V1.2.pdf

⁶ *Id.*

Security Directive 023-01 Rev 01 and the Instruction Manual 023-01-001-01 Rev 01, *Implementing the National Environmental Policy Act* (DHS NEPA Instruction Manual). The Department maintains a list of categorical exclusions available to all DHS Components in the DHS NEPA Instruction Manual.

II. Identification of the Categorical Exclusions

DHS has identified the following 35 CEs for adoption.

NRCS Categorical Exclusions for Adoption

DHS has identified 7 CFR 1b.4(d)(3). *“Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain the sites ecological functions and services.”*

DHS would use this CE to cover activities that use native plants to stabilize areas. For example, FEMA may use this CE to stabilize beach and dune systems or stabilize areas damaged by flooding or fire.

7 CFR 1b.4(d)(10). *“Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, e.g., utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, rip-rap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).”*

DHS would use this CE for activities described in the CE. For example, FEMA may utilize this CE for post-wildfire stabilization activities or actions where there are no current CEs. DHS has CEs that cover maintenance of aquatic and riparian habitats in streams and ponds, but activities covered under this CE are limited to DHS properties. Additionally, this CE expands the use of bioengineering techniques.

To maintain consistency with the NRCS Conservation Practice Standards, DHS

will prepare a Record of Environmental Conditions (REC) when applying these CEs.

RD Categorical Exclusions for Adoption

DHS has identified 7 CFR 1b.4(d)(24)(i). *“Installation of new, commercial-scale water supply wells and associated pipelines or water storage facilities that are required by a regulatory authority or standard engineering practice as a backup to existing production well(s) or as reserve for fire protection.”*

This CE would be used to cover the installation of water wells, pipelines, or other water storage facilities that could be used as backups to existing wells. For example, FEMA-funded projects supporting disaster recovery may utilize this CE.

7 CFR 1b.4(d)(24)(ii). *“Financial assistance for small-scale corridor development.*

(A) Construction or repair of roads, streets, and sidewalks, including related structures such as curbs, gutters, storm drains, and bridges, in an existing right-of-way with minimal change in use, size, capacity, purpose, or location from the original infrastructure;

(B) Improvement and expansion of existing water, wastewater, and gas utility systems: within 20 miles of currently served areas irrespective of the percent of increase in new capacity;

(C) Replacement of utility lines where road reconstruction undertaken by non-Agency applicants requires the relocation of lines either within or immediately adjacent to the new road easement or right-of-way; and

(D) Installation of new linear telecommunications facilities and related equipment and infrastructure.”

This CE would be used for projects that provide financial assistance for repair, reconstruction, and/or mitigation of roads, utility systems, or other covered projects.

7 CFR 1b.4(d)(24)(iii)(G). *“Financial assistance for small-scale*

energy proposals. (G) Construction of small electric generating facilities (except geothermal and solar electric projects), including those fueled with wind or biomass, with a rating of 10 average MW or less. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;”

DHS intends to use this CE for financial assistance for new construction or reconstruction of small electric facilities. DHS currently has no CEs for these types of activities.

7 CFR 1b.4(d)(24)(iii)(H). “Siting, construction, and operation of small biomass projects (except small electric generating facilities projects fueled with biomass) producing not more than 3 million gallons of liquid fuel or 300,000 million British thermal units annually, developed on up to 10 acres of land;”

DHS intends to use this CE to new construction and repair of small biomass projects, which may be requested as part of disaster repairs or mitigation to power systems. DHS currently has no CEs for biomass projects.

7 CFR 1b.4(d)(24)(iii)(I). “Geothermal electric power projects or geothermal heating or cooling projects developed on up to 10 acres of land and including installation of one geothermal well for the production of geothermal fluids for direct use application (such as space or water heating/cooling) or for power generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;”

DHS intends to use this CE to new construction of geothermal electric projects, which may be requested as part of disaster repairs or mitigation to power systems. DHS currently has no CEs for geothermal projects.

7 CFR 1b.4(d)(24)(iii)(J). “(J) Solar electric projects or solar thermal projects developed on up to 10 acres of land including all supporting facilities and new related electric transmission lines 10 miles in length or less;”

DHS intends to use this CE to new construction or repair of solar thermal or solar electric projects, which may be requested as part of disaster repairs or mitigation to power systems.

