

**From:** [OHara, Kevin](#)  
**To:** [BrownScott, Jennifer](#)  
**Subject:** Re: Important & Time Sensitive: Aquaculture CD Question  
**Date:** Thursday, March 25, 2021 5:14:03 PM  
**Attachments:** [FWS\\_CatEx\\_Guidance\\_V6.pdf](#)  
[DOI\\_FWS\\_Categorical\\_Exclusions.pdf](#)

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Hi Jennifer- I'm not our CD expert. Ken has been our Regional CD coordinator, but that was moved to Bob Peyton. I forwarded your earlier email to Ken. He knows about templates, etc.

But I will attempt to answer your questions. CDs typically have an EA, but they can be categorically excluded (I'm pretty sure). For applicant actions, they are supposed to provide you with the information you'll need to develop the NEPA doc and make a determination. For NEPA, we're stuck with a CatEx, EA, or EIS. There is nothing in NEPA between a CatEx and an EA. Our policies allow a 15-day public comment period for CDs.

To determine what kind of NEPA doc, I'd review our Categorical Exclusions (attached) to see if whatever the action is, fits under a CatEx. I'm also attaching some guidance on using a CatEx. It will help you decide which way to go (CatEx or EA). I can help talk you through this if that would help.

Let me know if you don't hear back from Ken and I'll see what I can do. Thx. -Kevin

**Kevin O'Hara**

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**From:** BrownScott, Jennifer <jennifer\_brownScott@fws.gov>

**Sent:** Thursday, March 25, 2021 4:22 PM

**To:** OHara, Kevin <kevin\_ohara@fws.gov>

**Subject:** Important & Time Sensitive: Aquaculture CD Question

How do we determine what type of NEPA documentation and public outreach is required for a CD? Is there something between a CatEx and an EA? What is the minimum public outreach period?

I know it is based on impact and public interest, but are there any guidelines?

I am discussing CD timelines with the Jamestown S'Klallam Tribe on Monday for access to a closed area (closed by CCP) of the Refuge for debris removal, research, surveys, etc.

Thanks for your help.

-jennifer

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Jennifer Brown-Scott

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[~~Dungeness NWR](#)~[Protection Island NWR](#)~[San Juan Islands NWR](#)~[Copalis NWR](#)~[Flattery Rocks](#)

[NWR](#)~[Quillayute Needles NWR](#)~~

# CATEGORICAL EXCLUSION GUIDANCE FOR THE NATIONAL WILDLIFE REFUGE SYSTEM

## INTRODUCTION

The National Environmental Policy Act (NEPA) applies to decisions made on U.S. Fish and Wildlife Service (USFWS or Service) National Wildlife Refuges (NWR) and focuses on major Federal actions significantly affecting the quality of the human environment (the natural and physical environment and the relationship of people to the environment). A categorical exclusion (CatEx) describes a category or type of actions that do not cumulatively or individually have the potential for significant environmental impacts ([40 CFR §1508.4](#)). If an action fits within a CatEx it is not exempt from NEPA; however, it is exempted from the requirement to conduct further analysis of environmental impacts [i.e., prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS)]. The Council on Environmental Quality (CEQ) encourages use of CatExs when applicable, in order to reduce paperwork and delays associated with approvals of certain federal actions [40 Code of Federal Regulations (CFR) §§1500.4([p](#)), 1500.5([k](#))]. For some actions it is recommended that the justification for the use of one or more CatEx(s) for a proposed action be documented in either a Categorical Exclusion Checklist for NEPA Compliance (Attachment 1) or an Environmental Action Statement (EAS) (Attachment 2) ([550 FW 3](#)).

Proposed actions that may be categorically excluded must meet the listed criteria:

- The action or group of actions would have no significant effect on the quality of the human environment;
- The action or group of actions would not involve unresolved conflicts concerning alternative uses of available resources; or
- Extraordinary circumstances, as described in [43 CFR §46.215](#), do not apply to the action or group of actions.

However, the Service can only use CatExs that have been formally approved for use following the proper procedures ([“Final Guidance for Federal Departments and Agencies on Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act”](#)). CatExs available to the Service are listed in CFR and in the Department Manual:

- Department of the Interior (DOI, Department) NEPA regulations include CatExs available for use by all DOI bureaus and offices ([43 CFR §46.210](#)); and
- The Service chapter of the DOI Department Manual (DM) includes additional CatExs available specifically to the Service ([516 DM 8](#)).

This Guidance document contains information on all CatExs currently approved for use by the Service (Table 1), along with examples and comments related to various actions that may be categorically excluded, approval authority for CatExs, public involvement considerations, associated documentation requirements and procedures, and consideration of extraordinary circumstances.

## DETERMINING WHEN USE OF A CATEGORICAL EXCLUSION IS APPROPRIATE

The following steps should be followed to determine whether a CatEx can be used for a proposed

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action (Figure 1). It should be accomplished through an internal scoping process that uses an interdisciplinary approach.

First, define the proposed action, identify issues, and evaluate potential associated impacts. Consider whether there are any connected or similar actions as part of the proposal with input from subject matter experts. All other necessary consultation and coordination (e.g., Endangered Species Act (ESA) Section 7, National Historic Preservation Act (NHPA) Section 106, and Tribal consultations) should be completed and related documentation should be included in the administrative record. If the action under consideration triggers the need to comply with Section 106 of the NHPA, Section 106 consultation must be completed before the CatEx is approved. If any of the above consultations or coordination indicate that there may be impacts, a CatEx may not be appropriate.

