



U.S. DEPARTMENT OF ENERGY

REQUEST FOR INFORMATION

Date: December 21, 2009

Requesting Office: Office of NEPA Policy and Compliance

Deadline for Responses: January 25, 2010

Purpose

The U.S. Department of Energy (DOE) intends to update its National Environmental Policy Act (NEPA) categorical exclusions (CXs), and through this request for information (RFI), seeks input from interested individuals and organizations (interested parties) regarding existing, new, or revised CXs.

Background

NEPA requires federal agencies to consider the potential environmental impacts of their “proposed actions.” Proposed actions include actions directly undertaken by a federal agency, as well as certain actions undertaken by a state, local, or private entity with federal involvement, *e.g.*, projects that will receive federal funding, permits, or other support. The three types of NEPA review for proposed actions – Environmental Impact Statement (EIS), Environmental Assessment (EA), and CX determination – require different levels of information and analysis. An EIS is a detailed analysis of the potential environmental impacts of a proposed action that may have a significant effect on the environment. An EA is a briefer analysis conducted to determine whether a proposed action may have a significant effect on the environment and thus whether an EIS is required. A CX is an established category of actions for which normally neither an EA nor an EIS is required. A CX determination is made when an agency finds that a proposed action fits within a CX and meets other applicable requirements. This RFI relates to CXs.

DOE has concluded that many categories of actions normally do not have the potential, individually or cumulatively, to have a significant effect on the human environment and, thus, are categorically excluded from the need to prepare an EA or EIS. CXs are established pursuant to a rulemaking, and are supported by a record showing that the defined category of actions typically will not have a significant effect. A complete list of DOE’s current CXs can be found at 10 C.F.R. Part 1021, Subpart D, Appendices A and B. For your convenience, they are also included as Attachment 1.

DOE last updated its CXs in 1996. Since that time, the range of actions in which DOE is involved has expanded. For example, in recent years, DOE has become more involved in funding actions proposed by applicants, including actions that enhance the environment and/or energy efficiency through grant and loan programs pursuant to the American Recovery and Reinvestment Act of 2009 and the Energy Policy Act of 2005. While DOE has successfully applied its existing CXs to many of these proposed actions, it seeks to establish new CXs more directly tailored to them. Another change since 1996 is the general growth of new technologies in the private and public sectors that did not exist when DOE last established CXs.

To ensure that its CXs reflect DOE's full range of actions and new technologies, DOE is considering changes to existing CXs and the addition of new CXs. Any such changes or additions would require a rulemaking.

Request for Information Guidelines

What to Submit

DOE seeks information from interested parties to help it identify activities that should be considered for new or revised CXs. DOE specifically requests that interested parties:

- Identify a specific category of actions that is not covered by existing DOE CXs, but that is likely to meet the standard of not individually or cumulatively having a significant effect on the human environment; and
- Provide suggestions for revising DOE's existing CXs.

Along with the above information, interested parties should provide: (1) a brief explanation of the rationale for any suggested revisions or additions to the existing CXs, and (2) technical or empirical support for the proposal.

When to Submit

DOE invites written responses to this RFI from all interested parties. Written responses should be postmarked or emailed by January 25, 2010. Late responses will be considered to the extent practicable. When DOE initiates a rulemaking concerning CXs, all interested persons will have an opportunity to comment during that rulemaking action. Responses to this RFI are nevertheless encouraged in order to enhance the rulemaking process.

How to Submit

Email submissions are encouraged due to the delivery time required for mail, and should be sent to yardena.mansoor@hq.doe.gov. Alternatively, submissions may be faxed to 202-586-7031 or mailed to Yardena Mansoor; Office of NEPA Policy and Compliance (GC-54); U.S. Department of Energy; 1000 Independence Avenue, SW; Washington, DC 20585. Questions may be directed to Ms. Mansoor at the email address above or at 202-586-9326.