7 CFR 7 CFR 1b.4(d)(24)(iii)(L). *“Small conduit hydroelectric facilities having a total installed capacity of not more than 5 average MW using an existing conduit such as an irrigation ditch or a pipe into which a turbine would be placed for the purpose of electric generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;”*

DHS intends to use this CE to new construction or repair of solar thermal or solar electric projects, which may be requested as part of disaster repairs or mitigation to power systems.

USFS Categorical Exclusions for Adoption

DHS has identified 7 CFR 1b.4(d)(31). *“Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices. Examples include, but are not limited to:*

- (i) Reconstructing a gabion with stone from a nearby source;*
- (ii) Adding brush to lake fish beds; and*
- (iii) Cleaning and resurfacing a fish ladder at a hydroelectric dam.”*

DHS would use this CE to cover the modification or maintenance of aquatic habitat structures. These activities are commonly funded by FEMA, but existing DHS CEs do not fully cover these activities. The CE would allow DHS to refine current bioengineering requirements.

7 CFR 1b.4(d)(41). *“Removing and/or relocating debris and sediment following disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or*

negatively alter natural processes. Examples include but are not limited to:

- (i) Removing an unstable debris jam on a river following a flood event and relocating it back in the floodplain and stream channel to restore water flow and local bank stability;*
- (ii) Clean-up and removal of infrastructure flood debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a hurricane from a stream reach and adjacent wetland area; and*
- (iii) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a flood event, including the use of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods). ”*

DHS would use this CE for debris and sediment removal following water-related disturbance to restore prior conditions. No DHS CEs currently exist that cover streambank stabilization and the use of bioengineering techniques to restore conditions.

FirstNet Authority Categorical Exclusion for Adoption

DHS has identified First Responder Network Authority Procedures for Implementing the National Environmental Policy Act, Appendix B, paragraph B.3.

“Construction of buried and aerial telecommunications lines, cables, and related facilities.”

DHS components would use this CE to support telecommunication line and disaster recovery projects. Per consultation with the FirstNet Authority, this CE will be used for telecommunication networks and within reasonable distances, which may include previously undisturbed areas. This CE will not be used for extensive relocation of

telecommunication networks or construction of new lines unassociated with telecommunication networks.

NTIA Categorical Exclusion for Adoption

DHS has identified Guidance on NTIA National Environmental Policy Act Compliance, Appendix B, C-8. *“Acquisition, installation, reconstruction, repair by replacement, and operation of aerial or buried utility (e.g., water, sewer, electrical), communication (e.g., fiber optic cable, data processing cable and similar electronic equipment), and security systems that use existing rights-of-way, easements, grants of license, distribution systems, facilities, or similar arrangements.”*

DHS would use this CE for the activities described in the CE. For example, FEMA may use this CE for the installation of telecommunication lines for disaster mitigation and recovery projects.

DOE Categorical Exclusions for Adoption

DHS has identified DOE NEPA Implementing Procedures, Appendix B, paragraphs B1.13 and 10 CFR part 1021, Appendix B, paragraph B1.13. *“Pathways, Short Access Roads, and Rail Lines Construction, acquisition, and relocation, consistent with applicable right-of-way conditions and approved land use or transportation improvement plans, of pedestrian walkways and trails, bicycle paths, small outdoor fitness areas, and short access roads and rail lines (such as branch and spur lines).”*

DHS intends to use this CE to support new construction or relocation of pathways, short access roads, and rail lines. These activities are commonly funded by FEMA but currently have a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.15 and 10 CFR part 1021, Appendix B, paragraph B1.15. *“Support buildings. Siting, construction or modification, and operation of support buildings and support structures (including,*

but not limited to, trailers and prefabricated and modular buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible). Covered support buildings and structures include, but are not limited to, those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (such as security posts); fire protection; small-scale fabrication (such as machine shop activities), assembly, and testing of non-nuclear equipment or components; and similar support purposes, but exclude facilities for nuclear weapons activities and waste storage activities, such as activities covered in B1.10, B1.29, B1.35, B2.6, B6.2, B6.4, B6.5, B6.6, and B6.10 of this appendix.”

