



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

August 10, 2021

ALL AGREEMENT STATES  
NON-AGREEMENT STATES  
STATE LIAISON OFFICERS  
ALL FEDERALLY RECOGNIZED INDIAN TRIBES

ADVANCE NOTICE OF PROPOSED RULEMAKING ON CATEGORICAL EXCLUSION FROM ENVIRONMENTAL REVIEW AND REQUEST FOR COMMENT (STC-21-059)

**Purpose:** To inform States and Indian Tribes that the U.S. Nuclear Regulatory Commission (NRC) has reopened the comment period on the Advance Notice of Proposed Rulemaking (ANPR) to amend the NRC regulations on categorical exclusions for licensing, regulatory, and administrative actions that do not have a significant effect on the human environment. As part of the ANPR process, the NRC is seeking public comment to inform the proposed rulemaking, including reaching out to Federally recognized Tribes in accordance with its Tribal Policy Statement.

**Background:** The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to undertake an assessment of the environmental effects of their proposed actions prior to deciding whether to approve or disapprove the proposed action. There are three types of NEPA analyses: an environmental impact statement (EIS), an environmental assessment (EA), or a categorical exclusion. A categorical exclusion falls within a category of actions that the Federal agency considers will not have a significant effect on the human environment and does not require preparation of an EA or EIS, unless there are special (e.g., unique, unusual, or controversial) circumstances. The NRC's categorical exclusion regulatory provisions are in § 51.22 of Title 10 of the *Code of Federal Regulations* (10 CFR), "Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review."

**Discussion:** Recently, the NRC reviewed its environmental programs and organization to identify potential ways to meet its NEPA obligations that would enhance the process, save time, and reduce resources. One of the methods identified was the possibility of creating new or revised categorical exclusions. The *Federal Register* Notice (FRN) for the ANPR (<https://www.federalregister.gov/documents/2021/05/07/2021-09675/categorical-exclusions-from-environmental-review>) includes a potential list of changes to § 51.22(c) that includes revisions to categorically exclude specific types of actions involving: license termination administrative actions that do not have the potential to affect the environment; exemptions to low-level waste disposal sites for the storage and disposal of special nuclear material regulated by Agreement States; approval of decommissioning funding plans; approvals of long-term surveillance plans of decommissioned uranium mills; authorizations to revise emergency plans for administrative changes such as reduction in staffing; and approvals for alternative waste disposal procedures for reactor and material licenses.

The FRN provides additional details of the proposed categorical exclusions and a list of questions for public comment. Information on methods for submitting your comments is available in the FRN. **Please provide your comments by September 21, 2021.**

If you have any questions with respect to this correspondence, please contact the individual named below:

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Sincerely,



Signed by Anderson, Brian  
on 08/10/21

Brian C. Anderson, Chief  
State Agreement and Liaison Programs Branch  
Division of Materials Safety, Security, State  
and Tribal Programs  
Office of Nuclear Material Safety  
and Safeguards