

	Flexi-ble	Time or position con-strained	Emer-gency service, disruptive updates
Single access service5	1	2
Multiple access forward (command) service67	1	2
		Normally sched-uled sup-port	Emer-gency service, disruptive updates
Multiple access return (telemetry) service		1	2

APPENDIX C TO PART 1215—TYPICAL USER ACTIVITY TIMELINE

Time (approximate)	Activity
Project conceptualization (At least 3 years before launch; Ref. § 1215.108(a)).	Request NASA Headquarters perform study to determine availability of TDRSS. If accepted as a user, begin contractual negotiation by submission of \$25,000 non-refundable charge, and place into mission model.
3 years before launch (Ref. § 1215.109(c)).	Submit general user requirements to permit preliminary planning. Begin payment for pre-mission activities (Ref. § 1215.115(b)(5)).
18 months before launch (earlier if interfacing is expected)..	Provide detailed requirements for technical definition and development of operational documents and ICD's. (Ref. § 1215.109(e)). If appropriate, initiate action with the Federal Communications Commission for license to communicate with TDRSS at least 18 months prior to launch (Ref. § 1215.107(b)).
3 weeks prior to a scheduled support period (SSP). 2 weeks prior to an SSP.	Submit scheduling request to GSFC covering a weekly period. Receive schedule from GSFC based on principles of priority (Ref. § 1215.109(b)(2)). Acknowledgement to GSFC required.
Up to 12 hours prior to an SSP..	Can cancel an SSP without charge (Ref. § 1215.113(a)(1)).
Up to 45 minutes prior to an SPP..	Can schedule an SSP if a time slot is available without impacting another user.
Between SSP minus 45 minutes and the SSP..	Schedule requests will be charged at the disruptive update rate (Ref. § 1215.109(b)(5)).
Real-Time.	Emergency service requests will be responded to per the priority system (Ref. § 1215.109(b)(3)) and assessed the emergency service rate.

[56 FR 28049, June 19, 1991]

PART 1216—ENVIRONMENTAL QUALITY

Subpart 1216.1—Policy on Environmental Quality and Control

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 1216.102 Policy.
 1216.103 Responsibilities of NASA officials.

Subpart 1216.2 [Reserved]

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

- 1216.300 Scope.
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 1216.303 NEPA process in NASA planning and decision making.
 1216.304 Categorical exclusions.
 1216.305 Actions normally requiring an environmental assessment (EA).
 1216.306 Actions normally requiring an environmental impact statement (EIS).
 1216.307 Programmatic documents and tiering.
 1216.308 Supplemental EAs and EISs.
 1216.309 Mitigation and monitoring.
 1216.310 Classified actions.
 1216.311 Emergency responses.

APPENDIX A TO SUBPART 1216.3 OF PART 1216—ACRONYMS

AUTHORITY: 51 U.S.C. 20101 *et seq.*; 42 U.S.C. 4321 *et seq.*; 42 U.S.C. 4371 *et seq.*; 42 U.S.C. 7609; 40 CFR parts 1500 through 1508.

Subpart 1216.1—Policy on Environmental Quality and Control

AUTHORITY: The National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 *et seq.*); the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*); sec. 309 the Clean Air Act, as amended (42 U.S.C. 7609); E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977); the Council on Environmental Quality NEPA Regulations (40 CFR part 1500–1508); and E.O. 12114, Jan. 4, 1979 (44 FR 1957).

SOURCE: 44 FR 44485, July 30, 1979, unless otherwise noted.

§ 1216.100 Scope.

This subpart sets forth NASA policy on environmental quality and control and the responsibilities of NASA officials in carrying out these policies.

§ 1216.101

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§ 1216.101 Applicability.

This subpart is applicable to NASA Headquarters and field installations.

§ 1216.102 Policy.

NASA policy is to:

(a) Use all practicable means, consistent with NASA's statutory authority, available resources, and the national policy, to protect and enhance the quality of the environment;

(b) Provide for proper attention to and ensure that environmental amenities and values are given appropriate consideration in all NASA actions, including those performed under contract, grant, lease, or permit;

(c) Recognize the worldwide and long-range character of environmental concerns and, when consistent with the foreign policy of the United States and its own responsibilities, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment;

(d) Use systematic and timely approaches which will ensure the integrated use of the natural and social sciences and environmental design arts in planning and decisionmaking for actions which may have an impact on the human environment;

(e) Pursue research and development, within the scope of NASA's authority or in response to authorized agencies, for application of technologies useful in the protection and enhancement of environmental quality;

(f) Initiate and utilize ecological and other environmental information in the planning and development of resource-oriented projects; and

(g) Invite cooperation, where appropriate, from Federal, State, local, and regional authorities and the public in NASA planning and decisionmaking processes.

§ 1216.103 Responsibilities of NASA officials.

(a) The Associate Administrator for Management or designee shall:

(1) Coordinate the formulation and revision of NASA policies and positions on matters pertaining to environmental protection and enhancement;

(2) Represent NASA in working with other governmental agencies and inter-agency organizations to formulate, revise, and achieve uniform understanding and application of governmentwide policies relating to the environment;

(3) Develop and ensure the implementation of agencywide standards, procedures, and working relationships for protection and enhancement of environmental quality and compliance with applicable laws and regulations;

(4) Develop, as an integral part of NASA's basic decision processes, procedures to ensure that environmental factors are properly considered in all proposals and decisions;

(5) Establish and maintain working relationships with the Council on Environmental Quality, Environmental Protection Agency, and other national, state, and local governmental agencies concerned with environmental matters;

(6) Acquire information for and ensure the preparation of appropriate NASA reports on environmental matters.

(b) Officials-in-Charge of Headquarters Offices and NASA Field Installation Directors are responsible for:

(1) Identifying matters under their cognizance which may affect protection and enhancement of environmental quality and for employing the proper procedures to ensure that necessary actions are taken to meet the requirements of applicable laws and regulations;

(2) Coordinating environmental quality-related activities under their cognizance with the Associate Administrator for Management; and

(3) Supporting and assisting the Associate Administrator for Management on request.

(c) Officials-in-Charge of Headquarters Offices are additionally responsible for:

(1) Giving high priority, in the pursuit of program objectives, to the identification, analysis, and proposal of research and development which, if conducted by NASA or other agencies, may contribute to the achievement of beneficial environmental objectives; and

(2) In coordination with the Associate Administrator for Management,

making available to other parties, both governmental and nongovernmental, advice and information useful in protecting and enhancing the quality of the environment.

(d) NASA Field Installation Directors are additionally responsible for:

(1) Implementing the NASA policies, standards and procedures for the protection and enhancement of environmental quality and supplementing them as appropriate in local circumstances;

(2) Specifically assigning responsibilities for environmental activities under the installation's cognizance to appropriate subordinates, while providing for the coordination of all such activities; and

(3) Establishing and maintaining working relationships with national, state, regional and governmental agencies responsible for environmental regulations in localities in which the field installations conduct their activities.

[44 FR 44485, July 30, 1979, as amended at 53 FR 9760, Mar. 25, 1988]

Subpart 1216.2 [Reserved]

Subpart 1216.3—Procedures for Implementing the National Environmental Policy Act (NEPA)

AUTHORITY: 51 U.S.C. 20101 *et seq.*; 42 U.S.C. 4321 *et seq.*; 40 CFR parts 1500 through 1508.

SOURCE: 77 FR 3103, Jan. 23, 2012, unless otherwise noted.

§ 1216.300 Scope.

(a) This subpart implements NEPA, setting forth NASA's policies and procedures for the early integration of environmental considerations into planning and decision making.

(b) Through this subpart, NASA adopts the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500 through 1508) and supplements those regulations with this subpart, for actions proposed by NASA that are subject to NEPA. This subpart and NASA's NEPA policy are available on NASA's

Public Portal at <https://www.nasa.gov/emd/nepa>.

[77 FR 3103, Jan. 23, 2012, as amended at 89 FR 25499, Apr. 11, 2024]

§ 1216.301 Applicability.

This subpart applies to all organizational elements of NASA.

§ 1216.302 Responsibilities.