DHS intends to use this CE for the siting, construction, or modification of support buildings and facilities. New construction of support buildings currently has a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

In adopting this CE, DHS will make an administrative change to remove “of this appendix” from the text of the B1.15 and replace with “of Appendix B in the DOE NEPA Implementing Procedures and in Appendix B of 10 CFR part 1021” in alignment with Council on Environmental Quality (CEQ) guidance on categorical exclusion adoption.⁸

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.19 and 10 CFR part 1021, Appendix B, paragraph B1.19. *“Microwave, Meteorological, And Radio Towers. Siting, construction, modification, operation, and removal of microwave, radio communication, and meteorological towers and associated facilities, provided that the towers and associated facilities would not be in a governmentally designated scenic area*

⁸ <https://ceq.doe.gov/docs/ceq-regulations-and-guidance/Categorical-Exclusion-Guidance-2026.pdf>

(see B(4)(iv) of this appendix) unless otherwise authorized by the appropriate governmental entity.”

In adopting this CE, DHS will make an administrative change to remove “of this appendix” from the text of the B1.19 and replace with “of Appendix B in the DOE NEPA Implementing Procedures and in Appendix B of 10 CFR part 1021” in alignment with CEQ guidance on categorical exclusion adoption.

DHS intends to use this CE to support new construction or modification of towers. These activities are commonly funded by FEMA but currently have a height constraint of 200 or 400 feet under existing DHS CEs. The CE would allow DHS to expand current allowable height limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.22 and 10 CFR part 1021, Appendix B, paragraph B1.22. *“Relocation of buildings. Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area (where active utilities and currently used roads are readily accessible).”*

DHS intends to use this CE for activities described in the CE. For example, this CE may be used for hazard mitigation activities completed by FEMA, such as the relocation of safe rooms. These activities have a 1-acre constraint and floodplain location constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage and location limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.23 and 10 CFR part 1021, Appendix B, paragraph B1.23. *“Demolition and disposal of buildings. Demolition and subsequent disposal of buildings, equipment, and support structures (including, but not limited to, smoke stacks and parking lot surfaces), provided that there would be no potential for release of substances at a level, or in a form, that could pose a threat to public health or the environment.”*

DHS intends to use this CE for the demolition and disposal of buildings. These activities have a non-historic building constraint under existing DHS CEs. The CE would allow DHS for demolition of non-historic and historic buildings if the National Historic Preservation Act (NHPA) Section 106 requirements are met.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.26 and 10 CFR part 1021, Appendix B, paragraph B1.26. *“Small water treatment facilities. Siting, construction, expansion, modification, replacement, operation, and decommissioning of small (total capacity less than approximately 250,000 gallons per day) wastewater and surface water treatment facilities whose liquid discharges are externally regulated, and small potable water and sewage treatment facilities.”*

DHS intends to use this CE for activities described in the CE. For example, this CE may be used to support disaster restoration or hazard mitigation activities completed by FEMA that require the construction of small water treatment facilities.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.29 and 10 CFR part 1021, Appendix B, paragraph B1.29. *“Disposal facilities for construction and demolition waste. Siting, construction, expansion, modification, operation, and decommissioning of small (less than approximately 10 acres) solid waste disposal facilities for construction and demolition waste, in accordance with applicable requirements (such as 40 CFR part 257, Criteria for Classification of Solid Waste Disposal Facilities and Practices,” and 40 CFR part 61, “National Emission Standards for Hazardous Air Pollutants”) that would not release substances at a level, or in a form, that could pose a threat to public health or the environment.”*

DHS intends to use this CE for activities described in the CE. For example, this CE may be used to support post-disaster operations by FEMA and the post-disaster construction of new solid waste facilities that must be established to handle disaster-related debris.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.33 and 10 CFR part 1021, Appendix B, paragraph B1.33. *“Stormwater runoff control. Design, construction, and operation of control practices to reduce stormwater runoff and maintain natural hydrology. Activities include, but are not limited to, those that reduce impervious surfaces (such as vegetative practices and use of porous pavements), best management practices (such as silt fences, straw wattles, and fiber rolls), and use of green infrastructure or other low impact development practices (such as cisterns and green roofs).”*

This CE would support stormwater control projects. These activities are constrained to stream and pond construction and maintenance under existing DHS CEs. The CE would allow DHS to expand these projects into stormwater and natural hydrology projects.

