



DEPARTMENT OF ENERGY

10 CFR Part 821

[DOE-HQ-2025-0175]

RIN 1901-AB73

Implementing Voluntary Agreements under the Defense Production Act

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (“DOE”) is adopting the interim final rule published on August 25, 2025, as final, without change. This final rule establishes the procedures for developing and carrying out voluntary agreements and plans of action under the Defense Production Act. The Defense Production Act provides a defense from antitrust laws with respect to any action taken to develop or carry out any voluntary agreement or plan of action when certain criteria are met.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

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I. Authority and Background

On August 25, 2025, the Department of Energy (“DOE”) published an interim final rule to codify procedures for developing and carrying out voluntary agreements pursuant to section 708 of the Defense Production Act of 1950 (“DPA”), Pub. L. 81-774 (Sept. 8, 1950) (codified at 50 U.S.C. 4558). *See* 90 FR 41279. That notice solicited public comment regarding the contents of the rule. As DOE explained in the August 2025 notice, section 708(c)(1) of the DPA provides that upon finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, the President may consult with representatives of industry, business, financing, agriculture, labor, and other interests in order to provide for the making by such persons, with the approval of the President, of voluntary agreements and plans of action to help provide for the national defense. *See* 50 U.S.C. 4558(c)(1). As explained and discussed in greater detail in that August 2025 notice, the President effectively made such a finding through Executive Order (“E.O.”) 14302 (Reinvigorating the Nuclear Industrial Base), 90 FR 22595 (May 29, 2025). (*See* 90 FR 41279)

To address the current national security risks to the energy supply of the United States, E.O. 14302 ordered DOE to utilize the authority provided to the President under section 708(c)(1) of the DPA, which was delegated to the Secretary of Energy pursuant to E.O. 13603 (National Defense Resources Preparedness), 77 FR 16651 (March 22, 2012). *See* E.O. 14302, Sec. 3(e), 90 FR 22596 (ordering the Secretary of Energy to utilize the President’s authority under section

708(c)(1) of the DPA) *and* E.O. 13603, Sec. 403, 77 FR 16656 (authorizing the Secretary of Energy to adopt rules pursuant to section 708 of the DPA “that incorporate standards and procedures by which voluntary agreements and plans of action may be developed and carried out.”). Section 708 of the DPA provides that an agency may develop and carry out voluntary agreements with industry to provide for the national defense or its preparedness programs. Industry participants in any voluntary agreement or plan of action under the DPA are provided with immunity for any civil or criminal action brought under the antitrust laws of the United States or any similar state law. *See* 50 U.S.C. 4558(j). This antitrust immunity is limited to actions taken to develop or carry out a voluntary agreement or plan of action, in order to effectuate the purpose identified in the voluntary agreement or plan of action. *Id.* Any antitrust immunity conferred on the participants in a voluntary agreement or plan of action does not apply to any act or omission occurring after the termination of the voluntary agreement or plan of action. *Id.*

Consistent with E.O. 14302, DOE promulgated procedures implementing section 708 of the DPA, to initiate the voluntary agreement process for the domestic nuclear energy industry as ordered in E.O. 14302. The rule details, among other things, the overall scope of voluntary agreements [and plans of actions], the applicability of anti-trust protections for entities operating under a voluntary agreement [and/or plan of action], the procedures for the maintenance and availability of certain materials, meeting attendance provisions, and the make-up of voluntary agreement and plan of action participants. DOE issued the interim final rule pursuant to the authority granted to it under section 708(c)(1) of the DPA and E.O. 14302 and delegated to the Secretary of Energy through E.O. 13603 and solicited public comment.

II. Basis for the Rule

The interim final rule that DOE issued is based on the statutory authority granted to the President and delegated to the Secretary of Energy to seek voluntary agreements and develop plans of action with domestic nuclear energy companies to address the direct threat to the national

defense or preparedness programs of the United States as it relates to the nuclear industrial base. This action follows the provisions of section 708 of the DPA and E.O. 13603 and E.O. 14302.

