

CATEGORICAL EXCLUSIONS (CE) ADMINISTRATIVE RECORD SUMMARY

The development of the U.S. Department of Homeland Security (DHS) CEs was a concerted effort on the part of many DHS legal and environmental professionals representing 24 of the DHS component elements and two independent contractors. The agencies and contractors that were represented include:

- DHS Office of the Secretary
- Customs and Border Protection Agricultural Inspectors (formerly part of Animal & Plant Health Inspection Service) (USDA, MD)
- Coast Guard (DOT, DC)
- Chemical Biological Radiological & Nuclear Response and Civilian Bio-defense Research Programs (CDC, GA)
- Chemical Biological Radiological & Nuclear Countermeasures Programs (Energy, DC)
- National BW Defense Analysis Center (DOD, MD)
- Critical Infrastructure Assurance Office (Commerce, DC)
- Customs Service (Treasury, DC)
- Environmental Measurements Laboratory (DOE, NY)
- Federal Computer Incident Response Center (GSA, DC)
- Federal Emergency Management Agency (FEMA, DC)
- Federal Law Enforcement Training Center (FLETC) (Treasury, GA)
- Federal Protective Service (GSA, DC)
- Lawrence Livermore National Laboratory (DOE/UnivCA, CA)
- Immigration & Naturalization Service (DOJ, DC)
- National Communications System (DC)
- National Domestic Preparedness Office (DOJ, DC)
- National Infrastructure Simulation & Analysis Center (LLNL/UnivCA, CA)
- National Infrastructure Protection Center (FBI, DC)
- Nuclear Incident Response Team (Energy, DC)
- Domestic Emergency Support Team (New, DC)
- Plum Island Animal Disease Center (USDA, NY)
- Secret Service (Treasury, DC)
- Transportation Security Administration (DOT, DC)
- Representatives from independent contractors including:
 - The Shipley Group (SLC, UT)
 - The Clark Group (DC)

Each CE was reviewed in concept, coverage, applicability, and wording through deliberation among a number of DHS environmental practitioners and lawyers (“panel of environmental professionals” or “the panel.”) The panel cautiously crafted these CEs with the goal of balancing increased NEPA efficiency with avoidance of misinterpretations and misapplications of exclusionary language that could lead to non-compliance with

NEPA. The panel of environmental professionals involved in the working group hereby concur that the attached CEs meet both objectives.

DHS expended extraordinary amounts of time and effort in deliberating over and drafting the attached CEs. The extensive initial debate formulating the CEs lasted from April 9, 2003, until April 13, 2004. During this process, numerous DHS environmental professionals representing the many component agencies within DHS participates in group meetings and conference calls twice a week. Members of the group concurred with the proposed form of the CEs by either actively participating in the group's numerous meetings and conference calls or by reviewing the emailed drafts that were developed after each call and suggesting corrections as needed. After this process was complete, DHS representatives worked in close cooperation with the President's Council on Environmental Quality to ensure that the DHS Environmental Directive, including its CEs, was in conformity with the requirements of the National Environmental Policy Act.

Great care was taken to develop CEs that would apply to all component elements within DHS. Since all of the agencies transitioned into DHS were performing various pieces of the homeland security mission, most of the DHS organizational elements perform similar types of operational activities. As is evident from the CEs, those operational activities that were unique to one or more component elements of DHS are specifically limited to the pertinent component elements. To assist interested parties in understanding the basis and underlying administrative support collected in establishing the attached list of CEs, DHS provides the below summary of information collected and relied upon by the panel of environmental professionals in formulating the CEs. This information is not meant to provide an exhaustive list of factors relied upon during the year of deliberation, but rather, to provide an understanding of the broad and well documented administrative record on which each CE is based.

CATEGORICAL EXCLUSIONS: A1, A2, A3, A4, A5, A6, A7, A8, B1, B2, B3, B4, B5, B6, B10, B11, C1, C2, C3, C4, C5, D1, D2, D3, E1, E5, E6, E7, F1, F2, F3, G2, and K2

These categories of actions were determined to inherently have no potential for significant environmental impacts. For the most part, these categorical exclusions are likewise supported by long standing CEs and administrative records brought to DHS by its component elements. Further, the panel of environmental professionals reviewed these categories of actions to determine whether actions of a similar nature, scope, and intensity were performed throughout DHS. A panel of interdisciplinary experts reviewed other agency's CEs, the CEs that agencies brought to DHS, and the mission of DHS as it relates to the environment. Through a deliberative process, the working group determined that the above-enumerated CEs encompassed programmatic activities that inherently do not have an individual or cumulative significant impact on the environment.

SUPPORT FOR SPECIFIC CATEGORICAL EXCLUSIONS:

CE B7 – This CE was proposed and adopted from a pre-existing CE brought to DHS by the United States Coast Guard (USCG.) Review of the Border and Transportation Security (BTS) mission and operations found that this component element also engaged in the realignment and homeporting of small boats and aircraft in a similar manner, albeit in a much smaller scale, and environment as the USCG. Further, a review of the mission and operational activities of all other DHS component elements likewise indicated that nearly all DHS elements operate vehicles and realign those assets in a similar manner and environment as the USCG. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE B7 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an environmental assessment (EA) or an environmental impact statement (EIS) for DHS and all of its component elements.

CE B8 – This CE was proposed and adopted from pre-existing CEs brought to DHS by the Transportation Security Administration (TSA) and the Federal Emergency Management Agency (FEMA.) Further, the panel, in order to identify similar activities performed by other Agencies throughout the federal government, reviewed pertinent Navy and Air Force CEs and determined that the size and scope of the DHS mission and operations would be smaller in both size and scope than utilized in either branch of the armed forces. The panel of environmental professionals also relied upon several Environmental Assessments and Findings of No Significant Impact conducted by the Bureau of Customs and Border Protection (CBP.) Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform the actions outlined in this CE in a consistent manner and similar environment as addressed in the numerous component element and outside Agency CEs and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE B8 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

CE B9 – This CE was proposed and adopted from pre-existing CEs brought to DHS by the Transportation Security Administration (TSA) and the USCG (specifically pertaining to the use of fencing and grating to prevent accidental entry to hazardous areas.) Further, the panel, in order to identify similar activities performed by other Agencies throughout the federal government, reviewed pertinent Navy and Department of Energy (DOE) CEs pertaining to the installation of target hardening security equipment at existing facilities of a size and scope much larger than would be utilized by DHS and its component elements. The panel of environmental professionals also relied upon numerous Environmental Assessments and Findings of No Significant Impact conducted by CBP. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform the actions outlined in this CE in a consistent manner and similar environment as addressed in the numerous component element and outside Agency CEs and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities

contained in CE B9 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

CE B12 – This CE was proposed and adopted from pre-existing CEs brought to DHS by the Animal and Plant Health Inspection Service (APHIS,) USCG, and FEMA. Further, the panel, in order to identify similar activities performed by other Agencies throughout the federal government, reviewed pertinent Navy and Department of Energy (DOE) CEs pertaining to activities performed at a size and scope much larger than would be utilized by DHS and its component elements. Also, the panel considered a 2001 Environmental Assessment and Finding of No Significant Impact conducted by the Immigration and Naturalization Service (INS) for its airboat patrols on the Rio Grande River. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that this CE would cover actions performed primarily by the USCG, BTS, and United States Secret Service (USSS). Based on this analysis, the panel of environmental professionals determined that the activities contained in CE B12 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for the USCG, BTS, and the USSS.

CE B13 – This CE was adopted from pre-existing CEs brought to DHS by the Federal Law Enforcement Training Center (FLETC). The panel reviewed the mission and land access of all component elements within DHS and determined that this CE would cover actions performed primarily by the USCG, FLETC, and the DHS Directorate for Science and Technology (S&T). Based on this analysis, the panel of environmental professionals determined that the activities contained in CE B13 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for the USCG, FLETC, and S&T.

CE B14 – This CE was likewise adopted from pre-existing CEs brought to DHS by the Federal Law Enforcement Training Center (FLETC). The panel reviewed the mission and operational activities of all the component elements within DHS and determined that this CE would cover actions performed primarily by the USCG, FLETC, and the DHS Directorate for Science and Technology (S&T). As was the case for CE B13, the panel of environmental professionals determined that the activities contained in CE B14 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for the USCG, FLETC, and S&T.

CE D4 – This CE was adopted from pre-existing CEs brought to DHS by APHIS, TSA, USCG, and FEMA. Further, the panel, in order to identify similar activities performed by other Agencies throughout the federal government, reviewed pertinent Army, Navy, and DOE CEs pertaining to activities performed at a size and scope much larger than would be utilized by DHS and its component elements. Also, the panel considered several Environmental Assessments and Findings of No Significant Impact conducted by the INS, including a road improvement projects (2003) and communication tower repair project (1998). Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform

the actions outlined in this CE in a consistent manner and similar environment as addressed in the numerous component element and outside Agency CEs and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE D4 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

CE D5 – This CE was adopted from pre-existing CEs brought to DHS by USCG. The panel reviewed the mission and land access of all the component elements within DHS and determined that this CE would cover actions performed primarily by the USCG and, at a much smaller scale, CBP. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE D5 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for for the USCG and CBP.

CE D6 – This CE was adopted from pre-existing CEs brought to DHS by USCG. Also, the panel considered an Environmental Assessment and Finding of No Significant Impact conducted by FLETC. Finally, the panel reviewed the mission and land access of all the component elements within DHS and determined that this CE would cover actions performed primarily by the USCG, FLETC, and S&T. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE D6 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for the USCG, FLETC, and S&T.

CE E2 – This CE was adopted from pre-existing CEs brought to DHS by USCG and FEMA. Also, the panel considered several Environmental Assessments and Findings of No Significant Impact conducted by INS and FLETC. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform the actions outlined in this CE in a consistent manner and similar environment as addressed in the numerous component element CEs and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE E2 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

CE E3 – This CE was adopted from pre-existing CEs brought to DHS by USCG. Also, the panel considered several Environmental Assessments and Findings of No Significant Impact conducted by INS and the Customs Service. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform the actions outlined in this CE in a consistent manner and similar environment as addressed in the component element CE and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE E3 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

CE E4 – This CE was adopted from pre-existing CEs brought to DHS by USCG. Also, the panel considered several Environmental Assessments and Findings of No Significant Impact conducted by INS. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform the actions outlined in this CE in a consistent manner and similar environment as addressed in the component element CE and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE E4 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

CE E8 – This CE was adopted from pre-existing CEs brought to DHS by USCG. Also, the panel considered an Environmental Assessment and Finding of No Significant Impact conducted by FLETC. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that this CE would cover actions performed primarily by the USCG, FLETC, and S&T. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE E8 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for the USCG, FLETC, and S&T.

CE E9 – This CE was adopted from pre-existing CEs brought to DHS by USCG. Also, the panel considered several Environmental Assessments and Findings of No Significant Impact conducted by INS. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that this CE would cover actions performed primarily by the USCG, BTS, and S&T. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE E9 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS primarily for the USCG, BTS, and S&T.

CE G1 – This CE was adopted from pre-existing CEs brought to DHS by APHIS, FEMA, USCG, and TSA. Further, the panel, in order to identify similar activities performed by other Agencies throughout the federal government, reviewed pertinent Army and DOE CEs pertaining to similar activities as would be performed by DHS. Also, the panel considered an Environmental Assessment and Finding of No Significant Impact conducted by FLETC. Finally, the panel reviewed the mission and operational activities of all the component elements within DHS and determined that each component would perform the actions outlined in this CE in a consistent manner and similar environment as addressed in the numerous component element and outside Agency CEs and administrative records. Based on this analysis, the panel of environmental professionals determined that the activities contained in CE G1 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for DHS and all of its component elements.

UNIQUE CATEGORICAL EXCLUSIONS FOR TSA: H1, H2, H3, and H4

TSA was created pursuant to the Aviation and Transportation Security Act (ATSA), Pub.L. 107-71. As part of that Act, the civil aviation security function was transferred from the Federal Aviation Administration (FAA) to TSA. ATSA contains a savings provision which provides that all regulations that were issued, made, granted, or allowed to become effective by the Federal Aviation Administration and were in effect on the effective date of such transfer (or became effective after such date pursuant to their terms as in effect on such effective date,) continued in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Under Secretary of Transportation for Security, any other authorized official, a court of competent jurisdiction, or operation of law. ATSA, section 141(b). As a result of this savings provision, all of the regulations of the FAA that were in effect on the date of ATSA, including FAA's CEs, continued to apply to TSA.

TSA was subsequently transferred to DHS as a result of the Homeland Security Act of 2002 (HSA), Pub.L. 107-276. The HSA also contained a savings provision, which provides that all completed administrative actions of an agency shall not be affected by the enactment of this Act or by the transfer of such agency to the Department but shall continue in effect according to their terms until amended, modified, superseded, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law. HSA, section 1512(a)(1). "Completed administrative actions" for purposes of this section include: orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges. HSA, section 1512(a)(2).

As a result of the HSA savings provision, all of the regulations that had applied to TSA on the date of transfer to DHS, including all effective regulations of FAA, continue to apply until superseded. The panel reviewed the mission and operational activities of TSA and determined that the CEs would continue to apply to the actions performed by TSA. Based on this analysis, the panel of environmental professionals determined that the activities contained in CEs H1, H2, H3, and H4 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS for TSA.

UNIQUE CATEGORICAL EXCLUSION FOR THE U.S. VISIT PROGRAM: I1

This CE was adopted from Environmental Assessments and Findings of No Significant Impact conducted on projects similar in nature to the temporary and small areas that the U.S. Visit facilities would occupy. Based on this narrow application to one program, the panel of environmental professionals determined that the activities contained in CE I1 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS.

UNIQUE CATEGORICAL EXCLUSION FOR THE FEDERAL LAW ENFORCEMENT TRAINING CENTER: J1

This CE was adopted from Environmental Assessments and Findings of No Significant Impact conducted by FLETC. Based on the narrow application of this CE to one program, the panel of environmental professionals determined that the activities contained in CE J1 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS.

UNIQUE CATEGORICAL EXCLUSION FOR THE CUSTOMS AND BORDER PROTECTION: K1

CE K1 - This CE was adopted from Environmental Assessments and Findings of No Significant Impact conducted by INS as well as the Programmatic Environmental Impact Statement for the Infrastructure Improvements for INS and JTF-6 for the Southwest Border dated June 2001. In addition, this action has been an integral part of border patrol activity since 1936. Based on the narrow application of this CE to one activity, and the lack of environmental effects associated with that activity, the panel of environmental professionals determined that the activities contained in CE K1 should be, absent extraordinary circumstances, excluded from further analysis and documentation in an EA or an EIS.