Once your proposed action is defined, and all coordination has been identified, you must answer a series of questions to determine if a CatEx is appropriate:

1. *Will the action or connected actions being proposed result in only minor or negligible direct or indirect impacts?*

If project action has the potential for more than a minor environmental impact or substantial mitigation is required to avoid the potential for significant environmental impacts on the human environment, the action does not qualify as a CatEx.

2. *Would multiple similarly situated actions, if carried out to their logical extent and combined with the proposed action, result in more than minor or negligible adverse impacts (this addresses whether the proposal would cumulatively have a significant effect on the human environment)?*

If the answer is “Yes”, or substantial mitigation is required to avoid the potential for significant cumulative effects, then the action does not qualify as a CatEx.

3. *If a determination is made that the proposed action would not individually or cumulatively have a significant effect on the human environment, review the list of Departmental ([43 CFR §46.210](#)) and Service ([516 DM 8](#)) categorical exclusions to see if the proposed action is on the list (See Table 1).*

In order to use a CatEx, you must ensure that the proposed action fits within the category of actions described in a specific CatEx. A proposed action is “the bureau activity under consideration” ([43 CFR §46.30](#)). The proposed action does not have to be specifically mentioned in the text of a CatEx, but should easily fit into the category of actions described by the CatEx (Table 1). Where the guidance provides examples of actions that would be appropriate under a specific CatEx, the examples are meant to be illustrative and not exclusive. If the proposed action does not fit within the category of actions described in a CatEx you must either modify the proposal so that it does, or prepare an EA or EIS ([43 CFR §46.205](#)).

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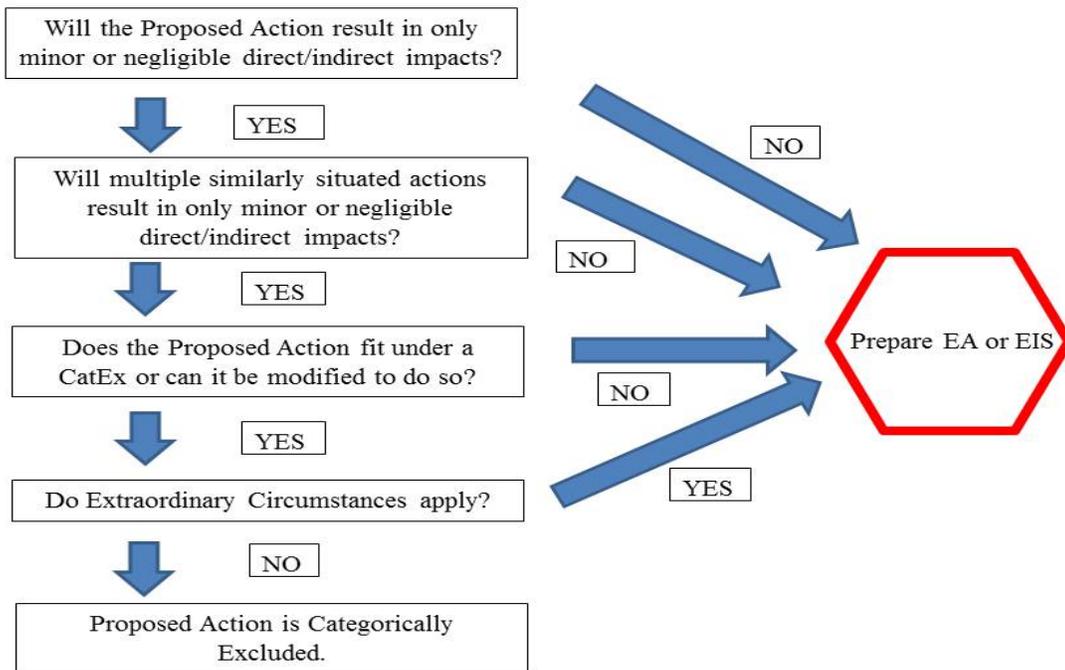
4. *Would the proposed action trigger one of the extraordinary circumstances described in [43 CFR §46.215](#) (Table 2) that describes exceptions to categorical exclusions?*

Once you determine that a proposed action fits within a CatEx, you must consider whether any of the extraordinary circumstances listed in the DOI NEPA regulations apply (See Table 2). If extraordinary circumstances do apply, you may not use a CatEx. In such circumstances you must either modify the proposal so that extraordinary circumstances no longer apply, or prepare an EA or EIS ([43 CFR §46.205](#)).

5. *If the proposal is on the list of categorical exclusions, does not trigger an exception, has been determined to not individually or cumulatively have a significant effect on the human environment, and does not have more than minor controversy, then it qualifies as a CatEx and no further analysis is required for compliance with NEPA.*

However, for some actions it is recommended that the justification for the use of one or more CatEx(s) for a proposed action be documented in an Environmental Action Statement (EAS).

**Figure 1.** Flowchart of the CatEx decision process.



### APPROVAL OF USE OF CATEGORICAL EXCLUSIONS

Authority for categorically excluding an action rests with the Project Leader, with the exception of categorically excluding a minor expansion of a National Wildlife Refuge (NWR or refuge),

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which rests with a Regional Director. You may implement an action that is categorically excluded immediately upon approval of the CatEx (i.e., whoever has designated signature authority has signed off on the CatEx) as long as all other necessary consultation and coordination requirements have been completed.