DOE NEPA Implementing Procedures, Appendix B, paragraph B1.35 and 10 CFR part 1021, Appendix B, paragraph B1.35. *“Drop-off, collection, and transfer facilities for recyclable materials. Siting, construction, modification, and operation of recycling or compostable material drop-off, collection, and transfer stations on or contiguous to a previously disturbed or developed area and in an area where such a facility would be consistent with existing zoning requirements. The stations would have appropriate facilities and procedures established in accordance with applicable requirements for the handling of recyclable or compostable materials and household hazardous waste (such as paint and pesticides). Except as specified above, the collection of hazardous waste for disposal and the processing of recyclable or compostable materials are not included in this class of actions.”*

DHS intends to use this CE for activities described in the CE. For example, this CE would support post-disaster operations by FEMA and the construction of post-disaster collection and transfer of recyclable materials when handling disaster-related

debris.

DOE NEPA Implementing Procedures, Appendix B, paragraph B3.9 and 10 CFR part 1021, Appendix B, paragraph B3.9. *“Projects to reduce emissions and waste generation. Projects to reduce emissions and waste generation at existing fossil or alternative fuel combustion or utilization facilities, provided that these projects would not have the potential to cause a significant increase in the quantity or rate of air emissions. For this category of actions, “fuel” includes, but is not limited to, coal, oil, natural gas, hydrogen, syngas, and biomass; but “fuel” does not include nuclear fuel. Covered actions include, but are not limited to:*

(a) Test treatment of the throughput product (solid, liquid, or gas) generated at an existing and fully operational fuel combustion or utilization facility;

(b) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that requires only minor modification to the existing structures at an existing fuel combustion or utilization facility, for which the existing use remains essentially unchanged;

(c) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that involves no permanent change in the quantity or quality of fuel burned or used and involves no permanent change in the capacity factor of the fuel combustion or utilization facility; and

(d) Addition or modification of equipment for capture and control of carbon dioxide or other regulated substances, provided that adequate infrastructure is in place to manage such substances.”

DHS intends to use this CE to cover projects described in the CE. For example, this CE may be used for hazard mitigation projects completed by FEMA that entail these activities or FEMA energy projects that incorporate these types of activities in restoration or mitigation activities.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.4 and 10 CFR part 1021, Appendix B, paragraph B5.4. *“Repair or replacement of pipelines. Repair, replacement, upgrading, rebuilding, or minor relocation of pipelines within existing rights-of-way, provided that the actions are in accordance with applicable requirements (such as Army Corps of Engineers permits under section 404 of the Clean Water Act). Pipelines may convey materials including, but not limited to, air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water.”*

DHS intends to use this CE to support pipeline upgrades and relocation. These activities are commonly funded by FEMA but currently have a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.5 and 10 CFR part 1021, Appendix B, paragraph B5.5. *“Short pipeline segments. Construction and subsequent operation of short (generally less than 20 miles in length) pipeline segments conveying materials (such as air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water) between existing source facilities and existing receiving facilities (such as facilities for use, reuse, transportation, storage, and refining), provided that the pipeline segments are within previously disturbed or developed rights-of-way.”*

DHS intends to use this CE to new pipeline construction projects. These activities are commonly funded by FEMA but currently have a 1-acre constraint under existing DHS CEs. The CE would allow DHS to expand current allowable acreage limitations.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.18 and 10 CFR part 1021, Appendix B, paragraph B5.18. *“Wind turbines. The installation, modification, operation, and removal of a small number (generally not more than 2) of*

commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that (1) Are located within a previously disturbed or developed area; (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid; (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar; (4) would not have the potential to cause significant impacts on bird or bat populations; and (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise). Covered actions would be 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. Covered actions include only those related to wind turbines to be installed on land.”

DHS intends to use this CE to new construction and repair of these projects, which may be requested as part of disaster repairs or mitigation to power systems. DHS currently has no CEs for wind turbine projects.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.20 and 10 CFR part 1021, Appendix B, paragraph B5.20. *“The installation, modification, operation, and removal of small-scale biomass power plants (generally less than 10 megawatts), using commercially available technology (1) Intended primarily to support operations in single facilities (such as a school and community center) or contiguous facilities (such as an office complex); (2) that would not affect the air quality attainment status of the area and would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources; and (3) would be located within a previously disturbed or developed area. Covered actions would be 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.”

