

Grasslands Undesirable Plant Management, *Comment Period Ends:* 05/13/2024, *Contact:* Kim Dolatta 701-842-2393.

Dated: March 18, 2024.

Nancy Abrams,

Associate Director, Office of Federal Activities.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL OP-OFA-116]

Notice of Adoption of Department of Energy Categorical Exclusion Under the National Environmental Policy Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of adoption of categorical exclusions.

SUMMARY: The Environmental Protection Agency (EPA) is adopting two categorical exclusions (CEs) from the Department of Energy (DOE) under the National Environmental Policy Act (NEPA) for drop-off, collection, and transfer facilities for recyclable materials and for installation or relocation of machinery and equipment, to use in EPA's programs and in funding opportunities administered by EPA. This notice describes the categories of proposed actions for which EPA intends to use DOE's CEs and describes the consultation between the agencies.

DATES: This action is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Dan Halpert, EPA Solid Waste Infrastructure for Recycling Program, by phone at 202-566-0816 or by email at halpert.daniel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

NEPA and CEs

The National Environmental Policy Act, as amended at, 42 U.S.C. 4321-4347 (NEPA), requires all Federal agencies to assess the environmental impact of their actions. Congress enacted NEPA in order to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321, 4331. NEPA's twin aims are to ensure agencies consider the environmental effects of their proposed actions in their

decision-making processes and inform and involve the public in that process. 42 U.S.C. 4331. NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA implementing regulations, 40 CFR parts 1500 through 1508 (CEQ regulations).

To comply with NEPA, agencies determine the appropriate level of review—an environmental impact statement (EIS), environmental assessment (EA), or CE. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336. If the proposed action is not likely to have significant environmental effects or the effects are unknown, the agency may instead prepare an EA, which involves a more concise analysis and process than an EIS. 42 U.S.C. 4336. Following the EA, the agency may conclude the process with a finding of no significant impact if the analysis shows that the action will have no significant effects. If the analysis in the EA finds that the action is likely to have significant effects, however, then an EIS is required.

Under NEPA and the CEQ regulations, a Federal agency also can establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in its agency NEPA procedures. 42 U.S.C. 4336(e)(1); 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d). If an agency determines that a CE covers a proposed action, it then evaluates the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b). If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental effects, the agency may apply the CE to the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2), 40 CFR 1501.4. If the extraordinary circumstances have the potential to result in significant effects, the agency is required to prepare an EA or EIS.

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to “adopt” and use another agency's CEs for a category of proposed agency actions. 42 U.S.C. 4336(c). To use another agency's CEs under section 109, the adopting agency must identify the relevant CEs listed in another agency's (“establishing agency”) NEPA procedures that cover the adopting agency's category of proposed actions or related actions; consult with

the establishing agency to ensure that the proposed adoption of the CE to a category of actions is appropriate; identify to the public the CE that the adopting agency plans to use for its proposed actions; and document adoption of the CE. *Id.* This notice describes EPA's adoption of DOE's CEs under section 109 of NEPA to use in EPA's program and in funding opportunities administered by EPA.

EPA's Program

EPA intends to use DOE's recycling facilities and equipment installation CEs in EPA's program and in funding opportunities, including those administered by the EPA Solid Waste Infrastructure for Recycling (SWIFR) Program.

The SWIFR Program provides funding to eligible entities to implement the National Recycling Strategy to improve post-consumer materials management and infrastructure; support improvements to local post-consumer materials management and recycling programs; and assist local waste management authorities in making improvements to local waste management systems. The SWIFR program funds projects for the siting, construction, modification, and operation of recycling or compostable material drop-off, collection, and transfer station facilities. Funding administered by the SWIFR program may also be used at these recycling, reuse, composting, or other waste management facilities for the installation or relocation and operation of machinery and equipment, such as crushers, shredders, sorters, and baling equipment. EPA also intends to use the DOE CEs adopted through this notice for activities administered under other EPA programs that meet this description of SWIFR program activities.

II. Identification of the Categorical Exclusions

EPA is adopting two CEs from DOE for drop-off, collection, and transfer facilities for recyclable materials and for the installation or relocation of machinery and equipment.

DOE's CE for recycling facilities is codified in DOE's NEPA procedures as CE B1.35 of 10 CFR part 1021, subpart D, appendix B, as follows:

B1.35 Drop-Off, Collection, and Transfer Facilities for Recyclable Materials. The siting, construction, modification, and operation of recycling or compostable material drop-off, collection, and transfer stations on or contiguous to a previously disturbed or developed area and in an area where such a facility would be consistent with existing zoning requirements. The stations would

have appropriate facilities and procedures established in accordance with applicable requirements for the handling of recyclable or compostable materials and household hazardous waste (such as paint and pesticides). Except as specified above, the collection of hazardous waste for disposal and the processing of recyclable or compostable materials are not included in this class of actions.

DOE's CE for equipment installation or relocation is codified in DOE's NEPA procedures as CE B1.31 of 10 CFR part 1021, subpart D, appendix B, as follows:

B.1.31 Installation or Relocation of Machinery and Equipment. Installation or relocation and operation of machinery and equipment (including, but not limited to, laboratory equipment, electronic hardware, manufacturing machinery, maintenance equipment, and health and safety equipment), provided that uses of the installed or relocated items are consistent with the general missions of the receiving structure. Covered actions include modifications to an existing building, within or contiguous to a previously disturbed or developed area, that are necessary for equipment installation and relocation. Such modifications would not appreciably increase the footprint or height of the existing building or have the potential to cause significant changes to the type and magnitude of environmental impacts.

“Previously disturbed or developed” refers to land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to nonnative species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available. 10 CFR 1021.410(g)(1).

The DOE CEs also include additional conditions referred to as integral elements (10 CFR part 1021, subpart D, appendix B). In order to apply these CEs, the proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of EPA¹ or Executive orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;

(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;

(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, State, or local government, or a federally recognized Indian Tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:

(i) Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, State, or local government, federally recognized Indian Tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places;

(ii) Federally listed threatened or endangered species or their habitat (including critical habitat) or federally proposed or candidate species or their habitat (Endangered Species Act); State listed or State-proposed endangered or threatened species or their habitat; federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise federally-protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);

(iii) Floodplains and wetlands;

(iv) Areas having a special designation such as federally and State designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, State and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;

(v) Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), “Farmland Protection Policy Act: Definitions,” or its successor;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests; or

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, EPA, and the National Institutes of Health.

Proposed EPA Category of Actions

EPA intends to apply CE B1.35 to support proposals for the siting, construction, modification, and operation of recycling or compostable material drop-off, collection, and transfer station projects. Activities under this CE may be undertaken directly by EPA or be financed in whole or in part through Federal funding opportunities, including those administered by the SWIFR Program. The siting, construction, modification, and operation of drop-off, collection, and transfer stations must be on or contiguous to a previously disturbed or developed area, in an area where such a facility would be consistent with existing zoning requirements, and the stations would have appropriate facilities and procedures established in accordance with applicable requirements for the handling of recyclable or compostable materials and households hazardous waste (such as paint and pesticides). EPA will also review each proposal for the limitations in applying the CE to ensure that the proposal is within the scope of the CE and will not involve the collection of hazardous waste for disposal or the processing of recyclable or compostable materials.

EPA intends to apply CE B1.31 to support proposals for the installation or relocation of machinery and equipment, such as crushers, shredders, sorters, and baling equipment, at recycling, reuse, composting, or other waste management facilities administered under the SWIFR Program and for similar activities undertaken directly by EPA or financed in whole or in part through Federal funding opportunities. EPA will consider each proposal for the installation or relocation and operation of machinery and equipment to ensure that uses of the installed or relocated machinery and equipment are consistent with the general mission of the receiving structure. For proposals requiring modifications to an existing building, within or contiguous to a previously disturbed or developed area,

¹ Modified from 10 CFR part 1021 subpart D, app. B to reflect EPA as the adopting agency.

that are necessary for the equipment installation and relocation, EPA will review each proposal to ensure that such modifications are within the scope of the CE and would not appreciably increase the footprint or height of the existing building or have the potential to cause significant changes to the type and magnitude of environmental impacts.

III. Consideration of Extraordinary Circumstances

When applying these CEs, EPA will evaluate the proposed action to ensure consideration of the integral elements listed above. In addition, in considering extraordinary circumstances, EPA will consider whether the proposed action has the potential to result in significant effects as described in DOE's extraordinary circumstances listed at 10 CFR 1021.410(b)(2). DOE defines extraordinary circumstances as unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources. In addition, EPA will consider its list of extraordinary circumstances as described at 40 CFR 6.204(b).

IV. Consultation With DOE and Determination of Appropriateness

EPA and DOE consulted on the appropriateness of EPA's adoption of the CEs in December 2023. EPA and DOE's consultation included a review of DOE's experience developing and applying the CEs, as well as the types of actions for which EPA plans to utilize the CEs. These EPA actions are very similar to the type of projects for which DOE has applied the CEs and therefore the effects of EPA projects will be very similar to the effects of DOE projects, which are not significant, absent extraordinary circumstances. Therefore, EPA has determined that its proposed use of the CE for the Drop-off, Collection, and Transfer Facilities for Recyclable Materials and the CE for Installation or Relocation of Machinery and Equipment as described in this notice are appropriate.

V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document EPA's adoption of DOE's CEs for B1.35 Drop-off, Collection, and Transfer Facilities for Recyclable Materials and for B1.31 Installation or Relocation of Machinery and Equipment. This notice identifies

the types of actions to which EPA will apply the CEs, as well as the considerations that EPA will use in determining whether an action is within the scope of the CEs.

Dated: March 18, 2024.

Elizabeth Shaw,

Director, Resource Conservation and Sustainability Division, Office of Resource Conservation and Recovery, Office of Land and Emergency Management.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-11826-01-OW]

Notice of Public Meeting of the Environmental Financial Advisory Board (EFAB) With Webcast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) announces a public meeting with a webcast of the Environmental Financial Advisory Board (EFAB). The meeting will be shared in real-time via webcast and public comments may be provided in writing in advance or virtually via webcast. Please see **SUPPLEMENTARY INFORMATION** for further details. The purpose of the meeting will be for the EFAB to discuss current advisory charges, provide updates on previous EFAB deliverables, and to learn more about the Administration's infrastructure investment opportunities. The meeting will be conducted in a hybrid format of in-person and virtual via webcast.

DATES: The meeting will be held on:

1. April 10, 2024, from 9 a.m. to 12 p.m. Eastern Time;
2. April 11, 2024, from 9 a.m. to 4 p.m. Eastern Time; and
3. April 12, 2024, from 9 a.m. to 12 p.m. Eastern Time.

ADDRESSES:

In-Person: Residence Inn by Marriott Arlington Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Webcast: Information to access the webcast will be provided upon registration in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants information about the meeting may contact Tara Johnson via telephone/voicemail at (202) 809-7368 or email to efab@epa.gov. General information concerning the EFAB is available at www.epa.gov/waterfinancecenter/efab.

SUPPLEMENTARY INFORMATION:

Background: The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, to provide advice and recommendations to EPA on innovative approaches to funding environmental programs, projects, and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA's Office of Water. Pursuant to FACA and EPA policy, notice is hereby given that the EFAB will hold a public meeting with a webcast for the following purposes:

- (1) Discuss potential future EFAB charges;
- (2) Provide updates on recent EFAB deliverables; and
- (3) Learn more about the Administration's infrastructure investment opportunities.

Registration for the Meeting: To register for the meeting, please visit www.epa.gov/waterfinancecenter/efab#meeting. Interested persons who wish to attend the meeting must register by April 3, 2024, to attend in person or by April 8, 2024, to attend via webcast. Pre-registration is strongly encouraged. In the event the meeting cannot be held, an announcement will be made on the EFAB website at www.epa.gov/waterfinancecenter/efab and all registered attendees will be notified.

Availability of Meeting Materials: Meeting materials, including the meeting agenda and briefing materials, will be available on EPA's website at www.epa.gov/waterfinancecenter/efab.

Procedures for Providing Public Input: Public comment for consideration by EPA's Federal advisory committees has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a Federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees provide independent advice to EPA. Members of the public may submit comments on matters being considered by the EFAB for consideration as the Board develops its advice and recommendations to EPA.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to three minutes each. Persons interested in providing oral statements at the April 2024 meeting should register in advance and provide notification, as noted in the registration confirmation, by April 3, 2024, to be placed on the list of registered speakers.

Written Statements: Written statements should be received by April