

Appendix J – Summary of Extraordinary Circumstances by Agency

Agency	Extraordinary Circumstances	Description (from rule/regulation)	Location/Citation
NRCS	Public health or safety	The proposed action cannot cause significant effects on public health or safety.	http://policy.nrcs.usda.gov/viewerFS.aspx?id=666 GM_190_410_A (E 1 – 8)
	Significantly affect unique characteristics	The proposed action cannot significantly affect unique characteristics of the geographic area, such as proximity to historic properties or cultural resources, park lands, prime farmlands, floodplains, wetlands, wild and scenic rivers, or ecologically critical areas.	
	Highly controversial	The effects of the proposed action on the quality of the human environment cannot be highly controversial.	
	Highly uncertain effects	The proposed action cannot have highly uncertain effects, including potential unique or unknown risks on the human environment.	
	Establish a new precedent	The proposed action cannot include activities or conservation practices that establish a potential precedent for future actions with significant impacts.	
	Potentially significant environmental impacts to quality of human environment	The proposed action is known to have or reasonably cannot be expected to have potentially significant environmental impacts to the quality of the human environment either individually or cumulatively over time.	
	Invasive species, T&E species, environmental justice, wetlands, wild and scenic rivers, air quality, migratory birds, bald and golden eagles	The proposed action cannot cause or promote the introduction of invasive species or have a significant adverse effect on any of the following special environmental concerns not previously identified in this section, such as: endangered and threatened species, environmental justice communities as defined in Executive Order 12898, wetlands, other waters of the United States, wild and scenic rivers, air quality, migratory birds, and bald and golden eagles.	
	Other applicable laws	The proposed action will not violate Federal or other applicable law and requirements for the protection of the environment.	

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National Marine Fisheries Service	Geographic area with unique characteristics	5.05c. Exceptions for Categorical Exclusions. The preparation of an EA or EIS will be required for proposed actions that would otherwise be categorically excluded if they involve a geographic area with unique characteristics, are subject of public controversy based on potential environmental consequences, have uncertain environmental impacts or unique or unknown risks, establish a precedent or decision in principle about future proposals, may result in cumulatively significant impacts, or may have any adverse effects upon endangered or threatened species or their habitats	http://www.nepa.noaa.gov/NAO216_6.pdf NOAA Administrative Order Series 216-6 May 20, 1999 5.05
	Public controversy based on potential environmental consequences	See above	
	Uncertain environmental impacts or unique or unknown risks	See above	
	Establish a precedent or decision in principle about future proposals	See above	
	May result in cumulatively significant impacts	See above	
	Adverse effects upon endangered or threatened species or their habitats	See above	

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BLM	Public health or safety	Have significant impacts on public health or safety.	516 DM 2, Appendix 2 Accessed at: http://edocket.access.gpo.gov/2004/pdf/04-4945.pdf on Dec 1, 2011
	Significant impacts on natural resources and unique geographic characteristics	Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.	
	Highly controversial environmental effects	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].	
	Highly uncertain and potentially significant environmental effects	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	
	Establish a precedent for future actions	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	
	Cumulatively significant effects	Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects	
	National Register of Historic Places	Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.	
	T&E species and habitat	Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.	

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	Violates environmental protection law	Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	
	High/adverse effect on low income or minority populations	Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898	
	Limit access to and ceremonial use of Indian sacred sites	Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).	
	Invasive species	Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).	

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United States Coast Guard	Public health or safety	<p>A determination of whether an action that is normally excluded requires additional review must focus on the action's significance. The proposed action must be evaluated in its context (whether local, State, regional, tribal, national, or international) and in its intensity by considering whether the action is likely to involve one or more of the following:</p> <ul style="list-style-type: none"> • Potential for adverse effects on public health or safety. • Unique characteristics in or near the geographic area (historic, cultural, ecological, etc.). • Potential for controversy in terms of scientific validity or public opinion. • Uncertain or unknown effects or risks. • The degree to which the action may establish precedence for future actions with significant effects. • An individually insignificant, but cumulatively significant impact when considered along with other past, present, and reasonably foreseeable future actions. • An adverse effect on a district, site, highway, structure, or object that is listed in or eligible for listing in the National Register of Historic Places, or the loss or destruction of a significant scientific, cultural, or historic resource. • An adverse effect on species or habitats protected by the Endangered Species Act. • A potential or threatened violation of a Federal, state, or local law or requirement imposed for the protection of the environment. • An impact that may be both beneficial and adverse. A significant impact may exist even if it is believed that, on balance, the effect will be beneficial. 	<p>http://www.uscg.mil/hq/cg4/cg47/docs/N_EPA_handbook.pdf</p> <p>Chapter 3.1</p>
	Unique characteristics in or near the geographic area	See above	
	Potential for controversy in terms of scientific validity or public opinion	See above	