DHS intends to use this CE to new construction and repair of these projects, which may be requested as part of FEMA disaster repairs or mitigation to power systems. DHS currently has no CEs for biomass projects.

DOE NEPA Implementing Procedures, Appendix B, paragraph B5.24 and 10 CFR part 1021, Appendix B, paragraph B5.24. *“Drop-in hydroelectric systems. The installation, modification, operation, and removal of commercially available small-scale, drop-in, run-of-the-river hydroelectric systems that would (1) Involve no water storage or water diversion from the stream or river channel where the system is installed and (2) not have the potential to cause significant impacts on water quality, temperature, flow, or volume. Covered systems would be located up-gradient of an existing anadromous fish barrier that is not planned for removal and where fish passage retrofit is not planned and where there would not be the potential for significant impacts to threatened or endangered species or other species of concern (as identified in B(4)(ii) of this appendix). Covered actions would involve no major construction or modification of stream or river channels, and the hydroelectric systems would be placed and secured in the channel without the use of heavy equipment. Covered actions would be 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.”*

In adopting this CE, DHS will make an administrative change to remove “of this appendix” from the text of the B5.24 and replace with “of Appendix B in the DOE NEPA Implementing Procedures and in Appendix B of 10 CFR part 1021” in alignment with CEQ guidance on categorical exclusion adoption.

DHS intends to use this CE to new construction and repair of these projects,

which may be requested as part of FEMA disaster repairs or mitigation to power systems.

DHS currently has no CEs for hydroelectric projects.

Each of these DOE CEs also includes conditions referred to as “integral elements” listed in Appendix B of the DOE NEPA Implementing Procedures and in Appendix B to 10 CFR part 1021 (DOE NEPA regulations). DHS will ensure consistency with these integral elements when applying any of the adopted DOE CEs. Additionally, DHS will prepare a REC when applying these DOE CEs.

When applying these CEs, DHS will abide by the definitions established by DOE at DOE NEPA Implementing Procedures, Section 5.4 and in 10 CFR part 1021.102, paragraph (g) to ensure appropriate application of DOE CEs. “Previously disturbed or developed” is defined as “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” (DOE NEPA Implementing Procedures, Section 5.4(b)(1) and 10 CFR part 1021.102, paragraph (g)(1)). Additionally, “small” and “small scale” would refer to the

context of the particular proposal, including its proposed location. In assessing whether a proposed action is small, in addition to the actual magnitude of the proposal, DOE considers factors such as industry norms, the relationship of the proposed action to similar types of development in the vicinity of the proposed action and expected outputs of emissions or waste. When considering the physical size of a proposed facility, for example, DOE would review the surrounding land uses, the scale of the proposed facility relative to existing development, and the capacity of existing roads and other infrastructure to support the proposed action.

DOE NEPA Implementing Procedures, Section 5.4(b)(2) and in 10 CFR part 1021.102, paragraph (g)(2).

IHS Categorical Exclusion for Adoption

DHS has identified Federal Register Notice, National Environmental Policy Act;

Categorical Exclusions (58 FR 569), C. *“Pesticides. Application of pesticides which are not classified for restricted use under provisions of the Federal Insecticide, Fungicide and Rodenticide Act when used for routine pest control purposes.”*

DHS will use this CE to cover the application of pesticides. The application of pesticides can be currently covered under DHS CEs. However, this CE provides more specific language for pesticide applications than existing CEs.

FHWA Categorical Exclusions for Adoption

DHS has identified 23 CFR 771.117(c)(6). *“The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.”*

DHS intends to use this CE category for the installation of noise barriers for transportation improvement projects. This CE category will only be used for road-related noise abatement.