### **PUBLIC INVOLVEMENT**

No specific public involvement steps are required by law when categorically excluding an action from further NEPA analysis and documentation. However, because the CEQ requires agencies to always make a diligent effort to involve any interested and affected public, consider the level of public interest in the action in question. If there is substantial public interest in an action that will be categorically excluded, it would be prudent to involve the public (through notification or scoping). Public involvement may be valuable in determining whether extraordinary circumstances apply and in determining the level of real or perceived controversy. Though not required, in some circumstances, preparing an EA for proposed actions that could otherwise be categorically excluded may be the best planning or decision-making (e.g., for a proposed action with a high level of public interest). If you decide to seek public comment regarding the use of a CatEx, we suggest you provide at least 15 calendar days for the public to submit written comments. This is consistent with our requirement to provide a minimum of 15 calendar days for review and comment on a compatibility determination (14 days plus the day of notice), even if the proposed use is categorically excluded from detailed NEPA analysis. Refuges should use similar channels of outreach (e.g., refuge website, refuge social media, and refuge office) as they do for EAs. If you decide not to proceed with public involvement, but the action or decision may be challenged in the future, you should write a note to file outlining your reasons why you did not seek public involvement (e.g., public involvement was done at an earlier point of time on the issue and you do not anticipate any different input now; due to timing of the action public involvement was not practical and would have added little value to the decision-making process).

### **DOCUMENTING CATEGORICAL EXCLUSIONS**

Many CatExs exist to cover actions that typically have little or no potential for environmental impacts of any kind, let alone potential for significant impacts. For such actions, documenting use of a CatEx is generally not required. These types of actions typically have such little potential to cause environmental impacts that, in many instances, staff may not even realize they are taking an action to which NEPA applies (e.g., reconstructing an existing fence, applying gravel to an existing gravel road, conducting personnel actions or routine financial transactions, or installation of routine signs and markers).

However, there may be instances where you want to create a record documenting that an action qualifies as a CatEx. Examples include situations where there may be some question about whether an action qualifies as a CatEx, if there is a Regional requirement that certain CatEx actions be documented, if the action might be questioned or challenged, if the action might arise again, or if you believe it would be prudent to create a written record for future managers that an action qualifies as a CatEx.

#### The CatEx Planning Record

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The planning record consists of all relevant documents and materials that existed and were available to the decision-maker at the time of the decision. It is the Service's evidence that its decision and process comply with the relevant statutory and regulatory requirements. Although the planning record for a CatEx will be much smaller than that maintained for an EA or an EIS, it can be critically important should our decision be challenged in court. For an action where there may be some question about whether it qualifies as a CatEx, we recommend that you create a record that shows how the action qualifies as a CatEx.

When using a CatEx that requires documentation, you must create a concise record that identifies the CatEx being used and that documents the listed elements:

1. Document that the proposed action fits within the category of actions described in the CatEx;
2. Provide a concise summary of the potential impacts of the action covered by the CatEx;
3. Document that no extraordinary circumstances exist. The standard practice is to use the Categorical Exclusion Checklist for NEPA Compliance in order to document the required information; and
4. Document the compliance with other required consultation processes (such as ESA Section 7, NHPA Section 106, and Tribal consultations).

Also, in your record, you should keep any additional documentation pertinent to the action, such as notes from internal scoping meetings, photographs or field notes documenting a site visit, and documents generated from public involvement efforts (e.g., press releases, newsletters, and public comments received). The level of detail, length of discussions, and amount of materials you include in the record will vary based on the type of action involved, the potential for extraordinary circumstances to apply, and the compliance requirements of other laws.

### Forms to Document the Environmental Review Process

In addition to or in lieu of just a memo to the files, two forms have been developed to help document the review process for CatExs for your planning record: the Categorical Exclusion Checklist for NEPA Compliance (CatEx Checklist) (Attachment 1) and the EAS (Attachment 2). The purpose of the CatEx Checklist (with regard to needing documentation for a CatEx) is to provide an appropriate administrative record of NEPA-related decisions at all management levels of the Service. While we encourage Project Leaders to use this form to document the decision process, it is not required. The Environmental Action Statement (EAS) encompasses more than just the use of a Categorical Exclusion. According to Service Policy ([550 FW 3](#)), an EAS should be used: (a) to establish a process for internal review of Service NEPA-related decision documents at the Regional and Headquarters Office level to ensure inter-program coordination and (b) to provide an appropriate administrative record of NEPA-related decisions at all management levels of the Service. Project Leaders will complete an EAS for all CatExs that need documentation.

1. Categorical Exclusion Checklist for NEPA Compliance

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The CatEx Checklist (Attachment 1) should accompany the decision document, which consists of a [one-page document](#) describing the proposal, the Service decision, references to supporting documents (if any), and a signature block, through the surname and signature process and will be signed no sooner than when the decision is made on a categorical exclusion. The signature approval blocks (See CatEx Checklist) may be modified to accommodate the Service office where final signature approval occurs.

The CatEx Checklist should be used for the Service's planning record for an action. Although it is not normally distributed to the public, the Service will provide a copy to the public whenever requested in the same manner as other NEPA environmental documents ([5 U.S.C. §552](#)). The original CatEx Checklist should be maintained by the Service office originating the action. A copy should be provided to each Service office indicated on the signature block; the Headquarters or Regional Office Environmental Coordinator, as appropriate; and other affected Service offices, as appropriate.

### 2. Environmental Action Statement (EAS)

An EAS (Attachment 2) should be prepared for the use of a CatEx:

- a. When a Regional Director or Headquarters need to formally concur on a decision);
- b. To document a normally categorically excluded action that may be controversial;
- c. To document emergency NEPA actions pursuant to [40 CFR §1506.11](#);
- d. When a proposed action is not approved because of unacceptable environmental damage, or violation of Service mandates, policy, regulations, or procedures; and/or
- e. Whenever additional internal review and/or documentation of the NEPA administrative record is desirable.

