

DHHS & NIH CATEGORICAL EXCLUSION CRITERIA CHECKLIST

[DHHS NEPA Procedures, GAM Chapter 30, Fed. Register Notices, February 25, 2000 (Volume 65, Number 38), Page 10230-10284]
 [NIH Categorical Exclusions, Federal Register Notices, January 19, 2000 (Volume 65, Number 12), Page 2977-2979]
 (Updated January 18, 2001)

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| I. | CATEGORY #1 -- General Exclusions Subject to a review for extraordinary circumstances, NIH will not perform an environmental review of actions excluded by regulation from NEPA review. NIH will also not perform an environmental review of actions categorically excluded from NEPA review in DHHS GAM Chapter 30. | NOTE: If the answer to any of the questions in Category #1 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA | YES | NO | EXPLANATION |
| (1) | Does a law or statute grant an exception, unless precluded by an OPDIV/STAFFDIV regulation? | | | |
| (2) | Have the courts found that the action does not require environmental review? | | | |
| (3) | Does the action implement actions outside the territorial jurisdiction of the United States and are such actions excluded from review by Executive Order 12114? | | | |

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| II. | CATEGORY #2 -- Functional Exclusions The following actions are normally excluded from NEPA review, subject to a review for extraordinary circumstances. | NOTE: If the answer to any of the questions in Category #2 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA Does the proposed action fall under any of the following categories: | YES | NO | EXPLANATION |
| (1) | Routine administrative and management support, including legal counsel, public affairs, program evaluation, monitoring, and individual personnel actions? | | | |
| (2) | Information technology management | | | |
| (3) | Education and training grants and contracts except projects involving construction, renovation and/or changes in land use? | | | |
| (4) | Grants for administrative overhead support? | | | |
| (5) | Grants for social services except projects involving construction, renovation, and changes in land use? | | | |
| (6) | Liaison functions? | | | |
| (7) | Maintenance, except for properties on or eligible for listing on the National Register of Historic Places? | | | |
| (8) | Statistics and information collection and dissemination? | | | |

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| II. | CATEGORY #2 (continued) Functional Exclusions | NOTE: If the answer to any of the questions in Category #2 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA Does the proposed action fall under any of the following categories: | YES | NO | EXPLANATION |
| (9) | Adoptions of regulations and guidelines pertaining to the above activities? | | | |
| (10) | Routine administrative and management support, including budget and finance, planning, procurement of supplies and services, management and oversight of grants and other funding instruments, legal counsel, public affairs, program evaluation, travel, and human resources management. | | | |
| (11) | Maintenance, including repairs necessary to ensure the operation of existing facilities, grounds maintenance, and the decontamination of laboratory or other space and equipment. | | | |
| (12) | Acquisition of space by lease and modifications of leases, when the use of the space will comply with all applicable Federal, State, and local laws, including all environmental protection and zoning laws, and lease extensions and terminations. | | | |
| (13) | Relocation of employees into existing Government-owned or Government-leased space. | | | |
| (14) | Facility planning and design. | | | |

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| II. | CATEGORY #2 (continued) Functional Exclusions | NOTE: If the answer to any of the questions in Category #2 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA Does the proposed action fall under any of the following categories: | YES | NO | EXPLANATION |
| (15) | Construction, or construction pursuant to a lease, of 12,000 square feet or less of occupiable space. | | | |
| (16) | Interior construction and renovation of NIH facilities. | | | |
| (17) | The acquisition, sale, release, disposal, abandonment, closure, or transfer of real or personal property, provided that the action does not violate applicable Federal, State, or local laws, including historical preservation laws. | | | |
| (18) | Acquisition of equipment and the repair or replacement of NIH-owned equipment. | | | |
| (19) | Acquisition, installation, maintenance, and operation of utility and communications systems, data processing cables, and similar electronic equipment. | | | |
| (20) | Packaging, storage, and disposal of hazardous substances, including low-level radioactive, medical, and chemical waste materials generated by intramural research activities, provided that the waste is packed, stored, and disposed of in compliance with all applicable Federal, State, and local laws. | | | |

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| II. | CATEGORY #2 (continued) Functional Exclusions | NOTE: If the answer to any of the questions in Category #2 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA Does the proposed action fall under any of the following categories: | YES | NO | EXPLANATION |
| (21) | The identification, collection, testing, and distribution of chemicals, drugs, biologicals, plants or plant derivatives, microorganisms, and/or cell cultures for use in the research, diagnosis, and/or treatment of human diseases. | | | |
| (22) | Research and training activities that are conducted in NIH facilities: By or under the supervision of NIH employees; under the Stevenson-Wydler Technology Innovation Act of 1980, as amended, 15 U.S.C. 3701 et seq.; or in accordance with 45 CFR part 9. | | | |
| (23) | The issuance of revocable licenses, use permits, and easements allowing outside parties to use NIH facilities. | | | |
| (24) | Filing for, obtaining, licensing, enforcing, and protecting intellectual property rights arising from NIH-conducted or NIH-supported research or other activities. | | | |
| (25) | Actions taken to comply with requirements of applicable legislation or regulations (e.g., meet emissions requirements established pursuant to Clean Air Act). | | | |

