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# United States Department of Energy/National Environmental Policy Act: Categorical Exclusions Promulgated for Energy Storage/Transmission/Solar Projects

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The United States Department of Energy (“DOE”) published a final rule in the April 30th Federal Register adopting or amending certain National Environmental Policy Act (“NEPA”) categorical exclusions (“CEs”). See 89 Fed. Reg. 34074.

They either add or revise CEs for certain:

- Energy storage systems.
- Upgrading/rebuilding power lines.
- Solar photovoltaic systems.

NEPA requires federal agencies to include values and issues their decision-making processes. This federal mandate is accomplished by agency consideration of environmental impacts of proposed actions and reasonable alternatives to those actions. The statutes require federal agencies in certain instances to prepare a detailed Environmental Impact Statement (“EIS”). However, the requirement to prepare this document is only triggered in the event of a major federal action that will significantly affect the human environment.

As opposed to an EIS, which is a much more detailed document, an Environmental Assessment (“EA”) provides sufficient evidence and analysis for determining whether a Finding of No Significant Impact for an EIS should be prepared. Neither an EA nor an EIS need be prepared if a particular federal action falls within the scope of a NEPA Categorical Exclusion. CEs are promulgated by the federal agencies and are described actions which have been determined to not involve significant environmental impacts.

DOE states that the purpose of these changes is to ensure that the Agency conducts:

...an appropriate and efficient environmental review of proposed projects that normally do not result in significant environmental impacts.

The CEs can be briefly described as including:

- Changes to CE B4.13 for upgrading/rebuilding existing powerlines and related provisions (removing the current mileage limitation [20 miles]).

- New CE B4.14 for certain energy storage systems and related provisions (defined as a device or group of devices assembled together capable of storing energy in order to supply electrical energy at a later time).
- Changes to CE B5.16 for solar photovoltaic systems and related provisions (replaces the current CE term “removal” to “decommissioning” which encompasses recycling and other types of actions that occur when a facility is taken out of service/removes acreage limitation for proposed projects).

Note that as with other DOE CEs, the Agency’s regulations included “integral elements” which include:

1. Must not threaten a violation of applicable environmental, safety, and health requirements,
2. Must not require siting and construction or major expansion waste storage, disposal, recovery, or treatment facilities,
3. Must not disturb hazardous substances, pollutants, or contaminants that preexist in the environment such that there would be uncontrolled or unpermitted releases,
4. Must not have the potential to cause significant impacts on environmentally sensitive resources, or
5. Must not involve governmentally designated noxious weeds or invasive species.

A copy of the Federal Register notice can be downloaded [here](#).