

Thursday, June 25th, 2009 in Orofino, Idaho for a business meeting. The meeting is open to the public.

**SUPPLEMENTARY INFORMATION:** The business meeting on June 25th will be held at the Clearwater National Forest Supervisor's Office in Orofino, Idaho, beginning at 10 a.m. (PST). Agenda topic will be discussion and approval of potential projects. A public forum will begin at 3:15 p.m. (PST).

**FOR FURTHER INFORMATION CONTACT:** Laura A. Smith, Public Affairs Officer and Designated Federal Officer, at (208) 983-5143.

Dated: May 18, 2008.

**Thomas K. Reilly,**  
Forest Supervisor.

[FR Doc. E9-12038 Filed 5-22-09; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF COMMERCE

[Docket No. 090520919-9919-01]

**RIN 0648-XP46**

### National Environmental Policy Act— Proposed Categorical Exclusions

**AGENCY:** U.S. Department of Commerce.

**ACTION:** Notice, request for comments.

**SUMMARY:** The U.S. Department of Commerce (DOC) publishes this notice to request public comments on proposed categorical exclusions of actions that the agency has determined do not individually or cumulatively have a significant effect on the human environment and, thus, should be categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA).

**DATES:** Comments on the proposed list of categorical exclusions must be received by June 15, 2009 to ensure consideration. Late comments will be considered to the extent practicable.

**ADDRESSES:** The “Draft Department of Commerce Administrative Record” for the proposed categorical exclusions is available at: <http://www.nepa.noaa.gov/procedures.html> under “Draft Department of Commerce Administrative Record for the proposed categorical exclusions”. All comments should be addressed to Office of Program Planning and Integration, National Oceanic and Atmospheric Administration, Attn.: Steve Kokkinakis, SSMC3—Room 15723, 1315 East-West Highway, Silver Spring, Maryland 20910. Comments may be sent

by mail or hand-delivered to the above-listed address Monday–Friday between the hours of 9:00 a.m. and 4:30 p.m.

Comments may also be sent by electronic mail to the following internet address: [Strategic.planning@noaa.gov](mailto:Strategic.planning@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:**

Written requests for a hard copy of the “Draft Department of Commerce Administrative Record” for the proposed categorical exclusions should be submitted to: Steve Kokkinakis, National Oceanic and Atmospheric Administration, Office of Program Planning & Integration, SSMC3, Room 15723, 1315 East-West Highway, Silver Spring, MD 20910.

**SUPPLEMENTARY INFORMATION:**

### I. National Environmental Policy Act

NEPA requires that Federal agencies prepare environmental impact statements for major Federal actions that may “significantly affect the quality of the human environment.” NEPA requirements apply to any federal project, decision, or action, including grants that might have a significant impact on the quality of the human environment. NEPA also established the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA. Among other considerations, the CEQ regulations require Federal agencies to adopt their own implementing procedures to supplement the Council's regulations, and to establish and use “categorical exclusions” to define categories of actions that do not individually or cumulatively have a significant effect on the human environment. These particular actions, therefore, do not require preparation of an environmental assessment or environmental impact statement as required by NEPA.

DOC consists of thirteen operating units with diverse and often highly technical portfolios that—together—promote job creation and improved living standards for all Americans by creating an infrastructure that promotes economic growth, technological competitiveness, and sustainable development domestically and abroad for all Americans. Among its tasks are: 1. Provide the information and tools to maximize U.S. competitiveness and enable economic growth for American industries, workers, and consumers; 2. Foster science and technological leadership by protecting intellectual property, enhancing technical standards and advancing measurement science; and 3. Observe, protect and manage the Earth's resources to promote environmental stewardship.

DOC does not currently have any Department-wide categorical exclusions (CEs). Only two operating units within DOC have existing CEs—the National Oceanic and Atmospheric Administration (NOAA) and the Economic Development Administration (EDA)—but they are not available for use by other DOC operating units. The need for Department-wide CEs was identified during recent efforts to standardize policy and procedures for all operating unit grant and cooperative agreement programs. This notice targets that effort. DOC is requesting public comment on the following proposed CEs (as well as the administrative record supporting each exclusion) before making them available for use by all of its operating units.

### II. Development Process for Establishing Department-wide CEs

The list of DOC CEs was compiled through an inter-departmental effort that included participation from the National Institute of Standards and Technology (NIST), National Telecommunication and Information Administration (NTIA), EDA, NOAA, the Office of General Counsel and the Department's Energy, Safety and Environment Division. Representatives from these organizations comprised the review panel responsible for determining appropriate CEs for the DOC.

