



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

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**MEMORANDUM FOR HEADS OF FEDERAL DEPARTMENTS AND AGENCIES**

**FROM:** Katherine R. Scarlett  
Chairman

**SUBJECT:** Establishing, Revising, Adopting, and Applying Categorical Exclusions Under the National Environmental Policy Act

**I. Purpose and Overview**

The Council on Environmental Quality (CEQ) is issuing this guidance for Federal departments and agencies on how to establish, revise, adopt, and apply categorical exclusions in accordance with the National Environmental Policy Act (NEPA).<sup>1</sup> CEQ issues this guidance pursuant to Congress's direction that agencies develop their methods and procedures for implementing NEPA in consultation with CEQ.<sup>2</sup> This guidance replaces guidance on the same subject published November 23, 2010,<sup>3</sup> which is hereby rescinded.<sup>4</sup>

This guidance does not have the force and effect of law and is not meant to create legal rights or obligations with respect to any public party.

**II. Background**

The Fiscal Responsibility Act of 2023 amended NEPA and incorporated the concept of categorical exclusions into statute<sup>5</sup>—codifying the practice long recognized by CEQ and much used by Federal departments and agencies since the late 1970s. Section 111(1) of NEPA defines a categorical exclusion as a “category of actions that a Federal agency has determined normally

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<sup>1</sup> 42 U.S.C. 4321 *et seq.*, Pub. L. No. 91-190, 83 Stat. 852 (1970).

<sup>2</sup> 42 U.S.C. § 4332(2)(B).

<sup>3</sup> Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act, 75 FR 75628 (Dec. 6, 2010).

<sup>4</sup> Since CEQ issued the 2010 Guidance, Congress revised NEPA to (1) include, for the first time, a definition of “categorical exclusion,” and (2) establish a process by which an agency may adopt and use a categorical exclusion listed in another agency’s NEPA implementing procedures. 42 U.S.C. § 4336e(1), 4336(c). In addition, the 2010 Guidance was issued pursuant to and based on CEQ’s 1978 NEPA implementing regulations. CEQ has rescinded all iterations of its NEPA implementing regulations effective April 11, 2025. *See* Removal of National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 10610 (Feb. 25, 2025). Therefore, it is appropriate for CEQ to issue revised guidance at this time.

<sup>5</sup> Pub. L. No. 118-5, § 321, 137 Stat. 10, 38-46 (2023).

does not significantly affect the quality of the human environment[.]”<sup>6</sup> Section 106(a)(2) of NEPA provides that an agency is not required to prepare an environmental assessment (EA) or environmental impact statement (EIS) if the action is excluded pursuant to a categorical exclusion.<sup>7</sup> Section 109 of NEPA provides agencies with authority to “adopt” categorical exclusions established by other agencies for application to the adopting agency’s actions.<sup>8</sup>

CEQ has long emphasized the importance of categorical exclusions as a core feature of NEPA practice to facilitate efficient and effective reviews in accordance with Congress’s intent. And, through the authorities noted above, Congress also recognizes that categorical exclusions are a form of review that agencies use to comply with NEPA for proposed actions that normally do not significantly affect the quality of the human environment. By identifying categorical exclusions as a threshold consideration for whether an EA or EIS is required, Congress has expressly directed agencies to consider which categories of actions they perform “normally” do not have significant effects.<sup>9</sup>

For these reasons, agencies should establish categorical exclusions to cover such categories of actions, adopt other agencies’ categorical exclusions where appropriate, and in all instances consider whether a categorical exclusion applies to a particular proposed action before beginning to develop an EA or EIS for that proposed action.

### **III. Process for Establishing and Revising Categorical Exclusions**

When an agency makes a determination, consistent with section 111(1) of NEPA,<sup>10</sup> that a category of actions normally does not significantly affect the quality of the human environment, the agency may establish a categorical exclusion in accordance with its NEPA implementing procedures and include it within its publicly available list of categorical exclusions. Agencies should not establish categorical exclusions for categories of actions that do not meet the statutory definition of “major Federal action”<sup>11</sup> because such actions are not subject to NEPA as a threshold matter.

The text of a categorical exclusion should be unambiguous and written in plain language allowing agency staff, project sponsors, and the public to clearly understand the category of actions it covers. The categorical exclusion should clearly describe any limitations upon its use or scope, such as limitations on the size of the covered actions or geographic area in which the

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<sup>6</sup> 42 U.S.C. § 4336e(1).

<sup>7</sup> 42 U.S.C. § 4336(a)(2).

<sup>8</sup> 42 U.S.C. § 4336c.

<sup>9</sup> 42 U.S.C. § 4336(a)(2).

<sup>10</sup> 42 U.S.C. § 4336e(1).

<sup>11</sup> 42 U.S.C. § 4336e(10).

covered actions occur.<sup>12</sup> When establishing a categorical exclusion, agencies should explain if, when, and how they will document the application of the categorical exclusion to a particular action.

The steps for an agency to establish or revise a categorical exclusion are as follows:

1. Develop a written record containing information to substantiate the agency's determination that the category of actions normally does not significantly affect the quality of the human environment (referred to as a "substantiation record").<sup>13</sup>
2. Consult with CEQ on the agency's proposed categorical exclusion (typically for a period of 30 days), prior to providing public notice. Agencies and CEQ will work together to ensure timely review. CEQ encourages agencies to provide a draft *Federal Register* notice and the substantiation record to start this consultation process.
3. Provide public notice in the *Federal Register* of the agency's establishment of or revisions to the categorical exclusion, including the location of availability of the substantiation record (e.g., an agency website).<sup>14</sup> NEPA does not require agencies to solicit public comment when establishing or revising a categorical exclusion, but agencies may do so at their discretion or as necessary to comply with other provisions of law.

The sections below address each of these steps, as well as the process for removing an existing categorical exclusion and jointly establishing a categorical exclusion with another agency.

#### **A. Establishing and Substantiating a Categorical Exclusion**

When establishing a categorical exclusion, an agency should develop a substantiation record of the reliable data and resources it relied upon in making its determination that the category of actions normally does not significantly affect the quality of the human environment. CEQ interprets "normally" in this context to mean considerably more often than not.

The extent of the agency's substantiation record should be proportionate with the reasonably foreseeable impacts of the actions covered. For example, actions that inherently have negligible or minimal environmental effects may require only a brief discussion compared to more

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<sup>12</sup> Historically, many agencies and CEQ have referred to such limitations as "bounding," reflecting the "bounds" of the categorical exclusion (e.g., "less than .5 square miles," "less than one mile in length," "in previously disturbed areas").

<sup>13</sup> The substantiation record helps the agency demonstrate that its determination is reasonable and reasonably explained.

<sup>14</sup> Agencies typically prepare the substantiation record in a separate document from the *Federal Register* notice. However, there may be limited instances where it may be appropriate to incorporate the agency's rationale and supporting information directly in the body of the *Federal Register* notice rather than preparing a separate document. This may be appropriate, for example, where the information used to substantiate the categorical exclusion is not extensive.

extensive discussions for actions that, for example, require mitigation measures to be incorporated into the description and requirements of the categorical exclusion to avoid significant effects.

Commensurate with the reasonably foreseeable impacts of the proposed actions covered by the categorical exclusion, agencies may rely on one or a combination of types of data and resources to substantiate their determination (*i.e.*, “substantiation methods”). Examples of some commonly used substantiation methods are discussed below. If relying on a combination of substantiation methods, agencies should explain whether their determination that the category of actions normally will not have significant environmental effects is based on the combination of methods in its totality or is independently and adequately justified by one or more of the methods employed.

One common substantiation method is grounded in previously completed environmental reviews. Under this method, agencies look to actions that the agency itself or another agency found were not expected to have significant environmental effects and, therefore, did not require an EIS.<sup>15</sup> Agencies can substantiate their determination that a category of actions normally does not have significant effects by relying on EAs previously prepared for such actions. By looking across EAs, and, where appropriate and available, by considering new information,<sup>16</sup> agencies may be able to substantiate a determination that such actions would normally result in findings of no significant impacts (FONSI<sup>17</sup>) and that it is therefore appropriate to establish a categorical exclusion for such activities. The EAs and FONSI, along with the available post-implementation data of the validity of their predictions regarding the environmental effects of the proposed action, are among the “reliable data source”<sup>18</sup> that an agency can use to determine the appropriate level of NEPA review.

CEQ encourages agencies to examine their records of EAs and FONSI to identify opportunities to establish new categorical exclusions. If the agency identifies a pattern or commonality among instances in which an EA prepared for an action within a given category of actions did not result

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<sup>15</sup> NEPA requires agencies to use reliable data and resources in carrying out NEPA, including in the determination that a category of actions normally does not have significant environmental effects. Section 102(2)(E) of NEPA, 42 U.S.C. § 4332(2)(E); *cf.* section 106(b)(3) of NEPA, 42 U.S.C. § 4336(b)(3).