The EAS demonstrates the Service's compliance with NEPA for the proposed action, as well as ensures that the proper approvals have taken place. As with the Categorical Exclusion Checklist for NEPA Compliance, it contains signature block to accommodate the different level of approvals that may be needed for compliance with NEPA. If scoping was used in the planning process, include documentation of that scoping in the EAS and in the planning record.

### Special Actions Requiring Additional Considerations

#### 1. When the Proposed Action is in a Wilderness Area

Wilderness is a valuable component of the NWRS which must be managed in a way that preserves wilderness character. Wilderness is specifically listed in the Extraordinary Circumstances to highlight the importance of adequate NEPA documentation for projects

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affecting Wilderness.

The determination of the appropriate level of NEPA compliance (CatEx, EA, or EIS) must include an analysis of the direct, indirect, and cumulative impacts of our actions in wilderness over time, considering impacts to the untrammeled, natural, and undeveloped characteristics as well as to opportunities for solitude or a primitive and unconfined type of recreation, and the area's other features of value, if present.

Document all CatExs for actions proposed in wilderness (Wilderness Study Areas, Recommended, Proposed, or Designated). We prepare a Minimum Requirements Analysis (MRA) (see <http://www.wilderness.net/MRA>) in conjunction with all NEPA documents (CatEx, EA, or EIS), using the information gathered for the MRA to document the purpose and need for the proposed action, to develop and describe alternatives, and to identify the minimum requirement. If a CatEx does apply, a MRA is still required.

### 2. When Using the Hazardous Fuels and Post-Fire Rehabilitation CatEx

If you decide that a CatEx can be used for a hazardous fuels treatment, a post-fire rehabilitation, or emergency stabilization project, you must document that decision. You must also complete an EAS that contains the specific elements required by the Department's Office of Environmental Policy and Compliance and the Service. The Refuge System unit manager should consult with a Regional Office Fire Management Specialist and a NEPA specialist for additional guidance regarding the information requirements for preparing a Hazardous Fuels / Post Fire Rehabilitation / Emergency Stabilization EAS.

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**Table 1.** All existing Department of Interior general departmental Categorical Exclusions and U.S. Fish and Wildlife Service-designated Categorical Exclusions of May 8, 2017.

**Table 1.A.** Department of Interior Categorical Exclusions (**43 CFR §46.210**).

<b>CATEGORICAL EXCLUSION</b>	<b>EXAMPLE(S)/CLARIFICATION</b>
(a) Personnel actions and investigations and personnel services contracts.	
(b) Internal organizational changes and facility and office reductions and closings.	Administrative changes due to the creation of a new refuge complex; staffing changes.
(c) Routine financial transactions including such things as salaries and expenses, procurement contracts (in accordance with applicable procedures for sustainable or “green” procurement), guarantees, financial assistance, income transfers audits, fees, bonds, and royalties.	
(d) Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims legal opinions. This does not include bringing Judicial or administrative civil or criminal enforcement Actions which are already excluded in 40 CFR 1508.18 (a)	
(e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research and monitoring activities.	Land and boundary surveys; graduate student field research on the refuge under Refuge Special Use Permit (SUP)  Preparation and issuance of publications; Routine reports required by law or regulation; Cultural resources maintenance guides, collection management plans, and historic furnishings reports; Removal of non-historic materials and structures in order to restore natural conditions.
(f) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity	Day to day maintenance on a refuge such as fixing and replacing fencing, maintaining roads, trails and viewing platforms; small renovations to buildings. These types of

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(e.g., limited size and magnitude or short-term effects).	activities don't normally require any Cat Ex documentation.
(g) Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)	
(h) Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations, minor boundary changes, and land title transactions) or having primarily economic, social, individual or institutional effects; and comments and reports on referrals of legislative proposals.	
(i) 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.	If CCP revision based on a landscape scale design is to amend guidelines on how to manage refuges, but the plan is so high-level that analyzing the effects of such guidelines would "be too broad, speculative, or conjectural to lend themselves to meaningful analysis." (i.e. you would not reasonably know how to take any action on a refuge under this CCP without further planning and decision-making ) then you could use this CatEx, as long as the appropriate NEPA analyses was done at a later date when the actions of the Service in complying with those guidelines become more clear (step-down plans or specific projects).
(j) Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.	Interpretive plans (e.g., interpretive prospectuses, audio-visual plans, museum exhibit plans, and wayside exhibit plans); field days put on by the refuge for schools; festivals that will have no more than minor effects on the refuge
(k) Hazardous fuels reduction activities using prescribed fire not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000	

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<p>acres. Such activities:</p> <p>(1) Shall be limited to areas -</p> <p>(i) In wildland-urban interface; and</p> <p>(ii) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface;</p> <p>(2) Shall be identified through a collaborative framework as described in “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan;”</p> <p>(3) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;</p> <p>(4) Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and</p> <p>(5) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and may include the sale of vegetative material if the primary purpose of the activity is hazardous fuels reduction. (Refer to the ESM Series for additional, required guidance.)</p>	
<p>(1) Post-fire rehabilitation activities not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities must comply with the following (Refer to the ESM Series for additional, required</p>	

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<p>guidance.):</p> <p>(1) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;</p> <p>(2) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and</p> <p>(3) Shall be completed within three years following a wildland fire.</p>	
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**Table 1.B. U.S. Fish and Wildlife Specific Categorical Exclusions (516 DM 8.5).**

<b>CATEGORICAL EXCLUSION</b>	<b>EXAMPLE(S)/CLARIFICATION</b>
<b>A. General</b>	
<p>(1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.</p>	<p>Renewing/updating an existing Compatibility Determination (CD) and/or SUP (with a prior NEPA decision document) with no or minor changes to the use, no or minor changes to the surrounding conditions, no controversy about the impacts, and no or minor impacts.</p> <p><i>*These are actions that likely need to be documented with at least a Note to File/Cat Ex Checklist.</i></p>
<p>(2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.</p>	<p>Law enforcement or fire personnel training; hunter education courses</p>
<p>(3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.</p>	<p>The posting of refuge-specific regulations/guidelines on signs or in brochures that are of an administrative nature (i.e. hunter check-in procedures) or are already established refuge-specific regulations in the C.F.R.</p>
<p>(4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether</p>	<p>Minor boundary changes or acquisitions in compliance with 033 FW 13.3:</p>

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<p>by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.</p>	<p>“D. Minor Land Acquisitions. Regional Directors are authorized to conduct the following actions. This authority may not be re-delegated.</p> <p>(1) Acquire additions to established refuge units, as limited in (a) and (b) below, that are contiguous or adjacent to the established unit and clearly necessary for its management. Adjacent is defined as being located within one mile from the established boundary. This authority may not be used to acquire a separately managed division of the initial unit, or to acquire a parcel with no biologically based relationship to the established refuge.</p> <p>(a) Property, in fee or less-than-fee, of a cumulative total of 10 percent of the approved acquisition boundary acreage or 40 acres, whichever is greater.”</p>
<p><b>B. Resource Management</b></p>	<p><b>Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, tribal, and local governments.</b></p>
<p>(1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.</p>	<ul style="list-style-type: none"> <li>• Issuance of SUPs to students or other researchers for field work on the refuge (all other permit requirements would apply) where there may be samples collected.</li> <li>• Research carried out by the Service (if action not covered by CCP/EA or other NEPA analysis).</li> </ul> <p>See also <b>43 CFR §46.210(e)</b>.</p>
<p>(2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.</p>	<ul style="list-style-type: none"> <li>• Road maintenance, rehabilitation, repaving, and reconstruction on existing roads within the existing road network.</li> <li>• Repair or replacement of culverts, signs, surfacing of right-turn lanes at intersections in previously disturbed areas, seal coating a parking lot,</li> </ul>

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	<p>maintenance of an existing gravel road in the same footprint, routine roadside brushing, routine ditching, adding gravel, grading, and other modifications.</p> <ul style="list-style-type: none"><li>• Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds, and trails; Routine maintenance and repairs to cultural resource sites, structures, utilities, and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide or if the action would not adversely affect the cultural resource;</li><li>• Replacement in kind of minor structures and facilities with little or no change in location, capacity, or appearance. Examples of minor structures and facilities include comfort stations, pit toilets, fences, kiosks, signs, sheds, foot logs, small trail bridges, and campfire circles;</li><li>• Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc., on existing roads;</li><li>• Installation of wells, comfort stations, and pit toilets in areas of existing use and in developed areas; Other examples include pump houses and vault toilets; Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair;</li><li>• Upgrading or adding new overhead utility facilities to existing poles or replacement poles which do not change existing pole line configurations;</li><li>• Landscaping and landscape maintenance in previously disturbed or developed areas.</li></ul>
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	<b>See also 43 CFR §46.210(f).</b>
(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area.	<ul style="list-style-type: none"> <li>• The installation of fences.</li> <li>• The construction of small water control structures.</li> <li>• The planting of seeds or seedlings and other minor revegetation actions.</li> <li>• The construction of small berms or dikes.</li> <li>• The development of limited access for routine maintenance and management purposes.</li> </ul> <p style="text-align: center;">See also <b>43 CFR §46.210(f).</b></p>
(4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.	
(5) Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Service procedures.	
(6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.	Restoration of non-controversial native species into suitable habitats within their historic range, including elimination of exotic species.
(7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.	<ul style="list-style-type: none"> <li>• CD revision (with a prior NEPA decision document) related to compatible wildlife-dependent recreation with no or minor changes to the use, no or minor changes to the surrounding conditions, no or minor controversy, and no or negligible beneficial or adverse impacts.</li> <li>• Minor Changes to Hunt/Fish regulations, trails and/or trail use, viewing decks.</li> </ul> <p><i>*If the changes are potentially controversial, a Note to File and Cat Ex Checklist for NEPA Compliance (to outline the changes and justify the use or a CatEx) with public involvement is recommended.</i></p>

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	<p><i>*If your refuge has an existing Hunt Plan and you wish to expand additional refuge acreage under that plan (e.g., existing acreage currently closed to hunting, new acquisition of lands to an existing refuge), write a Note to File that clearly and concisely demonstrates why this is a minor change from your Hunt Plan and/or CCP EAs, and “makes an affirmative finding that all other policy requirements for compatibility, NEPA, the Endangered Species Act section 7 evaluation, etc. have been fully satisfied” (605 FW 2.9A). Include Note to File/Cat Ex Checklist with your Hunt Plan.</i></p>
<p>(8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.</p>	<p>Carrying capacity analysis; Technical assistance to other federal, state, and local agencies or the general public. Many activities done under the Partners Program would be covered under this Cat Ex.</p>
<p>(9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated.</p>	<ul style="list-style-type: none"> <li>• Minor changes in the type and location of compatible public use activities and land management practices.</li> <li>• Minor revisions to CCPs and Step-down Plans.</li> </ul>
<p>(10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned.</p>	<ul style="list-style-type: none"> <li>• Developing a new step-down plan that simply implements the CCP or that makes only minor changes to the CCP with no or negligible beneficial or adverse impacts (Note: If the EA or EIS for the CCP did not adequately analyze the impacts associated with the step-down management plan, then more than a CatEx is needed).</li> <li>• Minor revisions to Step-down plans, construction plans, or cooperative agriculture agreements.</li> <li>• An amended public use plan or fire management plan;</li> </ul>
<p>(11) Natural resource damage assessment restoration plans, prepared under sections</p>	

