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Dated: April 9, 2024.

**Debbie-Anne A. Reese,**

*Acting Secretary.*

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**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL OP-OFA-117]

### Notice of Adoption of a Fish and Wildlife Service Categorical Exclusion Under the National Environmental Policy Act

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of adoption of categorical exclusion.

**SUMMARY:** The Environmental Protection Agency (EPA) is adopting a Fish and Wildlife Service's (FWS) categorical exclusion (CE) for restoration activities of wetland, riparian, instream, and native habitats under the National Environmental Policy Act (NEPA) to use in certain EPA water grants and loan programs administered by EPA. This notice describes the categories of proposed actions for which EPA intends to use FWS's CE and describes the consultation between the agencies.

**DATES:** This action is effective upon publication.

**FOR FURTHER INFORMATION CONTACT:** Julia Thorp, Community Grants Program, by phone at 202-565-2238, or by email at [thorp.julia@epa.gov](mailto:thorp.julia@epa.gov), or Alaina McCurdy, WIFIA, by phone at 202-565-5795, or by email at [mccurdy.alaina@epa.gov](mailto:mccurdy.alaina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### *NEPA and CEs*

The National Environmental Policy Act, as amended at, 42 U.S.C. 4321-

4347 (NEPA), requires all Federal agencies to assess the environmental impact of their actions. Congress enacted NEPA in order to encourage productive and enjoyable harmony between humans and the environment, recognizing the profound impact of human activity and the critical importance of restoring and maintaining environmental quality to the overall welfare of humankind. 42 U.S.C. 4321, 4331. NEPA's twin aims are to ensure agencies consider the environmental effects of their proposed actions in their decision-making processes and inform and involve the public in that process. 42 U.S.C. 4331. NEPA created the Council on Environmental Quality (CEQ), which promulgated NEPA implementing regulations, 40 CFR parts 1500 through 1508 (CEQ regulations).

To comply with NEPA, agencies determine the appropriate level of review—an environmental impact statement (EIS), environmental assessment (EA), or CE. 42 U.S.C. 4336. If a proposed action is likely to have significant environmental effects, the agency must prepare an EIS and document its decision in a record of decision. 42 U.S.C. 4336. If the proposed action is not likely to have significant environmental effects or the effects are unknown, the agency may instead prepare an EA, which involves a more concise analysis and process than an EIS. 42 U.S.C. 4336. Following the EA, the agency may conclude the process with a finding of no significant impact if the analysis shows that the action will have no significant effects. If the analysis in the EA finds that the action is likely to have significant effects, however, then an EIS is required.

Under NEPA and the CEQ regulations, a Federal agency also can establish CEs—categories of actions that the agency has determined normally do not significantly affect the quality of the human environment—in their agency NEPA procedures. 42 U.S.C. 4336(e)(1); 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d). If an agency determines that a CE covers a proposed action, it then evaluates the proposed action for extraordinary circumstances in which a normally excluded action may have a significant effect. 40 CFR 1501.4(b). If no extraordinary circumstances are present or if further analysis determines that the extraordinary circumstances do not involve the potential for significant environmental effects, the agency may apply the CE to the proposed action without preparing an EA or EIS. 42 U.S.C. 4336(a)(2), 40 CFR 1501.4. If the extraordinary circumstances have the potential to result in significant effects,

the agency is required to prepare an EA or EIS.

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to “adopt” and use another agency's CEs for a category of proposed agency actions. 42 U.S.C. 4336(c). To use another agency's CEs under section 109, the adopting agency must identify the relevant CEs listed in another agency's (“establishing agency”) NEPA procedures that cover the adopting agency's category of proposed actions or related actions; consult with the establishing agency to ensure that the proposed adoption of the CE to a category of actions is appropriate; identify to the public the CE that the adopting agency plans to use for its proposed actions; and document adoption of the CE. *Id.* This notice describes EPA's adoption of FWS's CE under section 109 of NEPA to use in EPA's program and funding opportunities administered by EPA.

##### *EPA's Programs*

EPA intends to use the FWS's CE for its restoration activities under two programs, the Community Grants Program and the Water Infrastructure Finance and Innovation Act (WIFIA) Program. EPA's Community Grants Program funds projects for drinking water, wastewater, stormwater infrastructure, and water quality protection projects, which may include restoration projects of wetland, riparian, instream, or native habitats. For the Community Grants Program, Congress appropriates resources for specifically named water infrastructure projects identified as Congressionally Directed Spending and Community Project Funding items in Appropriations Acts.

EPA's WIFIA Program provides credit assistance (also referred to as direct loans or loan guarantees) for a range of drinking water and wastewater infrastructure projects. Eligible activities include habitat protection and restoration projects, such as shoreline activities, instream activities, water quality improvements, control of invasive vegetative and aquatic species, and fish and wildlife habitat conservation efforts.

Both Community Grants and WIFIA Program activities may involve the construction of new or upgrades to existing small structures or improvements, such as water control structures, berms, and dikes, for the restoration of wetland, riparian, instream, or native habitats, and may include revegetation actions, such as the planting of native species. These types of restoration activities typically result

in no or minor adverse effects on the environment.

## II. FWS Categorical Exclusions

EPA is adopting the FWS CE for restoration activities of wetland, riparian, instream, and native habitats. EPA has identified the following FWS CE listed in the Department of the Interior's (DOI) Departmental Manual (516 DM 8.5(B)(3)).

### 516 DM 8.5(B)(3)

#### B. Resource Management.

(3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included.

- (a) The installation of fences.
- (b) The construction of small water control structures.
- (c) The planting of seeds or seedlings and other minor revegetation actions.
- (d) The construction of small berms or dikes.
- (e) The development of limited access for routine maintenance and management purposes.

EPA intends to apply this categorical exclusion to restoration projects administered by the EPA Community Grants Program and WIFIA Program. EPA will consider each proposal for restoration activities to ensure that the proposal is within the scope of the CE. In addition, EPA will coordinate with affected Federal agencies, states, Tribal, and local governments prior to carrying out restoration activities, as appropriate.

## III. Consultation With FWS and Determination of Appropriateness

EPA consulted with FWS on the appropriateness of EPA's adoption of the CE in November 2023. EPA and FWS's consultation included a review of FWS's experience developing and applying the CE, as well as the types of actions for which EPA plans to utilize the CE. The EPA actions under the Community Grants and WIFIA Programs are very similar to the type of projects for which FWS has applied the CE and therefore the effects of EPA projects will be very similar to the effects of FWS projects, which are not significant, absent extraordinary circumstances. Therefore, EPA has determined that its proposed use of FWS's CE as described in this notice is appropriate.

## IV. Consideration of Extraordinary Circumstances

When applying this CE, EPA will evaluate whether the proposed action

has the potential to result in significant effects by reviewing both DOI's extraordinary circumstances list found at 43 CFR 46.215 and EPA's list of extraordinary circumstances found at 40 CFR 6.204(b).

## V. Notice to the Public and Documentation of Adoption

This notice serves to identify to the public and document EPA's adoption of FWS's CE (516 DM 8.5(B)(3)) for restoration activities. This notice identifies the types of actions to which EPA will apply the CE, as well as the considerations that EPA will use in determining whether an action is within the scope of the CE for restoration activities.

**Andrew D. Sawyers,**

*Director, Office of Wastewater Management.*

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA-HQ-OPPT-2024-0057; FRL-11683-03-OCSP]**

### Certain New Chemicals; Receipt and Status Information for March 2024

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA is required under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 3/01/2024 to 3/31/2024.

**DATES:** Comments identified by the specific case number provided in this document must be received on or before May 15, 2024.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2024-0057, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-8593; email address: [rahai.jim@epa.gov](mailto:rahai.jim@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. Executive Summary

#### A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 3/01/2024 to 3/31/2024. The Agency is providing notice of receipt of PMNs, SNUNs, and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices>. This information is updated on a weekly basis.

#### B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.*, a