DEPARTMENT OF HOMELAND SECURITY (DHS)

SYNOPSIS OF ADMINISTRATIVE RECORD TO SUPPORT PROPOSED NEW CATEGORICAL EXCLUSIONS UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT

December 2014

I. Overview

The Department of Homeland Security (DHS or Department) has prepared a revision to its procedures for implementing the National Environmental Policy Act (NEPA), which are found in the draft revised DHS Directive and Instruction 023-01, Revision 01 (Directive and Instruction). The draft revised Directive and Instruction are being circulated for public review and comment along with this document. Readers of this document are encouraged to refer to the draft revised Directive and Instruction for definitions of terms and information about the organization of the Department.

As part of the revision to its NEPA procedures, DHS intends to retain its existing list of NEPA categorical exclusions (CATEXs). These existing CATEXs are as follows: the list published with the Department's original NEPA procedures (Fed. Reg., Vol. 71, No. 64, April 4, 2006); the list of CATEXs for the U.S. Coast Guard (USCG) (Commandant Instruction M16475.1D, Nov. 29, 2000, and Fed. Reg., Vol. 67, No. 141, July 23, 2002), which were appended to DHS Directive 023-01, Rev. 00 in October 2011; and the recently published USCG CATEX for real property disposal (Fed. Reg., Vol. 78, No.141, July 23, 2013).

In addition, and as will be described in detail in this document, DHS is proposing to add the following new CATEXs to its NEPA procedures:

- One (1) new CATEX for an administrative activity;
- Five (5) new CATEXs for real estate/real property management activities;
- 19 new CATEXs for Federal assistance activities (e.g., grants); and
- 13 new CATEXs for non-grant activities unique to the mission and authorities of the Federal Emergency Management Agency (FEMA).

The Department's existing and proposed new CATEXs are found in Appendix A, Table 1 of the draft revised Instruction. In that table, CATEX A8, CATEXs C6 through C10, and all of the CATEXs in Sections M and N are being proposed as new CATEXs and are labeled as such. All other CATEXs in the table are existing CATEXs that DHS intends to retain. The existing CATEXs in Sections A through G are available for use across the entire Department. The proposed new CATEXs in Sections A, C, and N would also be available for use across the entire Department. The CATEXs in Sections H through L are for use by only the DHS Component specified in the section heading. Similarly, the proposed new CATEXs in Section M would be for use only by FEMA.

In addition to proposing new CATEXs, DHS is proposing a minor administrative change regarding the one existing unique CATEX for the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program published in 2006. The CATEX covers the placement of a portable or re-locatable facility or structure used to collect traveler data at or adjacent to an existing port of entry to the U.S. The 2013 DHS Appropriations Act (P.L. 113-6) established the Office of Biometric Identity Management (OBIM), which replaced US-VISIT. Elements of US-VISIT were transitioned to the following three different DHS Components: the National Protection

and Programs Directorate (NPPD) where OBIM is organizationally located, the U.S. Immigration and Customs Enforcement (ICE), and the U.S. Customs and Border Protection (CBP). In particular, the activities covered by the CATEX have been transferred to CBP, which is the DHS Component responsible for entry-exit policy and operations. Therefore, DHS proposes to move the CATEX to the list of CBP-unique CATEXs, which is included in Appendix A, Table 1, Section K of the draft revised Instruction.

This document provides the rationale and supporting information for the proposed new CATEXs. In a separate effort anticipated to begin in the latter part of Fiscal Year 2014, DHS intends to perform a comprehensive evaluation of all of its CATEXs in accordance with the periodic review of CATEXs recommended by the Council on Environmental Quality (CEQ) in its Guidance Memorandum *Establishing, Applying and Revising Categorical Exclusions under the National Environmental Policy Act* (November 23, 2010), and the regulatory review requirements in Executive Order 13563, *Improving Regulation and Regulatory Review*. However, because of operational needs deriving from the creation of DHS, which include incorporating FEMA and USCG into the Department's NEPA procedures, DHS proposes at this time to retain its existing CATEXs and to add new CATEXs that address Federal assistance and FEMA activities that are not sufficiently covered by its existing CATEXs.

II. Methods Used to Substantiate Proposed New CATEXs

The CEQ guidance states that when substantiating a new or revised CATEX, agencies may draw on several sources of supporting information. These sources include the experiences and opinions of professional staff; assessments of the environmental effects of previously implemented agency actions; and benchmarking other agencies' experiences. Information from a number of sources was gathered and evaluated to substantiate each proposed new CATEX put forth in this document. These different types of supporting information are described below.

Existing Comparable CATEXs

DHS is relying on existing comparable Department-wide and Component-specific CATEXs to support several of the proposed new CATEXs. The existing CATEXs are based on years of DHS experience conducting activities that do not result in significant impacts on the quality of the human environment. Many of the existing DHS CATEXs were developed with DHS owned or managed facilities in mind; however, they cover activities that are similar in scope, nature, and intensity to activities that DHS regularly funds under its numerous grant programs, particularly those currently administered by FEMA. Therefore, several existing comparable DHS CATEXs were used to support CATEXs for similar activities undertaken by non-DHS entities who are the recipients of DHS grant funding or other assistance. Similarly, several existing USCG administrative and real property CATEXs cover activities that are similar in scope, nature, and intensity to activities undertaken by other DHS Components; therefore, DHS relied on existing comparable USCG CATEXs to support the establishment of new CATEXs that can be

used Department-wide by any Component. In relying on existing comparable CATEXs, DHS performed a careful evaluation to determine that the activities are indeed appropriately excluded from the need to perform a higher level of NEPA evaluation because they do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment.

Supporting Environmental Assessments (EAs) and Findings of No Significant Impact (FONSIs)

DHS, through FEMA, has extensive experience to justify that the establishment of new CATEXs for a variety of Federal assistance and FEMA activities is appropriate. Over 600 NEPA environmental assessments (EAs) for FEMA actions have been prepared since 1996. DHS evaluated the effects of implemented actions that were analyzed in EAs that consistently supported Findings of No Significant Impact (FONSI) and did not require preparation of environmental impact statements (EISs); based on this evaluation, DHS determined that many grant-funded activities and FEMA disaster operations and flood insurance activities do not individually or cumulatively result in significant impacts on the quality of the human environment. Summaries of several EAs for these activities to support the proposed new CATEXs are provided in this document, as well as links to where the EAs are posted on the FEMA website. Please note that not all FEMA NEPA documents may be available on-line; to request a copy of a particular document referenced herein, please send an email to SEP-EPHP@hq.dhs.gov. In compiling examples to include in this document, FEMA NEPA practitioners and environmental protection specialists identified EAs that closely matched the activities covered by the proposed CATEX and resulted in FONSIs, and reviewed mitigation measures implemented for those activities to determine whether limiting factors (e.g., scale, proximity to environmentally sensitive areas) needed to be included in the proposed CATEX.

Benchmarking Other Agency Experience

Other Federal agencies have CATEXs for actions similar to DHS actions. Other agencies' CATEXs have been found to be sufficiently descriptive to determine that those activities are similar in nature, scope, and impact on the human environment as those performed by DHS. In particular, DHS relied on some General Services Administration (GSA) CATEXs to help substantiate some of its proposed new CATEXs.

Professional Experience

DHS is also relying upon the experience and judgment of its NEPA practitioners, environmental protection specialists, and legal professionals to substantiate some of the proposed new CATEXs. These staff represent several DHS Components, primarily DHS Headquarters, FEMA, USCG, and CBP.

All DHS staff that contributed to this analysis have the requisite experience and technical expertise to assess the potential environmental effects of proposed DHS

actions. This includes numerous years of environmental planning and compliance experience, including the performance of programmatic and site-specific environmental impact analyses and preparation of environmental documentation such as EAs, FONSIs, EISs, and Records of Decision. For example, the FEMA staff that contributed to CATEX development have considerable experience in implementing FEMA's NEPA and floodplain management regulations (44 CFR Parts 9 and 10) and evaluating the potential environmental effects of proposed activities under a variety of disaster and non-disaster grant programs. Several FEMA Regional Environmental Officers, Deputy Environmental Officers, and environmental protection specialists were interviewed and provided a consensus professional opinion to substantiate some of the proposed new Federal assistance and FEMA CATEXs; summaries of their professional opinions and credentials are included in this document. Also, USCG and CBP, respectively, manage the largest and second largest real property portfolios in the Department. NEPA practitioners and environmental protection specialists in these two Components have extensive experience evaluating potential environmental impacts of proposed real estate/real property management activities for facilities owned and/or managed by these Components across the United States, including in geographic areas where a variety of environmentally sensitive resources may be present.

III. The Need for New CATEXs for FEMA and Federal Assistance Activities

Note to readers: Normally, the use of "DHS" or "Department" is inclusive of all of the Components thereof (for the list of major Components making up the Department, see the DHS website at https://www.dhs.gov/department-components). However, for purposes of this document, a distinction is sometimes made between DHS and FEMA. This is done in order to make it clear that several of the proposed new CATEXs rely heavily on the experience and expertise of this one particular DHS component – FEMA – and to make it clear which of the following two existing lists of CATEXs is being referred to: 1) the existing DHS CATEXs (see Section I, 2nd paragraph above), which do not apply to FEMA actions; or 2) the existing CATEXs in FEMA's regulations for implementing NEPA at 44 CFR 10.8, which apply only to FEMA and not to any other DHS Component.

FEMA's last major revision of its CATEXs was in 1996 when it modified the language of CATEXs in the previous list and added new CATEXs (Fed. Reg., Vol. 61, No. 52, March 15, 1996). Shortly after this change, FEMA's environmental planning and historic preservation (EP&HP) program began documenting actions that could benefit from new CATEXs or edits that could improve the clarity of the existing CATEXs. By 2000, FEMA's EP&HP program had developed a list of comprehensive changes to 44 CFR Part 10 that included revisions to the existing text of the CATEXs, consolidation, and addition of new CATEXs. The list was vetted internally within FEMA in 2001. The update to FEMA's NEPA regulations was put on hold when FEMA became part of DHS in 2003.

DHS issued its NEPA procedures, including CATEXs, as a final directive and instruction in 2006. However, since that time FEMA has continued to follow its regulations at 44 CFR Part 10 and to use the CATEXs therein, and has been working with DHS Headquarters – Sustainability and Environmental Programs to incorporate its needs into the Department's NEPA procedures. This effort has included identifying FEMA mission-unique and Federal assistance activities that FEMA normally categorically excludes from a higher level of NEPA analysis that are not adequately covered by the existing DHS CATEXs. This gap analysis resulted in the development of the numerous proposed new CATEXs that are described in this document and that are proposed for inclusion in the update to the Department's NEPA procedures. The proposed new CATEXs are necessary in order for FEMA to be incorporated into the Department's NEPA procedures and for FEMA to efficiently carry out its mission while being compliant with NEPA. Once the updates to DHS Directive and Instruction 023-01, Rev. 01 are final and become effective across the Department, FEMA's regulations for implementing NEPA at 44 CFR Part 10 will be rescinded.

DHS currently administers approximately 80 Federal assistance programs (e.g., grant programs). These programs provide assistance such as funding to non-DHS entities for a wide range of emergency management (e.g., disaster preparedness, response, and recovery, and hazard mitigation) and homeland security projects and activities. Depending on the authorizing statute for a particular program, entities who may be eligible to receive assistance from DHS include Tribal, state, and local governments; public and private profit and nonprofit organizations and institutions; and individual citizens. FEMA currently administers the majority of Federal assistance programs in DHS. The Catalogue of Federal Domestic Assistance (see https://www.cfda.gov) provides the list of programs available each year.

Because of FEMA's expanding role in providing Federal assistance, several new CATEXs are proposed for those activities for which DHS has determined there is no potential for individually or cumulatively significant impacts on the quality of the human environment. DHS relied heavily on years of FEMA experience in the development of these CATEXs. However, rather than limiting the proposed CATEXs for Federal assistance activities to use only by FEMA, DHS intends for these CATEXs to be available across the Department because of the possibility that other DHS Components besides FEMA administer Federal assistance programs or may administer such programs in the future. Regardless of which DHS Component provides such assistance to non-DHS entities, DHS has determined that the Federally-assisted activities contemplated by the proposed new CATEXs would not normally have the potential for individually or cumulatively significant impacts on the quality of the human environment, and therefore would not normally require a greater level of NEPA analysis. The proposed new CATEXs for Federal assistance activities are included in Section N of Table 1 in Appendix A of the draft revised Instruction.

Several new CATEXs are also being proposed for activities unique to FEMA, such as the administration of the National Flood Insurance Program (NFIP) and the Agency's various disaster and emergency preparedness, response, and recovery operations. The

proposed new FEMA-unique CATEXs are included in Section M of Table 1 in Appendix A of the draft revised Instruction.

Many of the proposed CATEXs for FEMA and Federal assistance activities are the same as or very similar to those found in FEMA's existing list of CATEXs in its regulations for implementing NEPA at 44 CFR 10.8. FEMA's NEPA practitioners have determined that the CATEXs remain valid and are necessary in order for the Agency to effectively and efficiently comply with NEPA, and therefore should be retained and included in the update to the Department's NEPA procedures. Other proposed CATEXs for FEMA and Federal assistance activities are similar to those found in the existing DHS NEPA procedures, but are intended to apply to actions undertaken by non-DHS entities (e.g., Tribal, state, and local governments) using DHS grant funding or other assistance; whereas many of the existing DHS CATEXs apply to activities undertaken directly by DHS at Department-owned or managed property or facilities. DHS is also proposing several new CATEXs for FEMA activities and Federal assistance activities that have been developed as a result of FEMA's expanding authorities and programs and extensive experience in evaluating potential environmental impacts of Agency actions (both grant and non-grant) over the past eighteen years since FEMA's CATEXs were last updated.

IV. Record of Environmental Consideration (REC)

DHS has determined that documentation of site or project specific information for the application of some of the proposed new CATEXs is necessary to support the finding that the proposed action appropriately fits the category, that extraordinary circumstances either do not exist or have been appropriately addressed, and to meet administrative record requirements for EP&HP requirements other than NEPA, such as the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), Executive Order (EO) 11988 – Floodplain Management, Executive Order 11990 – Protection of Wetlands, and many others. Those proposed new CATEXs that would require such documentation are denoted with an asterisk (*). The documentation required would be a record of environmental consideration (REC). A REC template is included as Appendix C in the draft revised Instruction.

PROPOSED NEW DHS-WIDE CATEXS

The following CATEXs (A8, and C6 through C10) are proposed new CATEXs that would be available to any DHS Component for application to the activities described therein.

ADMINISTRATIVE AND REGULATORY ACTIVITIES

Proposed text: *A8* *Review of documents, at the request of other agencies or entities, that did not originate in DHS.*

Rationale and Support for CATEX

This is a proposed new CATEX based on analysis from the USCG and the experience of NEPA practitioners and environmental protection specialists in other DHS Components. Because of subject matter expertise within DHS or DHS missions or activities that could impact or be impacted by the missions or activities of other agencies or entities, DHS may be asked to review and provide comments on proposals and analyses prepared by those other agencies or entities. There is a need for this new CATEX because of the increased frequency of which DHS is asked to review documents originating outside of the Department; the mere review of documents would not have any impact on the human environment and therefore should not trigger an extensive evaluation under NEPA.

Comparable CATEXs

USCG CATEX

(L4) Review of documents, such as studies, reports, and analyses, prepared for legislative proposals that did not originate in DHS and that relate to matters that are not the primary responsibility of the USCG.

REAL ESTATE ACTIVITIES

Proposed text: **C6* *Congressionally-mandated conveyance of DHS controlled real property to a non-Federal entity.*

Rationale and Support for CATEX

This is a proposed new CATEX based on analysis from the USCG (the Component that manages the largest amount of real property in DHS) and the nature of real property (i.e., kinds and uses) across the Department. DHS is not considered a land managing agency; it is responsible for many small parcels of land, with most not exceeding 20 acres in size and the largest comprising 20,000 acres. Buildings and structures, not land, make up the majority of the Department's real property portfolio. DHS real property serves a wide variety of uses, including but not limited to the following: office, classroom, and other administrative space; waterfront and maritime facilities; airfields;

employee housing; research, development, testing and evaluation (RDT&E) activities; communications infrastructure; industrial activities; and law enforcement and fire fighter training and exercises.

In the Department's experience, Congress has generally mandated conveyance of DHS controlled real property for either of two purposes – one is for uses that are the same as or similar to those of DHS, and the other is for an outright sale to an unknown buyer for unknown purposes. When Congress mandates a transfer of real property, DHS has no discretion whether or not to make the transfer; DHS at most may only have discretion on some aspects of how the transfer is executed. Based on the experiences of NEPA practitioners and environmental protection specialists in DHS Components that have real property management responsibilities, Congressionally-mandated conveyances of any DHS controlled real property is not likely to result, either individually or cumulatively, in significant impacts on the human environment.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements.

Comparable CATEXs

USCG CATEX

(*****L18) Congressionally mandated conveyance of Coast Guard controlled real property to another Federal agency or non-Federal entity.

Benchmarking Other Agency Experience

Other Federal agencies also have CATEXs for this type of action, which serve as additional support for the proposed new DHS CATEX. For example, GSA has considerable experience with a variety of real property management activities, such as leasing, licensing, selling, and disposal. GSA has determined that many of these activities do not have the potential to significantly impact the human environment.

DHS considered the following CATEXs from the GSA in its analysis:

Disposal of real property required by public law wherein Congress has not specifically exempted the action from the requirements of NEPA. (References: GSA Order ADM 1095.1F – Environmental Considerations in Decisionmaking; GSA PBS NEPA Desk Guide (October 1999); Fed. Reg., Vol. 63, No. 123, June 26, 1998)

Proposed text: **C7* *The initial lease of, or grant of an easement interest in, DHS-controlled real property to a non-Federal entity or the amendment, renewal, or termination of such lease or easement interest where the proposed real property use is similar to existing uses.*

Rational and Support for CATEX

This is a proposed new CATEX based on analysis from the USCG (the Component that manages the largest amount of real property in DHS) and the nature of real property (i.e., kinds and uses) across the Department. DHS is not considered a land managing agency; it is responsible for many small parcels of land, with most not exceeding 20 acres in size and the largest comprising 20,000 acres. Buildings and structures – not land – make up the majority of the Department's real property portfolio. DHS real property serves a wide variety of uses, including but not limited to the following: office, classroom, and other administrative space; waterfront and maritime facilities; airfields; employee housing; RDT&E activities; communications infrastructure; industrial activities; and law enforcement and fire fighter training and exercises,

In the Department's experience, leases of DHS controlled real property are normally granted for uses that are the same as or compatible with DHS uses, and easements are normally granted for utilities. DHS remains ultimately in control of the real property under these activities, and therefore DHS's NEPA compliance responsibilities still apply and there would be no change in the level of protection afforded the real property or the human environment. Based on the experiences of NEPA practitioners and environmental protection specialists in DHS Components that have real property management responsibilities, leases or easements of any DHS controlled real property are not likely to result, either individually or cumulatively, in significant impacts on the human environment.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements.