<sup>16</sup> New information may include post-implementation data, if available. The purpose of reviewing any new information is to ensure that the agency’s expectation that a category of action normally does not have significant effects is reasonable. Nothing in this guidance supersedes NEPA section 106(b)(3) or should otherwise be construed as creating a requirement to obtain new information for the purpose of establishing or revising a CE; Congress imposed no such requirement and the discussion here is merely meant to suggest one method that may be appropriate to substantiate establishment of a CE.

<sup>17</sup> When considering FONSI, agencies may consider mitigated FONSI, *i.e.*, where a FONSI is based upon mitigation measures that mitigate the potential for significant effects. Such mitigation measures may inform any limitations to the scope of actions that can be excluded pursuant to the categorical exclusion. For example, if a FONSI is based upon a mitigation measure limiting a proposed action to a certain time of year, a categorical exclusion that relies upon that FONSI should be limited by its terms to that time of year.

<sup>18</sup> *See* NEPA 106(b)(3), 42 U.S.C. § 4336(b)(3).

in a FONSI, such a pattern or commonality may suggest limitations that the agency should include in the categorical exclusion.

Agencies can also consider previously prepared EISs as data sources to justify categorical exclusions when appropriate. In explaining the use of EISs to support the categorical exclusion, the agency should explain why the EIS is relevant support for the establishment of the categorical exclusion even though EISs are developed where a particular proposed action has reasonably foreseeable significant effects.

Another substantiation method is looking to another agency's categorical exclusion that applies to a similar category of actions. When invoking another agency's categorical exclusion, the substantiation record should explain why the categories of action are similar. The new categorical exclusion should include any relevant limitations applicable to the other agency's categorical exclusion, if appropriate, or explain why such limitations are unnecessary. The agency should also consider whether additional limitations are necessary given any differences that may result from application in different contexts. Agencies should be mindful that section 109 of NEPA allows for the adoption of other agencies' categorical exclusions where the existing categorical exclusion meets the agency's needs without need for modification.<sup>19</sup> Agencies should, where available and fit for use by the adopting agency, adopt a CE established by another agency rather than establishing a new CE themselves in the first instance.<sup>20</sup>

As another substantiation method, an agency can rely upon the experience and expertise of agency staff or outside experts familiar with the category of actions and their potential environmental effects, as well as on published peer-reviewed literature or data sufficiently related to the category of actions being considered. When relying on this method, the substantiation record should describe the experience and expertise of the parties and any methods they employed in making their determination.

## **B. Revising a Categorical Exclusion**

From time to time, agencies may find it necessary or desirable to revise categorical exclusions that they have established. Instances where revision may be necessary include where an agency's organic statutory authority has been amended in such a way that the previously established categorical exclusion is no longer applicable to an associated "category of actions." In other

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<sup>19</sup> If an agency needs to clarify that an adopted categorical exclusion applies to its proposed action despite non-substantive language in the categorical exclusion referencing the establishing agency, it may explain this in the public notice adopting the categorical exclusion. For example, the text of a CE may refer to specific agency-administered lands that the adopting agency needs to modify to be specific to lands administered by the adopting agency. This would be considered a non-substantive change. Any substantive changes to an adopted categorical exclusion should be made by revising the categorical exclusion per section III.B of this guidance.

<sup>20</sup> See 42 U.S.C. § 4336c.

instances, a revision may not be necessary but still may be desirable. For example, an agency's experience in applying a categorical exclusion to particular proposed actions could reveal ways in which the categorical exclusion's text could be usefully altered to eliminate ambiguity. In addition, the agency's experience may support expanding the scope of the categorical exclusion or changing limitations on its use (*e.g.*, removing or revising a quantitative limitation ("no more than 20 miles in length")).

Similar to the substantiation for establishing new categorical exclusions, the extent of any such substantiation for revisions should be proportionate with the scope of the changes. For example, changes that are editorial in nature may not require a substantiation record; rather the agency may include an explanation of the changes in the *Federal Register* notice. Changes that affect the substance of the categorical exclusion, such as changes that expand the scope of the actions covered, may necessitate a more robust substantiation record to accompany any notice to the extent necessary and appropriate, as discussed in Section III.A.