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<p>107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.</p>	
<b>C. Permit and Regulatory Functions</b>	
<p>(1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.</p>	<p><i>This Cat Ex is mostly applicable to Ecological Services work, but could include T &amp; E activities on refuges (e.g., research).</i></p> <p>Plans, including priorities, justifications and strategies, for non-manipulative research, monitoring, inventorying, and information gathering.</p>
<p>(2) The issuance of ESA section 10(a) (1)(B) "low-effect" incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.</p>	<p><i>This Cat Ex is applicable to Ecological Services work.</i></p>
<p>(3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.</p>	<p>Amendments and additions to refuge-specific regulations that don't result in opening the refuge to additional uses, but rather help us better manage existing uses.</p>
<p>(4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement</p>	<ul style="list-style-type: none"> <li>• Reissuance/renewal of permits, rights-of-way, or easements not involving new environmental impacts; Issuance of rights-of-way for overhead utility lines to an individual building or well from an existing line</li> </ul>

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<p>to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.</p>	<p>where installation will not result in significant visual intrusion and will involve no clearance of vegetation other than for placement of poles</p> <ul style="list-style-type: none"> <li>• Issuance of rights-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion; Installation of underground utilities in previously disturbed areas having stable soils or in an existing utility right-of-way.</li> <li>• Installation of overhead poles and utility lines that meet the other requirements of the CE (not just the issuance of a right-of-way permit for another entity)</li> <li>• Rights-of-way types of projects on our conservation easements, even when a ROW permit is not issued. These projects typically involve a rural water line or fiber optics line that crosses an easement and has very temporary and very minor impacts.</li> </ul>
<p>(5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.</p>	<ul style="list-style-type: none"> <li>• Issuing SUPs for Cooperative Agricultural Agreements when there are only minor change in land use on the refuge.</li> <li>• Issuing SUPs for commercial operators on refuge for wildlife viewing tours, etc.</li> <li>• On our conservation easements, any permit we might issue to a landowner to hay grass easement early (for weed control) or to farm part of a grass easement as part of a grassland restoration project.</li> </ul>
<p>(6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.</p>	
<p>(7) Activities directly related to the</p>	<p><i>This Cat Ex is applicable to Refuge LE and</i></p>

**CATEGORICAL EXCLUSION GUIDANCE FOR THE  
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<p>enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:</p> <ol style="list-style-type: none"> <li>a. Assessment of civil penalties.</li> <li>b. Forfeiture of property seized or subject to forfeiture.</li> <li>c. The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.</li> </ol>	<p><i>the Service's OLE program.</i></p>
<p>(8) Actions where the Service has concurrence or co-approval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency</p>	<p>For our conservation easements, this is particularly helpful when we're doing a road project where Fed Hwy or COE is involved and the project is a Cat Ex for them.</p>
<p><b>D. <u>Recovery Plans</u></b></p>	<p><b>Issuance of recovery plans under section 4(f) of the ESA.</b></p>
<p><b>E. <u>Financial Assistance</u></b></p>	
<p>(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.</p>	
<p>(2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.</p>	

## CATEGORICAL EXCLUSION GUIDANCE FOR THE NATIONAL WILDLIFE REFUGE SYSTEM

**Table 2.** List of Department of the Interior categorical exclusion extraordinary circumstances (43 CFR 46.215).

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- (a) Have significant impacts on public health or safety.
  - (b) Have significant impacts on such natural resources and unique geographic characteristics as 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 (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
  - (c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].
  - (d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
  - (e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
  - (f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
  - (g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the [bureau](#).
  - (h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species or have significant impacts on designated Critical Habitat for these species.
  - (i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
  - (j) Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).
  - (k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).
  - (l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).
-

## CATEGORICAL EXCLUSION GUIDANCE FOR THE NATIONAL WILDLIFE REFUGE SYSTEM

### Definitions

**Direct effects:** Direct effects are caused by the action and occur at the same time and place. (40 CFR § 1508.8)

**Indirect effects:** Indirect effects are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. (40 CFR § 1508.8)

**Cumulative impact:** Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR § 1508.7)

**Effects and impacts:** Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of [affected](#) ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. (40 CFR § 1508.8)

**Neutral or Negligible:** Resources would not be affected (neutral effect), or the effects would be at or near the lowest level of detection (negligible effect). Resource conditions would not change or would be so slight there would not be any measurable or perceptible consequence to a population, wildlife or plant community, recreation opportunity, visitor experience, or cultural resource (USFWS 2014).

**Minor:** Effects would be detectable, but localized, small, and of little consequence to a population, wildlife or plant community, recreation opportunity, visitor experience, or cultural resource. Mitigation, if needed to offset adverse effects, would be easily implemented and is likely to be successful (USFWS 2014).

**Major or Significant:** Effects would be obvious and would result in substantial consequences to a local area or regional population, wildlife or plant community, recreation opportunity, visitor experience, or cultural resource. Extensive mitigating measures may be needed to offset adverse effects and would be large-scale, very complicated to implement, and may not guarantee success. In some instances, major effects would include the irretrievable loss of the resource (USFWS 2014).

\*U.S. Fish and Wildlife Service. 2014. NEPA for National Wildlife Refuges: A Handbook. 44p.

**CATEGORICAL EXCLUSION GUIDANCE FOR THE  
NATIONAL WILDLIFE REFUGE SYSTEM**

**ATTACHMENT 1**

**CATEGORICAL EXCLUSION CHECKLIST FOR NEPA COMPLIANCE**

**Proposed Action:**

**[Brief description of the proposed action (4-5 sentences)]**

**This proposed action is covered by the following categorical exclusion \_\_\_\_\_ (See Attachment 1) (Review proposed activities. An appropriate categorical exclusion must be identified and cited above before completing the remainder of the Checklist. If a categorical exclusion cannot be identified, or the proposal cannot meet the qualifying criteria in the categorical exclusion, an EA/EIS must be prepared.)**

**[Brief description (1-3 sentences) of why the proposed action fits the categorical exclusion]**

**Extraordinary Circumstances (43 CFR 46.215):**

**Could This Proposed Action (check (✓) yes or no for each item below):**

Yes   No

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | a. Have significant adverse effects on public health or safety?   |
| <input type="checkbox"/> | <input type="checkbox"/> | b. Have significant impacts on such natural resources and unique geographic characteristics as 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 (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas? |
| <input type="checkbox"/> | <input type="checkbox"/> | c. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]?   |
| <input type="checkbox"/> | <input type="checkbox"/> | d. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?  |
| <input type="checkbox"/> | <input type="checkbox"/> | e. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?  |
| <input type="checkbox"/> | <input type="checkbox"/> | f. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects?  |
| <input type="checkbox"/> | <input type="checkbox"/> | g. Have significant impacts on properties listed, or eligible for listing, on the   |

**CATEGORICAL EXCLUSION GUIDANCE FOR THE  
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**ATTACHMENT 1**

National Register of Historic Places as determined by the bureau?

- h. Have adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?
- i. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?
- j. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898).
- k. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007).
- l. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112).
- m. Have material adverse effects on resources requiring compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?

*(If any of the above exceptions receive a “Yes” check ( ✓), an EA/EIS must be prepared.)*

---

*Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined:*

- The proposed action is covered by a categorical exclusion as provided by 43 CFR §46.210 or 516 DM 8.5. No further NEPA documentation will therefore be made.**
- An Extraordinary Circumstance could exist for the proposed action and, so an EA/EIS must be prepared.**

**Service signature approval:**

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Title \_\_\_\_\_

**CATEGORICAL EXCLUSION GUIDANCE FOR THE  
NATIONAL WILDLIFE REFUGE SYSTEM**

**ATTACHMENT 2**

**UNITED STATES FISH AND WILDLIFE SERVICE ENVIRONMENTAL ACTION STATEMENT**

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA), and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and determined that the action of (*describe action*):

**Check One:**

\_\_\_\_\_ is a categorical exclusion as provided by 43 CFR §46.210 and/or 516 DM 8.5 and 43 CFR §46.215. No further NEPA documentation will therefore be made. The proposed action falls under categorical exclusion: \_\_\_\_\_.

\_\_\_\_\_ is found not to have significant environmental effects as determined by the attached environmental assessment and finding of no significant impact.

\_\_\_\_\_ is found to have significant effects and, therefore, further consideration of this action will require a notice of intent to be published in the Federal Register announcing the decision to prepare an environmental impact statement.

\_\_\_\_\_ is not approved because of unacceptable environmental damage, or violation of Fish and Wildlife Service mandates, policy, regulations, or procedures.

\_\_\_\_\_ is an emergency action within the context of 40 CFR §1506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Other supporting documents (*list*):

**Signature Approval:**

Signature	Title	Date

## **Department of the Interior**

### **Categorical Exclusions**

#### **43 CFR 46.210(i)**

##### **§ 46.205 Actions categorically excluded from further NEPA review.**

Categorical Exclusion means a category or kind of action that has no significant individual or cumulative effect on the quality of the human environment. See 40 CFR 1508.4.

(a) Except as provided in paragraph (c) of this section, if an action is covered by a Departmental categorical exclusion, the bureau is not required to prepare an environmental assessment (see subpart D of this part) or an environmental impact statement (see subpart E of this part). If a proposed action does not meet the criteria for any of the listed Departmental categorical exclusions or any of the individual bureau categorical exclusions, then the proposed action must be analyzed in an environmental assessment or environmental impact statement.

(b) The actions listed in section 46.210 are categorically excluded, Department-wide, from preparation of environmental assessments or environmental impact statements.

(c) The CEQ Regulations at 40 CFR 1508.4 require agency procedures to provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect and require additional analysis and action. Section 46.215 lists the extraordinary circumstances under which actions otherwise covered by a categorical exclusion require analyses under NEPA.

(1) Any action that is normally categorically excluded must be evaluated to determine whether it meets any of the extraordinary circumstances in section 46.215; if it does, further analysis and environmental documents must be prepared for the action.

(2) Bureaus must work within existing administrative frameworks, including any existing programmatic agreements, when deciding how to apply any of the section 46.215 extraordinary circumstances.

(d) Congress may establish categorical exclusions by legislation, in which case the terms of the legislation determine how to apply those categorical exclusions.

##### **§ 46.210 Listing of Departmental categorical exclusions.**

The following actions are categorically excluded under paragraph 46.205(b), unless any of the extraordinary circumstances in section 46.215 apply:

(a) Personnel actions and investigations and personnel services contracts.

(b) Internal organizational changes and facility and bureau reductions and closings.

(c) Routine financial transactions including such things as salaries and expenses, procurement contracts (e.g., in accordance with applicable procedures and Executive Orders for sustainable or green procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

(d) Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are outside the scope of NEPA in accordance with 40 CFR 1508.18(a).

(e) Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.

(f) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (e.g., limited size and magnitude or short-term effects).

(g) Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)

(h) Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations and minor boundary changes and land title transactions) or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.

(i) 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.

(j) Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

(k) Hazardous fuels reduction activities using prescribed fire not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres. Such activities:

(1) Shall be limited to areas—

(i) In wildland-urban interface; and

(ii) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface;

(2) Shall be identified through a collaborative framework as described in “A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan;”

(3) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;

(4) Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; and

(5) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and may include the sale of vegetative material if the primary purpose of the activity is hazardous fuels reduction. (Refer to the ESM Series for additional, required guidance.)

(l) Post-fire rehabilitation activities not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities must comply with the following (Refer to the ESM Series for additional, required guidance.):

(1) Shall be conducted consistent with bureau and Departmental procedures and applicable land and resource management plans;

(2) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and

(3) Shall be completed within three years following a wildland fire.

## U. S. Fish and Wildlife Service

### Categorical Exclusions

#### 516 DM 8

**8.5 Categorical Exclusions.** Categorical exclusions are classes of actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the Departmental categorical exclusions cannot be used. In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, the following Service actions are designated categorical exclusions unless the action is an exception to the categorical exclusion.

#### **A. General.**

- (1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.
- (2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities.
- (3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.
- (4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

**B. Resource Management.** Prior to carrying out these actions, the Service should coordinate with affected Federal agencies and State, tribal, and local governments.

- (1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.
- (2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result

in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.

- (a) The installation of fences.
- (b) The construction of small water control structures.
- (c) The planting of seeds or seedlings and other minor revegetation actions.
- (d) The construction of small berms or dikes.
- (e) The development of limited access for routine maintenance and management purposes.

(4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.

(5) Fire management activities, including prevention and restoration measures, when conducted in accordance with Departmental and Service procedures.

(6) The reintroduction or supplementation (e.g., stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.

(7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.

(8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.

(9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.

(10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.

(11) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.

### **C. Permit and Regulatory Functions.**

- (1) The issuance, denial, suspension, and revocation of permits for activities involving fish, wildlife, or plants regulated under 50 CFR Chapter 1, Subsection B, when such permits cause no or negligible environmental disturbance. These permits involve endangered and threatened species, species listed under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), marine mammals, exotic birds, migratory birds, eagles, and injurious wildlife.
- (2) The issuance of ESA section 10(a)(1)(B) "low-effect" incidental take permits that, individually or cumulatively, have a minor or negligible effect on the species covered in the habitat conservation plan.
- (3) The issuance of special regulations for public use of Service-managed land, which maintain essentially the permitted level of use and do not continue a level of use that has resulted in adverse environmental effects.
- (4) The issuance or reissuance of permits for limited additional use of an existing right-of-way for underground or above ground power, telephone, or pipelines, where no new structures (i.e., facilities) or major improvement to those facilities are required; and for permitting a new right-of-way, where no or negligible environmental disturbances are anticipated.
- (5) The issuance or reissuance of special use permits for the administration of specialized uses, including agricultural uses, or other economic uses for management purposes, when such uses are compatible, contribute to the purposes of the refuge system unit, and result in no or negligible environmental effects.
- (6) The denial of special use permit applications, either initially or when permits are reviewed for renewal, when the proposed action is determined not compatible with the purposes of the refuge system unit.
- (7) Activities directly related to the enforcement of fish and wildlife laws, not included in 516 DM 2, Appendix 1.4. These activities include:
  - (a) Assessment of civil penalties.
  - (b) Forfeiture of property seized or subject to forfeiture.
  - (c) The issuance or reissuance of rules, procedures, standards, and permits for the designation of ports, inspection, clearance, marking, and license requirements pertaining to wildlife and wildlife products, and for the humane and healthful transportation of wildlife.
- (8) Actions where the Service has concurrence or coapproval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.

#### **D. Recovery Plans. Issuance of recovery plans under section 4(f) of the ESA.**

#### **E. Financial Assistance.**

(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.

(2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in Appendix 1 of 516 DM 2.

#### **8.6 Actions Normally Requiring an EA.**

A. Proposals to establish most new refuges and fish hatcheries; and most additions and rehabilitations to existing installations.

B. Any habitat conservation plan that does not meet the definition of "low-effect" in the Section 10(a)(1)(B) Handbook.

C. If, for any of the above proposals, the EA determines that the proposal is a major Federal action significantly affecting the quality of the human environment, an EIS will be prepared. The determination to prepare an EIS will be made by a notice of intent in the Federal Register and by other appropriate means to notify the affected public.

#### **8.7 Major Actions Normally Requiring an EIS.**

A. The following Service proposals, when determined to be a major Federal action significantly affecting the quality of the human environment, will normally require the preparation of an EIS.

(1) Major proposals establishing new refuge system units, fish hatcheries, or major additions to existing installations, which involve substantive conflicts over existing State and local land use, significant controversy over the environmental effects of the proposal, or the remediation of major on-site sources of contamination.

(2) Master or comprehensive conservation plans for major new installations, or for established installations, where major new developments or substantial changes in management practices are proposed.

B. If, for any of the above proposals it is initially determined that the proposal is not a major Federal action significantly affecting the quality of the human environment, an EA will be prepared and handled in accordance with 40 CFR 1501.4(e)(2). If the EA subsequently indicates the proposed action will cause significant impacts, an EIS will be prepared.

**Department of the Interior**  
**Extraordinary Circumstances**  
**43 CFR Part 46 Section 46.215**

**Extraordinary Circumstances NOT to do a Categorical Exclusion**

Extraordinary circumstances exist for individual actions within CXs which may:

- (a)** Have significant impacts on public health or safety.
- (b)** Have significant impacts on such natural resources and unique geographic characteristics as 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 (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
- (c)** Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].
- (d)** Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
- (e)** Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
- (f)** Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.
- (g)** Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.
- (h)** Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.
- (i)** Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.
- (j)** Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).
- (k)** Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

**(I)** Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive).