Department of Energy
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

May 22, 1995

Andrew E. Mravca, Area Manager
Batavia Area Office

SUBJECT: DELEGATION OF CATEGORICAL EXCLUSION (CX) APPROVAL AUTHORITY

Based on confirmation that you have designated an Area Office NEPA Compliance Officer, have prepared CX review procedures and a quality assurance plan, and have access to Department of Energy legal resources, I hereby delegate the requested authority to you, effective immediately.

Experiences with NEPA have shown that early and adequate project and facility planning is essential to a satisfactory NEPA program. Early planning will assure that environmental values are considered, potential conflicts are identified, and delays are avoided. Therefore, as you finalize your procedures for preparation, review, and approval of CXs, assure yourself that your procedures, policies, responsibilities, etc., adequately address early planning.

We will continue to provide information, training, and other types of support during your efforts to make the CX process more efficient and useful to your office. If problems arise or you have questions or concerns about any of your determinations, I expect you will contact us.

Cherri J. Langenfeld
Manager

cc: C. Borgstrom, HQ, EH-42/FORSTL
R. Scott, HQ, EM-20/FORSTL
C. Hickey, HQ, ER-8.2/GTN

Batavia Area Office

Nice job! See me! a

ENV-7

Department of Energy
Batavia Area Office
Post Office Box 2000
Batavia, Illinois 60510

APR 0 5 1995

Cherri J. Langenfeld
Manager

SUBJECT: DELEGATION OF APPROVAL FOR CATEGORICAL EXCLUSIONS (CXs)

Reference: 1. Memo, subject as above, A. Mravca to C. Langenfeld, dtd., 1/26/95
2. Memo, same subject, M. Flannigan to A. Mravca, dtd. 3/6/95, copy enclosed.

This memorandum is to again request delegation of approval for categorical exclusions (CXs) listed under the DOE National Environmental Policy Act (NEPA) Rule 10 CFR 1021. We have responded to comments from Chicago Operations Office (CH) NEPA Compliance Office (NCO) provided in reference 2 by revising the procedures.

I believe the enclosed procedures and quality assurance plan for review and approval of CXs addresses all necessary items. I have designated Jonathan Cooper as the Batavia Area Office (BAO) NEPA Coordinator.

Please indicate your approval of the above delegation of authority by affixing your signature below.

Andrew E. Mravca
Area Manager

Enclosures:
As stated

cc: J. Kennedy, AMST, w/encl.
W. S. White, ESHD, w/encl.

Cherri J. Langenfeld, Manager
Chicago Operations Office

BATAVIA AREA OFFICE

Supporting Documentation:

DELEGATION OF APPROVAL AUTHORITY FOR CATEGORICAL EXCLUSIONS

APRIL 1995

Approved by:
Andrew E. Mravca
Area Manager

BATAVIA AREA OFFICE (BAO) PROCEDURE FOR PREPARATION, REVIEW, AND APPROVAL OF NEPA CATEGORICAL EXCLUSION (CX) DOCUMENTATION

This procedure describes how the BAO reviews and approves specific documentation the Department of Energy (DOE) requires to comply with the National Environmental Policy Act (NEPA). BAO has requested that Fermi National Accelerator Laboratory (Fermilab) integrate requirements of NEPA early in the planning process for a proposed project, as required by 40 CFR Part 1501.2, through the preparation of a Chicago Operations Office (CH) Environmental Evaluation Notification Form (EENF) at the earliest possible time (i.e., provided Energy Research guidance in this regard to Fermilab on September 29, 1994). Laboratory procedures are contained in Fermilab's NEPA procedures (Chapter 8060 of the Fermilab Environment, Safety, and Health (ES&H) Manual) and are only referenced herein (i.e., not attached) because they do not directly impact on how BAO reviews NEPA documents submitted by Fermilab for quality, etc. Fermilab submits all completed EENFs to BAO for review.

1. The BAO NEPA Coordinator, appointed by the Area Manager, has ownership of the CX process by critically reviewing all EENFs and supporting documentation to ensure that sufficient detail has been provided to determine if proposed projects fall clearly into one or more CX categories specified in 10 CFR 1021, Appendix B to Subpart D. Use of DOE's NEPA guidance, NEPA training, and BAO's Quality Assurance Plan ensure timely, thorough reviews are conducted. See Attachment A ("BAO Quality Assurance Plan for Categorical Exclusion Documentation: Preparation, Review, and Approval") and Attachment B ("Conditions that are Integral Elements of the Classes of Actions in Appendix B," 10 CFR Part 1021) to this procedure. [Note that Attachment B and 10 CFR Part 1021.410 specify "conditions that are integral elements of the classes of actions" which must be met before a proposed action can be considered eligible for a CX determination.]

   An August 7, 1992, memorandum from EH-25 (C. Borgstrom to NEPA Compliance Officers) referenced an April 2, 1992, EH-1 memorandum stating that "application of Appendix A categorical exclusions need not be documented." The August 1992 memorandum points out that "the preamble to the DOE NEPA regulations states that Appendix A includes those classes of actions with impacts so remote or conjectural as to preclude meaningful consideration and some classes of actions to which NEPA probably does not apply." EH-25 said they "do not believe that recordkeeping for Appendix A determinations is warranted." BAO's procedure for handling Appendix A CX activities was transmitted to the Laboratory in an April 4, 1994, letter.

   - The BAO NEPA Coordinator interacts with the Project Manager and/or Laboratory NEPA Reviewer if BAO believes additional information is

necessary to clarify issues related to a proposed project's impacts prior to recommending approval by the Area Manager.

2. For proposed projects which do not clearly fall under CX categories (specified in 10 CFR 1021 Appendix A and/or B to Subpart D), BAO will request resources, as necessary, from the Chicago Operations Office (CH), General Law Division (GLD) and the Environment Safety and Health Division NEPA Compliance Officer (ESHD/NCO). Documentation will be forwarded to CH for review by either facsimile or E-mail to shorten review and concurrence time.

3. The Area Manager will approve EENF documentation for CXs for proposed projects determined to fall into specified CX categories (meeting the criteria in Attachment B) and send letters to Fermilab, with a copy to the project manager, stating that such projects may proceed without further NEPA review.

4. BAO will continue to maintain (for tracking and management) a BAO list of proposed projects for which EENFs have been received and CX determinations made. BAO will, for the sake of continuity, assign a tracking number to the EENF which will continue the existing CH CX numbering system and, following CX determination, send an informational copy of the EENF to the CH ESHD/NCO. Because the CH NCO does not have a way to access BAO's NEPA tracking system, he may choose to continue to log these determinations into the existing CH tracking system. In addition, all EENF documentation and correspondence will be maintained in a file at BAO for easy reference. The copy of the EENF sent to the CH ESHD/NCO is for informational purposes and not for review and concurrence. BAO will not be transmitting copies of EENFs to DOE Headquarters on a routine basis.

ATTACHMENT A

BATAVIA AREA OFFICE (BAO) QUALITY ASSURANCE PLAN FOR CATEGORICAL EXCLUSION (CX) DOCUMENTATION: PREPARATION, REVIEW, AND APPROVAL

I. BACKGROUND

The National Environmental Policy Act (NEPA) is the federal government's basic charter for protection of the environment. The NEPA process, therefore, enables the Department of Energy (DOE) to achieve the results, outcomes, and products that respond to the goals of the Act and the goals of the Council on Environmental Quality (CEQ) regulations: quality federal decisions that protect, restore, and enhance the quality of the human environment. In complying with NEPA, BAO will utilize the referenced regulatory and procedural drivers in Section II below.

To ensure adequate review of EENFs and approval of Cxs by BAO quality assurance (QA) planning is essential. The implementation of this QA plan for the conduct and management of the CX process will assure the preparation and review of quality EENF/CX documentation leading to approval of proposed projects when appropriate as CXs.

II. REFERENCES OF SPECIFIC REGULATORY AND PROCEDURAL DRIVERS

A. Laws and Regulations

The National Environmental Policy Act of 1969, As Amended.

40 CFR Parts 1500-1508, "Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act".

10 CFR Part 1021, "Department of Energy National Environmental Policy Act Implementing Procedures and Guidelines".

B. Policies, Requirements, and Guidance

1. Departmental and Secretarial

"Secretarial Policy Statement on the National Environmental Policy Act," Office of the Secretary, June 13, 1994.

2. Office of Environment, Safety and Health

"Draft NEPA Compliance Guide: Guidance Manual for Department of Energy Compliance with the National Environmental Policy Act and Related Federal Environmental Statutes," October 1988 and September 1994.

"Integrating Pollution Prevention with NEPA Planning Activities, October 15,1992.

3. Office of Energy Research

"Office of Energy Research NEPA Guidance and Procedures Handbook," November 1992 and subsequent updates.

"Office of Energy Research Statement of Goals and Objectives for Adherence to the Principles of the National Environmental Policy Act," November 11, 1992. (Section 1.2 in ER NEPA Guidance and Procedures Handbook).

"Office of Energy Research Draft Guidance on Early Timing and Implementation of the NEPA Process and Integration of the NEPA Process with the Project Management System", ER NCO Communication 94-01, February 1994. (Section 2.2 in ER NEPA Handbook).

4. CH Guidance

DOE-CH Order 5440.1E, NEPA Compliance Program (Currently Under Revision).

CH Procedures For Preparing The Environmental Evaluation Notification Form (EENF, CH-560 Form) NEPA Determination Sheets.

Supporting Documentation: Delegation of Approval Authority For Environmental Assessments, signed on July 1994.

5. BAO Guidance

CH Procedures For Preparing The Environmental Evaluation Notification Form (EENF, CH-560 Form) NEPA Determination Sheets. [Note: BAO will continue to use this completed form following these CH procedures.]

Guidance related to Appendix A Categorical Exclusions:
- Letters to R. Stefanski dated April 4, 1994, and July 20, 1994.

[Note: BAO has, over the years, used and transmitted all relevant EH and CH policy, requirements, and guidance related to CXs to the Laboratory and will continue to follow and utilize these as long as they remain current.]

6. Fermilab Guidance: (included only for information -- does not impact BAO review of CXs directly)

NEPA Review Policy, Chapter 8060 of the Fermilab Environment, Safety, and Health Manual.

III. SCOPE AND APPLICABILITY

This QA plan addresses the requirements of DOE Order 5700.6C, "Quality Assurance." It presents a summary of BAO's policy, procedures, and requirements for implementing a QA program for EENF/CX documentation review and approval for CXs in the DOE NEPA Rule, Appendix B to Subpart D, upon delegation to the Area Manager, by the CH Manager. It will enable the CX approval process to be more efficient and timely. The Area Manager has named a BAO NEPA Coordinator. That individual will apply this QA Plan to the review and recommendation of approval of CXs, as appropriate, for projects proposed by BAO or the Laboratory. The plan will assist the Area Manager in ensuring that quality, timely decisions are made (within the scope of the delegated CX determination authority) and that the goal of NEPA, protection of the environment, is met.

IV. ORGANIZATIONAL ROLES AND RESPONSIBILITIES

A. Batavia Area Office

1. The Area Office Manager is the line manager responsible for ensuring implementation of the Fermilab contract by Universities Research Association (URA) for conducting High Energy Research at Fermilab. The Manager also is responsible for: integrating the NEPA process into project planning and scheduling; assuring the quality and adequacy of NEPA documentation; that NEPA procedures are established, including record-keeping requirements; and assuring there is appropriate level of NEPA review.

2. The Batavia Area Office (BAO) NEPA Coordinator receives and reviews NEPA documentation (EENFs) prepared by the Laboratory for all proposed projects. The BAO NEPA Coordinator, if necessary, requests from the project manager and/or Fermilab NEPA Coordinator any additional information required about the proposed activity in order to be able to recommend to the Area Manager approval or disapproval of the submitted NEPA determination for CXs (i.e., no further NEPA documentation required for the project to proceed if the project is categorically excluded).

The Batavia Area Office NEPA Coordinator provides the continuity in the NEPA process in the organization and oversees the factual accuracy and quality of the EENFs. The Coordinator verifies the physical features and location of each proposed project area and shall be responsible for the program for NEPA QA and continuous improvement using the principles of Total Quality Management (TQM) and Quality Assurance (DOE Order 5700.6C). The NEPA Coordinator shall coordinate the NEPA process by reviewing and commenting on all EENFs for CXs received at the Area Office and by recommending approval or disapproval by the Area Manager of all CX documentation submitted by the Laboratory.

3. BAO will request the assistance of CH General Law Division (GLD) during the EENF review/determination stage for CXs if and when qualification of a proposed action for a CX

is unclear (i.e., the action does not clearly meet the conditions stated in 10 CFR Part 1021 (Attachment B here) and/or the proposed action does not clearly fit the description of a proposed CX). In an instance such as this, BAO would be seeking GLD opinion/guidance regarding other potential CX options which could possibly be considered for the proposed project.

B. Fermilab Organization

The Laboratory has trained NEPA documentation preparers and reviewers throughout the various divisions and sections. The Environment, Safety, and Health Section at Fermilab reviews and has oversight responsibility for the contractor (URA). NEPA documentation (EENFs) for CXs is prepared and submitted to BAO through Fermilab line management.

C. Environment, Safety and Health Division (CH-ESHD)

The CH NEPA Compliance Officer (NCO) resides organizationally within the Environment, Safety and Health Division (CH-ESHD) and provides CH's oversight of NEPA compliance activities. EENFs for proposed projects for which CXs may not be an appropriate level of NEPA documentation (e.g., may require EAs) are forwarded to the CH-NCO for review and EA determination per delegation of authority for non-subpart D, EA NEPA determination. As in Section A.3 above, when additional NEPA guidance for CXs is required because qualification of a proposed action for a proposed CX is unclear, the guidance of the CH ESHD/NCO will be solicited.

V. EENFs for CATEGORICAL EXCLUSION - DOCUMENT MANAGEMENT PROCESS

It shall be BAO's goal to ensure preparation of quality EENFs for proposed projects to assist in decision making. The BAO NEPA Coordinator is responsible for ensuring that the NEPA process is integrated into project planning and scheduling. He/She shall have responsibility for ensuring a thorough EENF/CX documentation review is conducted; managing the quality and adequacy of the EENFs/CX documentation; communicating the need for revisions and/or further informational needs on EENFs for proposed projects to the Laboratory NEPA Coordinator/project sponsors; and recommending to the Area Manager approval or disapproval of CX determination.

The roles and responsibilities of the Area Manager and staff involved with the BAO CX Document Management Process shall be as specified in Section IV above of this QA Plan. This process shall utilize all of the infrastructure and QA elements necessary to assure timeliness, quality, and adequacy of the documentation in support of quality decision making by BAO. The NEPA document preparation and review process shall be implemented as early as possible in the proposed project/program planning cycle. The steps and milestones in the CX Document Management Process that shall be followed are summarized in Subsection VI.B., Criterion 5 of this QA plan.

VI. CATEGORICAL EXCLUSION QUALITY ASSURANCE PROGRAM

The Area Office Manager assures that the Area Office has a QA plan for CX determinations. This QA plan must adequately address the technical and environmental requirements as stated in the references in Section II above.

The following subsections describe the satisfaction of the QA criteria identified in DOE Order 5700.6C by the BAO NEPA EENF document review process for CXs. The analysis is based on the underlying principles and value-added requirements contained in the May 1992 QA guidance document that accompanied the QA Order 5700.6C.

A. Management

Criterion 1. Program. The organizational structure of the BAO, along with the roles and responsibilities of the Area Manager and staff with authority for NEPA compliance relevant to CXs, shall be as described in Section IV above. The Area Manager and BAO NEPA Coordinator shall manage, perform, and assess the adequacy of work and the quality of EENF/CX documentation that supports BAO's project and program decision making. These principals are responsible for the timing, scheduling, and adequacy of the BAO CX review and approval process. BAO will transmit an informational copy of all CX determinations to the CH ESHD/NCO. The CH NCO would thus be able to do an occasional system overview/review as opposed to being part of the concurrence process.

Criterion 2. Personnel Training and Qualifications. The BAO NEPA Coordinator shall be a NEPA document reviewer by both training and experience (i.e., having taken, at a minimum, a basic DOE NEPA training course, participated in CH and ER ES&H NEPA workshops, and having had considerable on-the-job training and experience in NEPA document reviews). The BAO NEPA Coordinator shall maintain an up-to-date knowledge of all newly-issued guidance/information and training and distribute appropriate information to the Laboratory NEPA Coordinator.

The BAO NEPA Coordinator and appropriate Laboratory personnel have in the past had access to NEPA training courses organized by the CH NCO and headquarters. BAO shall ensure that the BAO and Laboratory continue to make use of this periodic awareness and update training. This includes training on the preparation of EENFs, etc. The BAO NEPA Coordinator may also arrange training, if needed, which shall be designed to promote higher levels of quality in BAO's NEPA products and services related to CX decisions at BAO.

Criterion 3. Quality Improvement. While BAO recognizes the necessity to evaluate all work processes for continuous improvement, in most cases neither the preparation of EENFs for CXs nor their review by BAO prior to making CX determinations are difficult or complicated procedures for experienced individuals. For those limited

number of instances when BAO believes an EENF might be deficient in some way (e.g., either lacking sufficient documentation/information to allow a determination to be made or the CX category proposed initially may not be the most appropriate for the project), this will be communicated to the Laboratory directly and the EENF supplemented or modified prior to proceeding with a decision. The simplicity of the EENF form, the clear guidance for its use, and the specificity of the DOE NEPA Rule negate the need for further description of BAO processes for problem detection and the need for a separate tracking and documentation system for these. The BAO will continue to encourage its employees and those at the Laboratory to maintain quality in the NEPA products and services. The BAO's and Laboratory's past deficiencies and successes in the NEPA process overall (CXs and EAs) are known and have provided opportunities for learning and for improvement already. BAO welcomes suggestions and innovative ways to improve quality, efficiency, and the effectiveness of environmental protection as part of the scientific mission.

BAO shall continue the implementation of its program to detect and prevent quality problems in the EENF/CX documentation review and approval process and to ensure improvement in support of quality decision making. BAO shall assess the progress of continuous improvement in its NEPA products and services and communicate the results obtained. BAO shall continue to utilize the NEPA Workshops at the Semiannual ES&H Coordination Meetings as a means to focus on continuous improvement, successes, problem solving, and issue resolution and encourage the Laboratory to do so as well.

All guidance and any lessons learned studies on preparation and review of EENFs/CX documentation shall be utilized. The EENFs for CXs shall be focused on the proper issues and will be completed in a timely manner to support early decision making.

Criterion 4. Documents and Records. The procedures described and contained in BAO's "Supporting Documentation: Delegation of Approval Authority for Categorical Exclusions" will be those used in BAO decision making regarding CX determinations. Those procedures shall be reviewed, revised, and approved when changes are necessitated by revisions in DOE regulation, policy, or guidance. The BAO EENF/CX documentation management process shall be as summarized in Section V. The BAO NEPA Coordinator will send informational copies of all CX determinations to the CH ESHD/NCO to allow continued use of the existing CH NEPA tracking system. The tracking system incorporates information on proposed project titles, CX determinations, and review and approval timeframes. This data base tracking system has the capability to track information on NEPA documents other than CXs (e.g., EAs). Read-only access to this NEPA data base tracking system will enable the BAO NEPA Coordinator to produce analyses of metrics on the CX process (e.g., timeliness of reviews) and its continuous improvement. This will assist the NEPA Coordinator in communicating successes and failures so that improvements can be made.

