



U.S. Department of Energy

Categorical Exclusion Determination Form

Submit by E-mail

Proposed Action Title: Final Rulemaking for Test Procedure Interim Waiver Process (RIN: 1904-AE24)

Program or Field Office: EERE- Buildings Technology Program

Location(s) (City/County/State): Nationwide

Proposed Action Description:

In this final rule, DOE proposes to revise the Department's test procedure interim waiver process. In this final rule, DOE amends 10 CFR 430.27 and 10 CFR 431.401 by: (1) removing the provisions, adopted in the December 2020 Final Rule, that interim waivers will be automatically granted if DOE fails to notify the petitioner of the disposition of the petition within 45 business days of receipt of the petition, and instead specifying that DOE will make best efforts to process any interim waiver request within 90 days of receipt; (2) providing the requirements for a complete petition for interim waiver, and specifying that DOE would notify petitioners of incomplete petitions via email and that DOE will post a complete petition for interim waiver on its website within five business days of receipt of the complete petition; (3) stating the information that must be provided in a request to extend a waiver to additional basic models; (4) revising the compliance certification and representation requirements; (5) specifying that interim waivers will automatically terminate on the compliance date of a new or amended test procedure; (6) harmonizing the consumer product and commercial equipment waiver provisions with enforcement requirements; and (7) allowing DOE to rescind or modify a waiver for appropriate reasons.

This Rulemakings interprets or amends an existing rule without changing the environmental effect of that rule.

Categorical Exclusion(s) Applied:

A5 - Interpretive rulemakings with no change in environmental effect

For the complete DOE National Environmental Policy Act regulations regarding categorical exclusions, including the full text of each categorical exclusion, see Subpart D of [10 CFR Part 1021](#).

Regulatory Requirements in 10 CFR 1021.410(b): (See full text in regulation)

The proposal fits within a class of actions that is listed in Appendix A or B to 10 CFR Part 1021, Subpart D.

To fit within the classes of actions listed in 10 CFR Part 1021, Subpart D, Appendix B, a proposal must be one that would not: (1) threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements of DOE or Executive Orders; (2) require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities; (3) disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; (4) have the potential to cause significant impacts on environmentally sensitive resources, including, but not limited to, those listed in paragraph B(4) of 10 CFR Part 1021, Subpart D, Appendix B; (5) involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those listed in paragraph B(5) of 10 CFR Part 1021, Subpart D, Appendix B.

There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal.

The proposal has not been segmented to meet the definition of a categorical exclusion. This 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 10 CFR 1021.211 concerning limitations on actions during preparation of an environmental impact statement.

Based on my review of the proposed action, as NEPA Compliance Officer (as authorized under DOE Order 451.1B), I have determined that the proposed action fits within the specified class(es) of action, the other regulatory requirements set forth above are met, and the proposed action is hereby categorically excluded from further NEPA review.

NEPA Compliance Officer: **Roak Parker**

Digitally signed by Roak Parker
Date: 2021.11.04 11:14:12 -06'00'

Date Determined: