



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS**  
441 G STREET, NW  
WASHINGTON, DC 20314-1000

CECW-CO

**MEMORANDUM FOR COMMANDERS, MAJOR SUBORDINATE COMMANDS AND  
DISTRICT COMMANDS, CHIEFS, OPERATIONS DIVISIONS**

**SUBJECT: Use of Categorical Exclusions for Civil Works Projects Operated and Maintained by  
the U.S. Army Corps of Engineers (USACE)**

**1. REFERENCES.**

a. ER 200-2-2. Procedures for Implementing NEPA. 4 March 1988,  
[https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER\\_200-2-2.pdf](https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER_200-2-2.pdf)

b. ER 200-2-3. Environmental Compliance Policies. 1 September 2022,  
[https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER%20200-2-3%20w%20Errata.pdf?ver=N\\_CkCy7n-dtZNWJF\\_Q5PGQ%3d%3d](https://www.publications.usace.army.mil/Portals/76/Publications/EngineerRegulations/ER%20200-2-3%20w%20Errata.pdf?ver=N_CkCy7n-dtZNWJF_Q5PGQ%3d%3d)

c. 33 CFR 230.9. Categorical Exclusions. 1 July 2012, <https://www.ecfr.gov/current/title-33/chapter-II/part-230>

d. 40 CFR, Chapter V, Subchapter A. <https://www.ecfr.gov/current/title-40/chapter-V/subchapter-A>

e. Section 321 of the Fiscal Responsibility Act of 2023 (the Builder Act)

f. Council on Environmental Quality Memorandum, Establishing, Applying and Revising Categorical Exclusion under the National Environmental Policy Act, 23 November 2010

2. Purpose. The purpose of this memorandum is to establish guidance to appropriately and efficiently utilize Categorical Exclusions (CATEXs) as a means to enhance program and project delivery at all USACE-owned lands and facilities. This memo also serves to initiate the collection of NEPA data for Civil Works Projects that are operated and maintained by USACE.

3. Applicability. The guidance in this memorandum applies to all Civil Works Major Subordinate Commands (MSC), Districts, and Operating Projects.

4. Background. The National Environmental Policy Act (NEPA) is a statute intended to ensure Federal agencies consider the environmental impacts of their actions in the decision-making process (Title 40, Chapter V, Subchapter A, §1500.1). In assessing the appropriate level of a NEPA review, Federal agencies review the environmental effects of their proposed action, assessing whether the proposed action: (1) falls within a promulgated list of "categorical exclusions" (CatExs) for actions that normally do not have significant effects and therefore do not require preparation of an environmental assessment or environmental impact statement absent extraordinary circumstances (§1501.4); (2) Is not likely to have significant effects or the significance of the effects is unknown and is therefore appropriate for an environmental

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assessment (§1501.5); or (3) Is likely to have significant effects and is therefore appropriate for an environmental impact statement (§1502). Regulations for NEPA further direct agencies in §1500.4 to reduce excessive paperwork by using CATEXs to define categories of actions that normally do not have a significant effect on the human environment and therefore do not require the preparation of an environmental impact statement.

USACE has identified agency NEPA procedures and subsequently categories of actions that normally do not have a significant effect on the human environment, and therefore do not require preparation of an environmental assessment or environmental impact statement in ER 200-2-2 (4 March 1988) recorded in Title 33, Chapter 2, Part 230, §230.9. See attached enclosure.

5. Policy. Consistent with the above references and any future revisions, USACE Headquarters, MSCs, Districts, and Field Operating Projects will leverage the use of CATEXs as codified in Title 33, Chapter 2, Part 230, §230.9 to enhance project and program delivery. Operations and maintenance program activities, including those initiated and conducted by outgrantees are to first be evaluated for applicability with a CATEX. Specific guidance on application of a CATEX at existing USACE projects damaged by an event, incident, or disaster is found in reference d.

6. The District Commander is the USACE NEPA official responsible for compliance with NEPA for actions within district boundaries. At the discretion of the District Operations Chief or the Natural Resources Management Chief, qualified staff should determine if a CATEX is applicable to comply with NEPA requirements before an environmental assessment and/or environmental impact statement is considered in order to remove unnecessary barriers associated with more extensive EA and EIS requirements. Appropriately qualified staff for preparing CATEX determinations include personnel from either the Operations or Planning Divisions of USACE. Prior to using a CATEX, the District Commander or delegee must ensure that the proposed USACE activity is within the intended scope of the specific CATEX and that no extraordinary circumstances exist that would merit the preparation of an environmental assessment or environmental impact statement.

The delegated signatory for CATEXs associated with operations and maintenance activities at USACE projects by the USACE is typically the District Operations Division Chief or other appropriate Operations Division staff with delegated authority to approve a CATEX. At the request of the District Operations Chief (or other responsible Division Chief e.g., Engineering Division Chief with responsibility for the Section 408 program), District Planning organizations may provide support in carrying out the environmental compliance program. Applicability and use of a CATEX will be documented in a Memorandum for the Record (MFR) consistent with the guidance established by the Council on Environmental Quality, reference e. This MFR should include a description of any mitigation actions that would be taken to reduce the adverse impacts of any existing extraordinary circumstances such that the CATEX could still be used.

7. The use of a CATEX only satisfies the requirements of NEPA. All other applicable environmental requirements, including, but not limited to, the Endangered Species Act, the Fish

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and Wildlife Coordination Act, the National Historic Preservation Act, the Clean Water Act, etc. must still be satisfied. The fact that other environmental laws apply, and must be complied with, does not automatically trigger the need for an environmental assessment or environmental impact statement, provided no extraordinary circumstances exists; a CATEX can continue to be used to satisfy NEPA requirements. Appropriate documentation of compliance with all applicable environmental requirements that has been signed by the proper technical or leadership official shall be maintained for the record. Compliance with other environmental and cultural resource laws shall be accomplished in accordance with the regulations implementing each law. The MFR documenting the applicability of the CATEX can list the environmental and cultural resource laws that were determined to apply and set forth how compliance was achieved and how this compliance was documented in accordance with the regulations implementing each law.

8. Additionally, as part of an effort to guide future agency policy related to NEPA and meet new requirements for NEPA reporting and waivers, Operations Division will collect NEPA data for Civil Works projects that are operated and maintained by USACE.

The type and quantity of requested information will be limited to minimize the burden associated with data collection. Information will be collected through the NRM Assessment module until transitioned to the Civil Works Business Intelligence (CWBI) platform. Data collection, at the water resources project level, will include the type(s) and purpose of NEPA action(s) initiated, estimated completion date, the primary business line(s) associated with the action(s), primary author(s), and estimated cost.

9. The Point of Contact for Operations Division is Ms. Tara Whitsel, Tara.J.Whitsel@usace.army.mil / 814-795-4223. The Point of Contact for Planning & Policy Division is Ms. Julie Alcon, Julie.A.Alcon@usace.army.mil / 202-302-5864. Thank you for your continued effort in support of the implementation of NEPA.

Encl

EDWARD E. BELK, JR. P.E.  
Director of Civil Works

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### **33 Code of Federal Regulations §230.9 Categorical Exclusions.<sup>1</sup>**

Actions listed below when considered individually and cumulatively do not have significant effects on the quality of the human environment and are categorically excluded from NEPA documentation. However, district commanders should be alert for extraordinary circumstances which may dictate the need to prepare an EA or an EIS. Even though an EA or EIS is not indicated for a Federal action because of a “categorical exclusion”, that fact does not exempt the action from compliance with any other Federal law. For example, compliance with the Endangered Species Act, the Fish and Wildlife Coordination Act, the National Historic Preservation Act, the Clean Water Act, etc., is always mandatory, even for actions not requiring an EA or EIS.

(a) For a period of one year from the effective date of these regulations, district commanders should maintain an information list on the type and number of categorical exclusion actions which due to extraordinary circumstances triggered the need for an EA and finding of no significant impact (FONSI) or an EIS. If a district commander determines that a categorical exclusion should be modified, the information will be furnished to the division commander, who will review and analyze the actions and circumstances to determine if there is a basis for recommending a modification to the list of categorical exclusions. HQUSACE (CECW-RE) will review recommended changes for Corps-wide consistency and revise the list accordingly. See 33 CFR part 325, appendix B for categorical exclusions for regulatory actions.

(b) Activities at completed Corps projects which carry out the authorized project purposes. Examples include routine operation and maintenance actions, general administration, equipment purchases, custodial actions, erosion control, painting, repair, rehabilitation, replacement of existing structures and facilities such as buildings, roads, levees, groins and utilities, and installation of new buildings utilities, or roadways in developed areas.

(c) Minor maintenance dredging using existing disposal sites.

(d) Planning and technical studies which do not contain recommendations for authorization or funding for construction, but may recommend further study. This does not exclude consideration of environmental matters in the studies.

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<sup>1</sup> This subsection of the Code of Federal Regulations is reproduced for convenience, but should not be considered authoritative. NEPA practitioners and decision makers must validate the currently language before making decisions.

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- (e) All Operations and Maintenance grants, general plans, agreements, etc., necessary to carry out land use, development and other measures proposed in project authorization documents, project design memoranda, master plans, or reflected in the project NEPA documents.
- (f) Real estate grants for use of excess or surplus real property.
- (g) Real estate grants for Government-owned housing.
- (h) Exchanges of excess real property and interests therein for property required for project purposes.
- (i) Real estate grants for rights-of-way which involve only minor disturbances to earth, air, or water:
  - (1) Minor access roads, streets and boat ramps.
  - (2) Minor utility distribution and collection lines, including irrigation.
  - (3) Removal of sand, gravel, rock, and other material from existing borrow areas.
  - (4) Oil and gas seismic and gravity meter survey for exploration purposes.
- (j) Real estate grants of consent to use Government-owned easement areas.
- (k) Real estate grants for archeological and historical investigations compatible with the Corps Historic Preservation Act responsibilities.
- (l) Renewal and minor amendments of existing real estate grants evidencing authority to use Government-owned real property.
- (m) Reporting excess real property to the General Services Administration for disposal.
- (n) Boundary line agreements and disposal of lands or release of deed restrictions to cure encroachments.
- (o) Disposal of excess easement interest to the underlying fee owner.
- (p) Disposal of existing buildings and improvements for off-site removal.

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(q) Sale of existing cottage site areas.

(r) Return of public domain lands to the Department of the Interior.

(s) Transfer and grants of lands to other Federal agencies.