23 CFR 771.117(c)(24). *“Localized geotechnical and other investigation to provide information for preliminary design and for environmental analyses and permitting purposes, such as drilling test bores for soil sampling; archeological investigations for archeology resources assessment or similar survey; and wetland surveys.”*

DHS would use this CE category to cover environmental studies and investigations as needed. For example, Phase I environmental site assessments completed for FEMA mitigation projects may require localized investigation. DHS has existing CEs that cover formation gathering, data analysis and processing, information dissemination, review, interpretation, and development of documents. This CE category will expand upon existing DHS CEs to cover in-depth environmental studies and investigations.

DA Categorical Exclusion for Adoption

DHS has identified Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section I, DoW A10-10. *“Approval of asbestos*

or lead-based paint management plans drafted in accordance with applicable laws and regulations (REC required).”

DHS intends to use this CE to approve asbestos and lead-based paint management plans. DHS currently does not have a CE that covers asbestos and lead-based paint management plans. As noted in the CE, application of the CE will require preparation of a REC.

DON Categorical Exclusion for Adoption

DHS has identified Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section III, A134-14. *“Alterations of and additions to existing buildings, facilities, and systems (e.g., structures, roads, runways, vessels, aircraft, or equipment) when the environmental effects will remain substantially the same and the use is consistent with applicable regulations.”*

DHS intends to use this CE for projects involving alterations and additions, such as those completed by disaster recovery and mitigation projects. This CE expands upon existing DHS CEs to include alterations. Additionally, while these activities are regularly completed by FEMA, DHS CEs are limited to activities outside the V zone, a Coastal High Hazard Area. This CE would cover alterations and additions of existing buildings, facilities, and systems for FEMA projects within the V zone, which can typically include repairs to roads, utilities, or structures maintained by public organizations and non-profits. Actions within the V zone would also be subject to EO 11988 for Floodplain Management and FEMA Implementing Regulations, Floodplain Management and Protection at 44 CFR Part 9.

USACE Categorical Exclusions for Adoption

DHS has identified Department of War National Environmental Policy Act Implementing Procedures, Appendix A, section VIII, A263-1. *“Activities at completed Corps projects which carry out the authorized project purposes. Examples include*

routine operation and maintenance actions, general administration, equipment purchases, custodial actions, erosion control, painting, repair, rehabilitation, replacement of existing structures and facilities such as buildings, roads, levees, groins and utilities, and installation of new buildings utilities, or roadways in developed areas.”

DHS would utilize this CE to cover repairs of USACE-constructed projects under the authority of state or local governments. For example, FEMA may complete post-disaster repair and replacement of USACE-constructed projects eligible for FEMA assistance.

TVA Categorical Exclusions for Adoption

DHS has identified 18 CFR Appendix A to Subpart C of Part 1318(29). *“Actions to restore and enhance wetlands, riparian, and aquatic ecosystems that generally involve physical disturbance of no more than 10 acres, including, but not limited to, construction of small water control structures; revegetation actions using native materials; construction of small berms, dikes, and fish attractors; removal of debris and sediment following natural or human-caused disturbance events; installation of silt fences; construction of limited access routes for purposes of routine maintenance and management; and reintroduction or supplementation of native, formerly native, or established species into suitable habitat within their historic or established range.”*

DHS intends on using this CE to cover mitigation projects, such as those completed by FEMA, that restore wetlands and mitigate flood hazards. DHS application of this CE will require preparation of a REC.

III. Consideration of Extraordinary Circumstances

When applying these categorical exclusions, DHS will evaluate the proposed actions for whether there are any extraordinary circumstances. The Department’s extraordinary circumstances are listed within the DHS Instruction Manual and include, in part, consideration of impacts on public health and safety; listed species and

migratory birds; historic or cultural resources; Indian sacred sites; environmentally sensitive areas, such as historic properties prime or unique agricultural lands, coastal zones, designated wilderness or wilderness study areas, wild and scenic rivers, 100-year floodplains, wetlands, sole source aquifers, Marine Sanctuaries, National Wildlife Refuges, National Parks, National Monuments, essential fish habitat; violations of a Federal, State, or local law or requirement imposed to protect the environment; certain levels of controversy in terms of scientific validity; precedent for future decision-making; context of scope and size of the particular action; and degradation of already existing poor environmental conditions.