Agency	Extraordinary Circumstances	Description (from rule/regulation)	Location/Citation
	Uncertain or unknown effects or risks	See above	
	Cumulatively significant	See above	
	Adverse effect on listed National Register of Historic Places/or eligible for listing	See above	
	Violation of environmental law	See above	
	Adverse effect on T&E species and habitat	See above	
	Impact can be both beneficial and adverse – significant impact may exist even if believed action will be beneficial	See above	

Agency	Extraordinary Circumstances	Description (from rule/regulation)	Location/Citation
DOE	Scientific controversy about the environmental effects of the proposal	<p>There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. Extraordinary circumstances are unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources; and</p> <p>(3) The proposal has not been segmented to meet the definition of a categorical exclusion. Segmentation can occur when a proposal is broken down into small parts in order to avoid the appearance of significance of the total action. The scope of a proposal must include the consideration of connected and cumulative actions, that is, the proposal is not connected to other actions with potentially significant impacts (40 CFR 1508.25(a)(1)), is not related to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1508.27(b)(7)), and is not precluded by 40 CFR 1506.1 or §1021.211 of this part concerning limitations on actions during EIS preparation.</p>	<p>http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=a7e88f1b72e60ea8fc6ee9ea1d963122&rgn=div8&view=text&node=10:4.0.3.5.14.4.91.2&idno=10</p> <p>10 CFR 1021, Subpart D</p>
	uncertain effects or effects involving unique or unknown risks	See above	
	unresolved conflicts concerning alternative uses of available resources	See above	
	Not segmented	See above	
	Does not violate other environmental laws	See above	

Agency	Extraordinary Circumstances	Description (from rule/regulation)	Location/Citation
FEMA	Greater scope or size than normal	Greater scope or size than normally experienced for a particular category of action	http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=2d586e7c90fde01f151862e10255a57f&rgn=div5&view=text&node=44:1.0.1.1.11&idno=44 44 CFR Part 10.8 (3)
	Public controversy	Actions with a high level of public controversy	
	Degradation of already poor conditions	Potential for degradation, even though slight, of already existing poor environmental conditions	
	Use of unproven technology	Employment of unproven technology with potential adverse effects or actions involving unique or unknown environmental risks	
	T&E species or habitat, or archaeological, cultural, historical protected resource	Presence of endangered or threatened species or their critical habitat, or archaeological, cultural, historical or other protected resources	
	Hazardous or toxic substances	Presence of hazardous or toxic substances at levels which exceed Federal, state or local regulations or standards requiring action or attention;	
	Affect special status areas such as wetlands, wildlife refuges, etc	Actions with the potential to affect special status areas adversely or other critical resources such as wetlands, coastal zones, wildlife refuge and wilderness areas, wild and scenic rivers, sole or principal drinking water aquifers	
	Adverse effects health or safety	Potential for adverse effects on health or safety; and	
	Violate environmental law	Potential to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment	
	Significant cumulative impact	Potential for significant cumulative impact when the proposed action is combined with other past, present and reasonably foreseeable future actions, even though the impacts of the proposed action may not be significant by themselves	

Agency	Extraordinary Circumstances	Description (from rule/regulation)	Location/Citation
Department of Homeland Security	Public health and safety	<p>No Extraordinary Circumstances Exist. It is not appropriate to categorically exclude an action when there are extraordinary circumstances present that would create the potential for a normally excluded action to have a significant environmental effect. In those cases where a specific action that might otherwise be categorically excluded is associated with one or more extraordinary circumstances, a Record of Environmental Consideration (REC), as described in Section 3C(2), will be prepared to document the determination that the proposed action is appropriately categorically excluded or requires further analysis through an EA or EIS process. A determination of whether an action that is normally excluded requires additional analysis because of extraordinary circumstances must focus on the action's potential effects and consider the environmental significance of those effects in terms of both context (whether local, state, regional, tribal, national, or international) and intensity. This determination is made by considering whether the specific action is likely to involve one or more of the following circumstances:</p> <p>(a) A potentially significant effect on public health or safety.</p>	<p>Directive Number: 023-01</p> <p>Accessed from http://www.dhs.gov/xlibrary/assets/foia/mgmt-directive-023-01-environmental-planning-program.pdf on Dec 2, 2011</p>
	Significant effect on species/habitat protected under a variety of environmental laws	A potentially significant effect on species or habitats protected by the Endangered Species Act, Marine Mammal Protection Act, the Migratory Bird Treaty Act, or Magnuson-Stevens Fishery Conservation and Management Act.	
	Effect on site listed or eligible for listing on the National Register of Historic Places	A potentially significant effect on a district, site, highway, structure, or object that is listed in or eligible for listing in the National Register of Historic Places, affects a historic or cultural resource or traditional and sacred sites, or the loss or destruction of a significant scientific, cultural, or historical resource.	
	Significant effect on an environmental sensitive area	A potentially significant effect on an environmentally sensitive area	

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	Violation of law	A potential or threatened violation of a federal, state, or local law or administrative determination imposed for the protection of the environment. Some examples of administrative determinations to consider are a local noise control ordinance; the requirement to conform to an applicable State Implementation Plan (SIP); and federal, state, or local requirements for the control of hazardous or toxic substances.	
	Highly controversial	An effect on the quality of the human environment that is likely to be highly controversial in terms of scientific validity, likely to be highly uncertain, or likely to involve unique or unknown environmental risks	
	Use of new technology – effect on human environment highly uncertain	Employment of new technology or unproven technology that is likely to involve unique or unknown environmental risks, where the effect on the human environment is likely to be highly uncertain, or where the effect on the human environment is likely to be highly controversial in terms of scientific validity	
	Establishes a precedent	Extent to which a precedent is established for future actions with significant effects	
	Significantly greater scope/size than normal	Significantly greater scope or size than normally experienced for a particular category of action	
	Significant degradation of already poor conditions	Potential for significant degradation of already existing poor environmental conditions. Also, initiation of a potentially significant environmental degrading influence, activity, or effect in areas not already significantly modified from their natural condition	
	Cumulative impacts	Whether the action is related to other actions with individually insignificant, but cumulatively significant impacts	
FAA	Air quality	An action that would violate applicable Federal, State, Tribal, or local air quality standards under the Clean Air Act of 1990, as amended. Note: Contact a State or Tribal air quality agency, as appropriate.	Federal Aviation Administration (Order 1050.1E) Accessed from http://www.faa.gov/airports/resources/publications/orders/environmental_5050_4/media/chapter6.pdf on dec 2, 2011 Chapter 6 5050.4B

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	Coastal zone areas	Federal actions in or affecting coastal resources must meet requirements of Coastal Zone Management Act programs. Note: Contact the State agency having authority for these programs	
	Community disruption	An action dividing ⁴ or disrupting ⁵ an established community or planned development, or that is inconsistent with plans or goals of a community where the project would occur. Note: Contact local land use authorities	
	Cumulative impacts	An action likely to cumulatively cause significant impacts	
	Endangered species	An action that may affect listed or candidate species under the Endangered Species Act, including designated or proposed critical habitats. Note: Contact: the U.S. Fish and Wildlife Service or the National Marine Fisheries Service. For state species, contact state agency.	
	Farmlands conversion	An action that would convert important farmland protected by the Farmland Protection Act Note: Contact the Natural Resources Conservation Service or state agricultural agency	
	Floodplains	An impact on natural, ecological, or scenic floodplain resources of Federal, State, Tribal, or local significance caused by an action in the 100-year floodplain. Note: Contact local U.S. Army Corps of Engineers or Federal Emergency Management Agency offices for information on determining actions in the 100-year floodplain.	
	Hazardous materials	An action involving or causing contamination of areas, based on Phase I or II Environmental Due Diligence Audits. Note: Contact EPA's regional Office of Solid Waste and Emergency Response	
	Highly controversial action	See paragraph 9.i for more information on controversy.	
	Historic or cultural property	An action causing an adverse effect on historic or cultural property protected by Section 106 of the National Historic Preservation Act. Note: Consult FAA and the State or Tribal Historic Preservation Officer, as appropriate.	
	Inconsistency with applicable laws	An action that is likely to be inconsistent with any applicable Federal, State, local, or Tribal law relating to the proposed action's environmental aspects	
	Noise	Noise impact on noise-sensitive areas. See paragraph 9.n for information on noise sensitive areas.	

Agency	Extraordinary Circumstances	Description (from rule/regulation)	Location/Citation
	Section 4(f)	An action having an impact on properties protected by DOT Act, Section 4(f) such as publicly-owned land in a park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance or a historic site of national, state, or local significance. Note: Contact agency or entity with jurisdiction over the property.	
	Traffic congestion	An action causing transportation congestion due to unacceptable Levels of Service. Note: Contact the transportation or highway agency having jurisdiction over the project-affected roadways.	
	U.S. waters, including jurisdictional wetlands	An action affecting these waters or wetlands that does not qualify for a U.S. Army Corps of Engineers General Permit under Section 404 of the Clean Water Act. Note: Consult the Corps of Engineers for information on project designs or actions that would qualify for an Individual Permit. Contact the appropriate U.S. Fish and Wildlife Service office and/or state agency responsible for protecting the resources the project would affect.	
	Water quality	An impact on water quality, a sole source aquifer, a public water supply system or State or Tribal water quality or water standards established under the Clean Water Act or the Safe Drinking Water Act. Note: Contact the State agency responsible for enforcing State water quality standards	
	Wild and Scenic Rivers	An action affecting a river segment that is listed in the Wild and Scenic River System, the National Rivers Inventory, or a river that is eligible for the Inventory. Note: Contact U.S. Forest Service, National Park Service, Fish and Wildlife Service offices or Bureau of Land Management district offices.	
DOT – Maritime Administration	Public health or safety	This action would have significant adverse effects on public health or safety	MAO 600-1 Accessed at: http://www.marad.dot.gov/documents/mao_600-001-0.pdf
	Wildlife resources/ unique geographic features	This action would have significant effect on wildlife resources or would affect unique geographical features such as: wetlands, wild or scenic rivers, refuges, floodplains, etc. or lands protected by section 4(f) of the DOT act	
	Highly controversial	This action will have highly controversial environmental effects	

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	Highly uncertain environmental effects	This action will have highly uncertain environmental effects or involve unique or unknown environmental risks	
	Establish a precedent	This action will establish a precedent for future actions	
	Cumulatively significant	This action is related to other actions with individually insignificant but cumulatively significant effects	
	National Register of Historic Places	This action will affect properties listed or eligible for listing in the National Register of Historic Places, or otherwise protected by section 106 of the national Historic Preservation Act	
	T&E species	This section will affect a species listed or proposed to be listed as Endangered or Threatened.	
	Violation of law	This action is inconsistent with Federal, State, local or tribal law or requirements imposed for protection of the environment	
	Unreasonable conflicts of alternative uses of available resources	This action or group of actions would involve unresolved conflicts concerning alternative uses of available resources.	
Forest Service	T&E species	Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species	FSH 1909.15 Chapter 31.2
	Flood plains, wetlands, or municipal watersheds	Flood plains, wetlands, or municipal watersheds	
	Congressionally designated areas	Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas	
	Inventoried roadless/potential wilderness areas	Inventoried roadless areas or potential wilderness areas	
	Research natural areas	Research natural areas	

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	American Indians and Alaska Native religious or cultural sites	American Indians and Alaska Native religious or cultural sites	
	Archaeological sites, or historic properties or areas	Archaeological sites, or historic properties or areas	