The CEs have been approved by the DOC Office of General Counsel and the designated Senior Agency Official for NEPA.

Each proposed CE was reviewed and deliberated in concept, coverage, applicability, and wording. The review panel carefully examined the portion of the administrative record associated with each CE to ensure that the proposed exclusion fulfilled the goal of balancing increased administrative efficiency with avoidance of misinterpretations and misapplications of exclusionary language that could lead to non-compliance with NEPA requirements. Having determined that each proposed CE met these objectives, the review panel ultimately concluded that the actions contemplated by these exclusions encompassed activities that have no inherent potential for significant environmental impacts.

The panel's conclusions were further supported by the determinations made by other Federal agencies that had established CEs for activities similar in nature, scope and impact to those contemplated by DOC. The review panel determined from their experience in or on behalf of other Federal agencies that the characteristics of the activities in

DOC were no different than those performed by other Federal agencies. Accordingly, through a deliberative process, the review panel determined that the proposed categorical exclusions encompassed activities that inherently did not have individual or cumulative significant impact on the human environment.

Notwithstanding these conclusions, the review panel noted that all projects involving a major federal action will be subject to scoring on the "Departmental NEPA Checklist". Any project that obtains a "YES" answer in any category is not permitted to use the CE and will be required to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Moreover, the National Historic Preservation Act requirements, if appropriate, still apply to all projects. The use of these CEs does not constitute a release from Section 106 consultation requirements.

### III. Proposed Department-wide Categorical Exclusions

A-1 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).

This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, the review panel identified the legacy categorical exclusions and Environmental Assessments from the U.S. Department of Agriculture, Federal Emergency Management Agency, Federal Aviation Administration, U.S. Coast Guard, the U.S. Air Force, Immigration and Naturalization Services. Further, the review panel found that Environmental Assessments of a similar nature, scope, and intensity were performed at EDA, NOAA, U.S. Department of Agriculture, Federal Law Enforcement Training Center and the U.S. Border Patrol without significant environmental impacts.

A-2 New construction upon or improvement of land where all of the following conditions are met:

(a) The site is in a developed area and/or a previously disturbed site,

(b) 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,

(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.).

DOC is not a major land managing agency in the Federal government. Department activities involving new construction or improvements of land typically involve single buildings and supporting infrastructure in a single locality. Any potential for environmental impacts would be of a small scale and confined to more localized impacts.

The review panel identified an internal Departmental EA from EDA that resulted in a Finding of No Significant Impact and legacy categorical exclusions and Findings of No Significant Impact from the U.S. Coast Guard, Federal Emergency Management Agency, U.S. Navy, and the U.S. Border Patrol. EDA issues construction grants to stimulate economic development. Both NOAA and the U.S. Coast Guard manage a large number of facilities in sensitive aquatic environments along all maritime coasts and several rivers. The National Aeronautics and Space Administration has a large number of specialty buildings used to help develop and promote the nation's space program. Legacy categorical exclusions from the Federal Emergency Management Agency include public assistance programs that could be implemented in any part of the United States to assist in preparing and recovering from a disaster. Additionally, legacy categorical exclusions from the U.S. Navy allow minor construction under circumstances identical to those proposed under this DOC categorical exclusion. The U.S. Border Patrol brought a legacy of environmental assessments and findings of no significant impact for its land based activities. Based upon this extensive history of environmental analyses and the experience of its members, the review panel found that actions of a

similar nature, scope, and intensity were performed throughout the Federal government without significant environmental impacts.

Since new construction or improvements on land could involve numerous considerations, the review panel took great care to establish limiting provisions to avoid the potential for significant impacts to the human environment. The following limiting provisions were established to both conform to the evidence presented in the administrative record, to clarify meaning of those limiting provisions found in the administrative record, or to add to or modify limitations found in the record based on the experience of the review panel members to further avoid the potential for significant impacts to the human environment:

(a) The site is in a developed area and/or a previously disturbed site,

(b) 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 (pursuant to the Coastal Zone Management Act);

(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.)

As a result of all of these limitations, the review panel determined that this categorical exclusion contemplated activities that would inherently have no potential for significant impacts to the human environment.

The review panel defined this categorical exclusion to be sufficiently related to actions that may involve one or more extraordinary circumstances. To ensure that only those actions having negligible impacts on the human environment are contemplated by this categorical exclusion, the review panel proposed that a Record of Environmental Consideration be prepared to document the determination whether the action is either appropriately categorically excluded or whether it requires further analysis through an EA or EIS process.

A-3 Software development, data analysis, or testing, including but not limited to computer modeling in existing facilities.

Research, development, testing, and evaluation activities or laboratory operations contemplated by this categorical exclusion are those that would be undertaken within facilities that are operated under stringent requirements designed to protect the quality of the human environment. As exemplified by documents in the administrative record, these requirements include strict operating procedures governing laboratory operations and personnel responsibilities. Because of these controls, these types of laboratory activities have no potential for significant environmental impacts. Further, the Panel found that actions of a similar nature, scope, and intensity were performed in laboratories throughout the Federal government.

This CE is supported by long-standing categorical exclusions and administrative records. In particular, the review panel identified legacy categorical exclusions from Federal Emergency Management Agency, U.S. Department of Agriculture, U.S. Department of Energy, the U.S. Department of Interior, and the U.S. Navy. Additionally, the review panel identified EAs that resulted in Findings of No Significant Impact from NOAA and the National Aeronautics and Science Administration.

**A-4** Siting/construction/operation of microwave/radio communication towers less than 200 feet in height without guy wires on previously disturbed ground.

DOC, through NTIA is involved in issuing grants for siting, construction, operation, and maintenance, communications systems and similar electronic equipment. These types of electronic equipment are essential to support the nationwide telecommunications network.

This CE is supported by Findings of No Significant Impact on the recently completed Programmatic EA for NTIA and on EAs from the U.S. Department of Energy. Furthermore, this CE is supported by long-standing categorical exclusions from the Federal Emergency Management Agency.

**A-5** Retrofit/upgrade existing microwave/radio communication towers that do not require ground disturbance.

This CE is supported by the recently completed Programmatic EA for NTIA with a Finding of No Significant Impact and an EA for the National Aeronautics and Space Administration, also with a Finding of No Significant Impact.

**A-6** Adding fiber optic cable to transmission structures or burying fiber optic cable in existing transmission line rights-of-way.

This CE is supported by a long-standing categorical exclusion with the Department of Energy and Findings of No Significant Impact on Environmental Assessments prepared for the Bureau of Land Management, Vandenberg Air Force Base, the US Park Service, and the Tennessee Valley Authority.

**A-7** Acquisition, installation, operation, and removal of communications systems, data processing equipment, and similar electronic equipment.

This CE is supported by a legacy categorical exclusion from the U.S. Department of Energy and Findings of No Significant Impact on several Description Memorandums from the U.S. Department of Energy.

**A-8** Planning activities and classroom-based training and classroom-based exercises using existing conference rooms and training facilities.

This CE is supported by a long-standing categorical exclusion with the Department of Energy and a Finding of No Significant Impact on an Environmental Assessment from the recently completed Programmatic EA for NTIA.

**A-9** Purchase of mobile and portable equipment and infrastructure which is stored in previously existing structures or facilities.

This CE is supported by a long-standing categorical exclusion with the U.S. Coast Guard and a Finding of No Significant Impact on an EA from the recently completed Programmatic EA for NTIA.

**A-10** Siting, construction (or modification), and operation of support buildings and support structures (including, but not limited to, trailers and prefabricated buildings) within or contiguous to an already developed area (where active utilities and currently used roads are readily accessible).

This CE is supported by a long-standing categorical exclusion with the U.S. Department of Energy and two Memorandum for File for relevant projects and their supporting documentation that indicated insignificant impacts, also with the U.S. Department of Energy.

**A-11** Personnel, fiscal, management, and administrative activities, such as recruiting, processing, paying, recordkeeping, resource management, budgeting, personnel actions, and travel.

The actions contemplated by this CE are a variety of administrative activities that have no inherent potential for significant environmental impacts. This CE is supported by long-standing CEs from the U.S. Coast Guard, U.S. Navy, Federal Emergency Management Agency, U.S. Air Force, U.S. Army, and the U.S. Department of the Interior. Further, the Panel found that actions of a similar nature, scope, and intensity were performed throughout the Federal government without significant environmental impacts.

The public is invited to submit comments on both the "Draft Department of Commerce Administrative Record" for the proposed CEs, and the CEs listed above. See the ADDRESSES for instructions on submitting comments. The "Draft Department of Commerce Administrative Record" for the proposed CEs is available at <http://www.nepa.noaa.gov/procedures.html> under "Draft Department of Commerce Administrative Record for the proposed categorical exclusions". In addition, hard copies may be obtained by contacting Steve Kokkinakis, as provided above.

### **Paperwork Reduction Act**

This notice requests public comments on proposed Department-wide CEs and does not contain collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

A Paperwork package for the associated "Departmental NEPA Checklist" referenced in Section II of the Supplementary Information has been submitted to the Office of Management and Budget (OMB) for review and approval. A Notice of Action in the Federal Register at the conclusion of OMB's review of the information collection.

Dated: May 21, 2009.

Paul N. Doremus,

NOAA NEPA Coordinator, Office of Program Planning and Integration.

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Action Affecting Export Privileges; Matthew Ayadpoor In the Matter of: Matthew Ayadpoor, 9700 Mayview Court, Oklahoma City, OK, 73159; Respondent; Order Relating To Matthew Ayadpoor

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has notified Matthew Ayadpoor ("Ayadpoor"), of its intention to initiate an administrative proceeding against Ayadpoor pursuant to Section 766.3 of the Export Administration Regulations (the "Regulations"),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (the "Act"),<sup>2</sup> through the issuance of a proposed charging letter to Ayadpoor that alleged that he committed four violations of the Regulations. Specifically, these charges are:

#### Charge 1 15 CFR 764.2(c)—Solicitation and Attempt

On or about June 2, 2004, Ayadpoor engaged in conduct prohibited by the Regulations by attempting to have piston-type differential pressure gauges, which is subject to the Regulations and classified as EAR99, exported to Iran without the required U.S. Government authorization. Specifically, Ayadpoor ordered a freight forwarding company to export the gauges to Iran via the United Arab Emirates ("UAE"). Pursuant to Section 560.204 of the Iranian Transactions Regulations maintained by the Department of the Treasury's Office of Foreign Assets Control ("OFAC"), an export to a third country intended for transshipment to Iran is a transaction

that requires OFAC authorization. Pursuant to Section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export described herein. In engaging in the activity described herein, Ayadpoor committed one violation of Section 764.2(c) of the Regulations.

#### Charge 2 15 CFR 764.2(e)—Acting with Knowledge of a Violation

In connection with charge one above, on or about June 4, 2004, Ayadpoor violated the Regulations by ordering the export of items subject to the Regulations from the United States with knowledge that a violation of the Regulations would occur in connection with the item. Specifically, Ayadpoor attempted to export items subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the items would be exported to Iran via the UAE without the required U.S. Government authorization. Ayadpoor had knowledge that U.S. products could not be sold to sanctioned countries, including Iran, a fact he acknowledged to Office of Export Enforcement ("OEE") special agents. Additionally, Ayadpoor negotiated for the items with persons in Iran, knowing that the items would be shipped there via the UAE. In so doing, Ayadpoor committed one violation of Section 764.2(e) of the Regulations.

#### Charge 3 15 CFR 764.2(g)—Misrepresentation and Concealment of Facts

On or about September 8, 2004, Ayadpoor made a false and/or misleading statement to OEE special agents in the course of an investigation subject to the Regulations. Specifically, Ayadpoor told the agents that he had not participated in any export transactions with the UAE company associated with the June 2004 transaction since that transaction. This was a false statement in that on or about August 31, 2004, Ayadpoor ordered that a second shipment of gauges be exported to the same UAE company. In so doing, Ayadpoor committed one violation of Section 764.2(g) of the Regulations.

#### Charge 4 15 CFR 764.2(i)—Failure To Comply With Recordkeeping Requirements

On or about September 8, 2004, Ayadpoor failed to comply with the recordkeeping requirements set forth in Section 762.2 of the Regulations.

Specifically, Ayadpoor failed to retain export control documents, including waybills, and/or other pertinent documents in connection with its export of gauges, described in Charge 3, above. In so doing, Ayadpoor committed one violation of Section 764.2(i) of the Regulations.

Whereas, BIS and Ayadpoor have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

Whereas, I have approved of the terms of such Settlement Agreement; *It is therefore ordered:*

*First*, Ayadpoor shall be assessed a civil penalty in the amount of \$25,000, the payment of which shall be suspended for a period of one (1) year from the date of entry of the Order, and thereafter shall be waived, provided that during the period of suspension, Ayadpoor has committed no violation of the Act, or any regulation, order, or license issued thereunder.

*Second*, that for a period of one (1) year from the date of entry of the Order, Ayadpoor, his representatives, assigns or agents ("Denied Person") may not participate, directly or indirectly, in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

*Third*, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership,

<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730-774 (2009). The violations alleged occurred 2004. The Regulations governing the allegation at issue are found in the 2004 version of the Code of Federal Regulations (15 CFR Parts 730-774 (2004)). The 2009 Regulations govern the procedural aspects of the case.

<sup>2</sup> 50 U.S.C. app. §§ 2401-2420 (2000). Since August 21, 2001, has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of July 23, 2008 (73 FR 43603 (July 25, 2008)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706 (2000)).