This document is scheduled to be published in the Federal Register on 2026-11-18 and available online at https://www.federalregister.gov/d/2026-23515, and on https://govinfo.gov

[9112-FF]

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2026-1090]

Notice of Revised National Environmental Policy Act Implementing Procedures

AGENCY: Office of the Secretary, Department of Homeland Security

ACTION: Notice of availability; request for comments.

SUMMARY: The U.S. Department of Homeland Security (DHS or Department) is updating DHS Directive 023, Implementation of the National Environmental Policy Act, which establishes procedures for complying with the National Environmental Policy Act (NEPA). This update is necessary in light of the recent rescission of the Council on Environmental Quality's NEPA implementing regulations, which DHS's procedures were designed to supplement. In addition, the update incorporates provisions from the Fixing America's Surface Transportation Act, the Infrastructure Investment and Jobs Act; and the Fiscal Responsibility Act of 2023 related to the environmental review process. The updated Directive promotes collaboration and efficiencies in the implementation of NEPA and modernizes the processes and procedures for environmental review. This update enables DHS to conduct coordinated, consistent, predictable, and timely environmental reviews, thus reducing unnecessary burdens and delays. The draft Directive is being made available for public review and comment. These comments will inform development of the final Directive. Upon finalization, the Directive will rescind DHS Directive 023-01, Rev 01 and DHS Instruction 023-01-001-01, Rev 01 which were issued in 2014.

DATES: Comments must be submitted by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].** Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit your comments on the draft Directive, identified by DHS docket number DHS-2026-1090, electronically at http://www.regulations.gov.

Follow the website instructions for submitting comments.

Comments submitted in a manner other than as listed above, including emails or letters sent to the Department's officials, may not receive a response from the Department. DHS is not accepting mailed comments at this time. If you cannot submit your comment using *http://www.regulations.gov*, please see the FOR FURTHER INFORMATION CONTACT section of this document.

Instructions: All comment submissions must include the agency name, docket name, and docket number (DHS–2026–1090). Generally, all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Therefore, you may wish to limit the amount of personal information that you provide. DHS may withhold information provided in comments from public viewing that DHS determines may impact the privacy of an individual or is offensive.

Docket: For access to the docket and to read the draft Directive, background documents or comments received, go to http://*www.regulations.gov*, referencing DHS Docket No. DHS–2026–1090. The draft Directive will also be available at *www.dhs.gov/nepa.*

FOR FURTHER INFORMATION CONTACT: Victoria Porto, Executive Director, Energy & Environment Division; email: eed-ep@hq.dhs.gov, telephone: (202) 714-8525.

SUPPLEMENTARY INFORMATION:

I. Background

A. Need for this Action.

The National Environmental Policy Act, as amended, 42 U.S.C. 4321–4347 (NEPA), requires all Federal agencies to assess the environmental impact of their actions. 42 U.S.C. 332(2)(C). The Council on Environmental Quality (CEQ) previously issued regulations at 40 CFR parts 1500–1508 (CEQ regulations) implementing NEPA that were binding on Federal agencies. On April 19, 2006, the Department of Homeland Security (DHS or the Department) issued Directive 5100.1, to establish the policies and

procedures that DHS would use to comply with NEPA and CEQ's then operative regulations. 71 FR 16790 (Apr. 4, 2006). In 2014, DHS rescinded Directive 5100.1 and in its place issued a new internal Directive and Instruction Manual. 79 FR 70538 (Nov. 26, 2014). These documents establish the Department's current internal procedures for complying with NEPA.

Several recent developments now require DHS to revise its NEPA procedures. First, CEQ's NEPA implementing regulations were rescinded effective April 11, 2025; *see Removal of National Environmental Policy Act Implementing Regulations,* 90 FR 10610, Feb. 25, 2025). CEQ's action was necessitated by and consistent with Executive Order (E.O.) 14154, *Unleashing American Energy* (90 FR 8353, Jan. 29, 2025), in which President Trump rescinded President Carter's E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality* (42 FR 26967, May 24, 1977), which was the basis CEQ had invoked for its authority to issue regulations. DHS's NEPA implementing procedures, which were a supplement to, and relied on, those CEQ regulations, thus stand in need of fundamental revision. President Trump in E.O. 14154 further directed agencies to revise their NEPA implementing procedures consistent with the E.O., including its direction to CEQ to rescind its regulations.