E.O. 14302 instructed DOE to utilize the authority provided to the President under section 708(c)(1) of the DPA (and delegated to the Secretary of Energy through E.O. 13603) to seek voluntary agreements with domestic nuclear energy companies and to prioritize agreements with those companies that have achieved objective milestones for the cooperative procurement of LEU and HALEU. *See* 90 FR 22596. Section 708(e)(1) of the DPA requires the Secretary of Energy to promulgate rules in accordance with the Administrative Procedure Act (“APA”), incorporating standards and procedures by which voluntary agreements and plans of action may be developed and carried out. *See* 50 U.S.C. 4558(e)(1). Section 708(e) also sets forth the rulemaking process for DOE to generally follow, including the application of a 30-day delay between the publication of a final rule and the rule’s effective date. *See* 50 U.S.C. 4558(e)(2(B)). However, section 709 of the DPA permits the waiver of the notice and comment requirements where urgent and compelling circumstances make providing an opportunity for notice and comment of not less than 30 days before the promulgation of a final rule impracticable. *See* 50 U.S.C. 4559(b)(1). In the interim final rule, DOE explained that it was availing itself of the provisions under section 709 of the DPA while remaining consistent with section 708 to ensure that the public has a meaningful opportunity to provide comments. *See* 90 FR 41281. Accordingly, DOE issued the interim final rule, and delayed its effective date until September 24, 2025. DOE is now responding to public comments, and providing notice that the interim final rule will remain effective without change.

III. Comments on the Interim Final Rule

DOE received several comments on the interim final rule. These comments were generally supportive of DOE’s action. In some cases, commenters provided specific suggestions for DOE to adopt to modify certain aspects of the rule. The commenters are summarized in the following table:

Commenters	Type of Commenter
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Global Shield Institute (“Global Shield”)	Advocacy group
Anonymous	Unknown
Donivan Porterfield	Individual
First American Nuclear Company (“FANCO”)	Manufacturer
The Tennessee Department of Environment and Conservation and the Tennessee Department of Economic and Community Development (“State of Tennessee”)	State
Conservative Political Action Coalition Foundation (“CPAC”) Center for Regulatory Freedom (“CRF”)	Interest group
The National Association of State Energy Officials (“NASEO”)	State association

Global Shield Institute (Global Shield)

Global Shield supported the rule, noting that “DOE’s clarification of its transparent procedures, antitrust safeguards, and public record requirements will expedite coordinated private-public action when national defense or preparedness demands it” but it expressed concerns that “overburdensome bureaucratic and legal requirements may constrain its use when needed for national defense and security.” (Global Shield at 1) Pointing to the voluntary agreement-related activities carried out by the Federal Emergency Management Agency in handling medical supply shortages brought about by COVID-19, Global Shield asserted that it was unclear if any substantive changes were made with respect to pandemic planning as a result of that agreement. (Global Shield at 1) Global Shield also asserted that since the section 708 authority is procedurally cumbersome, it urged DOE to document any challenges encountered in establishing or implementing the voluntary agreement so that those items may be addressed through future executive or legislative action. (Global Shield at 2)

Global Shield asserted that the successful implementation of a voluntary agreement by DOE for the nuclear industrial base could lead to similar agreements in other sectors. (Global Shield at 2) It also highlighted two pending pieces of legislation that would attempt to make certain changes in how aspects of section 708 would be implemented. (Global Shield at 2-3)

DOE Response to Global Shield

DOE appreciates the support offered by Global Shield and notes that it has and will continue to work in conjunction with the Department of Justice and the Federal Trade Commission in a manner consistent with the requirements of section 708 to minimize any potential difficulties that may arise. DOE will also continue to monitor the legislation identified by Global Shield and will offer any appropriate technical assistance to Congress if such assistance is sought.

Commenter – Anonymous

Anonymous offered several specific critiques of the rule. (Anonymous at 1)
These critiques involved the following:

1. The rule should clearly delineate the threshold criteria DOE will use to determine when invoking the DPA's antitrust protections is "necessary". This is to avoid vague standards that could lead to overuse or inconsistent application.

