



ADVISORY COUNCIL ON HISTORIC PRESERVATION

Adoption of Categorical Exclusion pursuant to the National Environmental Policy Act

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation (ACHP) is notifying the public and documenting its adoption of the Department of the Interior (DOI) categorical exclusion (CE) for policies, directives, regulations, and guidelines, under section 109 of the National Environmental Policy Act (NEPA). This notice identifies the types of actions to which the ACHP will apply the CE, the considerations that the ACHP will use in determining the applicability of the CE, and the consultation between the agencies on the use of the CE, including application of extraordinary circumstance.

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

FOR FURTHER INFORMATION CONTACT: Kelly Fanizzo, General Counsel, Advisory Council on Historic Preservation, (202) 517-0193, kfanizzo@achp.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The National Environmental Policy Act, 42 U.S.C. 4321-4347 (NEPA), requires all Federal agencies to consider the environmental impacts of their proposed actions before deciding whether and how to proceed. 42 U.S.C. 4321, 4332. 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 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.

Under NEPA, a Federal agency may establish categorical exclusions (CE)—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment, individually or in the aggregate, and, therefore, do not require preparation of an environmental assessment (EA) or an environmental impact statement (EIS)—in its agency NEPA procedures. 42 U.S.C. 4336e(1). If an agency determines that a CE covers a proposed action, the agency then evaluates the proposed action for any extraordinary circumstances in which a normally excluded action may have a significant effect. If no extraordinary circumstances are present, 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 extraordinary circumstances are present, and the proposed action

has the potential to result in significant effects, the agency is required to prepare an EA or EIS.

Section 109 of NEPA, 42 U.S.C. 4336c, provides that an agency may adopt a CE listed in another agency's NEPA procedures for a category of proposed agency actions. To adopt another agency's CE, the adopting agency must (1) identify the CE listed in the other agency's ("establishing agency") NEPA procedures that covers a category of proposed actions or related actions, (2) consult with the establishing agency to ensure the proposed adoption of the CE for a category of proposed actions is appropriate, (3) identify to the public the CE the agency plans to use for its proposed actions, and (4) document adoption of the CE. 42 U.S.C. 4336c.

The ACHP does not have any agency-specific NEPA regulations or procedures. The ACHP will maintain a list of CEs available to the ACHP at www.achp.gov/ACHP_NEPA_Compliance.

II. Identification of the Categorical Exclusion

The ACHP has identified the following CE established by the DOI at 43 CFR 46.210(i) for adoption.

Policies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.

The ACHP intends to use this CE to cover its promulgation of policies, directives, regulations, and guidelines as described in the CE.

III. Consideration of Extraordinary Circumstances

The ACHP does not have an agency-specific list of extraordinary circumstances. To ensure the ACHP's application of the CE is consistent with how the DOI applies the CE, the ACHP will evaluate proposed actions for whether there are any extraordinary circumstances using the DOI's list of extraordinary circumstances at 43 CFR 46.215. The DOI's list of extraordinary circumstances include, in part, consideration of impacts on public health and safety; natural resources; unique geographic characteristics; historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands; floodplains; national monuments; migratory birds; other ecologically significant or critical areas; unresolved conflicts concerning alternative uses of available resources; unique or unknown environmental risks; precedent for future decision-making; historic properties; listed species or critical habitat; access by Indian religious practitioners to, and for ceremonial use of, Indian sacred sites and the physical integrity of those sites; and contribution to the introduction, continued existence, or spread of invasive weeds or non-native invasive species. The responsible official will assess whether an extraordinary

circumstance is present. If the responsible official cannot rely on the CE to support a decision to authorize or take a particular proposed action due to extraordinary circumstances, the responsible official will prepare an EA or EIS before doing so.

IV. Consultation with Department of the Interior

In July 2026, the ACHP consulted with the DOI on the appropriateness of the ACHP's adoption of the CE. The consultation included a review of the DOI's experience in establishing and applying the CE, as well as the ACHP's intended uses for the CE. Based on the consultation, the ACHP has determined that the types of actions the ACHP proposes to authorize are substantially similar to the actions for which the DOI has applied the CE. Accordingly, the impacts of the ACHP's actions would be substantially similar to the impacts of the DOI's actions, which are not significant, absent the existence of extraordinary circumstances. Therefore, the ACHP has determined that its adoption of the CE, as described within this notice, is appropriate.

V. Notice to the Public and Documentation of Adoption

This notice identifies to the public and documents the ACHP's adoption of the DOI CE at 43 CFR 46.210(i) for the promulgation of policies, directives, regulations, and guidelines as described in the CE. The notice identifies the category of actions to which the ACHP would apply the CE, as

well as the considerations that the ACHP would use in determining whether an action is within the scope of the CE. Documentation of the adoption will also be available at www.achp.gov/ACHP_NEPA_Compliance. The CE is available for use by the ACHP, effective immediately.

Dated: September 16, 2026.

Reid Nelson,

Executive Director.

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