In addition, Congress recently amended NEPA in significant part, in the Fiscal Responsibility Act of 2023 (FRA), Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA, including in particular on procedural issues that CEQ and individual agencies had previously addressed in their own procedures. DHS recognized the need to update its procedures in light of these legislative changes but had been awaiting CEQ action before updating its procedures. *See* 40 CFR 1507.3(c) (2024). With CEQ's regulations now rescinded, DHS must update its NEPA procedures to account for this change.

Finally, the Supreme Court on May 29, 2025 issued its decision in *Seven County*

Infrastructure Coalition v. *Eagle County, Colorado,* 605 U.S. 168 (2025), in which the Supreme Court described the ‘‘transform[ation]’’ of NEPA from its roots as ‘‘a modest procedural requirement,’’ into a significant ‘‘substantive roadblock’’ that ‘‘paralyze[s]’’ ‘‘agency decision making.’’ *Id.* at 173, 183. The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a ‘‘course correction’’ mandating that courts give ‘‘deference’’ to reasonable agency conclusions underlying its NEPA process. *Id.* at 184-185. The Court acknowledged, and through its course correction sought to address, the effect on ‘‘litigation-averse agencies’’ which, in light of judicial micromanagement, had been ‘‘tak[ing] ever more time and to prepare ever longer EISs [environmental impact statements] for future projects.’’ *Id.* at 184. DHS, in turn, is updating its procedures to issue its own “course correction” to streamline its process of ensuring reasonable and timely NEPA decisions, consistent with the above discussed developments.

DHS has reviewed its current NEPA implementing procedures and has developed this draft Directive in consultation with CEQ. DHS is providing an opportunity for public review and comment on this draft Directive. These comments will inform development of the final Directive. DHS will publish a final notice upon signature of the final Directive.

B. Statutory Context.

NEPA establishes a national environmental policy of the federal government to use all practicable means and measures to foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. NEPA Section 101, 42 U.S.C. 4331(a).

In general, NEPA requires federal agencies to analyze all of their major federal actions to determine whether NEPA applies and, if so, what level of environmental analysis is required. NEPA identifies three levels of environmental review—categorical

exclusion, environmental assessment, and environmental impact statement. NEPA Section 107, 42 U.S.C. 4336a. A categorical exclusion (CATEX) is a "a category of actions that a federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of NEPA section 102(2)(C)." NEPA Section 111(1), 42 U.S.C. 4336e(1). If a CATEX does not apply, the agency conducts an environmental assessment (EA) or an environmental impact statement (EIS). An EA is a "concise" document "set[ting] forth the basis of [an] agency's finding of no significant impact or determination that an environmental impact statement is necessary," prepared in connection with a proposed agency action that does not have a significant impact, or the significance of whose impact is unknown. *See* NEPA Section 106(b)(2), 111(4), 42 U.S.C. 4336(b)(2), 4336e(4). An EIS is a document analyzing a "major federal action" significantly affecting the quality of the human environment." NEPA Section 102(C), 111(6), 42 U.S.C. 4332(C), 4336e(6); *see also Seven County*, 605 U.S. at 173. An EIS must address several factors including: (1) reasonably foreseeable environmental effects of the proposed action, (2) unavoidable adverse environmental effects, (3) feasible alternatives, (4) the relationship between human use and long term protection of the environment, and (5) irreversible and irretrievable commitments of Federal resources incurred.[1] The analysis is to be based on reliable scientific data. NEPA Section 102, 42 U.S.C. 4332.

There have been numerous statutory changes to the environmental review process

---

[1] NEPA Section 102(C), as amended, provides that an EIS must address: (1) the reasonably foreseeable environmental effects of the proposed agency action; (2) any reasonably foreseeable adverse environmental effects that cannot be avoided should the action be implemented; (3) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action should it be implemented. 42 U.S.C. 4332(C), as amended by Pub. L. 118–5, 137 Stat. 38–39 (2023).

since DHS last updated its NEPA procedures in 2014. In 2015, Congress directed the Department to implement a variety of reforms to streamline and accelerate its environmental review process. *See* Fixing America's Surface Transportation (FAST) Act, Public Law 114–94 (2015). In 2023, Congress amended NEPA in the FRA, Public Law 118–5 (June 3, 2023). Through these amendments, Congress added substantial detail and direction regarding procedural issues that CEQ and individual agencies had previously addressed in their own procedures. The FRA amendments include defining major Federal action; clarifying the requirements for determining whether NEPA applies and the appropriate level of NEPA review; and clarifying the scope of an EIS, including clarifying the alternatives to be included in an EIS. In addition, the FRA amendments established page and time limits for EAs and EISs, outlined specific roles for lead agencies, and directed agencies to prescribe procedures to allow a project sponsor to prepare an EA or EIS under the supervision of the agency. Further, the FRA provided guidelines for the use of analysis from a prior programmatic environmental review in a subsequent document for a specified time period, and a streamlined process for adopting another agency's CATEXs. In2025, Congress passed the One Big Beautiful Bill Act of 2025, Public Law 119-21, title VI, 60026, (July 4, 2025), adding Section 112 of NEPA, entitled "Project Sponsor Opt-in Fees for Environmental Reviews." This provision allows project sponsors to pay a fee to obtain shortened NEPA review deadlines. DHS needs to update its NEPA procedures in light of these statutory changes.

C. Expected Outcome.

This Directive revises the internal procedures of DHS, promoting consistent implementation across the Department of its responsibilities under NEPA while still allowing flexibility for each of the Department's Components to carry out its own mission. These policies and procedures provide consistency, aid efficiency, reduce duplication, and refocus agency practice on fostering informed decision making, rather

than generating paperwork. The Department expects that this Directive will reduce unnecessary delays. The Department also expects these changes to increase the availability and use of CATEXs, early collaboration, coordination techniques, and to improve timely completion of the environmental review process.

The Directive outlines the Department's interpretations of existing law and provides guidelines for agency procedure and practice with respect to NEPA compliance. The Directive does not in fact, nor does it intend to, govern the rights and obligations of any party outside the federal government. Further, nothing contained in the Directive is intended or should be construed to limit the Department's other authorities or legal responsibilities.

D. Reliance Interests.

In deciding to revise its Directive, the Department acknowledges that third parties may claim to have reliance interests in the Department's existing NEPA procedures. However, DHS's revised procedures will have no effect on sufficiently advanced ongoing NEPA reviews, where the Department, following CEQ guidance, has decided that it will continue to apply existing procedures. Because reliance interests are inherently backward-looking, it is unclear how any party could assert reliance interests in these *prospective* procedures.

To the extent such interests exist, the Department first notes that, as the Supreme Court recently explained, NEPA ''is a purely procedural statute'' that ''imposes no substantive environmental obligations or restrictions.'' *Seven County,* 605 U.S. at 184. Therefore, the Department believes that any asserted reliance interests grounded in substantive environmental concerns, should be entitled to no weight. Moreover, the Department further finds that any cognizable reliance interests in maintaining DHS's prior NEPA procedures are ''outweigh[ed]'' by ''other interests and policy concerns.'' *Dep't of Homeland Sec.* v. *Regents of the Univ. of California,* 591 U.S. 1, 32 (2020). The

complex web of regulations and procedures that preexisted the 2023 amendments to NEPA and these new procedures repeatedly led to the same type of problems that the Supreme Court identified with respect to judicial review of agency NEPA decisions: ''more agency analysis of separate projects, more consideration of attenuated effects, more exploration of alternatives to proposed agency action, more speculation and consultation and estimation and litigation,'' which in turn has meant that ''[f]ewer projects make it to the finish line,'' or even ''to the starting line.'' *Seven County,* 605 U.S. at 184. Accordingly, DHS believes that a wholesale revision and simplification of its NEPA procedures is needed to ensure a more efficient and predictable NEPA review process that supports, rather than unnecessarily hinders, DHS's ability to carry out its homeland security missions. This set of policy considerations outweighs any claimed reliance interests in the preexisting procedures.

E. Authority.

DHS's foundation for the updates to its NEPA procedures is NEPA itself. Now that CEQ has rescinded its NEPA implementing regulations, *see* 90 FR 10610 (Feb. 25, 2025), s*ee also* 91 FR 618 (Jan. 8, 2026) (final rule finalizing removal of CEQ's NEPA implementing regulations), DHS is issuing this draft Directive in compliance with NEPA Section 102(2)(B), 42 U.S.C. 4332(B), which directs all agencies of the federal government to identify and develop methods and procedures, in consultation with CEQ, to conduct the environmental analysis that NEPA requires.

The Department's procedures incorporate the 2023 statutory amendments to NEPA, the guiding principles reflected in E.O. 14154, and the recent decision of the U.S. Supreme Court. Before publishing these procedures, the Department consulted with CEQ to ensure the procedures conform to NEPA.

II. Summary of Revisions

DHS proposes to revise its NEPA implementing procedures in accordance with

the September 2025 CEQ guidance, "Memorandum for Heads of Departments and Agencies: Implementation of the National Environmental Policy Act." Key changes are identified below.

A. Statutory Alignment.

DHS's new NEPA implementing procedures implement major structural features of the 2023 amendments, such as deadlines and page limits for EAs and EISs, as directed at NEPA Section 107(e) and (g), 42 U.S.C. 4336a(e) and 42 U.S.C. 4336a(g). They incorporate Congress's definition of "major Federal action" and the exclusions thereto, as defined at NEPA Section 111(10), 42 U.S.C. 4336e(10). They incorporate Congress's mandated procedure for determining the appropriate level of review under NEPA, as provided in NEPA Section 106, 42 U.S.C. 4336. And they incorporate Congress's revision to the requirements for what an agency must address in its EISs, as provided at NEPA Section 102(2)(C), 42 U.S.C. 4332(C), and Congress's requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an EIS, as directed at NEPA Section 107(c), 42 U.S.C. 4336a(c). These are all crucial features of Congress's policy design and its purpose in enacting the 2023 amendments that NEPA review be more efficient and certain.

B. Identification of DHS actions not subject to NEPA.

The Directive identifies examples of activities that do not meet the definition of a "major federal action" pursuant to NEPA Section 111(10), 42 U.S.C. 4336e(10). Additionally, DHS has identified a category of actions that are administrative and routine in nature, undertaken to support the normal conduct of DHS business. The identified actions encompass routine administrative, personnel, fiscal, and management activities that are inherently limited in scope and do not alter the physical environment, infrastructure capacity, or land use. While these activities are Federal actions, they are not "major" and therefore not subject to NEPA. These can now be classified as actions where

NEPA does not apply. These actions have been retained as Appendix A for ease of reference and to avoid confusion.

C. Categorical Exclusions.

Under the Directive, DHS is revising its CATEX list, now found in Appendix B, in the following manner: (1) Removal of items that no longer meet the definition of a "major federal action" pursuant to NEPA Section 111(10), 42 U.S.C. 4336e(10). These actions have been retained as Appendix A for ease of reference and to avoid confusion. (2) Clarification that all CATEXs may be used by any DHS Component. (3) Correction of typographical or other non-substantive errors. (4) Elimination of duplicative CATEXs. (5) Integration of adopted CATEXs. (6) Administrative modification to CATEX L13.

III. Discussion of the Directive

Section 1: General Directive Information.

This section provides general context for the Directive and establishes its applicability throughout DHS, including all components. It revokes previous DHS NEPA implementing procedures found in Directive 023-01, *Implementation of the National Environmental Policy Act (2014)* and Instruction 023-01-001-01, Rev 01, *Implementation of the National Environmental Policy Act* (*Revised 2017).*

Section 2: Responsibilities.

Section 2 establishes roles and responsibilities throughout DHS for the implementation of NEPA. Unless otherwise delegated, the Executive Director, Energy and Environment Division serves as the individual responsible for approving NEPA documentation. The Director, Environmental Planning and Historic Preservation is responsible for the day-to-day oversight and serves as the Federal NEPA Contact for DHS.

Section 3: Content and Procedures.

In general, Section 3 provides detailed procedures for DHS implementation of

NEPA. Elements are summarized below.

Section 3.1. This section recognizes the policy of DHS to comply with NEPA and integrate NEPA review at the earliest planning stages for informed decision-making, public transparency, and compliance with environmental planning requirements. The sections of the Directive are separate and severable from one another. DHS retains the authority to adopt approaches on a case-by-case basis that differ from those described in the Directive as appropriate.

Section 3.2. This section emphasizes the importance of early NEPA compliance and integration with other planning and authorization process. This section also affirmatively asserts that NEPA applies only to major federal actions with the potential to significantly impact the human environment.

This section identifies situations in which NEPA does not apply, such as non-final agency actions, actions exempted by law, nondiscretionary actions, certain regulatory actions, extraterritorial activities, presidential actions, and actions waived under Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104-208, div. C, 110 Stat. 3009, 3009-546.

DHS has identified examples of activities that do not meet the definition of a "major federal action" pursuant to NEPA Section 111(10), 42 U.S.C. 4336e(10). Additionally, DHS has identified a category of actions that are administrative and routine in nature, undertaken to support the normal conduct of DHS business. Although these activities are Federal actions, they are not "major" and therefore not subject to NEPA. These can now be classified as actions where NEPA does not apply. These actions have been retained as Appendix A for east of reference and to avoid confusion.

To provide consistent guidance to DHS NEPA practitioners, DHS has identified thresholds for determining NEPA applicability to grants. In alignment with the statutory framework found in NEPA Section 111(10), 42 U.S.C. 4336e(10) and the definition of

"major federal action", DHS has established a minimum threshold of 15% DHS funding or $5 million in DHS investment for an action to be considered subject to DHS review under NEPA. The 15% DHS funding requirement is necessary to demonstrate sufficient federal authority or control over an action's design, implementation, or outcome. For projects where DHS funding comprises less than 15% of the total project execution cost, the DHS role is considered incidental or ancillary, and the primary authority and decision-making responsibility remain with non-DHS entities.

Similarly, DHS has determined grant actions receiving less than $5 million in DHS funding do not rise to the level of "major federal action" and do not trigger a NEPA review. In 2025, approximately 44% of the EAs prepared by the Federal Emergency Management Agency (FEMA) were for projects under $5 million in funding. None resulted in a finding of significant environmental impacts. These minimum funding thresholds ensure efficient allocation of DHS resources to actions with the potential for significant environmental effects, while maintaining compliance with NEPA's statutory intent and avoiding unnecessary review of projects with only minor federal participation.

Section 3.3. Within Section 3.3 DHS establishes a hierarchical approach to NEPA compliance. DHS will first consider application of CATEX, either through established CATEX, adopted CATEX, or establishment of a new or revised CATEX. If DHS cannot apply a CATEX, DHS will then prepare an EA if a proposed action has unknown or less than significant environmental effects. If the proposed action is likely to have reasonably foreseeable significant effects, DHS will develop an EIS.

In considering whether the reasonably foreseeable effects of a proposed action are significant, DHS will analyze the potentially affected environment, as appropriate to the action, and degree of effects, including both short- and long-term effects, both beneficial and adverse effects, effects on public health and safety, economic effects and effects on the quality of life of the American people.

Section 3.4. This section explains that DHS seeks efficiency by integrating NEPA with other planning processes and using programmatic analyses, existing documents, and early scoping. Generally, until DHS makes a CATEX determination, issues a finding of no significant impact, or issues a record of decision, DHS will take no action concerning a proposed action that would (1) have an adverse environmental effect; (2) limit the choice of reasonable alternatives; or (3) result in an irreversible and irretrievable commitment of resources.

Section 3.5. Due to the mission of the Department and Departmental components, DHS anticipates the need to comply with NEPA for classified actions. Classified NEPA documents are prepared and safeguarded per security requirements, with unclassified portions made public when possible and in accordance with legal requirements.

Section 3.6. Congress has provided that the multiple agencies involved shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA Section 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A). When serving as the lead agency, DHS is ultimately responsible for determining and documenting the scope of the project at hand and completing the NEPA process. Section 3.6 further identifies procedures to address disputes regarding lead agency designation and join lead agency designations.

This section also identifies cooperating agency designations. Any Federal agency, including DHS, with special expertise with respect to any environmental issue may be a cooperating agency. A state, tribal, local, or territorial agency of similar qualifications may become a cooperating or participating agency by agreement with the lead agency.

Section 3.7. This section discusses how DHS uses CATEXs. DHS establishes, revises, adopts, or removes CATEXs through consultation with CEQ and public notice. After DHS establishes or adopts CATEXs, DHS components may apply them when the action fits within the CATEX and no unmitigated "extraordinary circumstances" exist. DHS may apply multiple CATEXs to the constituent parts of single action but must

consider whether the aggregate impacts of the constituent parts could give rise to an extraordinary circumstance or result in a reasonably foreseeable significant effect. The mere presence of an extraordinary circumstance does not necessarily prevent the application of the CATEX. DHS considers the following "extraordinary circumstances":

(1) A potentially significant effect on public health or safety.

(2) A potentially significant effect on species or habitats protected by the ESA, Marine Mammal Protection Act, Migratory Bird Treaty Act, Magnuson-Stevens Fishery Conservation and Management Act, or other Federal law protecting a species or habitat.

(3) A potentially significant effect on historic properties (e.g., districts, sites, buildings, structures, or objects) that are listed in or eligible for listing in the National Register of Historic Places, a potentially significant effect on traditional cultural properties or sacred sites, or lead to the loss or destruction of a significant scientific, cultural, or historical resource.

(4) A potentially significant effect on an environmentally sensitive area.

(5) A potential or threatened violation of a Federal, tribal, state, local, or territorial law or requirement imposed to protect the environment. Some examples of other requirements to consider are a local noise control ordinance; the requirement to conform to an applicable State Implementation Plan for air quality standards; Federal, tribal, state, local, or territorial, requirements to control hazardous or toxic substances; and environmental permits.

(6) An effect on the quality of the human environment that is likely to be highly controversial in terms of scientific validity, likely to be highly uncertain, or likely to involve unique or unknown environmental risks. This also includes effects that may result from the use of new technology or unproven technology. Controversy over, including public opposition to, a proposed action absent any demonstrable

potential for significant environmental impacts does not itself constitute an extraordinary circumstance.

(7) Extent to which a precedent is established for future actions with significant effects.

(8) Significantly greater scope or size than normally experienced for this category of action.

(9) Potential for significant degradation of already existing poor environmental conditions. Also, initiation of a potentially significant environmental degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

CATEXs designated with an asterisk (*) in Appendix B require documentation utilizing the Environmental Planning and Historic Preservation (EPHP) Decision Support System (DSS), or DHS component approved system.

Section 3.8. This section provides for the use of a Notice of Intent (NOI) and Scoping to assist DHS with the preparation of EAs and EISs. Scoping may be used to identify substantive issues and connected actions for analysis.

Section 3.9. This section details when and how DHS prepares EAs. DHS will prepare an EA when an action is not categorically excluded and significant environmental effects are not anticipated. EAs are concise documents analyzing purpose, alternatives, effects, and mitigation. EAs are limited to 75 pages and must be completed within one year.

Section 3.10. DHS issues a Finding of No Significant Impact (FONSI) when an EA shows no significant effects, closing the NEPA process for that action.

Section 3.11. DHS will prepare an EIS for actions with significant environmental effects. EISs are limited to 150 pages (300 for complex actions) and will be completed within two years.

Section 3.12. DHS issues a Record of Decision (ROD) to summarize the final decision, alternatives analyzed in the EIS, and mitigation plans, closing the NEPA process for the action.

Section 3.13. To enhance efficiencies in NEPA, DHS will utilize programmatic NEPA documents and tiering where appropriate. DHS encourages the use of supplemental NEPA documents and reliance on existing documentation, where appropriate. Where possible, DHS will integrate other environmental requirements, including compliance with other Federal environmental laws, with the NEPA process to streamline reviews and reduce duplication.

Section 3.14. DHS integrates CEQ's January 21, 2026 *Memorandum for Heads of Departments and Agencies: Emergencies and NEPA Guidance.* In general, DHS will take direct action to address immediate threats to life, property, or important natural, cultural, or historic resources. For actions subject to NEPA, DHS will determine the appropriate level of NEPA review—CATEX, EA, EIS. Where emergency circumstances make it necessary to take an action with reasonably foreseeable significant effects without observing these procedures, DHS will consult with CEQ about alternative arrangements for compliance with NEPA Section 102(2)(C), 42 U.S.C. 4332(2)(C).

Section 3.15. This section establishes DHS procedures for project sponsor-prepared NEPA documents. When project sponsors or contractors prepare DHS NEPA documents, DHS will provide appropriate supervision and guidance. DHS retains responsibility for content.

Section 3.16. This section provides direction for DHS components wishing to prepare Component Supplemental Instructions for NEPA implementation. Supplemental Instructions must be consistent with the DHS NEPA Directive and are subject to approval by the Executive Director, DHS Energy and Environment Division. Components with approved Supplemental Instructions may also request Delegation of Authority to approve

component NEPA documents.

Section 3.17. This section identifies activities requiring notification to the Energy and Environment Division.

Section 4: Authorities.

This section identifies the authorities supporting the execution of this Directive.

Modifications to DHS Categorical Exclusions

1. General.

Under the Directive, DHS is revising its CATEX list, now found in Appendix B, in the following manner: (1) Removal of items that no longer meet the definition of a "major Federal action" pursuant to NEPA Section 111(10), 42 U.S.C. 4336e(10). These actions have been retained as Appendix A for ease of reference and to avoid confusion. (2) Clarification that all CATEXs may be used by any DHS Component. (3) Correction of typographical or other non-substantive errors and administrative revisions. (4) Elimination of duplicative CATEXs. (5) Integration of previously adopted CATEXs. (6) Modification of CATEX L13. The DHS CATEX substantiation documentation is available for review at *dhs.gov/nepa.*

2. Removal.

DHS has determined that 16 actions previously designated as CATEXs do not meet the definition of "major federal action" under NEPA Section 111(10), 42 U.S.C. 4336e(10). Identified actions are limited to routine or administrative functions that do not have the potential to significantly affect the quality of the human environment. Although these activities constitute federal actions, they are not considered "major federal actions" and, as such, are not subject to NEPA requirements. As such, these actions have been removed from DHS's CATEX list, found in Appendix B. However, to provide continued reference and to avoid potential confusion, these actions are listed in Appendix A of the DHS NEPA procedures.

3. Clarification.

DHS is clarifying that all CATEXs may be utilized by any DHS Component or entity executing an action within the mission space of the established CATEX. While Appendix B identifies when a CATEX is more likely to be utilized by a specific Component, its use is not precluded by other Components. This clarification fosters a unified standard for compliance with NEPA, minimizes duplicative efforts, reduces administrative delays, and supports the Department's ability to rapidly respond to evolving threats and mission requirements.

4. Corrections and Administrative Revisions.

The Directive makes non-substantive corrections to typographical errors identified during the review period. Additionally, in recognition of DHS's mission space, DHS has inserted "territorial" into previous references to state, tribal, and local equities. Additional non-substantive administrative revisions include, but are not limited to, updating references to DHS as opposed to a specific Component, renumbering, and modernizing terminology.

5. Duplications.

To streamline DHS's CATEX listing, duplicative CATEXs have been removed. Impacted CATEXs were predominantly within the listing designated for primary utilization by the U.S. Coast Guard. Remaining CATEXs have been renumbered accordingly.

6. Integration.

DHS has fully integrated previously adopted CATEXs into the CATEX table found in Appendix B. Integrated CATEXs have been assigned a DHS number for utilization. DHS will apply the extraordinary circumstances found in Section 3.7 for these actions.

7. Modification to CATEX L13 (previously numbered CATEX L38).

On behalf of the U.S. Coast Guard (USCG), DHS proposes an administrative revision to CATEX 13, previously numbered CATEX L38. The changes are intended to clarify the scope of the CATEX. The USCG has relied on CATEX L38 for actions performed as part of the Aids to Navigation (ATON) program. The modified verbiage will provide improved clarity for field users on the scope of the CATEX and require a Record of Consideration when there is potential for extraordinary circumstances. As described, DHS has determined that the revised CATEX does not normally have significant effects and that the actions described are appropriate to include within the scope of this CATEX.

IV. Notice to the Public

This notice serves to inform the public of DHS's proposed modifications to the Department's NEPA implementing procedures, found in Directive 023-01, and to request comment on the proposed modifications. Upon issuance of this notice, the draft Directive will be available on DHS.gov at https://www.dhs.gov/ocrso/eed/epb/nepa.

Tracey L. Watkins,

Chief Readiness Support Officer,

Department of Homeland Security.

[FR Doc. 2026-23515 Filed: 11/17/2026 8:45 am; Publication Date: 11/18/2026]