When applying DOE CEs, DHS will evaluate the proposed action to ensure evaluation of “Integral Elements” listed at DOE NEPA Implementing Procedures, Appendix B and in the DOE NEPA regulations at Appendix B to 10 CFR part 1021. In addition, in considering extraordinary circumstances, DHS will consider whether the proposed action has the potential to result in significant effects as described in DOE’s extraordinary circumstances listed at DOE NEPA Implementing Procedures, Section 5.4 and in 10 CFR part 1021.102, paragraph (b)(2). DOE defines extraordinary circumstances as “unique situations presented by specific proposals, including, but not limited to, uncertain effects or effects involving unique or unknown risks.” (DOE NEPA Implementing Procedures, Section 5.4(C)(3)) and 10 CFR part 1021.102, paragraph (b)(2). Consistent with DHS Instruction Manual 023-01-001-01, Implementing the National Environmental Policy Act (DHS Instruction Manual), DHS will document each application of the above-listed CEs and its consideration of extraordinary circumstances within the DHS Environmental Planning and Historic Preservation Decision Support System or alternate system approved by DHS.

When applying NRCS CEs, DHS will evaluate the proposed action to ensure evaluation of NRCS “Conservation Practice Standards” listed at 23 CFR 771.117

paragraphs (b). Consistent with the DHS NEPA Instruction Manual, DHS will document each application of NRCS CEs and their consistency with NRCS Conservation Practice Standards in the DHS Environmental Planning and Historic Preservation Decision Support System or alternate system approved by DHS.

DHS's list of extraordinary circumstances is comparable to those of NRCS, RD, and USFS, found at 7 CFR Subtitle A Part 1b.3(f); NTIA found at Guidance on NTIA National Environmental Policy Act Compliance, Appendix C; IHS found at 58 FR 569; FHWA "unusual circumstances" found at 23 CFR 771.117 paragraphs (b); DA, DON, and USACE found at Department of War National Environmental Policy Act Implementing Procedures, Part 1.4; and TVA, found at 18 CFR, Subpart C Section 1318.201.

DHS's list of extraordinary circumstances is comparable to those of the FirstNet Authority, found at First Responder Network Authority Procedures for Implementing the National Environmental Policy Act, Appendix C. However, FirstNet Authority extraordinary circumstance 11, which provides EA requirements for new antennae structures is not explicitly covered under in DHS extraordinary circumstances. The proposed adopted FirstNet Authority CE does not cover antennae construction and will not be used for such activities.

Therefore, only the DHS NEPA Instruction Manual and the extraordinary circumstances contained therein would be reviewed as to whether the proposed action has the potential to result in significant effects for actions DHS is intending to apply a NRCS, RD, USFS, FirstNet Authority, NTIA, IHS, FHWA, DA, DON, USACE, or TVA CE. If DHS determines that a CE is not appropriate to support a decision on a particular proposed action due to extraordinary circumstances, DHS would prepare an EA or EIS. Consistent with the DHS NEPA Instruction Manual, the DHS Environmental Planning and Historic Preservation Decision Support System, or alternate system approved by

DHS, will be utilized for application of all CE requiring preparation of REC.

IV. Consultation with Agencies and Determination of Appropriateness

In May of 2026, DHS consulted with NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DOW, DA, DON, USACE, and TVA about the appropriateness of the Department's adoption of their respective categorical exclusions. Those consultations each included a review of each agency's or bureau's experience in establishing and applying the categorical exclusions, as well as DHS's intended uses for the categorical exclusions. Based on those consultations and reviews, DHS has determined that the types of activities DHS proposes to authorize are substantially similar to the activities for which NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DA, DON, USACE, and TVA have applied their respective categorical exclusions. Accordingly, the impacts of the DHS actions would be substantially similar to the impacts of each establishing agency's actions, which are not significant, absent the existence of extraordinary circumstances. Therefore, DHS has determined that DHS's proposed use of the CEs, as described within this notice is appropriate.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document DHS's adoption of NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DA, DON, USACE, and TVA categorical exclusions and identifies the types of actions to which DHS contemplates applying the actions at this time. Upon issuance of this notice, the adopted of NRCS, RD, USFS, FirstNet Authority, NTIA, DOE, IHS, FHWA, DA, DON, USACE, and TVA categorical exclusions will be available to DHS and accessible on DHS.gov at <https://www.dhs.gov/ocrso/eed/epb/nepa>.

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