### **C. Joint Establishment of a Categorical Exclusion**

Agencies may establish a categorical exclusion jointly with another agency.<sup>21</sup> Agencies can save administrative time and resources by establishing a categorical exclusion jointly for activities requiring actions by multiple agencies. For example, where one agency provides funding for a category of actions that requires a permit from another agency, the agencies may be able to establish a categorical exclusion that covers both the funding and permitting aspects of that activity. Where agencies establish categorical exclusions jointly, they should follow the process identified above for establishing a categorical exclusion and include the categorical exclusion in both agencies' NEPA implementing procedures.

### **D. CEQ Review for Establishing and Revising Categorical Exclusions**

Before establishing and revising a categorical exclusion, agencies should submit to CEQ the draft categorical exclusion and any supporting documentation of the determination that the category of actions normally does not significantly affect the quality of the human environment. After CEQ's review (typically for a period of 30 days), CEQ will inform the agency in writing that consultation with CEQ has concluded. Agencies and CEQ will work together to ensure timely review.

## **IV. Removing a Categorical Exclusion**

An agency may decide to remove a categorical exclusion from the agency's NEPA procedures. For example, an agency may decide to remove a categorical exclusion when the agency observes the categorical exclusion is no longer in use by the agency, when the agency's organic statutory

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<sup>21</sup> Though CEQ uses the term "joint" here to refer to the combined efforts of agencies to comply with NEPA, the use of this term should not be confused with the concept of "joint lead agency" in section 107(1)(b), 42 U.S.C. § 4336a.

authority has been amended such that the agency no longer carries out or otherwise has jurisdiction over the categories of actions rendering the categorical exclusion unnecessary, or where an agency determines a categorical exclusion is more appropriately identified as an action no longer to be considered a major Federal action subject to NEPA.

Agencies should clearly explain the reasons for removing a categorical exclusion. This explanation can be brief and can also be consolidated into documentation for establishing or revising a categorical exclusion, where applicable. Agencies should submit the language of the categorical exclusion being removed and the written explanation to CEQ for review. After CEQ's review (typically for a period of 30 days), CEQ will inform the agency in writing that consultation with CEQ has concluded. Agencies and CEQ will work together to ensure timely review. After consultation with CEQ is concluded, agencies should provide public notice of the removal and the written explanation in the *Federal Register*. Agencies may provide notice of the availability of the explanation in the *Federal Register* notice if the written explanation is created as a separate document.

## **V. Adopting a Categorical Exclusion from Another Agency**

Section 109 of NEPA provides that an agency may adopt a categorical exclusion listed in another agency's NEPA procedures.<sup>22</sup> To adopt another agency's categorical exclusion, an agency shall:

1. Identify the categorical exclusion listed in the other agency's NEPA procedures that covers a category of proposed actions or related actions;
2. Consult with the agency that established the categorical exclusion 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 agency plans to use for its proposed action; and
4. Document adoption of the categorical exclusion.<sup>23</sup>

While Section 109 requires that the agency identify to the public the categorical exclusion that the agency plans to use for its proposed actions, it does not require agencies to request public comment on the adoption. CEQ cautions agencies against imposing public comment requirements on this process, as this would unduly interfere with Congress's policy design to encourage adoption of categorical exclusions under section 109 of NEPA.

Further, there is no need for agencies to consult with CEQ prior to adopting another agency's categorical exclusions; however, agencies are always free to do so should they find consultation with CEQ useful.

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<sup>22</sup> 42 U.S.C. § 4336c.

<sup>23</sup> *Id.*

To comply with step 4, agencies should include the adopted categorical exclusion in its publicly available list of categorical exclusions, which can include adding it to an agency's implementing procedures or listing them separately, such as on an agency's website or in an appendix. Agencies are not required to notify the public every time they apply an adopted categorical exclusion to determine that a particular proposed action is excluded pursuant to that categorical exclusion.

Finally, if an originating agency removes a categorical exclusion as explained under Section IV above, or modifies a categorical exclusion following the process in Section III.B. above, the adopting agency may continue to use the categorical exclusion as written at the time of adoption under Section 109. The originating agency's decision to rescind or modify the categorical exclusion at a later point in time does not preclude the adopting agency from continuing to use it or include it in agency NEPA procedures, as long as the rationale supporting the categorical exclusion remains valid.

To assist agencies with identifying existing categorical exclusions from other agencies, CEQ has developed a [Categorical Exclusion Explorer tool](#).<sup>24</sup> Agencies may use the Categorical Exclusion Explorer tool to search the entire body of over 2,000 categorical exclusions from over 80 agencies to identify potential categorical exclusions for adoption. CEQ plans to maintain and update the Categorical Exclusion Explorer as agencies submit new categorical exclusions and revisions to existing categorical exclusions to CEQ during the categorical exclusion development process.

## **VI. Applying Categorical Exclusions to Particular Agency Actions**

In determining whether a categorical exclusion applies to a proposed action, an agency should evaluate the action for extraordinary circumstances that may indicate a normally excluded agency action is likely to have a reasonably foreseeable significant adverse effect. Where extraordinary circumstances are present, the agency may, if consistent with its own NEPA implementing procedures, consider whether the application of the categorical exclusion is still appropriate notwithstanding the presence of extraordinary circumstances, either because the agency determines that, notwithstanding the extraordinary circumstance, the proposed action is not likely to result in reasonably foreseeable adverse significant effects, or because the proposed action is modified to avoid those effects. The mere presence of an extraordinary circumstance alone does not prevent the application of the categorical exclusion, absent contrary findings or direction in an agency's NEPA procedures.

When applying a categorical exclusion notwithstanding an initial finding that extraordinary circumstances are present, the agency should concisely document its basis for determining that

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<sup>24</sup> Available at <https://ce.permitting.innovation.gov/>. The tool is not an authoritative source but, rather, a reference tool. When an agency identifies a categorical exclusion for potential adoption, it should refer to the establishing agency's published NEPA implementing procedures for the authoritative version and must consult with the establishing agency under section 109 of NEPA, 42 U.S.C. § 4336c.

the categorical exclusion can still be applied. If the agency determines that the use of the categorical exclusion is not appropriate, then it should proceed to develop an EA or, if the proposed agency action has reasonably foreseeable significant environmental effects, an EIS.

Additionally, agency NEPA procedures may provide for applying multiple categorical exclusions to cover a single agency action. In some circumstances, the combination of categorical exclusions can cover all aspects of the action and support the agency's determination that the project considered in its entirety is not likely to have a reasonably foreseeable significant adverse effect (e.g., approval of a project covered by a CE and interrelated actions, such as a separate authorization for land acquisition covered by a CE). When an agency completes its NEPA review of a proposed action using multiple categorical exclusions, it should concisely document—in a single determination applicable to the proposed action in its entirety—the use of the multiple categorical exclusions and consideration of extraordinary circumstances.

Finally, often multiple agencies are involved in substantially the same underlying activity but have separate and different responsibilities or authorizations over that underlying activity.<sup>25</sup> In such situations, if one of the agencies has determined that its proposed action is excluded pursuant to a categorical exclusion listed in its NEPA procedures, and has relied on that determination to satisfy its NEPA requirements, then the other agencies involved but having decisions later in time may rely on the first agency's determination that its action is excluded pursuant to the categorical exclusion, so long as such later decisions do not result in unaccounted-for impacts or extraordinary circumstances that would render use of the categorical exclusion inappropriate.<sup>26</sup> Similarly, there may be situations where the agencies are considering their respective proposed actions contemporaneously. In these situations, the agencies can agree to have one of the agencies make the initial determination that its proposed action is excluded pursuant to a categorical exclusion (including a consideration of the presence and effect of any extraordinary circumstances); the other agencies may then rely on that agency's determination as the basis for their determination that their own proposed actions are similarly excluded.<sup>27</sup> An agency that is relying on another agency's determination should document this reliance consistent with their NEPA implementing procedures.

For questions regarding this memorandum please contact us at [NEPA@ceq.eop.gov](mailto:NEPA@ceq.eop.gov). This guidance is written to suggest a government-wide approach to establishing, revising, applying, and adopting categorical exclusions. CEQ recognizes agencies may have unique circumstances that vary from the approach outlined in this guidance and can address those circumstances with individual agencies on a case-by-case basis.

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<sup>25</sup> For instance, an infrastructure project may require approvals, permits, and right-of-way authorization from multiple Federal agencies.

<sup>26</sup> This is consistent with Section 102(2)(E)'s (42 U.S.C. 4332(2)(E)) mandate for agencies to make use of reliable data and resources in carrying out NEPA and Section 106(b)(3)'s (42 U.S.C. 4336(b)(3)) authorization that agencies to make use of any reliable data source in making the level of NEPA review determination.

<sup>27</sup> *Id.*