DOE Response: The antitrust protections afforded by section 708 apply to either the development or carrying out of a voluntary agreement or plan of action. *See* 50 U.S.C. 4558(j). In DOE's view, these conditions sufficiently delineate the criteria for section 708's antitrust protections to apply.

2. The procedures do not appear to require forecasting cost-benefit or risk-impact analyses. DOE should specify how it will evaluate economic, competitive, and supply chain impacts before approving such agreements.

DOE Response: The rule offers a procedural framework based on the steps specified by statute that DOE will follow when implementing voluntary agreements or plans of action. These activities will be dictated by the specific circumstances presented and DOE will evaluate those circumstances as appropriate when determining whether to approve a particular voluntary agreement or plan of action.

3. DOE should clarify whether the Plans of Action would extend to procurement preferences, coordinated investment, or technology transfers, and establish guardrails to

avoid unintended market distortions.

DOE Response: DOE notes the rule provides a procedural framework by which DOE and industry may reach voluntary agreements requiring an exemption from antitrust restrictions. The plans of action that may result from a given voluntary action will depend on the substantive terms reached among the participants and DOE. To the extent appropriate, those plans of action will extend to those objectives directed by E.O. 14302 consistent with the provisions under section 708 of the DPA. The guardrails established within section 708 include among other things, a finding of necessity as well as the monitoring of agreements and plans of action by the Attorney General and the Federal Trade Commission to assure participants are acting in accordance with the terms of the plan; and the protection and fostering of competition and the prevention of anticompetitive practices and effects. *See* 50 U.S.C. 4558(g).

4. The rule should commit to publishing redacted versions of agreements, periodic performance reports, and termination rationales to ensure accountability while protecting sensitive information.

DOE Response: DOE will follow the regulations set forth at 10 CFR part 821 with respect to information disclosures. Among other things, 10 CFR part 821 provides for the maintenance of records, as well as public access to records and meetings.

5. DOE should include a process to evaluate and mitigate disproportionate effects on small and disadvantaged businesses.

DOE Response: DOE will continue to evaluate and consider options that maximize the participation of small business concerns in accordance with the DPA.

6. DOE should outline how it will monitor compliance, prevent misuse of antitrust exemptions, and ensure that agreements remain time-limited, narrowly tailored, and subject to independent audit or review.

DOE Response: DOE has outlined these steps in the regulations set forth at 10 CFR part 821. The regulations provide for proposals to develop agreements. The proposal must include

statements as to the purpose of the agreement or plan of action, the factual basis for making the finding required in section 708(c)(1) of the DPA, the proposed participants in the agreement or plan of action, and any coordination with other Federal agencies accomplished in connection with the proposal. The regulations also provide for the effectiveness and terms of the agreement, participant conduct, the maintenance of records, and public access to records and meetings. These elements will be used to monitor compliance, prevent misuse of antitrust exemptions, and ensure that agreements remain time-limited, narrowly tailored, and available as appropriate.

7. DOE should address how it will coordinate with other agencies to ensure consistency and prevent conflicting guidance when multiple agencies exercise DPA authorities simultaneously.

DOE Response: DOE addressed this issue in the regulations set forth at 10 CFR part 821. The regulations delineate the coordination with other Federal agencies, and findings required by DOE, the Attorney General, and the Federal Trade Commission. And, as noted in the interim final rule, DOE is not the first federal agency to promulgate rules implementing section 708 of the DPA. *See* 90 FR 41280. DOE coordinated its efforts with other agencies to ensure consistency when it developed its regulations. Otherwise, DOE does not anticipate that other agencies will exercise DPA authorities that may affect the activities contemplated under 10 CFR part 821, as there are no other agencies overseeing the nuclear industry that have implemented the Section 708 provisions. Nevertheless, in the event that coordination with other agencies is needed, beyond the Department of Justice and Federal Trade Commission, DOE will engage with those agencies as needed to ensure the smooth implementation of any voluntary agreements and plans of action that are under consideration.

Commenter – Donovan Porterfield

Donivan Porterfield supported using the DPA to accomplish the goals of the various recently published Executive Orders regarding nuclear energy (EOs 14299 through 14302). The commenter noted that the goals set out in these orders will require collaborative planning

that the DPA’s mechanisms under Title 7 of the DPA can provide, (Commenter at 1), and urged that DOE refrain from limiting public access to meetings and records. (Commenter at 2)

DOE Response to Donovan Porterfield

DOE appreciates the comment and recognizes the significant role for collaboration among participating entities. As appropriate, DOE will encourage these collaborative efforts. Regarding public access to meetings and records held under section 708, DOE will follow the regulations set forth at 10 CFR part 821 with respect to information disclosures as the regulations provide for the maintenance of records, as well as public access to records and meetings as appropriate.

FANCO

First American Nuclear Company (“FANCO”) also supported the rule and stated that, as the designer of “a lead bismuth-cooled fast reactor capable of utilizing a diverse array of nuclear fuel types” and as a company with substantial engineering experience in reactor design, fuel cycle development, advanced materials, and safety analysis, it supported the Administration’s energy dominance agenda and DOE’s efforts to advance nuclear energy and supply chain capabilities essential to the nation’s strategic strength. (FANCO at 1) The company also signaled its eagerness at collaborating with DOE and others in support of the intended objectives of the DPA initiatives. (FANCO at 1)

DOE Response to FANCO

DOE appreciates FANCO’s comments and interest in collaborating as part of DOE’s section 708 efforts.

State of Tennessee

The State of Tennessee, through its Department of Environment and Conservation and the Department of Economic and Community Development also provided comments. The State explained that the DPA should be used to ensure that Federal actions under the DPA harness the environmental and economic benefits of brownfield redevelopment and to support projects

facilitating the growth of the nuclear industry. (State at 1) In its view, using the DPA presents a significant opportunity for expanding the State's nuclear industry, particularly by supporting the development of small modular reactors and the associated nuclear fuel supply chain. It cited a variety of factors for its view, including the presence of its existing infrastructure, industry concentration, and State-level support. (State at 2) To this end, the State offered several recommendations for DOE to consider:

1. Use the DPA for a brownfield project, which may be possible if a site is being redeveloped by a defense contractor or an energy-related facility. (State at 2)
2. The State asserted that the DPA can provide financial incentives (*e.g.*, loans and purchase commitments) but that those incentives may be insufficient to cover environmental clean-up costs. Consequently, it suggested that Tennessee has State and local level tools in the form of tax structures, grants, investments and initiatives to support economic growth and the development of resilient energy infrastructure in the state. (State at 2-3)
3. The State further suggested that using the DPA successfully for a brownfield project would require extensive federal, state, and local government coordination and it recommended that DOE coordinate with state and local agencies to prioritize nuclear supply chain industries on brownfields. (State at 3)
4. The State asserted that DPA funding under Title III can help critical gaps in the nuclear supply chain, which is important for small modular reactors since they are designed for factory fabrication and require a robust domestic manufacturing base. The State added that its existing industrial and manufacturing sectors could be leveraged to produce components for these reactors. (State at 3)
5. Using the DPA can incentivize the growth of the nuclear industry and lead to more higher-paying jobs and the expansion of related educational and training programs in Tennessee. The State cited its focus on workforce development for the nuclear sector

combined with the DPA's goal to strengthen the domestic industrial base as being factors to creating this growth. (State at 3)

DOE Response to the State of Tennessee

DOE appreciates the comments from the State of Tennessee. Any voluntary agreements and accompanying plans of action that are developed will be based on the specific circumstances and proposal(s) presented amongst the participating entities and DOE. To the extent that the areas of interest noted by the State of Tennessee can be harmonized with potential section 708 activities, DOE will address those areas as applicable.

CRF

CRF supported the implementation of section 708 of the DPA to bolster domestic nuclear energy production and recommended that DOE provide additional regulatory guidance concerning potentially ambiguous provisions. (CRF at 2) It stressed that the DPA emphasizes the importance of "programs for military and energy production or construction" as contributing to the national defense, as such programs are mentioned first in the definition and most closely relate to the intent of the DPA. (CRF at 3) CRF stated that the invocation of section 708 in the current context directly serves national security interests by bolstering the nation's capacity to produce nuclear energy, which will provide a more stable and reliable energy supply with which to support the U.S. military and its endeavors. CRF also contrasted DOE's proposed implementation of section 708 with prior implementations of voluntary agreements under the DPA. (CRF at 3)

CRF suggested that DOE should clarify the term "reasonably representative" to "specify what exactly would make a voluntary agreement 'reasonably representative' of that industry." (CRF at 4)

CRF also suggested that DOE clarify the appropriate actions permitted to take place when developing a voluntary agreement or plan of action to ensure that participating entities are not inadvertently penalized in the future for failing to understand which specific activities taken

to develop a voluntary agreement or plan of action are outside of the scope of the DPA's antitrust law protections. It suggested that DOE clarify which activities are acceptable under the DPA when taken to develop a voluntary agreement or plan of action. (CRF at 4)

CRF also suggested that the DPA's statutory requirement mandating yearly reports of voluntary agreements in effect be elaborated on in the CFR to mandate that these reports be made publicly available to promote transparency. (CRF at 2) In its view, CRF added that the yearly reports required under section 708(l) be made public. (CRF at 5) It argued that the public disclosure of voluntary agreements will promote transparency and provide a public record of the extent to which such agreements are successful in carrying out the provisions of the DPA. (CRF at 5)

CRF noted that the importance of Artificial Intelligence ("AI") data centers and the role of nuclear energy as the only technology capable of meeting the energy requirements of these centers, has national security implications. (CRF at 5-6) In its view, the DPA is an essential step in supporting the legal and practical framework to sustain AI's rise and that both AI and nuclear energy are inseparably linked. (CRF at 7) It argued that if the U.S. falters in energy, it will falter in AI, and the cost will be geopolitical decline. (CRF at 7)

CRF also offered a pointed critique regarding past administrations on nuclear energy policy issues. (CRF at 7-8) CRF asserted that the interim final rule begins the process of addressing past missteps by recognizing the critical nature of nuclear energy through the rule's application of the DPA to reinvigorate nuclear energy. (CRF at 8) CRF urged DOE to learn from the past and to chart a new course in which nuclear energy serves as the foundation of U.S. energy independence and prosperity. (CRF at 9)

DOE Response to CRF

DOE notes that 10 CFR part 821 uses the term "reasonably representative" in the context of describing those participants that will be part of each voluntary agreement. As CRF noted, DOE is adhering to the original language of the DPA. DOE has purposefully declined

limiting this term to any specific proportion of participants within a given industry. Instead, in DOE's view, what constitutes "reasonably representative" is a case-by-case determination that considers the purpose and scope of each underlying proposal and the relevant industry.

Additionally, with respect to yearly reports, DOE notes that the regulations set forth at 10 CFR part 821 provide for the maintenance of records, as well as public access to records and meetings subject to certain exemptions from disclosure. Finally, with respect to actions to develop, DOE notes the regulations set forth at 10 CFR part 821 provide for the conduct of interested persons (*e.g.*, advisory committee participation, written data submission, and presentation of views on proposed voluntary agreements) as well as the conduct of participants (*e.g.*, discuss problems, determine policies, recommend actions, and make decisions necessary to carry out the agreement). DOE appreciates the suggestions from CRF but is declining to make any further changes to the current regulatory text at this time. Should DOE discover, through experience, that certain aspects of its framework require further adjustment, then it will revisit potential options for revising its regulations at that time.

NASEO

NASEO suggested that DOE define the term "domestic nuclear energy companies" for purposes of entering into voluntary agreements to help avoid unintentionally limiting the rule's applicability to new technologies or companies working to build the supply chain. (NASEO at 2) NASEO also made some broad, general suggestions, asserting that DOE and industry should engage interested State Energy Offices and NASEO throughout the process to identify potential areas of coordination and to align with existing and future state nuclear fuel supply chain activities. It noted that the "Advanced Nuclear First Mover Initiative" is working to establish an advanced nuclear orderbook strategy and is exploring how state actions can help ensure domestic availability of fuel and other supply chain needs. (NASEO at 1-2) NASEO also suggested that voluntary agreements between industry and DOE should require industry to coordinate with State Energy Offices and other relevant state government entities, asserting that

such actions will be valuable when thinking about state, regional, and national supply chain networks; workforce development programs and training; and acquiring funding and financing for mining and milling, conversion, enrichment, deconversion, fabrication, recycling and reprocessing and other activities. (NASEO at 2)

NASEO also cited two examples of state-industry engagement on advanced nuclear projects, including: (a) the Wyoming Energy Authority (State Energy Office), which leads an Energy Matching Funds program to support various projects (*e.g.*, microreactor assessment study and a demonstration project aimed at improving in-situ uranium mining processes); and (b) Tennessee’s Nuclear Fund, which has provided grants to support projects coming into the state. With respect to the latter, NASEO cited to the State’s support for the Oklo reactor and fuel recycling facility, BWXT’s centrifuge assemblies manufacturing facility, and the construction of Orano’s uranium enrichment facility. (NASEO at 2)

DOE Response to NASEO

The term “domestic nuclear energy companies” is established by E.O. 14302, but is otherwise undefined. However, the DPA defines the terms “domestic industrial base” and “domestic source.” *See* 50 U.S.C. 4552(6)-(7). Accordingly, 10 CFR part 821 should be read in conjunction with its originating executive order, and the DPA, to avoid unintentionally limiting the rule’s applicability to new technologies or companies. Otherwise, DOE appreciates NASEO’s feedback, and welcomes NASEO’s continued participation.

IV. Section by Section Analysis of the Final Rule

A. General Provisions

Section 821.1 of the final rule sets out general provisions regarding the applicability of the rule, the role of the Secretary (or the appropriated delegated DOE official), the conditions for the commencement of agreements, operation of advisory committees, and the petition process for the rule. This section also contains defined terms.

B. Prerequisites for Agreements and Plans of Action

Section 821.2 of the final rule details the prerequisites that are required before activities in developing voluntary agreements and plans of action may be engaged in, including a finding by the President that conditions exist which may pose a direct threat to the national defense or its preparedness programs. This section also details the conditions that must be satisfied as well as delegations that may occur.

C. Developing Voluntary Agreements and Plans of Action

Section 821.3 details the process for developing voluntary agreements and plans of action. Conditions for developing proposed agreements and plans of action along with the details for the conducting of meetings held for developing these agreements and plans of action are also explained. Record maintenance requirements are also established and the conditions for the effectiveness of agreements or the extension of agreements are defined in this section.

D. Carrying Out Voluntary Agreements

Section 821.4 establishes the standards and procedures for carrying out an approved voluntary agreement. These procedures include provisions regarding the conduct of meetings and record maintenance requirements.

E. Termination or Modifying Voluntary Agreements

Section 821.5 sets out provisions regarding the termination or modification of voluntary agreements. The provision notes that the consequences upon the termination or modification of a voluntary agreement, including the impact of any antitrust immunity conferred upon individual participants to the original agreement or related plan of action. Parties may terminate their participation in an agreement by providing written notification to the Secretary.

F. Public Access to Records and Meetings

Section 821.6 provides that records of meetings, including transcripts, are generally publicly available unless their contents are subject to the exemptions under 5 U.S.C. 552(b)(1), (3), or (4). The provision also permits interested persons to attend meetings held to develop or carry out a voluntary agreement but specifies that attendance may be restricted under 5 U.S.C.

552(b)(1), (3), or (4) or 5 U.S.C. 552b(c).

VI. Procedural Requirements

A. Executive Order 12866

E.O. 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (“OIRA”) for review. OIRA, an entity within the Office of Management and Budget (“OMB”), has determined that this regulatory action does not constitute a “significant regulatory action” under E.O. 12866 and has not reviewed this action.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment. As previously stated, section 709 expressly exempts any regulation issued under the DPA from the administrative procedures of the APA. *See* 50 U.S.C. 4559(a) (explicitly exempting sections

551 through 559 of title 5 from any regulation issued under the DPA). Additionally, section 709 allows for the waiver of the notice and comment requirements, and DOE found that urgent and compelling circumstances made compliance with notice and comment requirements impracticable. Accordingly, no regulatory flexibility analysis has been prepared for this final rule. *See* 5 U.S.C. 601(2), 603(a).

C. National Environmental Policy Act

NEPA does not require agencies to prepare a NEPA analysis before establishing or updating agency procedures. Agency procedures for implementing the voluntary agreement and plans of action provisions under section 708 of the DPA are not subject to NEPA. DOE has also issued regulations that are currently in effect that note certain types of actions that are excepted from NEPA review. Under those regulations, 10 CFR part 1021, appendix A, includes an exception for procedural rulemakings from NEPA review. *See* 90 FR 29676 (July 3, 2025). That exception, Exception A6, applies to rulemakings that are strictly procedural, such as rulemakings establishing procedures for technical and pricing proposals and establishing contract clauses and contracting practices for the purchase of goods and services. DOE has determined that this interim final rule falls within the scope of A6 and is not subject to review under NEPA. Therefore, DOE does not intend to conduct a NEPA analysis of this final rule.

D. Executive Order 13132

E.O. 13132 “Federalism”, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt state law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this final rule and has determined that it does not preempt State law beyond what is already provided for under Federal law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. No further action is required by E.O. 13132.

E. Executive Order 13175

Under E.O. 13175, “Consultation and Coordination with Indian Tribal Governments,” 65 FR 67249 (Nov. 6, 2000), DOE may not issue a discretionary rule that has Tribal implications or that imposes substantial direct compliance costs on Indian Tribal governments. DOE has determined that this final rule will not have such effects and has concluded that E.O. 13175 does not apply to this final rule.

F. Executive Order 13211

E.O. 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This final rule does not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

G. Unfunded Mandates Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires Federal agencies to examine closely the impacts of regulatory actions on State, local, and Tribal

governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include a regulation that would impose upon State, local, or Tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments, in the aggregate, or the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of the title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or Tribal governments, or the private sector, of \$100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposed a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State, local, and Tribal governments. 2 U.S.C. 1534. This final rule contains no intergovernmental mandate and does not result in the expenditure by State, local, and Tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

H. Paperwork Reduction Act

This final rule does not impose any new information collection burden that would require additional review or approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

I. Executive Orders 14154, 14192, and 14302

DOE has examined this final rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154 “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” and E.O. 14302, “Reinvigorating the Nuclear Industrial Base.” This final rule is a necessary prerequisite to implement any voluntary

agreement or plan of action required to address the domestic energy crisis identified in E.O. 14302. Accordingly, DOE has developed this regulatory action as a “statutorily required rulemaking,” pursuant to E.O. 14192, Unleashing Prosperity Through Deregulation.

J. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress and to the Comptroller General a report on this final rule. The report will state that it has been determined that this final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 821

Administrative practice and procedure; Advisory committees; Antitrust; Classified information; Confidential business information; Emergency preparedness; Freedom of information; Industrial facilities; Nuclear energy; Nuclear materials; Nuclear power plants and reactors; Organization and functions; Reporting and recordkeeping requirements; Security measures.

Signing Authority

This document of the Department of Energy was signed on May 13, 2026, by Theodore J. Garrish, Assistant Secretary for Nuclear Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on July 15, 2026.

Treena V. Garrett,
Federal Register Liaison Officer,

PART 821--IMPLEMENTING VOLUNTARY AGREEMENTS UNDER THE DEFENSE PRODUCTION ACT

Accordingly, the interim final rule that amended chapter III of title 10 of the Code of Federal Regulations by adding part 821, which was published in the *Federal Register* at 90 FR 41279 on August 25, 2025, is adopted as final without change.

[FR Doc. 2026-14461 Filed: 7/16/2026 8:45 am; Publication Date: 7/17/2026]