Comparable CATEXs

USCG CATEX

(*****L7) The initial lease of, or grant of, an easement interest in, Coast Guard-controlled real property to a non-Federal party or the amendment, renewal, or termination of such lease or easement interest where the reasonably foreseeable real property use will not change significantly and is similar to existing uses.

Benchmarking Other Agency Experience

Other Federal agencies also have CATEXs for this type of action, which serve as additional support for the proposed new DHS CATEX. For example, GSA has considerable experience with a variety of real property management activities, such as leasing, licensing, selling, and disposal. GSA has determined that many of these activities do not have the potential to significantly impact the human environment. GSA also determined that many of these activities qualify for an "automatic" CATEX, and do not require additional documentation.

DHS considered the following CATEXs from the GSA in its analysis:

Outlease or license of government-controlled space, or sublease of government-leased space to a non-Federal tenant when the use will remain substantially the same. (References: GSA Order ADM 1095.1F – Environmental Considerations in Decisionmaking; GSA PBS NEPA Desk Guide (October 1999); Fed. Reg., Vol. 63, No. 123, June 26, 1998)

Outleases, licenses, and other arrangements for non-federal use of space in existing Federal office buildings, where such use is consistent with local planning and zoning, where Section 106 of the NHPA is complied with where applicable; and there is no evidence of community controversy or unresolved environmental issues. (References: GSA Order ADM 1095.1F – Environmental Considerations in Decisionmaking; GSA PBS NEPA Desk Guide (October 1999); Fed. Reg., Vol. 63, No. 123, June 26, 1998)

Proposed text: ***C8** *The grant of a license to a non-Federal entity to perform specified acts upon DHS-controlled real property or the amendment, renewal, or termination of such license where the proposed real property use is similar to existing uses.*

Rationale and Support for CATEX

This is a proposed new CATEX based on analysis from the USCG (the Component that manages the largest amount of real property in DHS) and the nature of real property (i.e., kinds and uses) across the Department.

In the Department's experience, licenses of DHS controlled real property are normally granted for uses that are the same as or compatible with DHS uses. DHS remains ultimately in control of the real property under these activities, and therefore DHS's NEPA compliance responsibilities still apply and there would be no change in the level of protection afforded the real property or the human environment. Based on the experiences of NEPA practitioners and environmental protection specialists in DHS Components that have real property management responsibilities, licensing of any DHS controlled real property is not likely to result, either individually or cumulatively, in significant impacts on the human environment.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements.

Comparable CATEXs

USCG CATEX

*(*L8) The grant of a license to a non-Federal party to perform specified acts upon Coast Guard-controlled real property or the amendment, renewal, or termination of such license where the proposed real property use is similar to existing uses.*

Proposed text: *C9* *Allowing another Federal agency to use DHS-controlled real property under a permit, use agreement, or similar arrangement or the amendment, renewal, or termination of such permit or agreement where the real property use is similar to existing uses.*

Rationale and Support for CATEX

This is a proposed new CATEX based on analysis from the USCG (the Component that manages the largest amount of real property in DHS) and the nature of real property (i.e., kinds and uses) across the Department.

In the Department's experience, other Federal agencies are normally allowed to use DHS controlled real property for uses that are the same as or compatible with DHS uses. DHS remains ultimately in control of the real property under these activities, and therefore DHS's NEPA compliance responsibilities still apply and there would be no change in the level of protection afforded the real property or the human environment. Based on the experiences of NEPA practitioners and environmental protection specialists in DHS Components that have real property management responsibilities, allowing another Federal agency to use any DHS controlled real property is not likely to result, either individually or cumulatively, in significant impacts on the human environment.

Comparable CATEXs

USCG CATEX

*(*L9) Allowing another Federal agency to use Coast Guard-controlled real property under a permit, use agreement, or similar arrangement or the amendment, renewal, or termination of such permit or agreement where the real property use is similar to existing uses.*

Proposed text: *C10* *Real property inspections to ensure compliance with deed or easement restrictions.*

Rationale and Support for CATEX

This is a proposed new CATEX based on analysis from the USCG (the Component that manages the largest amount of real property in DHS) and the nature of real property (i.e., kinds and uses) across the Department.

Real property inspections involve non-invasive activities such as visual observation and pedestrian surveys. These activities by their nature do not have the potential to

significantly impact the human environment, and therefore should not trigger an extensive evaluation under NEPA.

Comparable CATEXs

USCG CATEX

(L15) Real property inspections for compliance with deed or easement restrictions.

Benchmarking Other Agency Experience

Other Federal agencies also have CATEXs for this type of action, which serve as additional support for the proposed new DHS CATEX. For example, GSA has considerable experience with a variety of real property management activities, such as property inspection, leasing, licensing, selling, and disposal. GSA has determined that many activities related to real property management do not have the potential to significantly impact the human environment. GSA also determined that many of these activities qualify for an "automatic" CATEX, and do not require additional documentation.

DHS considered the following CATEX from GSA in its analysis:

Real property inspections for compliance with deed restrictions. (References: GSA Order ADM 1095.1F (Environmental Considerations in Decisionmaking); GSA PBS NEPA Desk Guide (October 1999); Fed. Reg., Vol. 63, No. 123, June 26, 1998).

PROPOSED NEW CATEGORICAL EXCLUSIONS FOR FEDERAL ASSISTANCE ACTIVITIES

The following CATEXs (N1 through N19) are proposed new CATEXs that would be available for use by any DHS Component for application to a variety of actitivties undertaken by non-DHS entities using Federal assistance.

Proposed text: *N1 Administrative Actions Associated with Grants Management.* *Actions related to grant administration performed at any stage during the grants lifecycle, such as the development and issuance of grant guidance; announcements of availability of funds; project reviews for program eligibility; provision of technical assistance; conducting inspections, financial audits, and monitoring activities; development of information technology systems for grants management; grant close-out activities; and actions taken in situations where a grantee or subgrantee is in non-conformance with grant program requirements, such as disallowances, recoupment of funds, and debarment.*

Rationale and Support for CATEX

Historically, two existing FEMA CATEXs have been applied to FEMA grants management activities. Existing FEMA CATEX (i) is for administrative activities, such as travel, procurement, personnel actions, etc. Existing FEMA CATEX (ii) has been used for many activities related to the preparation, revision, and adoption of grant guidance documents and regulations. Existing DHS CATEXs are also applicable to grants management activities. Existing DHS CATEXs (A1) and (A3) are very similar to existing FEMA CATEXs (i) and (ii); they cover administrative activities and the preparation of guidance documents respectively. In addition, existing DHS CATEX (G2) covers grants for exercises to test the readiness of the nation to prevent or respond to a terrorist attack or a natural or manmade disaster.

A variety of administrative and technical assistance activities are necessary in order for Federal agencies to effectively and efficiently manage and implement their grant programs. DHS has determined, particularly through the extensive experience of FEMA, that these types of activities do not have the potential to significantly impact the quality of the human environment. Through an evaluation of the existing FEMA and DHS CATEXs regularly applied to grants management activities, DHS also determined that the existing CATEXs do not cover the wide range and types of grants management activities performed in the Department and do not take advantage of FEMA's extensive experience in this area. Therefore, DHS is proposing this new CATEX that would encompass the comprehensive suite of grants management activities throughout the full grants lifecycle.

Comparable CATEXs

FEMA CATEXs

(i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day-to-day activities and disaster related activities.

(ii) Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions.

DHS CATEXs

(A1) Personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, and travel.

(A3) Promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) Those of a strictly administrative or procedural nature; (b) Those that implement, without substantive change, statutory or regulatory requirements; (c) Those that implement, without substantive change, procedures, manuals, and other guidance documents; (d) Those that interpret or amend an existing regulation without changing its environmental effect; (e) Technical guidance on safety and security matters; or, (f) Guidance for the preparation of security plans.

(G2) Projects, grants, cooperative agreements, contracts, or activities to design, develop, and conduct national, state, local, or international exercises to test the readiness of the nation to prevent or respond to a terrorist attack or a natural or manmade disaster and where conducted in accordance with existing facility or land use designations. This exclusion does not apply to exercises that involve the use of chemical, biological, radiological, nuclear, or explosive agents/devices (other than small devices such as practice grenades/flash bang devices used to simulate an attack during exercise play).

Proposed text: ***N2 Federal Assistance for Facility Repair.*** *Federal assistance for the repair of structures and facilities in a manner that conforms to pre-existing design, function, location, and land use. This CATEX does not apply to work within or affecting the following: streams; stream banks; seaward of the limit of moderate wave action (LiMWA) (a line mapped to delineate the inland extent of wave heights of 1.5 feet); or the V zone (areas expected to be affected by wave impact of 3 feet or more in height, in a 100-year flood event) if the LiMWA has not been identified. A stream is defined as a body of water with a current, confined within a channel bed and stream banks.This CATEX covers the temporary staging and use of equipment and vehicles to carry out the proposed repair actions as long as best management practices are put in place to control noise, water, and air pollution.*

Rationale and Support for CATEX

DHS, primarily through FEMA, routinely approves actions of a similar nature, scope, and intensity to those proposed in this new CATEX. When funded under FEMA's Public Assistance program, these actions are covered by a statutory exemption from NEPA as an action returning a facility to its pre-disaster condition as long as it substantially conforms to the pre-existing design, function, and location. When the repair action is taken under a program other than Public Assistance, FEMA has applied its existing CATEX (xv). The proposed CATEX is derived from existing FEMA CATEX (xv), but covers repair activities only and does not apply to such activities when they would be located in certain environmentally sensitive areas. Repair activities that are connected or combined with other actions that go beyond the indicated parameters (i.e. pre-existing design, function, and location) would not be covered under this CATEX.

Most DHS assistance for repair and maintenance activities comes from FEMA's role in disaster assistance providing grants to state and local governments and communities in preparation for and response to disasters. FEMA's extenstive experience has shown that these actions do not normally have the potential for individually or cumulatively significant environmental impacts.

For the purposes of this proposed CATEX, a facility is anything manmade that provides a service, and a structure is a walled and roofed facility. "[I]n a manner that conforms to pre-existing…" is intended to mean that the repair would return the facility or structure to its form prior to DHS's involvement (i.e., prior to an incident that resulted in a Federal disaster or emergency declaration and application for Federal assistance). "Design, function, and location" are qualifiers for this CATEX intended to limit the proposed repair activity to pre-existing land use(s). This CATEX would not cover expansion of the footprint beyond the footprint of the original facility, activities that would result in the removal of native vegetation, or substantial ground disturbance. The CATEX would cover the temporary staging and use of equipment and vehicles to carry out the proposed repair actions as long as extraordinary circumstances are evaluated, any conditions that result from the environmental review are met, and best management practices are put in place to control pollution (e.g. noise, stormwater runoff, air pollution, dust, energy, and waste).

This proposed CATEX intentionally does not cover activities involving repair in stream banks. FEMA NEPA practitioners have found over the years that the availability of a statutory exemption from NEPA under Section 316 of the Stafford Act and the availability of a repair CATEX may encourage stream bank hardening and stream crossing repair practices that are detrimental to fish and species habitat or that may not take full advantage of hazard mitigation measures that would reduce the potential for future damage and the impacts on fish habitat. The availability of the repair CATEX and statutory exemption may encourage applicants for FEMA assistance to pursue stream bank repair practices that are harmful to these resources in order to restore their communities quicker because engaging in more thoughtful stream bank repair projects may trigger a higher level of NEPA analysis (e.g., EA). DHS is proposing a new

separate CATEX (N4*) that specifically addresses repairs in streams to eliminate this disincentive.

Since 2008, FEMA has been mapping the landward limit of the area subject the moderate wave action or LiMWA (i.e., the area that is potentially subject to action from waves of 1.5 feet or more during the one-percent-annual-chance flood in any given year). If a LiMWA has not been identified, then the DHS reviewer should use the V zone in a FEMA FIRM. Repairs in these areas would not be covered by this CATEX; rather, DHS is proposing a new separate CATEX (N5*) for actions in these coastal areas.

It is important to note that for FEMA repair actions under Section 406 of the Stafford Act (Public Assistance) in streams and areas subject to moderate wave action, the statutory exemption is still applicable.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with repair actions are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, and EO 11988, among others.

Comparable CATEXs

FEMA CATEX

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.

DHS CATEX

(D3) Repair and maintenance of Department-managed buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use or an impact on a historically significant element or setting (e.g. replacing a roof, painting a building, resurfacing a road or runway, pest control activities, restoration of trails and firebreaks, culvert maintenance, grounds maintenance, existing security systems, and maintenance of waterfront facilities that does not require individual regulatory permits).

Proposed text: **N3 Federal Assistance for Property Acquisition and Demolition.* *Federal assistance for the acquisition of properties and the associated demolition and removal when the acquisition is from a willing seller, the assistance is solely for the purposes of financial compensation for the acquisition, and the land is deed restricted to open space, recreational, wildlife habitat, or wetland uses in perpetuity. This CATEX covers actions associated with the determination of program eligibility. This CATEX does not cover*

Federal assistance actions that involve acquisition for the purpose of construction or development at a site in the acquired property. The use of eminent domain is explicitly excluded from the CATEX.

Rationale and Support for CATEX

DHS, through FEMA, routinely approves actions of a similar nature, scope, and intensity as those in this proposed new CATEX, and has applied existing FEMA CATEX (vii) to such actions. FEMA engages in the acquisition of structures and facilities subject to hazards and the associated removal of those structures through demolition where the intent of the project is to eliminate the hazard by removing occupants and structures. In addition to the acquisition of property, this includes the removal of structures (intact or demolished) from acquired property. Projects include those funded under the Hazard Mitigation Assistance (HMA) programs (i.e. Hazard Mitigation Grant Program [HMGP], Flood Mitigation Assistance [FMA], Pre-Disaster Mitigation [PDM], Severe Repetitive Loss [SRL], and Repetitive Flood Claims [RFC] grant programs). These programs fund the acquisition (or buy-out) of properties, their removal, and actions to turn the property to open space in perpetuity in accordance with requirements of Section 404 of the Stafford Act and FEMA regulations at 44 CFR Part 80 (Property Acquisition and Relocation for Open Space). The proposed CATEX would also cover projects under other DHS grant programs as long as they meet the same conditions applicable to the HMA programs (i.e., willing seller and open-space deed restriction). The category does not include development of a site in the acquired property. Actions that involve acquisition for the purpose of construction or development of other projects would be evaluated under other CATEXs that cover the subsequent actions or in more extensive NEPA analyses (i.e. EA, EIS) if there is no applicable CATEX. The use of eminent domain is explicitly excluded from this CATEX.

When DHS, through FEMA's hazard mitigation grant programs, provides funds for the property acquisitions contemplated under this proposed CATEX, the purpose of the funding is solely to acquire the property and compensate the landowner for the buyout. DHS does not have any discretion or ability to place conditions on the future use of the funds once they have been transferred to the landowner and where demolition and deed restriction of the eligible property will be accomplished.

The proposed CATEX would cover actions associated with the determination of program eligibility such as performance of phase I environmental site assessments under the U.S. Environmental Protection Agency's "all appropriate inquiries" rule, identification and evaluation efforts for historic properties, minor invasive survey and field work, and inspection actions.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters

with acquisition/demolition actions are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, and EO 11988, among others.

Comparable FEMA CATEX

(vii) The acquisition of properties and the associated demolition/ removal [see (xii)] or relocation of structures [see (xiii)] under any applicable authority when acquisition is from a willing seller, the buyer coordinated acquisition planning with affected authorities, and the acquired property will be dedicated in perpetuity to uses that are compatible with open space, recreational, or wetland practices.

Proposed text: **N4 Federal Assistance for Actions Involving Stream Work and Modification and Floodways.* *Federal assistance for repair and restoration actions, hazard mitigation actions other than flood control, or the new construction of facilities that are functionally dependent or facilitate open space use, when the actions are within or affect regulatory floodways, streams, and stream banks and that*

a. *Involve ground disturbance of less than one-half acre,*
b. *Involve stream bank work or alteration of less than 300 linear feet,*
c. *Do not involve hardening or armoring of the stream banks unless the project uses stream or stream bank bioengineering techniques,*
d. *Do not result in adverse flood risk effects to downstream communities,*
e. *Do not result in any increase of flood levels within the community during the occurrence of the base flood discharge if the action takes place within the regulatory floodway, and*
f. *Where the effect of the proposed project when combined with other existing or reasonably foreseeable development will not increase water surface elevation of the base flood more than one foot at any point within the community if it the action takes place in a floodplain with no regulatory floodway.*

Rationale and Support for CATEX

This proposed new CATEX is derived from existing FEMA CATEXs (xv) and (xvi) and existing DHS CATEXs (D5) and (D6). When conditions a-f listed in the CATEX are met, DHS has determined through its experience that it is appropriate to categorically exclude these activities from a higher level of NEPA analysis because they do not normally have the potential to result in individually or cumulatively significant environmental impacts.

This proposed CATEX covers actions affecting streams such as improvements within stream banks, repair of stream crossings (bridges, culverts), and actions to protect banks from scour and erosion. The limitations associated with ground disturbance of less than one-half acre and stream bank work of less than 300 linear feet are intended to be similar to thresholds established by the U.S. Army Corps of Engineers for the Nationwide

Permit Program under Section 404 of the Clean Water Act. The intent behind limitations (d) through (f) is to incorporate Executive Order 11988 – Floodplain Management considerations into the CATEX. These limitations ensure that DHS is not encouraging practices that would be inconsistent with floodplain management requirements of National Flood Insurance Program (NFIP) participating communities. Under the NFIP, participating communities can allow development that does not meet limitations (e) and (f) as long as a Conditional Letter of Map Revision (CLOMR) is requested and approved by FEMA. An activity that does not meet limitations (e) and (f) but for which a CLOMR is sought and obtained would require an EA prior to issuance of the CLOMR.

FEMA NEPA practitioners have found over the years that the availability of a statutory exemption from NEPA under Section 316 of the Stafford Act and the availability of a repair CATEX may encourage stream bank hardening and stream crossing repair practices that are detrimental to fish and species habitat or that may not take full advantage of hazard mitigation measures that would reduce the potential for future damage and the impacts on fish habitat. DHS is concerned about federal assistance applicants pursuing stream bank repair practices that could be harmful to natural resources in order to restore their communities more quickly rather than engaging in the development of more thoughtful stream bank repair projects that could trigger a more extensive NEPA analysis. This proposed CATEX addresses this concern by encouraging practices that improve environmental quality and wildlife habitat, and mitigate the impacts of future floods.

The term “bioengineering,” as used in this CATEX, means the use of a combination of biological, mechanical, and ecological concepts to control erosion and stabilize soil through the sole use of vegetation or a combination of vegetation and construction materials. Another similar definition is the use of living and non-living plant materials in combination with natural and synthetic support materials for slope stabilization, erosion reduction, and vegetative establishment. The methods should emulate natural conditions or processes. Non-bioengineering measures that involve hardening of banks, such as the placement of rip-rap and steel sheet piles, are not covered by this proposed CATEX and would require preparation of an EA or EIS.

DHS is aware that extraordinary circumstances in stream modification activities could arise and necessitate a higher level of NEPA analysis. For this reason, the application of this CATEX to any proposed stream modification activity or action within a stream would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements.

Comparable CATEXs

FEMA CATEXs

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment.

DHS CATEXs

(D5) Maintenance dredging activities within waterways, floodplains, and wetlands where no new depths are required, applicable permits are secured, and associated debris disposal is done at an approved disposal site. This CATEX encompasses activities required for the maintenance of waterfront facilities managed primarily within the U.S. Coast Guard and Customs and Border Protection.

(D6) Maintenance of aquatic and riparian habitat in streams and ponds, using native materials or best natural resource management practices. Examples include, but are not limited to: (a) Installing or repairing gabions with stone from a nearby source,(b) Adding brush for fish habitat, (c) Stabilizing stream banks through bioengineering techniques, and (d) Removing and controlling exotic vegetation, not including the use of herbicides or non-native biological controls.

Supporting EAs

Lawton Interceptor Protection, City of Reno, Nevada, September 2010. (http://www.fema.gov/library/viewRecord.do?id=4344)

As a result of flooding in 1997 and during the 2005–2006 wet season, the Truckee River migrated as much as 80 feet north from its typical wetted channel location. The risk of further migration of the river and bank erosion was high. The Lawton Interceptor, a sanitary sewer line located approximately 200 feet from the edge of the current river channel, could be compromised by further migration of the river and by bank erosion. The proposed project would reduce the potential for sewer rupture. Approximately 150 feet of the northern bank of the river would be stabilized using current bioengineering methods. The stabilization methods were selected by the City with input from both U.S. Fish and Wildlife Service and the Nevada Department of Wildlife.

The stabilization would include installing root wads at an angle along the river bank to deflect stream flows. Root wads are lengths of downed trees that include the root wad and a portion of the trunk. The trunk portion of the root wad would be approximately 20 feet long and 2 feet in diameter, and the root mass would be approximately 6 feet in

diameter. Installation would include burying approximately forty 24- to 30-inch-diameter ballast rocks to anchor the root wads, which would be anchored with a stainless steel aircraft cable.

Trees for the root wads would be obtained locally. Willow plantings would also be installed along the bank by excavating to a depth at which the roots would be sitting in the water to ensure that the willow plantings would establish and provide bank stabilization.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Franklin Branch Stream Stabilization, Oakland County, Michigan, July 2003.
(http://www.fema.gov/library/viewRecord.do?id=1978)

Bloomfield Township, Michigan applied for HMGP funding to reduce or prevent damages to residential structures located along the Franklin Branch of the Rouge River. The need for the project was to address the potential for severe erosion and address downstream sedimentation issues.

The proposed action for streambank stabilization included channel stabilization techniques modeled after natural features found in streams such as placement of artificial riffle consisting of fieldstone and smaller cobbles behind a 1-foot trench, boulder cross vanes, and other boulders strategically placed within the stream. Bank armoring included rootwad revetments, brush mattress (dogwood and willow), and establishment of point bar vegetation using native species. The last component involved floodplain terracing that was covered with a mixture native woody and herbaceous species. This proposal contained portions where rip-rap and steel sheet and pilings were used.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Fleshman Creek Flood Mitigation Project, Livingston, Montana, April 2010.
(http://www.fema.gov/media-library/assets/documents/91546)

The proposed action would upgrade culverts at six street/road crossings; install hydrodynamic separators at storm water outfalls to enhance gravity separation of suspended storm water pollutants; enhance, create, or modify wetlands along the creek channel; and increase the sinuosity of the creek. The project would also include channel augmentations, bank stabilization and revegetation, and relocation of utilities. The proposed action would incorporate the strategic use of coir (coconut) fabric to allow for creation of steeper bank angles and critical cover features. After channel alterations are complete, the project would also incorporate other bank stabilization/erosion prevention

methods, such as Best Management Practices (BMPs), and would revegetate disturbed area with native plants to reduce sediment loads in the creek.

Findings: Based upon agency comments and the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Midway Creek Fish Culvert and Road Abandonment Project, Cowlitz County, Washington, October 2011. (http://www.fema.gov/library/viewRecord.do?id=4945)

The Washington State Department of Natural Resources applied for Public Assistance funding to install a fish-passable culvert in Midway Creek, remove existing culverts, and abandon a small segment of road. The new culvert would be sized appropriately using the Washington Department of Fish and Wildlife (WDFW) Fish Passage, Design Guidance and Standards (WDFW 2011a). The project would also abandon 955 feet of the E-4310 Road, removing two culverts that have been identified as barriers to fish passage. The project would include: On E4310 Road - removal of three culverts, road abandonment and revegetation with native ground cover; and on E4300 Road - road improvement (new surfacing and addition of drainage structures), a temporary bypass to divert flow around the work area, and installation of the culvert (12-foot diameter metal culvert to ensure fish passage). Channel restoration would take place on both roads.

Findings: Based upon agency comments and the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: **N5 Federal Assistance for Actions in Coastal Areas Subject to Moderate Wave Action or V Zones.* *Federal assistance for repair, hazard mitigation, new construction, or restoration actions of less than one-half acre within the following areas: areas seaward of the limit of moderate wave action (LiMWA) (a line mapped to delineate the inland extent of wave heights of 1.5 feet) during the base flood (an area that has at least a one-percent chance of being flooded in any given year); or areas within the V zone (a coastal area where there is a velocity hazard due to wave action) if the LiMWA has not been established. The actions must meet the following criteria:*

a. They are consistent with the State or Tribe enforceable policies of approved coastal management programs,
b. They are not within or affect a Coastal Barrier Resource System unit,
c. They do not result in man-made alterations of sand dunes,
d. They do not result in the permanent removal of vegetation (including mangrove stands, wetlands, and dune vegetation),

e. Applicable Federal requirements and local codes and standards are followed, and

f. If they involve substantial improvement or new construction of structures, the structure is elevated in open works (e.g. piles and columns) as opposed to fill in a manner that the bottom lowest horizontal structural member is at or above the base flood level, the foundation is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads, and the siting of the project conforms to applicable State, Tribe, or local setback requirements.

Examples of activities covered by this CATEX include but are not limited to: the repair and elevation of structures; repair and new construction of jetties and groins; the repair, hazard mitigation, and new construction of functionally dependent facilities such as piers, marinas, boat ramps, bathrooms, and port facility structures; and beach restoration projects except projects that result in the man-made alteration of dunes and wetlands such as beach nourishment projects.

Rationale and Support for CATEX

This is a new CATEX derived from FEMA's existing CATEXs (xv) and (xvi), which cover repair, restoration, and mitigation activities. Based on its evaluation of the existing FEMA CATEXs and FEMA's experience evaluating potential environmental impacts of numerous proposed hazard mitigation and disaster recovery grant projects in coastal areas, DHS identified the need to develop a CATEX specifically for actions located in coastal areas because of the unique environmental values and flood risks that are inherent in these areas.

FEMA policies and procedures for identifying and mapping flood hazards are based on building science research that demonstrates that design and construction requirements and performance of buildings in these areas are of significant concern. For example, FEMA has been mapping the landward limit of the area subject to moderate wave action or LiMWA (i.e., the area that is potentially subject to action from waves of 1.5 feet or more during the one-percent-annual-chance flood in any given year) since 2008. In addition, national and international construction consensus standards such as the American Society of Civil Engineers (ASCE) and the International Building Codes (IBC) (see http://www.asce.org and http://www.iccsafe.org) have recognized special standards to address coastal construction practices in these areas.

This proposed CATEX covers actions that occur in those coastal areas subject to moderate wave action. It applies to actions such as repair and elevation of structures; repair and new construction of jetties and groins; the repair, hazard mitigation, and new construction of functionally dependent facilities such as piers, marinas, boat ramps, bathrooms, and port facility structures; and beach restoration projects except projects that result in the man-made alteration of dunes and wetlands such as beach nourishment.

Activities that result in ground disturbance of more than ½ acre would require a higher level of NEPA analysis (an EA at minimum) that would identify alternatives and minimization measures, and provide for public involvement. The ½ acre was developed as a threshold to limit the amount of disturbance that occurs in coastal areas. This acreage limitation balances the goals to discourage development in floodplains (EO 11988), discourage activities that would affect the Nation's coastal environment (EO 13547), and meet the DHS mission of assisting in the preparation, recovery, and mitigation of communities to make them more resilient. The limitations are also intended to incorporate considerations associated with the Coastal Zone Management Act (CZMA) and the Coastal Barrier Resources Act (CBRA).

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with actions in coastal areas are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, EO 11988, CZMA, and CBRA.

Comparable FEMA CATEXs

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment.

Supporting EAs

Johnson Bayou Fire Station/ Waterworks District Building Relocation, Louisiana, October 2011. (http://www.fema.gov/library/viewRecord.do?id=4865)

The proposed action by FEMA is to provide funding to assist with the relocation of a fire station that was damaged by Hurricane Rita in 2005.
The proposed replacement action is for construction of a combined Fire Station and Waterworks facility at a site approximately one mile southeast of the original location in the unincorporated community of Johnson Bayou. The applicant designed the replacement facility to incorporate the hurricane damaged facilities, the Fire Station and the Waterworks. The facility would include 6,600 square feet, an increase in square footage due to required and relevant codes and standards.

The proposed design consists of a 6,600 square foot facility that would be built to current codes and standards for Coastal High Hazard A Zones including the International Building Code of 2006 and its referenced American Society of Civil Engineering 24-05 Standard, Flood Resistant Design and Construction. Additionally, the building will be elevated as required to the established design flood elevation using concrete columns including a concrete slab-on-grade with turned down perimeter beams for scouring mitigation. Other structural components include an elevated first floor consisting of a cast-in-place concrete floor slab and beams, a structural steel building frame for supporting pre-engineered steel wall systems and roof trusses, diagonal bracing, and an elevator with a concrete shaft. The proposed project requires site grading including the addition of non-structural fill (1 foot or less over approximately ½ acre). There is existing access to the needed utilities.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Regional Marine Security Center, Sabine Pass, Texas, April 2011. (http://www.fema.gov/library/viewRecord.do?id=4661).

Jefferson County, Texas (Jefferson County) needs to improve security along the Sabine Pass Waterway by enhancing the capabilities of the Sabine Pass Port Authority complex. The ultimate goal is to be able to achieve the mission of providing 24-hour law enforcement presence on area waterways.

The Proposed Action Alternative is the construction of a new Regional Marine Security Center within the Sabine Pass Port Authority complex in Sabine Pass, Jefferson County (Latitude: 29.73635, Longitude: -93.88345). The proposed project area is a vacant lot within the Sabine Pass Port Authority complex and has been previously graded and disturbed. A modern port building is located to the east of the proposed site. The Proposed Action Alternative will include the construction of a 3,200 square foot marine security building and an unpaved parking area on the site. An existing boat slip will be improved by replacing the current wood bulkheads with steel. Additionally, a covered dock with seven (7) in-water slips and finger piers will be constructed, complete with lifts and shore power stations. The new facilities will be connected to existing sewer and utility systems in the area, and this work will be conducted within the property limits of the project site. With the construction of the facilities and parking area, the total projected disturbance area will be less than 1.0 acre. Figure 1 maps the elements of the Proposed Action Alternative.
Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Security Operations Control Center Facility, Albany County, New York, November 2011. (http://www.fema.gov/library/viewRecord.do?id=4904)

New York State has recently increased its interest in revitalizing the Erie and Champlain Canal Systems for moving commercial products via water. Recent improvements such as replacing wharfs, extending rail lines and expanding heavy lift equipment has resulted in an increased amount and variety of cargo arriving at and leaving the Port of Albany. Increased cargo movement increases the potential of a security breach at the port as well as surrounding geographical areas, thus it is critical to upgrade the existing security operations to protect the port and surrounding communities.

The scope of work for the proposed project would include demolition of two pre-fabricated metal buildings, and movement or demolition of two trailer/modular office spaces to clear the site for construction of a new 40' x 100' building to house the Security Operations Control Center. The building would be located at the main entrance to the Port of Albany terminal and would replace the existing security trailer that is currently there for this purpose. The new facility would connect to existing utility lines. The proposed project would also include relocation of electronic security equipment to the new facility including the command console, video wall comprising 6 flat panel LCD monitors, Digital Video Surveillance recorders, and access control server used to manage all access control to the restricted areas of the Port of Albany.

The two metal, pre-fabricated structures were historically used as U.S. Coastguard stations. Presently, one is being utilized by the Seaman's Ministry, an international organization that cares for the personal, professional, and spiritual needs of mariners. The Seaman's Ministry operation would be relocated to another facility.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: **N6 Federal Assistance for Relocation/Realignment of Structures and Facilities.* *Federal assistance for relocation of structures and facilities, including the realignment of linear facilities that are part of a bigger system, when they do not involve ground disturbance of more than one acre. This category does not apply to the following: actions that involve hardening or armoring of stream banks, unless they use stream or stream bank bioengineering techniques; realignment actions affecting a regulatory floodway if they result in any increase in flood levels during the base flood discharge; or actions occurring seaward of the limit of moderate wave action (or within V zones when the limit of moderate wave action has not been identified)*.

Rational and Support for CATEX

The relocation of structures and facilities from one site to another site, including the realignment of roads and utilities, is an activity frequently funded by DHS through FEMA's grant programs. This category of actions has been the source of an extensive number of EAs within FEMA, where the relocation occurs in both previously disturbed and previously undeveloped areas. This proposed CATEX addresses both scenarios.

This proposed CATEX covers relocation of structures and facilities under any DHS Federal assistance authority, such as FEMA's HMA grant programs and Public Assistance. While this proposed CATEX could be used under any DHS Federal assistance program, most of the projects anticipated to be covered under the proposed CATEX are hazard mitigation projects. Relocation as used in this CATEX means both the physical relocation of a facility as well as the demolition of a facility and construction of the same function in a new area. It also covers the relocation and realignment of linear features such as roads, trails, and utility lines. The action may occur in undeveloped or undisturbed areas but ground disturbance and construction activities must be limited to less than one acre. The one acre limitation is consistent with the proposed CATEX (*N8) for new construction in previously undeveloped areas. This limitation is based on the need for stormwater pollution prevention permits for construction activities of more than one acre under the Clean Water Act. For construction activities of more than one acre, preparation of an EA or EIS would be required in order to give appropriate consideration to alternatives and public involvement.

Relocation or realignment actions in areas subject to moderate wave action are not meant to be covered by this CATEX. They may be covered by the separate CATEX specifically applicable to those areas if the action meets the conditions established therein.

Realignment of roads and linear features can sometimes affect streams and their banks. This CATEX is not intended to cover such actions unless the applicant uses stream or stream bank bioengineering techniques. This is intended to be consistent with the proposed new CATEX (*N4) for actions affecting streams and stream banks. The limitation of realignment actions in regulatory floodways, if they result in any increase in flood levels during the base flood discharge, is meant to ensure that DHS is not encouraging practices that would be inconsistent with floodplain management requirements of NFIP participating communities. Under the NFIP, participating communities can allow development that results in an increase in flood levels as long as a CLOMR is requested and approved by FEMA. Realignment actions that do not meet the restriction but for which a CLOMR is sought and obtained would require an EA.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with realignment/relocation actions are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, and EO 11988, among others.

Comparable FEMA CATEXs

(xiii) Physical relocation of individual structures where FEMA has no involvement in the relocation site selection or development.

(ix) Acquisition, installation, or operation of utility and communication systems that use existing distribution systems or facilities, or currently used infrastructure rights-of-way.

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment.

Supporting EAs

Taputapu Elementary School Replacement, Fagali'i, American Samoa, June 2013. (http://www.fema.gov/media-library/assets/documents/32925?id=7623)

The Taputapu Elementary School was destroyed by the September 2009 earthquake, tsunami and flooding disaster at its original location in the village of Poloa. The Proposed Action is to construct a replacement Taputapu Elementary School campus on a site approximately 0.6 mile to the north of the pre-disaster campus, in the village of Fagali'i. The proposed site is approximately 1.56 acres in area and is located at an average elevation of approximately 285 feet above mean sea level (AMSL), outside the 500-year floodplain. Any replacement facilities will be protected from future flood hazards as required by the regulations of both FEMA and the American Samoa Government. The proposed site is adjacent to a paved road with conduit for utilities running along the right-of-way. The Proposed Action includes the following on the 1.6-acre site:

- a concrete playground (approximately 1,000 square feet);
- concrete walkways within the campus (approximately 2,028 square feet);
- a gravel driveway (approximately 1,480 square feet);
- a two-story classroom and administration building (approximately 6,272 square feet);
- a two-story cafeteria and classroom building (approximately 1,960 square feet);
- a restroom building (approximately 450 square feet); and
- an unpaved parking lot (approximately 1,080 square feet).

The proposed site is sufficient in size to contain all elements of the replacement school and provide flexibility for layout configurations of the elements within the campus. Current plans are conceptual and the layout of the facilities within the project area may vary as the construction documentation plans are developed.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Satala Operations Building Replacement, Village of Satala, Island of Tutuila, American Samoa, June 2013. (http://www.fema.gov/medialibrary/assets/documents/33001?id=7647)

The Proposed Action is the construction of a replacement operations building and parking lot for the American Somoa Power Authority (ASPA) Satala at its power plant complex in the village of Tafuna, Tualauta County. The Satala facility was destroyed as a result of the earthquake, tsunami, and flooding that occurred in September 2009. The Tafuna power plant complex is approximately 0.5 mile inland and approximately 40 feet higher in elevation than the Satala operations building site. The project site of the replacement operations building and parking lot is within an area of approximately 13,000 SF in the southeast corner of the ASPA Tafuna power plant complex. Currently, this area is used for storage of used materials and equipment, supplies, containers, an improvised office trailer, a two sheds used for assembling materials. The two sheds would be demolished and reconstructed in the western portion of the complex.

The proposed replacement operations building is to be an approximately 13,000 SF one-story building. Approximately 30 parking spaces would be constructed for staff and customers. The building will house several ASPA departments and include restrooms, storage spaces for mechanical and electrical equipment, and kitchens/break rooms. Photovoltaic panels are being considered for the roof of the new building. A smaller, second story is also under consideration.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Le'Atele Elementary School Buildings Replacement Fagasa, American Samoa, May 2013. (http://www.fema.gov/media-library/assets/documents/32732?id=7560)

The Proposed Action is to replace three buildings at the Le'Atele Elementary School in Fagasa Village that were severely damaged by the September 2009 tsunami. The Le'Atele Elementary School grounds comprise approximately 2.4 acres adjacent to Fagasa Bay at the western end of the village of Fagasa. The Proposed Action is to replace the administration building, early childhood education (ECE) building, and kitchen/cafeteria building with a two-story multiuse building constructed to current codes and standards. The new structure would be located on a portion of what is now an informal play area, an approximately 7,000-square-foot level field of turf grass. The proposed building location would be southwest of and immediately adjacent to the school's existing two-story classroom building.

The proposed location of the replacement building is within FEMA Flood Zone AE, indicating high-risk areas with a 1 percent or greater chance of flooding, with a defined base flood elevation (BFE). Because the structure is located in Zone AE, the finished floor elevation (FFE) of the lowest floor must be elevated at or above the BFE per federal and American Samoa floodplain management requirements. The finished bottom of the lowest horizontal member supporting the lowest habitable floor of the building would be at an elevation of 18.0 feet above median sea level (AMSL). Assuming a 1-foot vertical dimension between the finished bottom of the horizontal member supporting each floor and the finished floor above as well as a 10-foot ceiling height, the finished floor elevation (FFE) for the first floor would be 19.0 feet AMSL and the second floor FFE would be 30.0 feet AMSL.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Rehabilitation and Relocation of Historic U.S. Customs House, City of Eagle, Alaska, June 2010. (http://www.fema.gov/library/viewRecord.do?id=4224)

The purpose of this project was to provide funds to repair a Customs House that was damaged and displaced from its foundation by flooding and ice jams, and to move it to a site that offered better protection from future flood events. The structure is a contributing building to the Eagle National Historic Landmark (NHL) District which was established on June 2, 1978. It is the only remaining Klondike Gold Rush Era building on Eagle's Historic Yukon River waterfront. The City has determined there is a need to restore and preserve its historic significance and to make it reusable as a museum for the community as soon as feasibly possible. Because the building contributes to an NHL district, an EA was prepared to address the presence of this extraordinary circumstance as required by FEMA's regulations at 44 CFR 10.8(d)(3).

The current site of the Customs House is located at the northern edge of the impacted flood damage in Eagle. It is proposed to repair the Customs House to its original pre-disaster condition and to relocate the site to higher ground along the riverfront. The new site is located approximately 320 feet to the northwest of the current location at the burned and destroyed historic Episcopal Manse location. The new site is owned by the EHSM and is located immediately adjacent to the Episcopal Church, a log structure which was also constructed in 1900, on the location of the former Rectory of that church which was destroyed by fire. The proposed site location was not affected by the recent disaster and is situated approximately 25 feet higher in elevation and set further back from the river.
The house would be re-set on a reconstructed post and pad foundation. Site preparation would be minimal, as the ground is mostly level and has been previously cleared of vegetation. The building would be repaired to its pre-disaster condition in accordance with the Secretary of Interior's standards for the rehabilitation of historic buildings. In the Condition Assessment Report (CAR) prepared in 2009, it suggests that while the

building was heavily damaged it is repairable. The report also identified the desirability of relocating the structure to a safer site.

In addition to the relocation and restoration of the Customs House itself, this project envisions the reestablishment of other auxiliary features, including but not limited to perimeter fencing (a white painted two-rail fence), exterior displays, and a flagpole.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Troublesome Creek Trail Repair Project, Denali State Park, Alaska, June 2009. (http://www.fema.gov/library/viewRecord.do?id=3620)

The proposed action by FEMA is to provide partial project funding to the Alaska Department of Natural Resources (DNR) to repair damaged segments along the existing Troublesome Creek Trail in Denali State Park.

The proposed project would repair portions of the 24-inch wide by 8.5 mile long trail or realign/relocate about 3.5 miles of the trail. Repair activities would include: clearing debris that blocks the trail (or infringes upon the right-of-way); clearing areas of overgrown vegetation; and replacing seven (7) stream crossings. Realign/Relocate activities will focus on moving portions of the trail outside of the active floodplain and onto higher ground to avoid risk of exposure to future flood events. These activities include: route selection; site specific design; clearing and grubbing vegetation; installing switchbacks (in steeper segments of the trail); and implementing Best Management Practices (BMPs) to preserve the water quality of local streams for a 24-inch wide trail. Construction activities will involve the use of small-scale construction equipment and hand tools.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Repair Options for the Battery Park Trunk Sewer Line, Richmond, Virginia, March 2007. (http://www.fema.gov/library/viewRecord.do?id=2492)

The proposed action by FEMA is to provide funding to the City of Richmond to relocate a portion of the Battery Park Trunk Sewer Line (BPTS) that was severely damaged in 2006 when a sinkhole, associated with Tropical Depression Ernesto, collapsed and crushed the sewer line causing continued flooding and associated health hazards. Alternatives 1 and 2 would relocate the damaged portion of the BPTS to avoid encountering the municipal solid waste material that lies above the existing line to the greatest extent possible. Alternative 1 would involve the construction of a new section of sewer, approximately 1500-foot long, as well as 2 or 3 large work shafts. At least one of the shafts would be excavated in an area known to contain municipal solid waste

material. Alternative 2, approximately 2800-feet long, is designed to avoid the potential for contact with municipal solid waste material nearly entirely by extending the new sewer alignment much further to the north and west.

Findings: Based upon the results of the EA, it has been determined that both of the proposed alternatives will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Consensus Professional Opinion

DHS has determined through the professional knowledge and experience of its staff familiar with the types of activities contemplated by the proposed CATEX that these activities do not typically result in a significant impact on the human environment.

DHS, through FEMA's disaster recovery programs, provides assistance for relocation and realignment activities most frequently when a road is washed out due to flooding. These activities can also occur in open spaces, such as trails (and rails-to-trails). When channels change, FEMA and/or the affected community often determines it is not feasible, realistic, or cost effective to put structures and facilities back in where they were previously located. Other reasons to relocate facilities include mitigation of risk from natural disaster such as hurricanes, tsunamis, coastal flooding, landslides, and mudslides. Finally, communities frequently want to relocate facilities for reasons unrelated to natural disasters.

For example, rural electric cooperatives as well as municipalities often desire to relocate electrical systems to be adjacent to a road for service and maintenance points when infrastructure is replaced. FEMA typically uses existing categorical exclusion (ix) for such projects. Another instance when an activity could fall under this categorical exclusion is when there is a water line underneath an existing road and communities want to relocate other utility lines into the same easement or same location under the road. Relocation of domestic water lines, sewer lines, and telephone lines in a similar fashion are other examples of actions that meet this categorical exclusion. FEMA also uses categorical exclusion (ix) to relocate siren poles for tornado or tsunami warning sirens and other emergency warning devices.

The consensus professional opinion of the below-named individuals, based on their experience with FEMA and other public organizations as part of managing the environmental liabilities of the organization, is that the activities covered by the proposed CATEX do not under normal circumstances result in significant environmental impacts.

Professional Credentials

Mr. Ken Sessa and Mr. Morgan Griffin provided this professional opinion. Their credentials are provided below.

Ken Sessa, FEMA Regional Environmental Officer, Region 7

• **Education:** 1991 Bachelor of Science in Civil Engineering, Missouri University of Science and Technology, Civil Engineering has been an ABET Accredited engineering program continuously since 1936.
• **Training:** Previous course instructor for FEMA E253 Coordinating Environmental and Historic Compliance and E265 Advanced Methods of FEMA'S Historic Preservation Program trainings. Formal training and development in multiple environmental laws and regulations, to include seminars in: CERCLA/Superfund, NHPA, NEPA, RCRA, CWA, CAA, TSCA, and others. Formal training in several environmental fields, to include seminars in: alternative manufacturing to include process modification and solvent substitutions, alternative environmental remediation techniques, ecosystem restoration, industrial wastewater treatment, municipal wastewater treatment, solid and hazardous waste management, and others.
• **Years of related experience:** Mr. Sessa has over 25 years in NEPA compliance. Beginning his career with the Missouri Department of Transportation, he prepared noise analysis environmental analysis to support EISs for urban and suburban highways. Mr. Sessa spent the next seven years as an Environmental Engineer for the U.S. Department of Energy in the nuclear weapons design and manufacturing where he applied environmental engineering principles to nuclear weapons production. This included NEPA compliance, team participation on several programmatic EAs and EISs within DOE, air quality permitting (including about 90% CFC solvent reduction at the Kansas City Plant), industrial wastewater pretreatment, process modification to reduce environmental impacts (air emissions, wastewater treatment, employee safety, cost impacts). For the past 15 years, he worked at FEMA Region 7 as the Regional Environmental Officer that has included deployments to over 50 presidentially declared disasters, including Hurricane Katrina, Superstorm Sandy, and 2008 Midwest flooding.

Morgan Griffin, FEMA Deputy Regional Environmental Officer, Region IX

• **Education:** B.S. Mechanical Engineering, Lafayette College, 1991. M.S. Engineering and Policy, Washington University, 1993.
• **Training:** Previous course instructor for FEMA E/L 253 training, Introduction to EHP Compliance. Course author and four-time instructor for implementation of U.S. Army Europe's Regulation 200-1 (Environmental Quality Program).
• **Years of related experience:** Mr. Griffin has over 20 years of experience in NEPA compliance. He has served as Deputy Regional Environmental Officer in FEMA Region IX for the past four years. Prior to joining FEMA, Mr. Griffin supported FEMA Region IX and FEMA Headquarters' Office of Environmental Planning and Historic Preservation as a consultant for 15 years. Mr. Griffin has also provided environmental consulting support to U.S. Army Europe, U.S. Army Reserve, Air National Guard, and Army National Guard. During his career, Mr. Griffin prepared, managed, or approved thousands of CATEXs and at least one hundred EAs resulting in FONSIs. He also worked on or managed three EISs.

Proposed text: **N7 Federal Assistance for Structure and Facility Upgrades.* *Federal assistance for the reconstruction, elevation, retrofitting, upgrading to current codes and standards, and improvements of pre-existing facilities in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use. This category does not include actions within or affecting streams or stream banks, or actions seaward of the limit of moderate wave action (or within V zones when the limit of moderate wave action has not been identified).*

Rationale and Support for CATEX

DHS frequently provides funding for upgrades to existing structures and facilities under a variety of grant programs, particularly those administered by FEMA. Two existing FEMA CATEXs cover facility upgrades: CATEX (xv), the language of which is largely adopted in the proposed new CATEX; and CATEX (xvi), which covers improvements to existing facilities and small-scale construction for hazard mitigation measures. Similarly, DHS CATEX (D1) covers renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities. DHS has determined through years of experience implementing these types of actions that they do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment, and that it therefore remains appropriate to categorically exclude these actions from a higher level of NEPA analysis.

The actions covered by this CATEX would include a variety of preparedness and hazard mitigation actions such as installation of cameras, CCTV, telecommunication equipment, and security enhancements; seismic, wind, and flood-related retrofits; fire protection measures; reconstruction; upgrade to codes and standards; and placement of safe rooms (i.e., hardened structures specifically designed to meet FEMA criteria and provide protection in extreme weather events, including tornadoes and hurricanes).

"Pre-existing" refers to structures and facilities that existed prior to an applicant seeking DHS grant funding or other assistance. "Improvements" includes building something new that is physically attached to and needed for the improved facility as long as it meets the conditions of the CATEX (i.e. developed areas, disturbed areas, etc.). It does not include building something new if it is physically unattached to the improved facility.

This category is intended to cover activities with limited ground disturbance. Generally, this category is not intended to cover improvements, upgrades, or construction where there may be adverse effects on flood levels or local hydrology. An activity that alters systems capacity means that a component cannot be installed in a system which would allow the overall system capacity to be exceeded.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and

compliance with other EP&HP requirements. Typically, the issues that DHS encounters with structure and facility upgrades are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, and EO 11988, among others.

Comparable CATEXs

FEMA CATEXs

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment.

DHS CATEX

(D1) Minor renovations and additions to buildings, roads, airfields, grounds, equipment, and other facilities that do not result in a change in the functional use of the real property (e.g. realigning interior spaces of an existing building, adding a small storage shed to an existing building, retrofitting for energy conservation, or installing a small antenna on an already existing antenna tower that does not cause the total height to exceed 200 feet and where the FCC would not require an environmental assessment or environmental impact statement for the installation).

Consensus Professional Opinion

Building codes are routinely updated and adopted by individual communities. What was damaged during a disaster event can rarely be restored without consideration of current building codes . Once local communities upgrade or adopt building codes, these codes are applicable to FEMA grant-funded repairs. In addition, FEMA routinely updates floodplain maps, and communities participating in the NFIP are required to adopt the latest maps and enforce them as codes and standards to continue participation in the program; these are codes and standards that could apply to FEMA-grant funded structural repairs and rehabilitation. Also, activities to ensure compliance with the Americans with Disabilities Act (ADA) could also apply to these types of FEMA-grant funded projects.

FEMA has unique opportunities during disaster recovery to assist communities in building back more resiliently and mitigating against future disaster damage. These include seismic retrofits, structural retrofits that may include roof tie-downs and

continuous load path engineering, and applying modern construction materials and techniques such as fire-resistant roof shingles.

In applying existing CATEX (xv), FEMA is restricted to pre-existing design, function, and location. FEMA typically uses the building footprint as a parameter for simplicity of application of this CATEX; however the construction/disturbed footprint is typically much larger than the boundaries of the building itself and includes utility and construction trenches, staging areas, access roads, etc. that are not easily defined. The proposed CATEX allows for more flexibility in community recovery, without adversely impacting the carrying capacity of the environment, and is consistent with lessons learned from applying hazard mitigation measures and other small-scale improvements during community recovery efforts.

When applying CATEX (xv), FEMA adheres to the conditions and limitations specified in its 1996 NEPA Desk Reference (http://www.fema.gov/media-library/assets/documents/13165?id=3249). These include ensuring there are no adverse effects to flood levels, local hydrology, drainage patterns, erosion and sedimentation rates; no increases in flooding elsewhere or changes in downstream flow patterns; and the activities do not exceed system capacity or modify intended land use. These same conditions and limitations would be applicable under the proposed CATEX.

FEMA Policy Memo 406, *Hazard Mitigation Funding Under Section 406 (Stafford Act)* (March 30, 2010) (http://www.fema.gov/pdf/government/grant/pa/9526_1.pdf) includes examples of cost effective upgrades. FEMA grant-funded upgrades include properly sizing drainage structures, providing erosion protection at drainage structures, stabilizing roadways with geotextile fabrics, elevating access covers from wastewater collection systems to prevent infiltration, elevating electronic controls to pump stations, water treatment, and wastewater treatment facilities, installation of redundant poles for pole mounted electrical equipment (e.g., transformers), moving pole-mounted heavy electrical equipment (e.g., transformers) to adjacent pad mounts, and utilizing stronger building techniques and retrofits. The list of cost-effective upgrades is based on years of FEMA experience funding hazard mitigation and recovery actions.

The consensus professional opinion of the below-named individuals, based on their experience with FEMA and other public organizations as part of managing the environmental liabilities of the organization, is that the activities covered by the proposed CATEX do not normally result in significant environmental impacts.

Professional Credentials

Mr. Ken Sessa and Mr. Morgan Griffin provided this professional opinion. Their credentials are provided under proposed CATEX *N6 above.

Proposed text: **N8 Federal Assistance for New Construction Activities of Less Than One Acre in Undisturbed or Undeveloped Areas.* *Federal assistance for new construction and associated site preparation activities in undisturbed or undeveloped areas when the activities comprise less than one*

acre and follow best management practices to control noise, water, and air pollution. This category does not apply to new construction in undisturbed or undeveloped floodplains, wetlands, or seaward of the limit of moderate wave action (or V zone when the limit of moderate wave action has not been identified). This CATEX covers the range of activities typically necessary for new construction, including field work (e.g. borings, site inspection) and temporary staging and use of construction equipment and vehicles.

Rationale and Support for CATEX

DHS, through FEMA, frequently provides funding to grantees for new construction activities. This type of activity has resulted in an extensive number of site-specific EAs as well as Programmatic EAs (PEA) within FEMA. This proposed CATEX covers the construction of new facilities or structures in areas that have not been disturbed as long as the activity does not result in construction disturbance of more than one acre. The CATEX includes all activities typically necessary for new construction including land acquisition, field work (e.g. borings, site inspection), staging of equipment and vehicles, site preparation as long as it follows best management practices to control noise, water, and air pollution (e.g. silt fences, stormwater best management practices, dust and particulate matter control, oil spill prevention, etc.), placement of foundation, and construction of structures and facilities. The one acre limitation is based on the need for stormwater pollution prevention permits for construction activities of more than one acre under the Clean Water Act.

For purposes of this CATEX "new construction" is defined as either building or placing a structure or facility that did not exist before DHS's involvement with the project.

Explicitly excluded from the CATEX are new construction actions in floodplains or wetlands. Requiring EAs for new construction in undeveloped areas within the floodplain would allow for adequate documentation of avoidance alternatives, minimization actions, and public review and comment through the EA process. This requirement of a hard look at new construction in the floodplain would be aligned with DHS's mission to ensure wise use of floodplains, the administration of the National Flood Insurance Program, and EO 11988.

DHS considered whether the CATEX should cover new construction up to five acres. This threshold was based on the distinction made by the EPA of large and small construction activities in 40 CFR Part 122.26(b). However, EPA no longer uses this threshold for determining the type of construction permit needed. EPA has created a threshold of construction of more than 10 acres for triggering certain analyses and monitoring requirements. DHS opted for not using 10 acres because the funding of construction activities of more than five acres is rare. Furthermore, DHS feels that in situations involving construction of more than one acre in undeveloped areas, the project deserves a higher level of scrutiny, alternative evaluation, and public involvement.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with construction activities are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, and EO 11988, among others.

Comparable DHS CATEXs

(E2) New construction upon or improvement of land where all of the following conditions are met: (a) The structure and proposed use are compatible with applicable Federal, tribal, state, and local planning and zoning standards and consistent with federally-approved state coastal management programs, (b) The site is in a developed area and/or a previously-disturbed site, (c) The proposed use will not substantially increase the number of motor vehicles at the facility or in the area, (d) The site and scale of construction or improvement are consistent with those of existing, adjacent, or nearby buildings, and, (e) The construction or improvement will not result in uses that exceed existing support infrastructure capacities (roads, sewer, water, parking, etc.).

Supporting EAs

FEMA has developed PEAs that capture this activity type and has consistently found no significant impacts. These PEAs include:

- Grant Programs Directorate projects (http://www.fema.gov/library/viewRecord.do?id=4143)
- Integrated Public Alert and Warning Systems (IPAWS) construction projects (http://www.fema.gov/library/viewRecord.do?id=4174)
- Hazard Mitigation Assistance Safe Room projects (http://www.fema.gov/library/viewRecord.do?id=4670)

FEMA has evaluated these projects at a nationwide programmatic level and develops RECs on a site-specific level to document whether the FONSI covers the action or whether a Tiered Site-Specific EA has been needed. No projects at the site-specific level have triggered the need for an EIS.

In addition to the PEAs listed above, the following examples of site-specific EAs that resulted in FONSIs support the proposed CATEX:

TLC Health Network Tri-County Family Medicine Clinic Facility Replacement Project, Town of Hanover, Chautauqua County, New York, July 2011. (http://www.fema.gov/media-library-data/20130726-1851-25045-6750/july_12_2011_draft_ea_tlc_family_medicine_clinic.pdf)

The proposed action is to construct a new 2,930 sq. ft. family medical facility to restore critical medical services to the affected community.

The Applicant would purchase a 2-acre sub-divided lot of a 29-acre parcel with 200 feet of frontage, a site that is located approximately one-mile from the original facility. The building foundation would consist of a slab on- grade construction with footings to an elevation below the frost line. Access to the facility would require construction of a new road and parking area for approximately 12 - 15 vehicles. Sanitary waste would be managed via an onsite wastewater treatment system with a septic tank and leach field. Electric and gas service would come from existing lines. Water supply would be provided by a well to be constructed. Stormwater runoff would be managed through onsite management measures such as a stormwater detention pond. The proposed action would involve demobilization of its interim facility at 4 Hanover Street in Forestville. The modular trailer that currently exists at this site would be relocated or sold, and any required site restoration would occur to end the lease of this property.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Waterloo High School Seismic Upgrade Project, Monroe County, Illinois, April 2007. (http://www.fema.gov/library/viewRecord.do?id=2527).

The proposed action is to incorporate seismic building standards into the construction of the new Waterloo High School.

The proposed action will include upgrades to the planned Waterloo High School's structural, architectural, mechanical, electrical, fire protection, hydronic, and plumbing systems to FEMA 424 seismic standards. The planned high school was a new 220,000 square foot facility. Specific activities included in this alternative include structural upgrades to increase steel weight, strengthening of framing connections, and implementation of seismic isolation measures. Architectural upgrades include the addition of galvanized steel support channels and hangers sized and suited for seismic requirements. The mechanical upgrades include equipment curbs with seismic isolation and hangers, and supports with vibration capacity and seismic sizing. The electrical upgrades feature the addition of inertia bases, conduit transverse bracing, conduit longitudinal bracing, and seismic fixture clips. The fire protection upgrades include the addition of spring hangers, single pipe transverse bracing, and single pipe longitudinal bracing. Hydronic system upgrades include the addition of inertia bases, spring hangers, single pipe transverse and longitudinal bracing. The plumbing system upgrades are the addition of inertia bases, seismic snubbers, spring hangers, single pipe transverse and longitudinal bracing.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Replacement of the Escambia County Mosquito Control Facility, Escambia County, Florida, July 2006. (http://www.fema.gov/library/viewRecord.do?id=2201)

The proposed action is to reconstruct a Mosquito Control Facility, which is part of a larger facility, in an undeveloped portion of the larger facility.

The proposed Mosquito Control Facility would consist of four structures and associated parking, landscaping, and stormwater detention. Building A would be a 1,527-square foot office building. Building B would be a second office building, consisting of 2,971-square feet. Building C would be a 2,705-square foot storage structure. Building D would be a 920-square foot chemical storage structure, with associated secondary containment.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Poynette-Dekorra Fire Protection District EOC/Fire/EMS Facility, Village of Poynette, Wisconsin, August 2009. (http://www.fema.gov/library/viewRecord.do?id=3746)

The proposed action is to construct a new fire station.

The new fire station will be a single-story structure approximately 22,000 SF in size. A paved parking lot and sidewalks will be placed around the building. New curb and gutter and storm sewer will be constructed to drain runoff from the parking lot. Stormwater will be managed with 0.42 acre-feet of wet detention basin volume for storm events up to and including the 100-year event. Infiltration basin volume will be 0.08 acre-feet for storm events up to and including the 10-year event. The proposed site grading plan divides the existing drainage basin into two on-site drainage basins to the north and south, with a third smaller off-site drainage sub-basin to the east. The existing gravel Water Tower Road will be replaced with a paved street with curb and gutter from North Street to the existing access driveway to the Alliant Energy building to the west. Some vegetation will be removed and some animals would be temporarily displaced. The site's new landscaping will include trees and bushes and stormwater ponds that will provide habitat for wildlife.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: **N9 Federal Assistance for Flood Hazard Reduction Actions.* *Federal assistance for drainage, berm, water crossing, and detention, retention, or sediment pond projects which have the primary purpose of addressing flood hazards and:*

a. Do not affect more than 25 acres,

b. Do not result in adverse flood risk effects to downstream communities,

c. Do not result in any increase of flood levels within the community during the occurrence of the base flood discharge if the action takes place within the regulatory floodway, and

d. Where the effect of the proposed project when combined with other existing or reasonably foreseeable development will not increase water surface elevation of the base flood more than one foot at any point within the community if it the action takes place in a floodplain with no regulatory floodway.

This CATEX covers minor flood control actions as identified in Sections 1366 and 1361 of the National Flood Insurance Act (NFIA). Actions that are not covered in Sections 1366 and 1361 of the NFIA, such as dikes, levees, seawalls, groins, and jetties, are excluded from this CATEX.

Rationale and Support for CATEX

This is a proposed new CATEX. DHS, through FEMA, has provided funding for numerous drainage improvement projects through its HMA grants. None of these projects have triggered the need for EISs, and EAs prepared for these projects have resulted in FONSIs.

This CATEX that would cover actions such as drainage projects; berms; water crossings (e.g. culverts and bridges); and detention, retention, and sediment ponds that have the primary purpose of addressing flood hazards. As used in this CATEX, a "berm" is an earthen feature that is placed along slopes to control erosion or improve slope stability. Under this CATEX, a berm is not intended to mean a levee, which is a man-made structure designed and constructed with sound engineering practices to contain, control or divert the flow of water in order to provide protection from temporary flooding. The CATEX is intended to cover minor flood control actions as identified in Section 1366 and 1361 of the National Flood Insurance Act (NFIA) which do not include dikes, levees, seawalls, groins, and jetties. Therefore, dikes, levees, seawalls, groins, and jetties are excluded from this CATEX.

"Affect" under limitation (a) is intended to capture the cumulative amount of ground disturbance associated with the protective measures and the size of the area to be protected. In order to apply the CATEX to a proposed action, the combination of the area to be protected and ground disturbance must not exceed 25 acres.

This CATEX captures some standards for minimization of floodplain impacts such as avoidance of flood risk effects (a), encroachment prohibitions (c) and (d), and minimization of impacts to floodplain values (e).

With limitation (e), DHS intends to encourage practices that avoid, minimize, or mitigate impacts to environmental and historic resources and wetlands or floodplain

functions such as their conveyance capacity, moderation of flow velocity, groundwater recharge, improvement of water quality, habitat characteristics, and flood moderation. Compensatory mitigation actions are acceptable mitigation measures if they are agreed to by the applicable governmental entity that has regulatory oversight over the affected resource.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with flood hazard reduction actions are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, EOs 11988 and 11990, among others.

Supporting EAs

Wildwood Creek Detention Basins, City of Yucaipa, California, November 2007. (http://www.fema.gov/media-library/assets/documents/12505?id=3075)

In the Proposed Action, the City of Yucaipa would construct one desilting basin, two detention basins, and a natural bottom channel (bioretention swale) on approximately 20 to 25 acres in and adjacent to Wildwood Creek in the southeastern part of the City. The total project area is 29.5 acres. The project area is bounded by Wildwood Canyon Road to the north, Holmes Street to the west, and Serape Drive to the southeast. The desilting basin would have approximately 4 acre-feet capacity. The detention basins would have approximately 30 and 45 acre-feet capacities. The Proposed Action is needed to help protect people and public and private property within the Wildwood Creek floodplain from flooding hazards. During floods, rushing water and silt deposits disrupt the traffic along the City's roadways. Wildwood Canyon Road and Avenue G, roads adjacent to the creek, are often damaged as the creek embankments erode. Road closures are sometimes required.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Harris County Flood Control District Project, Harris County, Texas, May 2011. (http://www.fema.gov/library/viewRecord.do?id=4692)

As a direct result of the flooding in White Oak Bayou, Jersey Village experienced property damage to residential and commercial structures. Apart from flooding associated with Hurricane Ike, homes and businesses in Jersey Village along White Oak Bayou experience frequent and severe flooding during storm events. When severe flooding occurs, residential structures are damaged, roads are made impassible, and other critical infrastructure can be damaged and/or destroyed which adversely affects public safety, health and welfare.

Studies conducted by the HCFCD indicate that the construction of a storm water detention basin on an upstream tributary of White Oak Bayou would significantly reduce the risk of flooding and would prevent future flood losses and damages to property in the project area. Based on these studies and the overlying need when severe flooding occurs in the project area, the HCFCD prepared and submitted an application for FEMA funding under an HMGP grant to develop a storm water detention basin on an upstream tributary of White Oak Bayou. The proposed project site would be entirely constructed within an existing 41.93-acre tract of land. The proposed action would include improving storm water detention along White Oak Bayou in Jersey Village by construction of a 399 acre-foot storm water detention basin with an inlet channel/inlet weir to divert flood flows from HCFCD Unit E135-00-00 into the basin. The proposed action would also include a 48-inch reinforced concrete pipe (RCP) or corrugated metal pipe (CMP) located in the southeast corner of the project area to provide discharge from the proposed storm water detention basin to HCFCD Unit E135-00-00.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Moore Drain Flood Mitigation Project, Tuscola County, Michigan. December 2003. (http://www.fema.gov/library/viewRecord.do?id=2003)

The proposed action was developed to address flooding in the City of Vassar. The project involved modification of an existing earthen berm, construction of a diversion conduit, and improvements to Moore Drain. The berm modification would provide 85 percent reduction in the frequency of flooding against 10-year events. Work occurred along approximately 3,700 feet of the Cass River. Alternatives for the project included the construction of a berm and creation of detention ponds of 130 acres and 50 acres.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Pigeon Creek Flood Mitigation Project, Ozaukee, Wisconsin, March 2006. (http://www.fema.gov/media-library/assets/documents/6678?id=2185)

The primary source of flooding problems at the Village of Thiensville is bank overflows from the 6,927-acre tributary watershed of Pigeon Creek, which is a sub-watershed of the Milwaukee River Watershed. In addition, existing manmade structures such as bridges and culverts were not constructed to handle the current flood water levels. The purpose of the proposed project is to fulfill the need for more efficient (and cost-effective) handling of water in flood events in order to protect human health, safety and private property. This would protect surrounding homes and businesses from flooding, restore roadway access, and relieve sanitary sewer backups.

One alternative involved conveyance improvements along Pigeon Creek in downtown Thiensville, as well as upstream storage in the City of Mequon. The conveyance improvements include widening three reaches of the channel, reconfiguring riprap beneath the Main Street Bridge, removing existing car lot culverts and replacing them with a 60-foot stream channel, removing and replacing two bridges, and installing a new 70-foot pedestrian/utility bridge. With the proposed conveyance improvements and utilization of approximately 58 acre-feet of upstream storage, a target flood elevation of 659.5 feet would be reached in downtown Thiensville. The proposed storage component of the project is located approximately 1.5 miles northwest of Thiensville, and includes control of an existing road outlet structure to make maximum use of natural storage capacity to achieve the necessary water storage. The target elevation of 659.5 feet is the lowest possible flood stage that can be achieved in the downtown area because the backwater effect of the Milwaukee River in a 100-year event is equal to an elevation of 659.5 feet.

Another alternative would involve conveyance improvements along Pigeon Creek in downtown Thiensville, as well as upstream storage in the City of Mequon. The conveyance improvements include widening of three reaches of the channel, removing existing car lot culverts and replacing them with a 60-foot stream channel, removing and replacing two bridges, and installing a new 70-foot pedestrian/utility bridge. The width of the stream channel through the car lot would be the same as previous alternative; however it would be constructed with more of a side slope and less surface area on the bottom of the channel (trapezoidal shape vs. square), creating reduced capacity for water. Because the volume of the proposed stream channel is reduced from that of previous alternative, and no widening or reconfiguration of riprap beneath the Main Street Bridge is proposed, approximately 300 acre-feet of storage would have been needed to achieve the target flood elevation of 659.5 in downtown Thiensville. The proposed storage component requires using four water storage areas in the City of Mequon.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Harris County Flood Control District Project, Harris County, Texas, May 2011. (http://www.fema.gov/media-library/assets/documents/21724?id=4692)

As a direct result of the flooding in White Oak Bayou, Jersey Village experienced property damage to residential and commercial structures. Apart from flooding associated with Hurricane Ike, homes and businesses in Jersey Village along White Oak Bayou experience frequent and severe flooding during storm events. When severe flooding occurs, residential structures are damaged, roads are made impassible, and other critical infrastructure can be damaged and/or destroyed which adversely affects public safety, health and welfare.

Studies conducted by the HCFCD indicate that the construction of a stormwater detention basin on an upstream tributary of White Oak Bayou would significantly reduce the risk of flooding and would prevent future flood losses and damages to property in the project area. Based on these studies and the overlying need when severe flooding occurs in the project area, the HCFCD prepared and submitted an application for FEMA funding under an HMGP grant to develop a stormwater detention basin on an upstream tributary of White Oak Bayou. The proposed project would be constructed entirely with an existing 41.93 acre tract of land. The proposed action would include improving stormwater detention along White Oak Bayou in Jersey Village by construction of a 399 acre-foot stormwater detention basin with an inlet channel/inlet weir to divert flood flows from HCFCD Unit E135-00-00 into the basin. The proposed action would also include a 48-inch reinforced concrete pipe (RCP) or corrugated metal pipe (CMP) located in the southeast corner of the project area to provide discharge from the proposed stormwater detention basin to HCFCD Unit E135-00-00.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: **N10 Federal Assistance for Communication Towers of Less Than 400 Feet.* *Federal assistance for the construction of communication towers when all of the following are met:*

a. The total height is less than 400 feet above ground level,
b. The tower construction project has been through the Federal Communications Commission (FCC) Antenna Structure Registration (ASR) process and has been documented as meeting FCC environmental planning and historic preservation procedures for the ASR,
c. The project is located farther than 660 feet from a Bald Eagle's nest or 0.6 mile from a Golden Eagle nest,
d. The tower is not located on ridgelines or in coastal zones, bird staging areas, colonial nesting sites, 100- or 500-year floodplains, or wetlands, and
e. The lighting scheme meets all applicable US Fish and Wildlife Service guidelines for reducing potential impacts to night-migrating birds.

This CATEX covers associated activities such as installation of fuel storage tanks, equipment buildings, security fencing and lighting, and access roads, and land disturbance activities typically associated with construction such as clearing, fill, and grading.

Rationale and Support for CATEX

This is a new CATEX intended to extend the height limitation in existing DHS CATEX (E1), which is 200 feet. DHS, through FEMA, has reviewed several hundred tower

projects since 2007, the year when the Grant Programs Directorate (GPD) was incorporated into the Agency. GPD administers numerous emergency preparedness grant programs, including several under which tower construction and modification are eligible project activities. Another DHS Component, the National Protection and Programs Directorate, administers the Border Interoperability Demonstration Program, a grant program that also provides funding for tower construction. These programs have given DHS sufficient experience in assessing the potential environmental impacts of this type of action.

The proposed CATEX is based on DHS's experience gained from the review of several hundred grant-funded tower projects across the nation. In DHS's experience, the impacts to migratory birds have not triggered significant cumulative impacts warranting the preparation of an EIS. Even with towers taller than 450 feet, the impacts of DHS's funding actions have not resulted in significant impacts.

This proposed CATEX includes the construction and operation of communications towers, including associated equipment and activities (e.g., installation of fuel storage tanks, security fencing and lighting, access roads, and land disturbance activities typically associated with construction such as clearing, fill, and grading). Criteria (a) through (e) must be met. Towers taller than 400 feet are explicitly excluded from this CATEX.

The CATEX calls for the processing of proposed federally-assisted tower projects through the FCC Antenna Structure Registration (ASR) process, which includes an EP&HP review process, before they are reviewed by DHS. The FCC has developed a comprehensive EP&HP review process that accounts for environmental impacts of towers. The FCC's EP&HP review process includes a NEPA analysis, Section 106 review through Nationwide Programmatic Agreements, and Tribal coordination through the Tower Construction Notification System (TCNS). The submittal and review of documentation produced for the ASR process is useful in avoiding duplication of reviews, time delays, and unnecessary costs. A tower project with no documentation satisfying the FCC's ASR EP&HP process would not be included in this CATEX.

The additional limitations in the CATEX are intended to reduce the potential for individual and cumulative impacts of DHS-funded towers on migratory birds. Presence of these conditions would trigger further analysis through an EA or EIS process, including the requirement for identification of reasonable alternatives and public review and comment opportunities.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with communication tower projects are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, EO 11988, and the Migratory Bird Treaty Act, among others.

Comparable CATEXs

FEMA CATEX

(ix) Acquisition, installation, or operation of utility and communication systems that use existing distribution systems or facilities, or currently used infrastructure rights-of-way.

DHS CATEX

(E1) Construction, installation, operation, maintenance, and removal of utility and communication systems (such as mobile antennas, data processing cable, and similar electronic equipment) that use existing rights-of-way, easements, utility distribution systems, and/or facilities. This is limited to activities with towers where the resulting total height does not exceed 200 feet and where the FCC would not require an environmental assessment or environmental impact statement for the acquisition, installation, operation or maintenance.

Supporting EAs

450-foot Tower, Harrisonville, Cass County, Missouri, December 2009.
(http://www.fema.gov/media-library/assets/documents/17398?id=3861)

The Proposed Action is the construction of a 450-foot guyed lattice communications tower. The Cass County site is rural and undeveloped. The site is located approximately 938 feet above mean sea level in an area of rolling hills. The proposed 2,500 square foot compound will enclose the following: the 450-foot lattice guyed tower, a 11-foot by 16-foot equipment shelter on a concrete pad, a 1,000-gallon propane aboveground storage tank (AST) on a concrete pad, a H-frame with a single meter can, and a 50 kilowatt (KW) generator on a 4-foot by 9-foot concrete pad. An 8-foot tall chain-link fence will surround the perimeter of the proposed compound area. The power and telecommunications lines will be connected to an existing transformer and telecommunications line located southeast of the site.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Communication Tower, Coryell County, Gatesville, Texas, April 2010.
(https://www.fema.gov/media-library/assets/documents/26398)

The Proposed Action is the construction of a 460-foot guyed wire telecommunications tower that will be located approximately 600 feet south of Rocky Road in Gatesville, Coryell County, Texas. The site is cleared grassland area surrounded by woodland vegetation. The site is approximately 1,020 feet above mean sea level. As noted in the reviewed databases and maps, there are no indications of wetlands, floodplains, coastal management zones, and wild or scenic rivers. The tower site will be located on a

developed 0.61-acre parcel of land containing: a 280-foot guy-wire tower, two equipment shelters, a propane tank, and a standalone emergency generator. The existing 280-foot telecommunications tower, one of the equipment shelters and the propane tank will be removed, and the existing propane-powered generator will be replaced with a new diesel-powered emergency generator. The proposed 460-foot tower will be constructed on a 10-foot by 10-foot area adjacent to the remaining equipment shelter. There will be three (3) sets of six (6) guy wires for a total of 18 wires. The tower's surface impact area will be less than 0.10 acre.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

600-foot Communications Tower, Scott County, Mississippi, May 2010. (http://www.fema.gov/library/viewRecord.do?id=4202).

The Proposed Action consists of construction of a 600-foot guyed communications tower and associated equipment compound to facilitate installation and operation of wireless communications antennae to provide integrated emergency communications between federal, state, and local agencies. These antennae include microwave dishes that are to be used to send and receive information over long distances without the limitations associated with connection to land lines/cables (primarily interruptions in service due to damage to land lines/cables during emergencies or natural disasters).

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Central Maintenance Facility 250 Communications Tower, Pierce County, Washington, May 2010. (http://www.fema.gov/library/viewRecord.do?id=4176)

The Proposed Action would construct a lattice free-standing 250' emergency radio communication tower and associated 360 square foot equipment building at the CMF in two phases. Phase 1 would consist of the 50 foot by 90 foot (4500 square feet total) site preparation, pouring of the cement foundation, installation of the first 160 feet of the steel radio tower with 17 foot antennas at the top of the tower, bringing the total height to 177 feet, installation of the equipment shelter, and a 6-foot chain link fence with locked gate. A maximum of four (4) six-foot diameter high performance microwave dishes will be installed during Phase 1 at the heights of 158 feet and 128 feet. Phase 2 would increase the height of the tower by adding another 73 feet, bringing it to 250 feet in height and will have four (4) more six-foot microwave dishes; two at 248 feet and two at 218 feet in height. Per the Determination of No Hazard to Air Navigation by the Federal Aviation Administration (FAA) no air traffic safety requirements will be required for Phase 1 based on the elevation, location, and description, which includes specific coordinates, heights, frequency (ies), and power. Phase 2 will require future evaluation by the FAA, and will require a Duel Lighting Red/Medium Intensity Flashing

White system due to increase in height. The FCC registration number is 1274006 and FCC has no specific tower requirements. The tower will be designed to meet Pierce County building codes for seismic area D-1 or D-2 and wind velocity exposure "C". Pierce County considers all of its towers are critical facilities and thus are built to a higher standard because of first responder support.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Communication Tower, Permian Basin Regional Planning Commission, Andrews, Texas, November 2011. (http://www.fema.gov/library/viewRecord.do?id=4918)

The Proposed Action is the construction of a 480-foot guyed wire telecommunications tower that will be located at 9435 East State Highway 115 approximately 20 miles northeast of Andrews, Texas on Highway 115 in Andrews County, Texas. The Andrews Tower site consists of a proposed 480-foot guyed telecommunication tower and associated equipment to be located on 50-foot by 50-foot grassland covered parcel. The proposed telecommunication compound will include: one 12-foot by 16-foot equipment shelter, a standalone emergency backup generator on a 5-foot by 5-foot pad, and associated 5-foot by 10-foot propane tank, and control utility board as shown in Figure 3. Anchors will be placed at four corners for the guyed wires. There will be four (4) sets of nine (9) guy wires for a total of 36 wires. The tower's surface impact area will be less than 0.25 acres.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: **N11 Federal Assistance for Wildfire Hazard Mitigation Actions.* *Federal assistance for the following wildfire hazard mitigation actions:*

a. *Actions involving the creation of defensible space by the removal or reduction of flammable vegetation around existing structures for up to 100 feet of the structure;*
b. *Actions involving hazardous fuel reduction proximate to at-risk structures including the selective removal of undergrowth vegetation that is less than 12 inches in diameter through thinning, pruning, limbing, sawing, or brush cutting, or the removal of downed, dead, or dry vegetation material as part of the overall action.*

The actions must be limited to less than 100 acres of vegetation removal either individually or when combined with other reasonably foreseeable private or public actions.

Rationale and Support for CATEX

This is a proposed new CATEX that would leverage FEMA's extensive experience in the evaluation of wildfire mitigation actions. This CATEX is intended to cover certain wildfire mitigation actions under FEMA's HMA programs and any future DHS grant authority under which such actions would be eligible. Wildfire mitigation actions have been the subject of several EAs within EAs, which have consistently resulted in FONSIs.

The limitation of 100 acres must account for actions that are reasonably foreseeable to occur that may be undertaken by private entities or local governments, State or Tribal agencies, and Federal agencies. DHS's experience, through FEMA, includes actions that go beyond 100 acres. However, these have typically triggered considerations that are more effectively addressed through the EA process, such as a more in depth cumulative impacts analysis, consideration of resources that are not protected by existing federal EP&HP requirements, and public involvement.

Applicable best management practices would depend on the location of the project but may include measures to reduce soil erosion, sediment control measures, preservation of an amount of canopy, and avoidance of rookeries, among other things.

DHS has a CATEX that allows for the removal of exotic vegetation but explicitly excludes the application of herbicides. Under this proposed new CATEX, the application of herbicides would be covered but the potential impacts on natural resources must be addressed.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements. Typically, the issues that DHS encounters with wildfire hazard mitigations actions are related to other EP&HP compliance requirements such as NHPA Section 106, ESA Section 7, and EO 11988, among others.

Comparable DHS CATEX

(E8) Construction of aquatic and riparian habitat in streams and ponds on Department-managed land, using native materials or best natural resource management practices. Examples include, but are not limited to: (a) Installing or repairing gabions with stone from a nearby source, (b) Adding brush for fish habitat, (c) Stabilizing stream banks through bioengineering techniques, and (d) Removing and controlling exotic vegetation, not including the use of herbicides or non-native biological controls.

Supporting EAs

Mill Creek Defensible Space Project, Walla Walla County, Washington, May 2011. (http://www.fema.gov/media-library/assets/documents/21784)

The Proposed Action would reduce fuels around residential structures in the Mill Creek drainage area through vegetation removal. Areas targeted for vegetation removal include a 30-foot radius around the main residential structure. The 30-foot radius around 217

targeted homes would collectively total 31 acres. Contractors would conduct vegetation removal activities by hand.

The Firewise program is co-sponsored by the U.S. Forest Service, the U.S. Department of the Interior, and the National Association of State Foresters. Firewise guidelines for defensible space would be followed. These guidelines identify the defensible space zone as a 30-foot radius around a structure's foundation. In some cases, this radius may be expanded by 5 to 10 feet to provide additional defensible space around structures that are located on steep slopes. Firewise guidelines for defensible space recommend planting grass and small "islands" of fire-resistant plants within 30 feet of structures to prevent the spread of wildfires and minimize the severity of damages. Other landscaping recommendations include trimming trees so that the lowest branches are 6 to 10 feet above the ground, spacing plants so that the plants or plant canopies do not touch (with wider spacing along slopes), and planting fire- or drought-resistant plants. Removal of all vegetation is not recommended because this could increase soil erosion, especially in the kinds of sloped areas found in much of the project area. A properly maintained defensible space zone protects the structure from surrounding wildfires and provides a relatively safe area for firefighters to work (NFPA 2009).

Mechanical vegetation removal is not proposed because many locations have steep slopes, and use of heavy equipment in sloped areas can increase erosion and sedimentation. In most cases, tree and shrub stumps and roots would not be removed. Site assessments and vegetation management activities would occur between May and October. Participating residents would have the opportunity to provide input prior to vegetation management activities.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.
Deschutes and Crook Counties Wildfire Mitigation, Oregon, April 2009.
(http://www.fema.gov/library/viewRecord.do?id=3573)

The action would remove excessive vegetation through hand thinning, brush cutting, mowing, and other low-impact measures by private contractors on approximately 1,000 acres of privately-owned lands. The geographic areas targeted for wildfire vegetation management include the Ochoco Reservoir, Ochoco West and Powell Butte communities in Crook County and the Awbrey Butte, Awbrey Glenn, Tetherow Crossing and Woodside Ranch communities in Deschutes County. These properties were identified as high-risk in the Deschutes and Crook County Natural Hazards Mitigation Plans and individual Community Wildfire Protection Plans. Under the Deschutes County Forester and Crook County Fire and Rescue staff direction, each individual property would be assessed to determine the best method of vegetation removal. FEMA funds would be used by the Counties and private contractors to treat vegetation near roads and driveways, and to haul all debris to local co-generation plants. Private property owners are responsible for vegetation removal on their properties, including labor. However, there is a special needs component to the project for residents

who are physically or financially unable to perform the work themselves. In those cases, the private contractors would provide the labor to remove vegetation within 100 feet of structures to develop defensible space. The Counties anticipate that less than five percent of property owners within the project areas would apply for this assistance.

Treatment areas would be accessed from existing roads and driveways, which are typically gravel or dirt. No improvements to the access roads/driveways would occur. Juniper and sagebrush would be removed from the project areas within Crook County, and also from Tetherow Crossing in Deschutes County. Bitterbrush would be removed from all project areas.

The Counties and contractors would remove all debris to local co-generation plants for disposal, which produce two useful forms of energy, electricity and process steam, from a single fuel source. Soil disturbance is not planned.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Highlands Estates Wildfire Mitigation Project, Adams County, Idaho, June 2009. (http://www.fema.gov/library/viewRecord.do?id=3623)

The Proposed Action would remove excessive vegetation through hand thinning, pruning, limbing, sawing, or brush cutting by private contractors on approximately 200 acres of privately-owned lands. The vegetation to be removed would be mainly brush, with limited amounts of small trees (red fir and bull pine) less than 12 inches in diameter. Vegetation removal would occur around the perimeter of and within the subdivision. The existing infrastructure would be used to remove any vegetative debris. The debris from these activities would be chipped and mulched for homeowner use, or otherwise disposed of in a permitted facility. Large debris may be used as firewood, and chips would be used by homeowners as mulch. No burning would occur.

Implementation of the Proposed Action would take place using grant funds and Adams County funds to accomplish the following activities over a 2-year period: 1) create defensible structures and decrease the risk from wildfire to 16 residences through vegetation management (hand cutting), and 2) increase the effectiveness of similar fuels reduction projects that have occurred in the Meadow Creek development adjacent and below Highlands Estates

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: *N12 Federal Assistance for Planting of Indigenous Vegetation*

Rationale and Support for CATEX

This proposed CATEX is the same as existing FEMA CATEX (xi). DHS, through FEMA, has funded numerous projects involving the planting of indigenous vegetation, such as planting of grasses for dune and bank stabilization, and planting of vegetative buffers for fire hazard reduction purposes. A range of large-scale and small-scale projects have met criteria for this CATEX and FEMA has determined that an acreage limit is not appropriate. DHS, through interviews with FEMA Regional Environmental Officers who are very familiar with these types of activities and potential environmental impacts, has determined that it remains appropriate to categorically exclude this type of activity from a higher level of NEPA analysis because these actions do not normally have the potential to result in significant environmental impacts. FEMA Regional Environmental Officers indicated that the existing FEMA CATEX is sufficient and that no changes are necessary.

Proposed text: *N13 Provision of the Following Forms of Federal Assistance Under the Stafford Act:*

a. Unemployment Assistance (§410);
b. Individuals and Households Programs (§408), except for grants that will be used for restoring, repairing or building private bridges, or purchasing mobile homes or other readily fabricated dwellings;
c. Food Coupons and Distribution (§412);
d. Food Commodities (§413);
e. Legal Services (§415);
f. Crisis Counseling Assistance and Training (§416);
g. Community Disaster Loans (§417);
h. Emergency Communications (§418);
i. Emergency Public Transportation (§419);
j. Fire Management Assistance (§420)

Rationale and Support for CATEX

This proposed CATEX is the same as existing FEMA CATEX (xix)(E) through (N). DHS has determined through its experience that it remains appropriate to categorically exclude these activities from a higher level of NEPA analysis because they do not have the potential to result in significant environmental impacts.

Proposed text: *N14 Federal Assistance for Urban Search and Rescue (USR) Activities, Including Deployment of USR Teams*

Rationale and Support for CATEX

This proposed CATEX is essentially the same as existing FEMA CATEX (xviii)(C), with a minor wording change to make it clear that deployment of USR teams is one common type of USR activity. DHS has determined through its experience that it

remains appropriate to categorically exclude these activities from a higher level of NEPA analysis because they do not normally have the potential to result in significant environmental impacts.

Comparable FEMA CATEX

(xviii)(C) Deployment of Urban Search and Rescue teams.

Proposed text: **N15 Federal Assistance for Disaster Temporary Individual Housing in Private and Commercial Sites.* *Federal assistance for the installation and/or removal of individual housing units in private or commercial sites, or the development of pre-existing commercial sites or residential facilities that are not located on contaminated sites for individual temporary housing units.*

Rationale and Support for CATEX

This proposed CATEX is based on existing FEMA CATEX (xix)(D) and FEMA's extensive experience providing housing to disaster victims. Information on FEMA's authorities related to disaster housing can be found on-line at http://www.fema.gov/housing-resources.

"Development of pre-existing commercial sites or residential facilities" includes, but is not limited to, the placement of units in mobile home sites or recreational vehicle sites that existed prior to a disaster event, refurbishing or rehabilitation of non-historic residential or commercial units for habitation (e.g. apartment buildings), or placement of individuals in cruise ships. The last two are examples of actions within enclosed facilities where existing FEMA CATEX (xvii) has typically been applied.

For the purposes of this CATEX, "contaminated sites" are those that contain higher than EPA established thresholds for contaminants (in parts per million) that either pre-date or were a result of a release associated with the disaster event. Proposals to locate disaster housing on contaminated sites are explicitly excluded from this CATEX and would trigger the need for an EA.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements such as NHPA Section 106, ESA Section 7, and EOs 11988 and 11990, among others.

Comparable FEMA CATEX

(xix)(D) Temporary Housing [Stafford Act §408], except locating multiple mobile homes or other readily fabricated dwellings on sites, other than private residences, not previously used for such purposes.

Supporting EA

Alternative Housing Pilot Program Permanent Housing, Orleans Parish, Louisiana, August 2009. (http://www.fema.gov/library/viewRecord.do?id=3586)

The proposed action by FEMA is to provide permanent housing solutions for disaster victims to address the housing shortages caused by the catastrophic effects of Hurricanes Katrina and Rita.

The proposed action would include land acquisition and construction of approximately 160 permanent single-family units (cottages) throughout Orleans Parish. The cottages would be scattered throughout the Parish and would "fill-in" throughout existing neighborhoods. The proposed group site would consist of single-family cottages, with living areas ranging from 874 square feet to 1,112 square feet. As necessary, the cottages would be built on piers to raise them to the required base flood elevation. The project site would be cleared of all vegetation and debris, and then the site would be grubbed. Additional contouring and grading may be required. Driveways would be constructed. A fence would partially enclose the project area. The houses would tie into existing water, and sewer infrastructure currently located near each lot site. Utilities would be installed to each individual cottage.

Findings: Based upon the information in the PEA, it has been concluded that the proposed action will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: *N16 Federal Assistance for Disaster Temporary Group Housing of Less than Five (5) Acres. *Federal assistance for the placement of disaster temporary group housing, including associated temporary facilities and the tie-in or installation of necessary utilities to service the housing units (such as electricity, potable water, and wastewater infrastructure), that involves less than five (5) acres of ground disturbance on sites that are zoned for housing and that follow best management practices for pollution control. This CATEX also covers the conversion of such temporary housing to permanent housing when these criteria are met.*

Rationale and Support for CATEX

DHS, through FEMA, has extensive experience providing housing to disaster victims. Information on FEMA's authorities related to disaster housing can be found on-line at http://www.fema.gov/housing-resources. This proposed new CATEX is based on FEMA experience and the results of numerous FEMA EAs. Installation of group housing can include the tie-in or installation of necessary utilities to service the housing units, such as electricity, potable water, and wastewater infrastructure. Temporary facilities associated with temporary group housing include, but are not limited to, ancillary shelters, generators and utilities, and storage units.

This CATEX would cover the installation of temporary group housing and temporary facilities involving less than 5 aces of ground disturbance, as well as the conversion of

such temporary housing into permanent housing. FEMA received statutory authority to provide permanent manufactured housing to disaster victims in 2007.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements such as NHPA Section 106, ESA Section 7, and EO 11988 and 11990, among others. A REC will also be required prior to the change in designation from temporary to permanent housing.

Supporting EAs

Temporary Housing Sites, Minot, Ward County, North Dakota, September 2011. (http://www.fema.gov/library/viewRecord.do?id=4776)

The proposed action by FEMA is to build temporary, emergency disaster group housing for residents in the vicinity of Minot and Burlington, Ward County, North Dakota, a need that results from severe flooding.

The proposed project would develop at least one temporary site with a capacity of 150-200 mobile homes, with site occupancy expected to not exceed 18 months. The proposed group sites will include development of temporary gravel pads for housing foundations, school bus shelters, mailbox units, gravel and asphalt roadways, and all utilities related to the infrastructure of the community. Access to the sites from surrounding roads will be designed in coordination with applicable city and county staff. The mobile homes will be hauled from the site to suitable locations elsewhere (case-by-case basis) when the temporary housing need ends. The site will then be seeded or used by the property owner in a manner consistent with applicable land use approvals.

Findings: Based upon the results of the EA, it has been concluded that the proposed action will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

54th and Winnie Temporary Community Housing Site, Galveston, Galveston County, Texas, December 2008. (http://www.fema.gov/library/viewRecord.do?id=3497)

The proposed action by FEMA is to build emergency temporary housing for residents in Galveston County as a result of damage from Hurricane Ike.

The proposed action is the construction of a temporary community-housing site of approximately 14 mobile homes on previously developed land, which would be leased by the General Service Administration. New utilities would be installed in the site, including tie-in of wastewater, potable water, and electrical service to existing infrastructure. When the temporary housing need has ended, which is not expected to exceed 18 months, the units will be hauled from the site and returned to a FEMA storage yard. The site would then be seeded and restored to previous conditions, to the extent

practicable, and/or used by the landowner in a manner consistent with county zoning classification.

Findings: Based upon the results of the EA, it has been concluded that the proposed action will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Longhorn Motocross Temporary Community Housing Site, Orange, Orange County, Texas, November 2008. (http://www.fema.gov/library/viewRecord.do?id=3461)

The proposed action by FEMA is to build emergency temporary housing for residents in Orange County as a result of damage from Hurricane Ike.

The proposed action is the construction of a temporary community-housing site of approximately 100 mobile homes on land, which would be leased by the General Service Administration. New utilities would be installed in the site, including tie-in of wastewater, potable water, and electrical service to existing infrastructure. When the temporary housing need has ended, which is not expected to exceed 24 months, the units will be hauled from the site. The site would then be seeded and restored to previous conditions, to the extent practicable, and/or site improvements would remain per the landowners' interests.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Highlands Temporary Mobile Home Community Site, Tunkhannock Township, Wyoming County, Pennsylvania, November 2011. (http://www.fema.gov/library/viewRecord.do?id=4911)

The proposed action by FEMA is to build emergency temporary housing for residents in Wyoming County as a result of damage from Tropical Storm Lee.

The proposed action is the construction of a temporary community-housing site of no more than 48 mobile homes on approximately 8 acres. Site preparation would include clearing vegetation, grading a portion of the site, developing interior gravel roads and pads. New utilities would be installed in the site, including tie-in of wastewater and potable water to existing infrastructure. Electrical lines would be installed and underground electric is currently available to the southeast of the property. When the temporary housing need has ended, which is not expected to exceed 18 months, the units will be hauled from the site. The site would then be reasonably restored to its previous condition in a manner consistent with local zoning and as agreed upon with the landowner.

Findings: Based upon the results of the EA, it has been concluded that the proposed action will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Alternative Housing Pilot Program, Lake Charles Fields 6th Avenue Group Housing Site, Calcasieu Parish, Louisiana, March 2009.
(http://www.fema.gov/library/viewRecord.do?id=3535)

The proposed action by FEMA is to provide permanent housing solutions for disaster victims to address the housing shortages caused by the catastrophic effects of Hurricanes Katrina and Rita.

The proposed action would include land acquisition and construction on approximately 5.0 acres of previously disturbed land located in the eastern portion of the City of Lake Charles, Louisiana. The proposed group site would consist of approximately 34 single-family dwellings (cottages) with living areas ranging from 874 square feet to 1,112 square feet. As necessary, the dwellings would be built on piers to raise them to the required base flood elevation. The project site would be cleared of all vegetation and debris, and then the site would be grubbed. Additional contouring and grading may be required. Driveways would be constructed. A fence would partially enclose the project area. The houses would tie into existing water, and sewer infrastructure currently located near each lot site. Utilities would be installed to each individual cottage.

Findings: Based upon the results of the EA, it has been concluded that the proposed action will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: *N17 Federal Assistance for Development of Plans in Support of Response, Recovery, and Hazard Mitigation Activities.* *Federal assistance for the development of plans for the purpose of preparing for disasters, recovering from disasters, and identifying opportunities for mitigating the effects of future disasters. This includes but is not limited to State, Tribal, and local hazard mitigation plans, debris management plans, long-term recovery plans, and disaster housing plans. This CATEX is not applicable to plans associated with specific projects that are reasonably foreseeable to occur and that are not otherwise covered by another CATEX.*

Rationale and Support for CATEX

This proposed CATEX is derived from existing FEMA CATEXs (ii) and (xviii)(E). DHS has determined through its experience that it remains appropriate to categorically exclude these activities from a higher level of NEPA analysis because they do not normally have the potential to result in significant environmental impacts.

DHS funds planning initiatives to address disaster response and recovery, preparedness, and hazard mitigation issues. Typically, these planning activities are strategic or programmatic in nature that identify problems within a specified geographic area and

provide a menu of options on how to address these problems. The plans themselves do not guarantee that a specific project will be implemented nor determine if federal funding will be available to implement a particular project. However, the plans can be useful in identifying or bounding the alternatives to resolve the issue.

This proposed CATEX would not be applicable to plans for specific projects that are reasonably foreseeable to occur and that are not otherwise covered by another DHS CATEX. For example, planning and designing for a flood protection system for federally-assisted flood hazard reduction actions (such as a levee) would not be categorically excluded from NEPA. In these situations, an EA or and EIS would be prepared. "Reasonably foreseeable" refers to situations where funding is imminent from either FEMA or any other source, including private, public, or Federal, or where the plan is used to justify future funding decisions.

Comparable FEMA CATEXs

(ii) Studies that involve no commitment of resources other than manpower and associated funding;

(xviii)(E) Information and data gathering and reporting efforts in support of emergency and disaster response and recovery and hazard mitigation.

Proposed text: ***N18 Federal Assistance for Construction or Installation of Structures, Facilities, or Equipment to Ensure Continuity of Operations.***

Federal assistance for the construction or installation of measures for the purpose of ensuring the continuity of operations during incidents such as emergencies, disasters, flooding, and power outages involving less than one acre of ground disturbance. Examples include the installation of generators, installation of storage tanks of up to 10,000 gallons, installation of pumps, construction of structures to house emergency equipment, and utility line installation. This CATEX covers associated ground disturbing activities, such as trenching, excavation, and vegetation removal of less than once acre, as well as modification of existing structures.

Rationale and Support for CATEX

This proposed CATEX would cover Federally-assisted activities associated with the construction or installation of measures that ensure the continuity of operation of facilities owned or managed by non-DHS entities. It is based on existing FEMA CATEXs (ix), (xvi), and (xvii). It has been rewritten to capture recent FEMA experience in the installation of measures to ensure continuity of operations of radio transmitter stations across the country in the event of national emergencies.

The CATEX would cover ground disturbing activities, such as trenching, excavation, and vegetation removal of less than once acre, as well as modification of existing structures.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements such as NHPA Section 106, ESA Section 7, and EOs 11988 and 11990, among others.

Comparable FEMA CATEXS

(ix) Acquisition, installation, or operation of utility and communication systems that use existing distribution systems or facilities, or currently used infrastructure rights-of-way;

(xvi) Improvements to existing facilities and the construction of small scale hazard mitigation measures in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use; provided the operation of the completed project will not, of itself, have an adverse effect on the quality of the human environment;

(xvii) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing Federal, state, and local laws and regulations.

Supporting EAs

Programmatic Environmental Assessment for Integrated Public Alert and Warning System Construction Projects. (http://www.fema.gov/library/viewRecord.do?id=4174)

Under the proposed action, FEMA would upgrade selected radio stations to ensure that their transmission capabilities are maintained for an extended period without the availability of commercial power in an event of man-made or natural disaster. Work involved the removal of underground fuel storage tanks (UST) and above ground fuel storage tanks (AST) if the UST/AST was a government fuel tank installed during previous programs and requires replacement. Removal and replacement of existing backup generators on sites where the existing generator is not reliable was required. Work also involved the establishment of modular systems and connection of the modular systems with existing power panels in building for standby power.

Some of the actions involved providing a new low power, secondary transmitter system with backup power and supporting fuel storage. The actions involved ground disturbance and construction related work associated with the creating foundations and the placement of a pre-cast concrete module with 35 KW generator system (approximate size of 10 ft. x 14 ft.), creating foundations and the placement of another pre-cast concrete shelter module with backup transmitter equipment, placement of a fully compliant double walled above ground fuel storage tank and distribution (fuel storage will range in size from 4,000 gal. to 10,000 gal.), trenching for underground utilities for commercial power from existing building underground (24 in. deep trench).

The expected size of the total fenced compound with the new modules and fuel storage was about 40 ft. x 50 ft. Foundation depths for the modules and fuel tank were between 12 in. – 24 in. depending on local frost lines and codes. Projects met applicable storm water prevention requirements (SWPPP) and other environmental management compliance requirements (e.g. SPCC plans, etc.).

An alternative was evaluated where construction, including ground disturbing work, would occur in previously undisturbed portions of the lot where the transmitter facility is located. Work in these areas would involve removal of vegetation including removal of trees, trenching, excavation, placement of fences (including driving of fence poles in the ground), and displacement of permeable surfaces by the pre-cast concrete modules.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: **N19 Federal Assistance for Clean-up and Other Actions to Restore Environmental Resources.* *Federal assistance for clean-up and other actions to restore environmental resources. to pre-existing conditions when resource contamination or damage results from a disaster event and when the clean-up and associated actions are not exempt from NEPA. Examples include the clean- up of underground storage tank releases and above ground releases that affect nearby water bodies or wetlands.*

Rationale and Support for CATEX

DHS, through FEMA's disaster response and recovery activities, routinely approves actions of a similar nature, scope, and intensity to those being proposed in this CATEX, and has applied its existing CATEX (xv) to such actions. Examples include the clean-up of underground storage tank releases and above ground releases that affect nearby water body and wetlands.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements.

Comparable FEMA CATEX

(xv) Repair, reconstruction, restoration, elevation, retrofitting, upgrading to current codes and standards, or replacement of any facility in a manner that substantially conforms to the preexisting design, function, and location.

Professional Opinion

Ms. Rosemarie Bradley, Ph.D., an Environmental Specialist in the Office of Environmental Planning & Historic Preservation at FEMA Headquarters, provided a

professional opinion to support this proposed CATEX and the determination that the actions contemplated under this CATEX typically do not have a significant impact on the human environment.

Ms. Bradley relied on her knowledge and experience of clean up and debris operations, including ensuring there was no contamination from staging areas, following disaster events. She served as member of the FEMA NY Debris Task Force and Debris Lead and Debris Team Co-Lead for disaster events, such as the Alabama tornados. Clean up activities are typically necessary when floodwaters inundate storage tanks, resulting in discharges of oil or other materials and thus requiring clean up of the area during disaster recovery. Communities may request FEMA assistance and reimbursement for cleanup activities. Grantees hire licensed contractors, or FEMA mission assigns the Army Corps of Engineers for removal of debris, some of which can be oil-contaminated. FEMA requires use of approved contractors and disposal locations in compliance with RCRA requirements. In Ms. Bradley's experience, clean up activities covered by the proposed CATEX typically return the site to pre-disaster condition and do not generate significant environmental impacts.

In Ms. Bradley's experience, FEMA CATEX (xv) is typically used for activities contemplated by the proposed new CATEX and a REC is always completed for these types of actions to document compliance with all appropriate laws during cleanup, transport, and disposal of oil-contaminated materials.

Professional Credentials

The professional credentials of Ms. Bradley are provided below.

- **Education**: B.S. Biology. M.S. Environmental Science. PH.D. Environmental Studies, with a concentration in environmental policy.
- **Training**: Ms. Bradley has had training in numerous haz-mat related courses and hands-on training during course of study and also while employed as an Environmental Analyst and member of the MA DEP Hazardous Materials Emergency Response Team.
- **Certifications**: 40-hr OSHA HAZWoper (past). FEMA FQS certified Environmental Manager
- **Years of related experience**: Ms. Bradley has 23 years of related experience.

PROPOSED NEW UNIQUE CATEGORICAL EXCLUSIONS FOR THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

The following CATEXs (M1 through M13) are proposed new CATEXs that would be available for use only by FEMA and cover the Agency's non-grant activities and authorities, such as disaster operations and administering the NFIP. These CATEXs would not be available for use by any other DHS Component.

Proposed text: ***M1*** *The following activities in support of FEMA's administration of the National Flood Insurance Program (NFIP):*

(a) Review of information, provision of technical assistance, and classification for individual communities under the Community Rating System (CRS);
(b) Approvals and issuance of Letters of Map Change, including Agency comments;
*(c) *Creation of new flood zones, except establishing new flood zones for areas protected by structural flood control structures or systems or dams;*
(d) Revisions to Standard Flood Insurance Policy and Group Flood Insurance Policy;
(e) Actions associated with inspections and monitoring, and enforcement of Federal, State, Tribal, or local floodplain management codes, standards, or regulations, except for the suspension of communities from the NFIP;
*(f) *Development and adoption of CRS activities; and*
(g) Revisions to flood insurance rates and premium schedules.

Rationale and Support for CATEX

In 1968, Congress created the NFIP to help provide a means for property owners to financially protect themselves. The NFIP is a voluntary program that offers flood insurance to homeowners, renters, and business owners if their community choses to participate in the NFIP. Participating communities agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding. Flood insurance is one of three major components of the NFIP; the others are floodplain management and flood hazard mapping. FEMA administers the NFIP and has years of experience carrying out the program, but very few of its existing CATEXs are specific to this program. Rather, FEMA has used the four general CATEXs listed below to cover NFIP activities. During an evaluation of the existing FEMA CATEXs, FEMA NEPA practitioners felt it would be useful to develop CATEXs specific to the NFIP because this program is a distinctive part of FEMA's mission, and one which is unique in the degree to which Congress has eliminated discretion in FEMA's administration of the

program. FEMA has determined that in significant aspects of the NFIP, NEPA does not apply to some actions because there is no discretion on the part of the agency. For example, the enrollment of communities in the NFIP is a non-discretionary response to statutory requirements, regardless of potential environmental consequences. On the other hand, FEMA has also determined through experience that the NFIP activities listed in (a) through (g) above, which are actions in which the agency has some degree of discretion, do not have the potential for significant impacts on the quality of the human environment and are therefore appropriate to include as a proposed new CATEX.

Comparable FEMA CATEXs

(i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day-to-day activities and disaster related activities.

(ii) Preparation, revision, and adoption of regulations, directives, manuals and other guidance documents related to actions that qualify for categorical exclusions.

(iii) Studies that involve no commitment of resources other than manpower and associated funding.

(iv) Inspection and monitoring activities, granting of variances, and actions to enforce Federal, state, or local codes, standards or regulations.

Review of information, providing technical assistance, and classification for individual communities under the Community Rating System (CRS)

FEMA reviews requests for the application of criteria under the NFIP's Community Rating System (CRS), which is a voluntary incentive program implemented in 1990 that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. Under the CRS, flood insurance premium rates are discounted to reward community actions that meet the three goals of the CRS, which are: (1) reduce flood damage to insurable property; (2) strengthen and support the insurance aspects of the NFIP; and (3) encourage a comprehensive approach to floodplain management. FEMA has determined through experience that the adoption of these criteria do not have significant impacts on the human environment. FEMA has relied on its existing CATEX (i) in reviewing actions associated with the CRS.

Approvals and issuance of letters of map change, including Agency comments

FEMA considers approvals and issuances of letters of map change to have no significant impact to the human environment. As the agency in charge of the NFIP, FEMA has extensive experience conducting studies of maps related to the NFIP. FEMA has determined that approvals and issuances of letters of map changes, which are the results of FEMA's studies, are similar in nature, scope, and intensity to other studies conducted within FEMA that similarly do not involve a commitment of resources beyond funding manpower. Therefore, FEMA has relied on its existing CATEX (iii) to exclude these

activities from further NEPA review. The proposed CATEX would formalize the practice of categorically excluding these activities under FEMA's existing regulations.

The CATEX would cover Agency comments to issuance of Conditional Letters of Map Revision (CLOMR). These are comments the Agency provides to a proposed action on whether the proposed action would work as intended. It is FEMA's position that issuance of comments do not Federalize the underlying action under NEPA. FEMA has no discretionary authority over the proposed project and the proponent may choose to ignore FEMA's comment and proceed with the action. Although there are consequences for the NFIP participating community for allowing activities that require CLOMRs to proceed without them, FEMA does not have enforcement authority over those activities themselves.

*Creation of new flood zones, except establishing new flood zones for areas protected by flood control structures or systems or dams **(*)***

Flood zones are geographic areas of the United States that FEMA has defined according to varying levels of flood risk and type of flooding. These zones are depicted on a published Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map (FHBM) (see https://msc.fema.gov). Through its years of experience establishing new flood zones, FEMA has determined that this activity does not cause significant impacts on the quality of the human environment. Economic impacts are the most frequent impacts associated with the creation and application of new flood zones. However, as specified in the CEQ regulations (40 CFR 1508.14), socioeconomic considerations in of themselves do not trigger the need for a higher level of NEPA analysis.

This proposed CATEX does not cover the establishment of new flood zones for areas protected by flood control systems or structures or areas behind dams. The proposed development of a flood zone for these areas would trigger a higher level of NEPA analysis in an EA or and EIS that takes into account public involvement, development of alternatives, and an evaluation of potential environmental impacts.

FEMA is aware that extraordinary circumstances could arise during the creation of new flood zones and require a higher level of environmental review. For this reason, FEMA is requiring documentation in a REC whenever new flood zones are created to ensure the action is appropriately categorically excluded.

Supporting EA

Regulations Implementing Section 928 of the Housing and Community Development Act of 1992, Public Law 102-550, Washington D.C. May 1994.

The proposed rule will revise the NFIP regulations to establish a new flood insurance rate zone for areas designated as flood control restoration zones on NFIP maps. It would also establish a minimum of floodplain management requirements and would provide regulatory guidance for implementing statutory requirements contained in P.L. 102-550,

including procedures to identify and map areas as flood control restoration zones. The purpose of the amendment is to permit management requirements and to use flood insurance rates appropriate to the temporary nature of flood hazards during the period when a flood protection system no longer provides 100-year flood protection until it is restored. The flood control restoration zone designation is a temporary designation and is of limited duration.

The proposed action would revise existing floodplain management, mapping, and insurance regulations of the NFIP to provide for a new flood insurance rate zone (known as the flood control restoration zone, Zone AR). The revision is necessary to implement the provisions of Section 928 of the Housing and Community Development Act of 1992, Public Law 102-550, which amended Section 1307 on the National Flood Insurance Act of 1968, by creating the flood control restoration zone. The proposed action will provide amendments and will revise 44 CFR Parts 59, 60, 64, 65, 70 and 75.

Findings: Based upon the results of the EA, it has been concluded that the proposed action will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Revisions to Standard Flood Insurance Policy and Group Flood Insurance Policy

The Standard Flood Insurance Policy and Group Flood Insurance Policy are established and revised through FEMA regulations. FEMA typically relies on its existing CATEX (i) and (ii) for revisions to the Standard Flood Insurance Policy and Group Flood Insurance Policy because these are administrative actions that do not have the potential for significant impacts on the human environment.

Actions associated with inspections and monitoring, and enforcement of Federal, State, Tribal, or local floodplain management codes, standards, or regulations, except for the suspension of communities from the NFIP

This language is similar to FEMA's existing CATEX (iv). The proposed CATEX covers FEMA's enforcement actions under the NFIP such as conducting community assistance calls, community assistance visits, and placing communities in probation in the NFIP.

The language was modified by broadening the focus to all actions associated with these activities instead of on the activities themselves. FEMA enforces its floodplain management standards at the community level, but does not issue local floodplain development permits or carry out local floodplain management activities. NFIP participating communities are expected to engage in these activities to meet the program's minimum criteria. FEMA does not issue variances for floodplain management requirements at the community level either. However, FEMA develops guidance, policies, and regulations establishing the standards and criteria on these issues for the participating communities; this CATEX covers these FEMA actions.

*Development and adoption of CRS activities **(*)***

FEMA has treated the development and adoption of CRS activities as administrative actions falling within the scope of existing FEMA CATEX (i), and FEMA maintains that the action of establishing activities for credit in the CRS does not trigger significance under NEPA. However, in recognition of the potential negative indirect effects of some activities on the natural and beneficial functions of floodplains, FEMA is separating this activity from other administrative actions and requiring the development of a REC to determine whether there are particular activities within the CRS that would trigger extraordinary circumstances and warrant a higher level of NEPA review.

Revisions to flood insurance rates and premium schedules

FEMA establishes flood insurance rates and premium schedules through its regulations. FEMA has experience adjusting flood insurance rates and premium schedules without creating significant impacts on the human environment. These activities are revenue neutral and do not, in and of themselves, encourage development in floodplains. Given FEMA's experience, FEMA is proposing to limit the proposed CATEX to these types of rate adjustments.

Insurance rates and premium schedules are revised and adopted through regulations, and are therefore similar in nature, scope, and intensity to other program requirements within FEMA.

Proposed text: ***M2*** *Transportation and prepositioning of assets in preparation for national emergencies and disasters.*

Rationale and Support for CATEX

FEMA's experience has been that the transportation and prepositioning of assets in preparation for national emergencies and disasters do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment. These types of actions are similar in nature to actions undertaken under Section 402 of the Stafford Act, which are statutorily excluded from NEPA. When not statutorily excluded, FEMA has applied its existing CATEX (vi) to these activities.

Comparable FEMA CATEX

(vi) Procurement of goods and services for support of day-to-day and emergency operational activities, and the temporary storage of goods other than hazardous materials, so long as the storage occurs on previously disturbed land or in existing facilities.

Proposed text: M3 *Urban Search and Rescue activities, including deployment of USR teams.*

Rationale and Support for CATEX

This CATEX is essentially the same as existing FEMA CATEX (xviii)(C), with a minor wording change to make it clear that deployment of USR teams is one common type of USR activity. These are activities taken in support of emergency and disaster response and recovery operations that FEMA experience has shown do not do not individually or cumulatively result in significant impacts on the quality of the human environment. Therefore, FEMA has determined that it remains appropriate to categorically exclude this type of activity from a higher level of NEPA analysis.

Comparable FEMA CATEX

(xviii)(C) Deployment of Urban Search and Rescue Teams.

***Proposed text: M4** Emergency Communications (Stafford Act §418).*

Rationale and Support for CATEX

This CATEX is the same as existing FEMA CATEX (xix)(L). These are activities taken in support of emergency and disaster response and recovery operations that FEMA experience has shown do not do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment. Therefore, FEMA has determined that it remains appropriate to categorically exclude this type of activity from a higher level of NEPA analysis.

Proposed text: ***M5** Emergency Public Transportation (Stafford Act §419).*

Rationale and Support for CATEX

This CATEX is the same as existing FEMA CATEX (xix)(M). These are activities taken in support of emergency and disaster response and recovery operations that FEMA experience has shown do not do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment. Therefore, FEMA has determined that it remains appropriate to categorically exclude this type of activity from a higher level of NEPA analysis.

Proposed text: ***M6** Lease of pre-existing structures and facilities for disaster operations (e.g. Joint Field Offices, Area Field Offices, Disaster Recovery Centers) located out of floodplains, historic properties, or contaminated sites.*

Rationale and Support for CATEX

FEMA has disaster lease authority, which it uses to lease facilities for disaster operations such as joint field offices, area field offices, and disaster recovery centers. FEMA has used its existing CATEX (xvii) for these types of activities. Existing DHS CATEXs (B3), (C1) and (C2) also support this new CATEX. FEMA has determined through

experience that these lease activities do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment.

Comparable CATEXS

DHS CATEXs

(B3) Proposed activities and operations to be conducted in an existing structure that would be compatible with and similar in scope to its ongoing functional uses and would be consistent with previously established safety levels and in compliance with applicable Federal, tribal, state, or local requirements to protect the environment.

(C1) Acquisition of an interest in real property that is not within or adjacent to environmentally sensitive areas, including interests less than a fee simple, by purchase, lease, assignment, easement, condemnation, or donation, which does not result in a change in the functional use of the property.

(C2) Lease extensions, renewals, or succeeding leases where there is no change in the facility's use and all environmental operating permits have been acquired and are current.

FEMA CATEX

(xvii) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing Federal, state, and local laws and regulations.

Proposed text: ***M7** Lease of pre-existing structures and facilities for disaster operations (e.g. Joint Field Offices, Area Field Offices, Disaster Recovery Centers) located within floodplains, historic properties, or contaminated sites.*

Rationale and Support for CATEX

FEMA has disaster lease authority, which it uses to lease facilities for disaster operations such as joint field offices, area field offices, and disaster recovery centers. FEMA has used its existing CATEX (xvii) for these types of activities. Existing DHS CATEXs (B3), (C1) and (C2) also support this new CATEX. FEMA has determined through experience that these lease activities do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements such as NHPA Section 106 and 44 CFR Part 9, among others.

Comparable CATEXS

DHS CATEXs

(B3) Proposed activities and operations to be conducted in an existing structure that would be compatible with and similar in scope to its ongoing functional uses and would be consistent with previously established safety levels and in compliance with applicable Federal, tribal, state, or local requirements to protect the environment.

(C1) Acquisition of an interest in real property that is not within or adjacent to environmentally sensitive areas, including interests less than a fee simple, by purchase, lease, assignment, easement, condemnation, or donation, which does not result in a change in the functional use of the property.

(C2) Lease extensions, renewals, or succeeding leases where there is no change in the facility's use and all environmental operating permits have been acquired and are current.

FEMA CATEX

(xvii) Actions conducted within enclosed facilities where all airborne emissions, waterborne effluent, external radiation levels, outdoor noise, and solid and bulk waste disposal practices comply with existing Federal, state, and local laws and regulations.

Proposed text: **M8* *Development of temporary shelter or housing for first responders and Federal disaster personnel involving less than 10 acres of ground disturbance in previously developed or disturbed areas and that follow best management practices for pollution control.*

Rationale and Support for CATEX

FEMA has the authority to develop camps and temporary facilities to house first responders and Federal disaster workers. These temporary facilities would be located in previously developed or disturbed areas and may result in temporary impacts on the environment, but would not have long-term or significant impacts.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements such as NHPA Section 106, ESA Section 7, and 44 CFR Part 9, among others.

Supporting EA

Responder Support Camp, Minot, North Dakota, July 2011.
(http://www.fema.gov/library/viewRecord.do?id=4769)

The project purpose is to provide shelter for responders, accessible to the Minot, Ward County area. The need is a direct result of no available shelter for responders within a 150 mile radius of the Minot, Ward County area.

In considering the "range of reasonable alternatives," efforts were made to utilize sites identified by the USACE as potential locations for temporary housing. However, it was determined that the number one priority is to meet the temporary housing need of the disaster victims. Therefore, only the Minot site was available as a viable site for the camp.

The site consisted of approximately 10 acres of land owned by the City of Minot. The site is bordered on the east by 42nd Avenue, and by agricultural land on the other three sides. The terrain is essentially flat with change in elevation from 1617' to 1620' WGS-84. The site is disturbed ground with no cover and was previously used as a pipe staging area for the City of Minot. The City of Minot provided FEMA with a Memorandum of Understanding for the use of the land.

This project involved providing base camp support services inclusive of mobilization, site preparation, installation, base camp management and operation, and demobilization as set forth herein and in task orders. Contractor shall have the ability to provide two concurrent base camps. Contractor services include:

- Base camp design;
- Site preparation;
- Installation and maintenance of all contractor provided equipment; and
- All services necessary to effectively and efficiently manage and operate the base camp.

The contractor shall house all authorized camp occupants with tents or modular units, equip tents and other facilities with air conditioning and heating (HVAC) and leveled plywood floors (or equivalent) as well as provide bedding, meal services, kitchen, dining hall, limited recreation facilities, operations center, medical unit, refrigerated trucks, shower units, hand wash units, potable (drinking) water, water purification and manifold distribution systems, toilets, on-site manifold distribution of black and grey water and associated on-site sanitation systems, complete laundry service, industrial generators, and light towers.

The site is currently hard-packed dirt that would require some re-surfacing to prevent mud issues during rain/snow events. A safety fence will also be installed and maintained around the camp perimeter.

Site Selection Process:

In order to expedite the site selection process, FEMA and USACE staff reviewed available aerial photos and maps, conducted site reconnaissance field surveys, and contacted state and local officials to identify potential sites. Factors considered in

choosing a site include: site topography, property owner willingness, past land use, if it was already planned for development, access to existing utilities, and engineering feasibility.

Findings: Based upon the results of the EA, it has been concluded that the proposed project will not significantly affect the quality of the human environment, and no further NEPA analysis (i.e. Environmental Impact Statement) is warranted.

Proposed text: ***M9** Storage of assets immediately after a disaster, including development of temporary staging areas involving less than 10 acres of ground disturbance in previously developed or disturbed areas and that follow best management practices for pollution control.*

Rationale and Support for CATEX

This proposed CATEX is based on existing FEMA CATEX (vi). The wording has been revised to clarify that ground disturbing activities associated with the storage of assets are included in the CATEX. FEMA has determined through experience that it remains appropriate to categorically exclude these activities from a higher level of NEPA analysis because they do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment.

Application of this CATEX to a proposed action would require a REC to document alignment with the scope of the CATEX, evaluation of extraordinary circumstances, and compliance with other EP&HP requirements such as NHPA Section 106, ESA Section 7, and 44 CFR Part 9, among others.

Comparable FEMA CATEX

(vi) Procurement of goods and services for support of day-to-day and emergency operational activities, and the temporary storage of goods other than hazardous materials, so long as the storage occurs on previously disturbed land or in existing facilities.

Proposed text: ***M10** Activation of response and recovery frameworks and operations (e.g. National Response Framework, National Disaster Recovery Framework, National Response Coordination Center, Regional Response Coordination Center, Emergency Response Teams, Incident Management Assistance Teams, Emergency Support Functions, Recovery Support Functions).*

Rationale and Support for CATEX

FEMA engages in a variety of planning and administrative actions in support of emergency and disaster preparedness, response and recovery, and hazard mitigation. The Agency has had CATEXs covering these activities since its inception. After a

careful evaluation, FEMA has determined that these activities remain appropriately categorically excluded from a higher level of NEPA review and that having CATEXs for these activities is critical to carrying out the Agency mission.

This proposed CATEX is based on existing FEMA CATEXs (xviii)(A) and (B). It is being expanded to cover additional statutory mandates and authorities and administrative changes (e.g., organizational, name) since 1996. Information about these various response and recovery frameworks and operations can be found on the FEMA website (for example, see http://www.fema.gov/national-disaster-recovery-framework; http://www.fema.gov/national-response-framework).

Comparable FEMA CATEXs

(xviii)(A) Activation of the Emergency Support Team and convening of the Catastrophic Disaster Response Group at FEMA headquarters.

(xviii)(B) Activation of the Regional Operations Center and deployment of the Emergency Response Team, in whole or in part.

Proposed text: ***M11*** *Information and data gathering and reporting in support of emergency and disaster response and recovery activities, including ground and aerial reconnaissance and structure inspection.*

Rationale and Support for CATEX

This proposed CATEX combines existing FEMA CATEXs (xviii)(D) and (E). FEMA has determined through experience that it remains appropriate to categorically exclude these activities from a higher level of NEPA analysis because they do not individually or cumulatively have the potential to result in significant impacts on the quality of the human environment.

Comparable FEMA CATEXs

(xviii)(D) Situation assessment, including ground and aerial reconnaissance.

(xviii)(E) Information and data gathering and reporting efforts in support of emergency and disaster response and recovery and hazard mitigation.

Proposed text: ***M12*** *Development of plans by FEMA for the purpose of preparing for disasters, recovering from disasters, and identifying opportunities for mitigating the effects of future disasters; and the issuance of national frameworks, doctrines, guidance, standard operating procedures, and handbooks for the coordination of Federal, State, local, and private disaster response, recovery, and hazard mitigation. This CATEX is not applicable to plans associated with specific situations or projects that are reasonably foreseeable to occur and that are not otherwise covered by another CATEX.*

Rationale and Support for CATEX

FEMA engages in a variety of planning and administrative actions in support of emergency and disaster preparedness, response and recovery, and hazard mitigation. The Agency has applied CATEXs to these activities since its inception. After a careful evaluation, FEMA has determined that it remains appropriate to categorically exclude these activities from a higher level of NEPA analysis and that having CATEXs for these activities is critical to carrying out the Agency mission.

FEMA has relied on its existing CATEXs (i), (ii), and (iii) to develop documents for the coordination of emergency preparedness, response, and disaster recovery activities without further NEPA review because these actions are administrative in nature. These are planning documents that do not result in a commitment of resources beyond staff time.

FEMA requires Tribes, states, and local entities to engage in various forms of planning as a condition of receiving FEMA assistance (e.g. hazard mitigation plans). FEMA also funds these planning initiatives and sometimes engages in these activities as part of the disaster recovery process. Typically, these planning activities are strategic or programmatic in nature that identify problems within an area and provide a menu of options on how to address these problems. The plans themselves do not guarantee that funding for a particular project will be provided or that a project will be implemented, but the plans can be useful in identifying or bounding the alternatives to resolve the issue.

This CATEX would not be applicable to plans for specific situations or projects that are reasonably foreseeable to occur and that are not otherwise covered by another CATEX. For example, planning and designing for a flood protection system not covered by the CATEX for flood hazard reduction actions (such as a levee) would not be categorically excluded from NEPA. In these situations, an EA would be needed at a minimum. "Reasonably foreseeable" refers to situations where funding is imminent from either FEMA or any other source, including private, public, or Federal, or where the plan is used to justify future funding decisions.

Comparable CATEXs

<u>FEMA CATEXs</u>

(i) Administrative actions such as personnel actions, travel, procurement of supplies, etc., in support of normal day-to-day activities and disaster related activities.

(ii) Preparation, revision, and adoption of regulations, directives, manuals, and other guidance documents related to actions that qualify for categorical exclusions.

(iii) Studies that involve no commitment of resources other than manpower and associated funding.

DHS CATEXs

(A3) Promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) Those of a strictly administrative or procedural nature; (b) Those that implement, without substantive change, statutory or regulatory requirements; (c) Those that implement, without substantive change, procedures, manuals, and other guidance documents; (d) Those that interpret or amend an existing regulation without changing its environmental effect; (e) Technical guidance on safety and security matters; or, (f) Guidance for the preparation of security plans.
(A4) Information gathering, data analysis and processing, information dissemination, review, interpretation, and development of documents. If any of these activities result in proposals for further action, those proposals must be covered by an appropriate CATEX. Examples include but are not limited to: (a) Document mailings, publication and distribution, training and information programs, historical and cultural demonstrations, and public affairs actions. (b) Studies, reports, proposals, analyses, literature reviews; computer modeling; and non-intrusive intelligence gathering activities.

Proposed text: **M13* *Construction or installation of structures, facilities, or equipment for the purpose of ensuring the continuity of operations during incidents such as emergencies, disasters, flooding, and power outages involving less than one acre of ground disturbance. Examples include the installation of generators, installation of storage tanks of up to 10,000 gallons, installation of pumps, construction of structures to house emergency equipment, and utility line installation.*

Rationale and Support for CATEX

This proposed new CATEX is intended to cover activities associated with the construction or installation of measures that ensure the continuity of operation of facilities owned or managed by FEMA. For rationale and support for this proposed CATEX, see the information provided for proposed CATEX N18 under the preceding section on Federal assistance activities.