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| II. | CATEGORY #2 (continued) Functional Exclusions | NOTE: If the answer to any of the questions in Category #2 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA | YES | NO | EXPLANATION |
| (26) | The preparation and submission of proposals for legislation, or major recommendations or reports to Congress on proposals for legislation, that, based on reasonable judgment, will not establish or modify programs that will have a significant effect on the quality of the human environment. | | | |
| (27) | The awarding, renewal, suspension, termination, or discontinuance of: Collaborative research agreements, including Cooperative Research and Development Agreements (CRADA) established under the Stevenson-Wydler Technology Innovation Act of 1980, as amended, 15 U.S.C. 3701 et seq.; contracts; cooperative agreements; grants; and interagency agreements entered into by the NIH pursuant to the Economy Act, 31 U.S.C. 1535. For those contracts, cooperative agreements, grants, and interagency agreements that involve construction of more than 12,000 square feet of occupiable space, recipients of NIH funds must certify that they are in compliance with all Federal, State, and local environmental laws and must, as prescribed by NIH, perform all environmental reviews required by NEPA, including preparing environmental assessments and, if necessary, environmental impact statements, and submit these documents to the NIH for review, approval and adoption. | | | |

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| II. | CATEGORY #2 (continued) Functional Exclusions | NOTE: If the answer to any of the questions in Category #2 is "YES", the action <u>may</u> be categorically excluded from further NEPA review. | | |
| | CRITERIA | YES | NO | EXPLANATION |
| (28) | All actions undertaken in preparing for and conducting litigation. | | | |
| (29) | The collection, processing, retention, evaluation and dissemination, including publication, of data and other information, including the acquisition and management of resources necessary to carry out those functions. | | | |
| (30) | Proposing and adopting guidelines. | | | |
| (31) | Traffic management measures, including the installation and operation of traffic control and safety devices and actions designed to control or reduce the number of motor vehicles coming onto the NIH Bethesda campus. | | | |
| (32) | Actions taken to respond to public health emergencies. | | | |

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| III. | <p>CATEGORY #3 -- Program Exclusions</p> <p>The DHHS procedures on environmental review of agency actions authorize the establishment of a categorical exclusion for programs within an agency that will not have a significant effect on the human environment. Actions taken by the following NIH organizations and their components normally are excluded from NEPA review, subject to a review for extraordinary circumstances. Actions taken by any successor organizations to those listed will also be categorically excluded. Actions taken by organizations of NIH not listed in this category may be included in other categories of excluded actions.</p> | <p>NOTE: If the answer to any of the questions in Category #3 is "YES", the action <u>may</u> be categorically excluded from further NEPA review.</p> | | |
| | CRITERIA | YES | NO | EXPLANATION |
| (1) | Center for Information Technology | | | |
| (2) | Center for Scientific Review | | | |
| (3) | Fogarty International Center | | | |
| (4) | Office of Administration | | | |
| (5) | Office of Communications | | | |
| (6) | Office of Equal Opportunity | | | |
| (7) | Office of Education | | | |
| (8) | Office of Community Liaison | | | |
| (9) | Office of Loan Repayment and Scholarship | | | |
| (10) | Office of Human Resources Management | | | |
| (11) | Office of Financial Management | | | |
| (12) | Office of Technology Transfer | | | |
| (13) | Office of Program Coordination | | | |
| (14) | National Library of Medicine | | | |

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| IV. | CATEGORY #4 -- Extraordinary Circumstances Consistent with CEQ's regulations, environmental review is required for all NIH actions involving extraordinary circumstances. Following are examples of extraordinary circumstances that may apply to specific NIH actions. | NOTE: If the answer to any of the questions in Category #4 is "NO", the action <u>may</u> be <u>partially</u> excluded from further NEPA review. | | |
| | CRITERIA | YES | NO | EXPLANATION |
| (1) | Greater scope or size than other actions included within a category. | | | |
| (2) | A threatened violation of a Federal, State, or local law established for protection of the environment or for public health and safety. | | | |
| (3) | Potential effects of the action are unique or highly uncertain. | | | |
| (4) | Potential effect on a protected or ecologically sensitive area of land, like a wetland or floodplain. | | | |
| (5) | Possible impact on property that is listed or eligible for listing on the National Register of Historic Places or that is otherwise of scientific, cultural, or historic importance or interest. | | | |
| (6) | Possible impact on endangered or threatened species. | | | |
| (7) | Use of especially hazardous substances or processes for which adequate and accepted controls and safeguards are unknown or not available. | | | |
| (8) | Substantial and reasonable controversy exists about the environmental effects of the action. | | | |

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| V. | Summary | NOTE: If the answer to any of the questions the Summary is "YES", the action <u>may</u> be <u>partially</u> excluded from further NEPA review. | | |
| | CRITERIA | YES | NO | EXPLANATION |
| (1) | Does the proposed action produce environmental effects with respect to only a few, but not all, of the environmental acts? | | | |
| (2) | Is a previously conducted environmental assessment (EA) or environmental impact statement (EIS) broad enough to satisfy the NEPA requirements for the current proposed action? | | | |
| (3) | Is the proposed action a response that must be implemented within thirty (30) days to an emergency health situation? | | | |
| (4) | Does the law require the proposed action to be taken within thirty (30) days? | | | |
| | After substantive review (by first completing the attached NIH Environmental Assessment Criteria checklist) can it be determined that the program or proposed action normally: | | | |
| (5) | Will NOT significantly affect the human environment (as defined by NEPA)? | | | |
| (6) | Will NOT affect an asset (as defined in the applicable environmental statute or Executive Order) regardless of location or magnitude of the action? | | | |