B. Performance

Criterion 5. Work Processes. The process for initiation of EENFs for CXs and review and comment and approval of CXs in support of quality decision making shall be as specified throughout this QA plan. The work processes involved with the BAO EENF/CX documentation management process use guidance, procedures, and instructions to assist in maintaining efficiency and assuring quality. The specific steps in the BAO EENF/CX documentation management process that shall be followed are summarized below.

(1) **EENF Preparation** - BAO receives EENFs (CH 560 Forms), prepared and submitted by Fermilab, for proposed projects not already covered by NEPA documents such as DOE's previously-approved generic/blanket CXs. (See note below.) The BAO NEPA Coordinator reviews the EENF and attachments, checks for accuracy, verifies that sufficient information is provided to evaluate the proposed project, and recommends to the Manager an appropriate level of NEPA documentation. This includes making informed decisions regarding the appropriateness of any CX category proposed for excluding a project from further NEPA review. If additional documentation or clarification is required from the Laboratory, the BAO NEPA Coordinator will contact the project manager and/or Lab's NEPA Coordinator informally to obtain all needed information to complete the review process. During the review and approval process, EENF/CX documentation will be assessed against the conditions for approval specified in the DOE NEPA Rule, Appendix B to Subpart D, and included here as Attachment B. BAO utilizes the appropriate guidance and procedures listed in II.B.4 and 5 for preparation, review, and approval of CXs for proposed actions.

(2) **Determination Notification** - Upon the approval of a proposed project for categorical exclusion by the Area Manager, a letter will be prepared to the Laboratory transmitting a signed EENF, notifying the Laboratory of the CX determination, and stating that the proposed project may proceed without further NEPA review. If a proposed project does not fall under a CX, it will be sent to the CH-NCO for a review prior to the CH Manager's determination of the appropriate level of NEPA review.

(3) **Concurrent Reviews** - When a proposed project does not fall clearly under a specified CX category in the DOE NEPA Rules, 10 CFR 1021, Appendix B to Subpart D, the BAO NEPA Coordinator will request assistance from CH GLD and the CH NEPA Compliance Officer. This concurrent review will be initiated when qualification of a proposed action for a CX is not obvious (i.e., the action does not positively meet the conditions stated in 10 CFR Part 1021 (Attachment B here) and/or the proposed action does not clearly fit the description of a proposed CX). This assistance shall be enlisted by phone

and/or the use of E-mail or facsimile transmissions, to the maximum extent possible, to promote efficiency and reduce delays. Teleconferences among BAO, CH-GLD, and the Laboratory NEPA Coordinator will be conducted, if required.

(4) CX Quality - The quality and adequacy of each EENF/CX documentation package shall be assured by reviewing it against existing CEQ and United States DOE guidance and standards, as identified in Section II above of this QA Plan.

(5) Process Tracking - The BAO NEPA Coordinator's NEPA data base tracking system shall be used to track the EENF/CX documentation package review and approval process. The BAO NEPA Coordinator will, however, send informational copies of all CX determinations to the CH ESHD/NCO to allow **continued use of the existing CH NEPA tracking system**. The CH NEPA tracking system incorporates information on proposed project titles, CX determinations, and review and approval timeframes. This data base tracking system has the capability to track information on NEPA documents other than CXs (e.g., EAs). [Note: Because the CH NCO is unable to access the present BAO NEPA tracking system and BAO is unable to write to the CH system (i.e., BAO has "read only" access to it), sending copies of all CX determinations to the CH NCO would allow for continued use of the CH NEPA tracking system.]

(6) Concurrences - Each approved EENF/CX shall receive the concurrence of the BAO NEPA Coordinator and the approving signature of the Area Manager.

(7) Auditing - For proposed projects potentially already covered by NEPA documents such as DOE's previously-approved generic/blanket CXs, BAO is able to audit the Lab's performance in regard to these in two ways. First, Fermilab is required by DOE's contract with the Universities Research Association (URA) to submit to BAO, for review and approval, information on certain subcontracts and purchase orders. When these are routed to the BAO NEPA Coordinator for review, he examines the NEPA documentation related to these proposed projects to verify that the Lab is appropriately stamping and citing DOE's previously-approved CXs (and/or EAs) and initials off on the documentation. Second, for items not required to be submitted to BAO for approval under DOE's contract with URA, the BAO NEPA Coordinator performs spot checks of division/section records of selected purchase requisitions, etc., at least annually during the documented, on-going, regular BAO Surveillance Program activities. These BAO audit reviews will document BAO's evaluation of whether this type of proposed action is also being appropriately reviewed and documented for NEPA concerns by divisions/sections. These reviews also examine division/section training

records to ensure that personnel performing NEPA reviews of proposed actions are trained for their NEPA duties.

[Note: The expected timeframe for completion of a review of an EENF and any attached documentation for a CX, obtaining the Area Office Manager's approval/CX determination, and transmittal of a determination notification to the Laboratory is a maximum of three working days from the date of receipt of the EENF from the Laboratory. This assumes continued high-quality, fully documented EENFs are prepared for BAO review for each proposed project.]

Criterion 6. Design. Design does not apply to the preparation of EENFs/CX documentation.

Criterion 7. Procurement. Procurement does not apply to the preparation of EENFs/CX documentation.

Criterion 8. Inspection and Testing. Inspection and testing do not apply to the preparation of EENFs/CX documentation.

C. Assessment

Criterion 9. Management Assessment. BAO Management and the BAO NEPA Coordinator will assess the quality and effectiveness of the EENFs/CX documentation and the timeliness of BAO review and approval of EENFs for CXs. This assessment will be documented annually and if deficiencies or opportunities for quality improvements can be identified, these will be stated. If needed, an action plan will be developed to address any identified deficiency or any way to improve work processes. The action plan will be tracked until closed out by BAO management. Informational copies of the assessments and any follow-up actions will be provided to the CH NCO.

Criterion 10. Independent Assessment. Independent assessment of the BAO NEPA program, including the EENF/CX documentation review process, may be provided by CH-ESHD. As such, BAO can expect, periodically, that the CH NCO may assess the effectiveness of the program in meeting DOE's NEPA objectives. If the CH NCO chooses to review BAO's program and if deficiencies are identified as a result, BAO assumes that an action plan would be required by CH, prepared by BAO, approved by CH, and tracked by CH until CH approves closure. This is the norm for CH audits and findings related to BAO activities.

ATTACHMENT B

(taken from 10 CFR Part 1021, DOE NEPA Rule)

B. Conditions that are Integral Elements of the Classes of Actions in Appendix B.

B. The classes of actions listed below include the following conditions as integral elements of the classes of actions. To fit within the classes of actions listed below, a proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, including requirements of DOE orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators and facilities for treating wastewater, surface water, and groundwater);

(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; or

(4) Adversely affect environmentally sensitive resources. An action may be categorically excluded if, although sensitive resources are present on a site, the action would not adversely affect those resources (e.g., construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to;

(i) Property (e.g., sites, buildings, structures, objects) of historic, archeological, or architectural significance designated by Federal, state, or local governments or property eligible for listing on the National Register of Historic Places;

(ii) Federally-listed threatened or endangered species or their habitat (including critical habitat), Federally-proposed or candidate species or their habitat, or state-listed endangered or threatened species or their habitat;

(iii) Floodplains and wetlands;

(iv) Areas having a special designation such as Federally-and state-designated wilderness areas, national parks, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, and marine sanctuaries;

(v) Prime agricultural lands;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests.