

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

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

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA)

SUMMARY: NRCS is notifying the public and documenting the adoption of categorical exclusions (CEs) established by the Department of Homeland Security (DHS) and the Department of Interior, Bureau of Land Management's (BLM) pursuant to section 109 of the National Environmental Policy Act (NEPA) to use for proposed NRCS actions. This notice describes the categories of proposed actions for which NRCS intends to apply the CEs, the considerations that NRCS 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: This action is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Barbie Prine at (202) 510-8328 or by email at barbara.prine@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

National Environmental Policy Act and Categorical Exclusions

NEPA (42 U.S.C. 4321–4347, as amended) requires all Federal agencies to consider the environmental impact of their proposed actions before deciding whether and how to proceed. 42 U.S.C. 4321, 4332. 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 categorical exclusion.

A Federal agency may establish categorical exclusions—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. If an agency determines that a categorical exclusion 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 categorical exclusion to approve the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2). If the extraordinary circumstances have the potential to result in significant effects, the agency is required to prepare an EA or EIS.

NEPA (42 U.S.C. 4321–4347), as amended, and Section 109 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 categorical exclusion under Section 109, the adopting agency: (1) identifies the relevant categorical exclusion listed in that agency's (“establishing agency”) NEPA

procedures “that cover its category of proposed actions or related actions”; (2) consults with the establishing agency “to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate”; (3) “identifies to the public the categorical exclusion that the [adopting] agency plans to use for its proposed actions”; and (4) “documents adoption of the categorical exclusion”. See 42 U.S.C. 4336c.

USDA’s Departmental policy concerning NEPA is found at 7 CFR PART1b and NRCS at 7 CFR 650. Additional NRCS NEPA guidance and tools are posted at <https://www.nrcs.usda.gov/resources/guides-and-instructions/nrcs-environmental-evaluation-cpa-52-worksheet-tools-and-training>. This notice documents NRCS's adoption of 11 CEs under Section 109 of NEPA for NRCS use and notifies the public of these adoptions.

II. Identification of the Categorical Exclusions

NRCS would document each use of these CEs consistent with NRCS guidance in the NRCS National Environmental Compliance Handbook.

DHS Categorical Exclusions for adoption

The DHS NEPA procedures are contained within Department of Homeland 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.

NRCS has identified the following 8 DHS CEs for adoption. NRCS is adopting Operational Activity B3, activities and operations to be conducted in an existing structure that would be compatible with and similar in scope to its ongoing functional uses and

would be consistent with previously established safety levels and in compliance with applicable Federal, Tribal, State, or local requirements to protect the environment.

Examples of NRCS's intended uses of the CE include Plant Materials Centers facility operations that are consistent with prior applicable regulatory requirements.

NRCS is adopting Real Estate Activity C1, acquisition of an interest in real property that is not within or adjacent to environmentally sensitive areas, including interests less than a fee simple, by purchase, lease, assignment, easement, condemnation, or donation, which does not result in a change in the functional use of the property; Real Estate Activity C2, lease extensions, renewals, or succeeding leases where there is no change in the facility's use and all environmental operating permits have been acquired and are current; Real Estate Activity C4, transfer of administrative control over real property, including related personal property, between another Federal agency and the Department that does not result in a change in the functional use of the property; and Real Estate Activity C7, initial lease of, or grant of an easement interest in, DHS-controlled real property to a non-Federal entity or the amendment, renewal, or termination of such lease or easement interest where the proposed type and intensity of real property use is similar to existing uses. Examples of NRCS's intended uses of the CEs include acquiring new land for Plant Materials Center expansion that doesn't affect sensitive areas, continuing existing Plant Materials Center leases, and acquisition of wetland easements from other Federal agencies.

NRCS is adopting Repair and Maintenance Activity D1, minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in the functional use of the real property (e.g. realigning interior spaces of an

existing building, adding a small storage shed to an existing building, retrofitting for energy conservation, or installing a small antenna on an already existing antenna tower that does not cause the total height to exceed 200 feet) and Repair and Maintenance Activity D3, repair and maintenance of Department-managed buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use or an impact on a historically significant element or setting (e.g. replacing a roof, painting a building, resurfacing a road or runway, pest control activities, restoration of trails and firebreaks, culvert maintenance, grounds maintenance, existing security systems, and maintenance of waterfront facilities that does not require individual regulatory permits). Examples of NRCS's intended uses of the CEs include small Plant Materials Center facility upgrades like storage sheds or equipment installations, routine facility maintenance and upgrades, maintenance to access roads on real property or easements, and repair/upgrades to snow survey site equipment.

NRCS is adopting Construction, Installation, and Demolition Activity E2, new construction upon or improvement of land where all of the following conditions are met: (a) the structure and proposed use are compatible with applicable Federal, Tribal, State, and local planning and zoning standards and consistent with Federally-approved State coastal management programs, (b) the site is in a developed area and/or a previously-disturbed site, (c) the proposed use will not substantially increase the number of motor vehicles at the facility or in the area, (d) the site and scale of construction or improvement are consistent with those of existing, adjacent, or nearby buildings, and, (e) the construction or improvement will not result in uses that exceed existing support infrastructure capacities (roads, sewer, water, parking, etc.). Examples of NRCS's

intended uses of the CE include new Plant Materials Center buildings on developed areas within existing infrastructure limits.

BLM Categorical Exclusions for adoption

The Department of Interior's NEPA implementing procedures are codified in 43 CFR part 46. The Department of Interior's protocol for application of CEs is at 43 CFR 46.205. The Department's CEs available to all bureaus within the Department are listed at 43 CFR 46.210. NRCS has identified the following 3 BLM CEs for adoption.

NRCS is adopting Fish and Wildlife A1 modification of existing fences to provide improved wildlife ingress and egress, A2 minor modification of water developments to improve or facilitate wildlife use (e.g., modify enclosure fence, install flood valve, or reduce ramp access angle), and A3 construction of perches, nesting platforms, islands, and similar structures for wildlife use. Examples of NRCS's intended uses of the CE include actions involving management of wildlife.

III. Consideration of Extraordinary Circumstances

When applying these categorical exclusions, NRCS will document each use using the NRCS environmental evaluation process, CPA-52 Worksheet, including an evaluation for extraordinary circumstances. NRCS's extraordinary circumstances are comparable to those of DHS and BLM and defined at 7 CFR 650.6 and include, in part, consideration of impacts on public health and safety; natural resources and unique geographic characteristics as historic or cultural resources; endangered and threatened species, migratory birds, and bald and golden eagles; park lands, prime farmlands, floodplains, wetlands, other waters of the United States, wild and scenic rivers, or ecologically critical areas; air quality; unique or unknown environmental risks; precedent for future decision-

making; and contribution to the introduction, continued existence, or spread of invasive weeds or non-native invasive species.

IV. Consultation and Determination of Appropriateness

In March and April 2025, NRCS conducted consultation with both agencies to discuss the appropriateness of NRCS's adoption of their respective CEs. NRCS's intended uses of all the CEs are consistent with the way these agencies established and apply these CEs. Therefore, NRCS has determined that its proposed use of the DHS and BLM categorical exclusions to support NRCS actions is appropriate.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document NRCS's adoption of DHS and BLM categorical exclusions and identifies the types of actions to which NRCS contemplates applying the CEs at this time; NRCS may expand use of one or more of the CEs identified above to other activities where appropriate, and in accordance with applicable conditions for use of the CE. Upon issuance of this notice, the CEs will be available to NRCS.

A handwritten signature in black ink, appearing to read "Aubrey J.D. Bettencourt". The signature is fluid and cursive, with the first name "Aubrey" being the most prominent part.

Aubrey J.D. Bettencourt

Chief, Natural Resources Conservation Service

U. S. Department of Agriculture