(a) The NASA Senior Agency Official (SAO), is the Associate Administrator, Mission Support Directorate. The SAO is responsible for overall Agency NEPA compliance, including integration of NEPA into the Agency's planning and decision making and resolving implementation issues.

(1) The NASA Senior Environmental Official (SEO) is the Assistant Administrator, Office of Strategic Infrastructure. The SEO, in consultation with the SAO, is responsible for development and implementation of NASA NEPA policy requirements and guidance which fully integrate NEPA compliance into Agency planning and decision-making processes. To the extent the CEQ's implementing regulations at 40 CFR parts 1500 through 1508 reserve a specific authority to the SAO, the SAO is the responsible NASA official for resolving matters related to that specific authority.

(2) The NASA Headquarters/Environmental Management Division (HQ/EMD), in consultation with the SEO, is responsible for implementing NEPA functions and guiding NASA's integration of NEPA into the Agency's planning and decision making. HQ/EMD provides oversight of all NASA entities in implementing their assigned responsibilities under NEPA. HQ/EMD, in coordination with the Center Environmental Management Office, is responsible for determining the appropriate level of NEPA documentation and maintaining a publicly accessible internet portal which includes information on the status of environmental impact statements (EISs) and other elements of NASA's NEPA program (<https://www.nasa.gov/emd/nepa>).

§ 1216.303

(3) Each NASA Center has an environmental management office that directs and implements the NEPA process, such as evaluating proposed actions; developing, reviewing, and approving required documentation; and advising Center-level program and project managers.

(b) The “Responsible Official” is the NASA official who will ensure that planning and decision-making for each proposed Agency action complies with the regulations in this subpart and with Agency NEPA policy and guidance provided by the SAO, SEO, HQ/EMD, and the Center’s environmental management office as applicable.

(c) NASA must comply with this subpart when considering issuance of a permit, lease, easement, or grant to a non-Federal party and may seek such non-Federal party’s assistance in obtaining necessary information and completing the NEPA process.

[89 FR 25499, Apr. 11, 2024]

§ 1216.303 NEPA process in NASA planning and decision making.

(a) NEPA is a procedural statute intended to ensure Federal agencies consider the environmental impacts of their proposed actions in the decision-making process. Full integration of the NEPA process with NASA project and program planning improves Agency decisions and ensures:

(1) Consideration of sustainability, environmental stewardship, and compliance with applicable environmental statutes, regulations, and policies.

(2) NASA’s analyses and documentation are prepared using a process that is transparent to the public, including opportunities for receipt and consideration of public comment, when appropriate.

(3) Potential program and project risks and delays are minimized.

(b) In considering whether the effects of a proposed action are significant and determining the appropriate level of NEPA review and documentation (*i.e.*, EIS, environmental assessments (EA), categorical exclusions (CatEx)), NASA shall consider and analyze the potentially affected environment (*i.e.*, affected area [national, regional, or local] and resources located therein) and the degree of the effects of the pro-

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posed action (*e.g.*, short- and long-term effects, effects both beneficial and adverse, effects on public health and safety, effects that would violate Federal, state, Tribal, or local law protecting the environment).

(c) NASA shall consider the reasonably foreseeable environmental impacts of a proposed Agency action, along with technical, economic, public health and safety, security, and other factors that are reasonably foreseeable, beginning in the early planning stage of a proposed action. NASA will not take any action that would have an adverse environmental impact or limit the choice of reasonable alternatives prior to completing NEPA review except as provided in 40 CFR 1506.1.

(d) Records of Environmental Consideration (RECs) will be used to document: (1) Application of specific categorical exclusions to proposed actions;

(2) Adoption of Federal draft or final NEPA documents;

(3) Reevaluation of an existing NEPA document; and

(4) Determination of whether an action fits within an existing NEPA document, including a programmatic NEPA document.

[89 FR 25500, Apr. 11, 2024]

§ 1216.304 Categorical exclusions.

(a) Categorical exclusions (CatExs) are categories of Agency actions that normally do not have a significant effect on the human environment and therefore do not require preparation of an EA or EIS. CatExs reduce paperwork, improve Government efficiency, and eliminate delays in initiating and completing proposed actions having no significant environmental impact. For some CatExs, as indicated in paragraph (d) of this section, a REC is required.

(b) Application of CatExs and presence of extraordinary circumstances:

(1) A proposed action may be categorically excluded if the action fits within the categories listed in paragraph (d) of this section and it does not involve any extraordinary circumstances in which a normally excluded action may have a significant effect.

(2) If an extraordinary circumstance as described in paragraph (c) of this

section is present, NASA may nevertheless categorically exclude the proposed action if the action fits within the categories listed in paragraph (d) of this section and NASA determines that implementation of mitigation measures, such as relocation of the proposed action to an alternative site or limiting construction activities to certain seasonal periods of the year to avoid the extraordinary circumstance(s) in question, are sufficient to allow the proposed action to be categorically excluded.

(c) Extraordinary circumstances include situations where the proposed action:

(1) Has a reasonable likelihood of having a significant effect on public health and safety or the human environment.

(2) Imposes uncertain or unique environmental risks.

(3) Is of significantly greater scope or size than is normal for the particular category of action.

(4) Has a reasonable likelihood of having effects that would violate Federal, state, Tribal, or local laws, or other enforceable requirements applicable to environmental protection.

(5) May adversely affect sensitive resources, such as, but not limited to, Federally listed threatened or endangered species, their designated critical habitat, wilderness areas, floodplains, wetlands, aquifer recharge areas, coastal zones, wild and scenic rivers, and significant fish or wildlife habitat, unless the impact has been resolved through another environmental review process (*e.g.*, the Clean Water Act (CWA) or the Coastal Zone Management Act (CZMA)).

(6) May adversely affect national natural landmarks or cultural or historic resources, including, but not limited to, property listed on or eligible for listing on the National Register of Historic Places, unless the impact has been resolved through another review process (*e.g.*, the National Historic Preservation Act (NHPA)).

(d) The following actions normally do not have a significant effect on the human environment and are categorically excluded from the requirement to prepare an EA or EIS:

(1) Administrative Activities including:

(i) Personnel actions, organizational changes, and procurement of routine goods and services.

(ii) Issuing procedural rules, manuals, directives, and requirements.

(iii) Program budget proposals, disbursements, and transfer or reprogramming of funds.

(iv) Preparing documents, including design and feasibility studies, analytical supply and demand studies, reports and recommendations, master and strategic plans, and other advisory documents.

(v) Information-gathering exercises, such as inventories, audits, and studies.

(vi) Preparing and disseminating information, including document mailings, publications, classroom materials, conferences, speaking engagements, websites, and other educational/informational activities.

(vii) Software development, data analysis, and/or testing, including computer modeling.

(viii) Interpretations, amendments, and modifications to contracts, grants, or other awards.

(ix) Field studies, including water sampling, monitoring wells, cultural resources surveys, biological surveys, geologic surveys, modeling or simulations, routine data collection and analysis, and/or temporary equipment.

(2) Operations and Management Activities including:

(i) Routine maintenance, minor construction or rehabilitation, minor demolition, minor modification, minor repair, and continuing or altered operations at, or of, existing NASA or NASA-funded or -approved facilities and equipment, such as buildings, roads, grounds, utilities, communication systems, and ground support systems (*e.g.*, space tracking and data systems). This includes routine operations such as security, public health and safety, and environmental services.

(ii) Installing or removing equipment, including component parts, at existing Government or private facilities.

(iii) Contributing equipment, software, technical advice, exchanging

data, and consulting with other agencies and public and private entities.

(iv) NASA ceremonies, commemorative events, and memorial services.

(v) Routine packaging, labeling, storage, transportation, and disposal of materials and wastes, in accordance with applicable Federal, state, Tribal, or local laws or requirements. Examples include but are not limited to hazardous, non-hazardous, and other regulated materials and wastes.

(vi) Habitat and species management activities conducted within the boundaries of NASA-controlled properties in accordance with applicable Federal, state, or local requirements. Examples include but are not limited to restoration of unique or critical habitat; thinning or brush control to improve growth of natural habitat, reduce invasive species, or reduce fire hazard; prescribed burning to reduce natural fuel build-up, reduce invasive species, or improve native plant vigor; planting appropriate vegetation that does not include noxious weeds or invasive plants; or wildlife management activities (REC required).

(vii) Small-scale, short-term cleanup actions under the Resource Conservation and Recovery Act or other authorities to reduce risk to human health or the environment from the release or imminent and substantial threat of release of a hazardous substance other than high-level radioactive waste and spent nuclear fuel, including treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action.

(viii) Replacement of existing energy sources with alternative or renewable energy sources that comply with existing permit conditions.

(ix) Routine maintenance, repair, and operation of vessels (including unmanned autonomous surface vessels), aircraft (including unmanned aircraft systems), overland/surface transportation vehicles, and other transportation systems as applicable. Examples include but are not limited to transportation or relocation of NASA equipment and hardware by barge, aircraft,

or surface transportation system (*e.g.*, tractor trailer or railroad); retrieval of spent solid rocket boosters by vessel; repair or overhaul of vessel, aircraft, or surface transportation systems that do not result in a change in the environmental impacts of their normal operation.

(3) Research, Development, and Science Activities including:

(i) Research, development, testing, and evaluation in compliance with all applicable Federal, state, Tribal, or local laws or requirements and Executive Orders. This includes the research, development, testing, and evaluation of scientific instruments proposed for use on spacecraft, aircraft (including unmanned aircraft systems), sounding rockets, balloons, laboratories, watercraft, or other outdoor activities.

(ii) Use of small quantities of radioactive materials used for instrument detectors, calibration, and other purposes. Materials may be associated with the proposed use on spacecraft, aircraft (including unmanned aircraft systems), sounding rockets, balloons, laboratories, watercraft, or other outdoor activities.

(iii) Use of lasers for research and development, scientific instruments and measurements, and distance and ranging, where such use meets all applicable Federal, state, Tribal, or local laws or requirements and Executive orders. This includes lasers associated with spacecraft, aircraft (including unmanned aircraft systems), sounding rockets, balloons, laboratories, watercraft, or other outdoor activities.

(iv) Use of non-space nuclear system payloads on various platforms (*e.g.*, launch vehicle, sounding rocket, scientific balloon, and aircraft) (REC required).

(v) Return of samples from solar system bodies (*e.g.*, asteroids, comets, planets, dwarf planets, and planetary moons) to Earth when categorized as an Unrestricted Earth Return. NASA defines this activity as collecting extraterrestrial materials from solar system bodies, deemed by scientific opinion to have no indigenous life forms, and returning those samples to Earth (REC required).

(4) Real and Personal Property Activities including:

(i) Acquisition, transfer, or disposal of any personal property, or personal property rights or interests.

(ii) Granting or accepting easements, leases, licenses, rights-of-entry, and permits to use NASA property, or any non-NASA property, for activities that would be categorically excluded in accordance with this section (REC required).

(iii) Transfer or disposal of real property, property rights, or interests if a resulting change in use is a use that would be categorically excluded under this section (REC required).

(iv) Transferring real property administrative control to another Federal agency, including the return of public domain lands to the Department of the Interior (DoI) or other Federal agencies, and reporting of property as excess and surplus to the General Services Administration (GSA) for disposal, when the agency receiving administrative control (or GSA, following receipt of a report of excess) shall complete any necessary NEPA review prior to any change in land use (REC required).

(v) Acquisition of real property (including facilities) where the land use will not change substantially (REC required).

(vi) Change in the facility status of real property assets (*e.g.*, active or inactive).

(vii) Reductions, realignments, or relocation of personnel into existing Federally owned or commercially leased space that does not involve a substantial change affecting the supporting infrastructure (*e.g.*, no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase).

(5) Aircraft and Airfield Activities including:

(i) Periodic aircraft (including unmanned aircraft systems) flight activities, including training and research and development, which are routine and comply with applicable Federal, state, Tribal, or local laws or requirements, and Executive Orders.

(ii) Relocation of similar aircraft (including unmanned aircraft systems) not resulting in a substantial increase in total flying hours, number of aircraft operations, operational parameters (*e.g.*, noise), or permanent per-

sonnel or logistics support requirements at the receiving installation (REC required).

