



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 14, 2024

ALL FEDERALLY RECOGNIZED AMERICAN INDIAN AND ALASKA NATIVE TRIBES
INVITATION TO REQUEST CONSULTATION ON PROPOSED RULE "CATEGORICAL
EXCLUSIONS FROM ENVIRONMENTAL REVIEW" (STC-24-047)

Purpose: To inform all Federally recognized Tribes that the U.S. Nuclear Regulatory Commission (NRC) is offering consultation to Tribal officials or representatives on the proposed rule, "Categorical Exclusions from Environmental Review" ([89 FR 54727](#)).

Background: The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to undertake an assessment of the environmental effects of their proposed actions prior to deciding whether to approve or disapprove the proposed actions. The NRC's NEPA implementing regulations are contained in Part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

There are three types of NEPA analyses: environmental assessments (EAs), environmental impact statements (EISs), and categorical exclusions. A categorical exclusion falls into the category of actions that do not have a significant effect on the human environment, as defined by a Federal agency in its NEPA implementing regulations. If the Federal agency finds that actions in a given category have no significant effect on the human environment, either individually or cumulatively, then the agency may establish a categorical exclusion for that category of actions. The NRC has the option to prepare and issue an EA or EIS for any proposed action, even if the proposed action meets the criteria for a categorical exclusion. Once it has established a categorical exclusion, the agency is not required to prepare an EA or EIS for any action that falls within the scope of the categorical exclusion unless the agency finds, for any particular action, that there are special circumstances that would preclude use of the categorical exclusion. Categorical exclusions increase efficiency in the environmental review process, saving time, effort, and resources.

On March 12, 1984 (49 FR 9352), the NRC published 10 CFR Part 51, including § 51.22, "Criterion for categorical exclusion: identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review." The regulation included the NRC's first list of 18 categorical exclusions in § 51.22(c).

The NRC's categorical exclusions include administrative, organizational, and procedural amendments to certain types of NRC regulations, licenses, and certificates; minor changes related to application filing procedures; certain personnel and procurement activities; and activities for which environmental review by the NRC is excluded by statute.

In a December 6, 2010, *Federal Register* notice (75 FR 75628), the Council on Environmental Quality (CEQ) issued final guidance, "Establishing, Applying, and Revising Categorical Exclusions under [NEPA]" which recommends agencies periodically review categorical exclusions to assure their continued appropriate use and usefulness. The NRC last amended its categorical exclusion regulations in 2010 (75 FR 20248; April 19, 2010). Consistent with the CEQ recommendations, the NRC reviewed its environmental programs and organization to identify potential opportunities to continue to protect people and the

environment in different ways that would enhance the process, save time, and reduce resources. That review resulted in SECY-20-0065, "Rulemaking Plan Categorical Exclusions from Environmental Review," which recommended to the Commission that the staff conduct this rulemaking activity (Agencywide Document Access and Management System Accession No. [ML20021A160](#)).

Discussion: The NRC developed a proposed rule that revises its list of categorical exclusions to clarify the scope of existing categories, to improve consistency in their application, and to add new categories of actions that have no significant effect on the human environment. For example, the NRC is proposing to eliminate distinctions in categorical exclusions between license amendments, exemptions, rulemaking, and other forms of NRC actions to ensure that categorical exclusions are based on the activities that would be authorized (e.g., certain maintenance activities) rather than on the different forms of the NRC approvals. The proposed amendments would ensure resources are directed to activities that have the potential to significantly affect the environment.

As noted in STC-24-036, the NRC published a FRN on July 2, 2024, requesting comments on the proposed rule (89 FRN 54727). The comment period closes on September 16, 2024. You can access the FRN using the following link: <https://www.federalregister.gov/documents/2024/07/02/2024-14367/categorical-exclusions-from-environmental-review>. We encourage electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2018-0300 in your comment submission.

The NRC is offering consultation to Tribal officials or representatives of all Federally recognized Tribes under the NRC's Tribal Policy Statement.

If you would like to engage in consultation on this proposed rule, please contact me at Nadiyah.Morgan@nrc.gov or 301-415-5836.

Sincerely,



Signed by Morgan, Nadiyah
on 08/14/24

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