

§ 900.204 Categorical exclusions.

(a) *General.* A categorical exclusion (CATEX) is defined in 40 CFR 1508.4 as a category of actions which do not individually or cumulatively have a significant effect on the human environment and, for which in the absence of extraordinary circumstances or sensitive resources, neither an EA nor an EIS is required. Actions that meet the conditions in paragraph (b) of this section and are listed in section A of appendix A of this part can be categorically excluded from further analysis and documentation in an EA or EIS. Actions that meet the screening conditions in paragraph (b) of this section and are listed in section B of appendix A require satisfactory completion of a Denali Commission CATEX checklist in order to be categorically excluded from further analysis and documentation in an EA or EIS.

(b) *Conditions.* The following three conditions must be met for an action to be categorically excluded from further analysis in an EA or EIS.

(1) The action has not been segmented (too narrowly defined or broken down into small parts in order minimize its potential effects and avoid a higher level of NEPA review) and its scope includes the consideration of connected actions and, when evaluating extraordinary circumstances, cumulative impacts.

(2) No extraordinary circumstances described in paragraph (c) of this section exist, unless resolved through other regulatory means.

(3) One categorical exclusion described in either section of appendix A of this part encompasses the proposed action.

(c) *Extraordinary circumstances.* Any action that normally would be classified as a CATEX but could involve extraordinary circumstances will require appropriate environmental review documented in a Denali Commission CATEX checklist to determine if the CATEX classification is proper or if an EA or EIS should be prepared. Extraordinary circumstances to be considered include those likely to:

(1) Have a reasonable likelihood of significant impacts on public health, public safety, or the environment;

(2) Have effects on the environment that are likely to be highly controversial or involve unresolved conflicts concerning alternative uses of available resources;

(3) Have possible effects on the human environment that are highly uncertain, involve unique or unknown risks, or are scientifically controversial;

(4) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects;

(5) Relate to other actions with individually insignificant but cumulatively significant environmental effects;

(6) Have a greater scope or size than is normal for the category of action;

(7) Have the potential to degrade already existing poor environmental conditions or to initiate a degrading influence, activity, or effect in areas not already significantly modified from their natural condition;

(8) Have a disproportionately high and adverse effect on low income or minority populations (see Executive Order 12898);

(9) Limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (see Executive Order 13007);

(10) Threaten a violation of a federal, tribal, state or local law or requirement imposed for the protection of the environment;

(11) Have a reasonable likelihood of significant impact to subsistence activities; or

(12) Have a reasonable likelihood of significant impacts on environmentally sensitive resources, such as:

(i) Properties listed, or eligible for listing, in the National Register of Historic Places;

(ii) Species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or their habitat; or

(iii) Natural resources and unique geographic characteristics such as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; special aquatic sites (defined under Section 404 of the Clean Water Act); floodplains; national monuments; and other ecologically significant or critical areas.