

## Department of Energy

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Act, including these regulations, has occurred.

(v) *Failure to request a hearing.* If the person fails to file a written request for a hearing within the specified time period, the person relinquishes his or her right to a hearing. If the person does not request a hearing, the Assistant Secretary for Defense Programs shall transmit his or her recommendation, with any supporting materials, to the Secretary for the Secretary's final determination on the imposition of the civil penalty.

(3) *Final determination.* The Secretary makes the final determination on the disposition of a violation. The Secretary may uphold, compromise or mitigate, or remit any penalty recommended by the Assistant Secretary for Defense Programs.

(4) *Appeal.* A person whom the Secretary has determined violated section 148 of the Atomic Energy Act or any regulations or orders of the Secretary issued under section 148 of the Atomic Energy Act, including these regulations, may appeal the determination of the Secretary to an appropriate United States District Court.

(5) *Collection of Penalty.* (i) The Secretary may request the Attorney General to institute a civil action to collect a penalty imposed by the Secretary under this section.

(ii) The Attorney General has the exclusive power to uphold, compromise or mitigate, or remit any civil penalty imposed by the Secretary under this section and referred to the Attorney General for collection.

(b) *Criminal penalty.* Any person who violates section 148 of the Atomic Energy Act or any regulations or orders of the Secretary issued under section 148 of the Atomic Energy Act, including these regulations may be subject to a criminal penalty under section 223 of the Atomic Energy Act. In such case, the Secretary refers the matter to the Attorney General for investigation and possible prosecution.

[50 FR 15822, Apr. 22, 1985, as amended at 62 FR 46184, Sept. 2, 1997]

## PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

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APPENDIX A TO SUBPART D TO PART 1021—  
CATEGORICAL EXCLUSIONS APPLICABLE TO  
GENERAL AGENCY ACTIONS

## § 1021.100

APPENDIX B TO SUBPART D TO PART 1021—  
CATEGORICAL EXCLUSIONS APPLICABLE TO  
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APPENDIX D TO SUBPART D TO PART 1021—  
CLASSES OF ACTIONS THAT NORMALLY RE-  
QUIRE EISS

AUTHORITY: 42 U.S.C. 7101 *et seq.*; 42 U.S.C.  
4321 *et seq.*; 50 U.S.C. 2401 *et seq.*

SOURCE: 57 FR 15144, Apr. 24, 1992, unless  
otherwise noted.

### Subpart A—General

#### § 1021.100 Purpose.

The purpose of this part is to establish procedures that the Department of Energy (DOE) shall use to comply with section 102(2) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332(2)) and the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508). This part supplements, and is to be used in conjunction with, the CEQ Regulations.

#### § 1021.101 Policy.

It is DOE's policy to follow the letter and spirit of NEPA; comply fully with the CEQ Regulations; and apply the NEPA review process early in the planning stages for DOE proposals.

#### § 1021.102 Applicability.

(a) This part applies to all organizational elements of DOE except the Federal Energy Regulatory Commission.

(b) This part applies to any DOE action affecting the quality of the environment of the United States, its territories or possessions. DOE actions having environmental effects outside the United States, its territories or possessions are subject to the provisions of Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" (3 CFR, 1979 Comp., p. 356; 44 FR 1957, January 4, 1979), DOE guidelines implementing that Executive Order (46 FR 1007, January 5, 1981), and the Department of State's "Unified Procedures Applicable to Major Federal Actions Relating to Nuclear Activities Subject to Executive Order 12114" (44 FR 65560, November 13, 1979).

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#### § 1021.103 Adoption of CEQ NEPA regulations.

DOE adopts the regulations for implementing NEPA published by CEQ at 40 CFR parts 1500 through 1508.

#### § 1021.104 Definitions.

(a) The definitions set forth in 40 CFR part 1508 are referenced and used in this part.

(b) In addition to the terms defined in 40 CFR part 1508, the following definitions apply to this part:

*Action* means a project, program, plan, or policy, as discussed at 40 CFR 1508.18, that is subject to DOE's control and responsibility. Not included within this definition are purely ministerial actions with regard to which DOE has no discretion. For example, ministerial actions to implement congressionally mandated funding for actions not proposed by DOE and as to which DOE has no discretion (i.e., statutorily mandated, congressionally initiated "passthroughs").

*Advance NOI* means a formal public notice of DOE's intent to prepare an EIS, which is published in advance of an NOI in order to facilitate public involvement in the NEPA process.

*American Indian tribe* means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska native entity, which is recognized as eligible for the special programs or services provided by the United States because of their status as Indians.

*Categorical exclusion* means a category of actions, as defined at 40 CFR 1508.4 and listed in appendix A or B to subpart D of this part, for which neither an EA nor an EIS is normally required.

*CEQ* means the Council on Environmental Quality as defined at 40 CFR 1508.6.

*CEQ Regulations* means the regulations issued by CEQ (40 CFR parts 1500–1508) to implement the procedural provisions of NEPA.

*CERCLA-excluded petroleum and natural gas products* means petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as a hazardous substance under section 101(14) of the Comprehensive Environmental Response,