(e) The Responsible Official shall review the proposed action in its early planning stage and consider the scope of the action, the potentially affected environment, and the degree of the reasonably foreseeable effects of the action to determine whether extraordinary circumstances exist that could result, either individually or cumulatively, in significant environmental impacts. If extraordinary circumstances exist, the Responsible Official must determine whether application of the categorical exclusion to the proposed action is appropriate or whether preparation of an EA or EIS is required.

[77 FR 3103, Jan. 23, 2012, as amended at 89 FR 25500, Apr. 11, 2024]

§ 1216.305 Actions normally requiring an environmental assessment (EA).

(a) NASA shall prepare an EA, which complies with 40 CFR 1501.5, when a proposed action is not categorically excluded and is not likely to have significant effects or when the significance of the effects is unknown. NASA shall consider the potentially affected environment and degree of the effects of the action when determining whether to prepare an EA.

(b) NASA actions normally requiring an EA include:

(1) Altering the ongoing operations at a NASA Center where the significance of the environmental effect(s) is unknown.

(2) Construction or modifications of facilities that represent a major change to an existing master plan and could result in a change in the environmental effect(s).

(3) Actions that are expected to result in major changes to established land use.

(4) Launching a spacecraft containing a space nuclear system. Space nuclear systems include radioisotope power systems, such as radioisotope thermoelectric generators and radioisotope heater units, and fission systems used for surface power and spacecraft propulsion.

[89 FR 25502, Apr. 11, 2024]

§ 1216.306

§ 1216.306 Actions normally requiring an environmental impact statement (EIS).

(a) NASA shall prepare an EIS for actions that are likely to significantly impact the quality of the human environment, including actions for which an EA demonstrates that significant environmental impacts will potentially occur which will not be reduced or eliminated by changes to the proposed action or mitigation of its potentially significant environmental impacts. An EIS shall be prepared and published in accordance with CEQ's implementing regulations (40 CFR part 1502).

(b) NASA actions normally requiring an EIS include:

(1) Development and operation of new NASA-developed launch vehicles or space transportation systems.

(2) Management, including recovery, transport, and curation, of sample returns to Earth from solar system bodies (such as asteroids, comets, planets, dwarf planets, and planetary moons) that would receive a Restricted Earth Return categorization. NASA requires such a mission to include additional measures to ensure any potential indigenous life form would be contained so it could not adversely impact humans or Earth's environment.

(3) Substantial construction projects expected to result in significant effect(s) on the quality of the human and natural environment when such construction and its effects are not within the scope of an existing master plan.

[89 FR 25502, Apr. 11, 2024]

§ 1216.307 Programmatic documents and tiering.

(a) For actions that require EAs or EISs, NASA encourages programmatic-level analysis for actions that are similar in nature, broad in scope, or likely to have similar environmental effects. Programmatic NEPA analyses may take place in the form of an EA or EIS. (b) Tiering from previously prepared EISs or EAs is appropriate when it would eliminate repetitive discussions of the same issues and exclude from consideration issues already decided. Tiering from a programmatic-level NEPA document is appropriate for site- or project-specific actions that are in-

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cluded within the scope of the programmatic-level analysis.

[89 FR 25502, Apr. 11, 2024]

§ 1216.308 Supplemental EAs and EISs.

(a) In cases where a major Federal action remains to occur, supplemental documentation may be required for previously prepared EAs or EISs under the following circumstances:

(1) If substantial changes are made to the proposed action that are relevant to environmental concerns; or

(2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action and its impacts; or

(3) NASA determines that the purposes of NEPA will be furthered by doing so.

(b) The preparation of a supplemental EA or EIS shall be undertaken using the same procedural requirements set forth in 40 CFR 1501.5 or 40 CFR part 1502, as applicable; however, in the event a supplement to an EIS is required, scoping shall not be required unless, at NASA's discretion and in consideration of the factors and requirements of 40 CFR 1501.9, it is determined to be necessary or would otherwise further the purposes of NEPA.

(c) When it is unclear if an EA or EIS supplement is required, NASA may prepare a Supplement Analysis.

(1) The Supplement Analysis will discuss the circumstances that are pertinent to deciding whether to prepare a supplemental EA or EIS.

(2) The Supplement Analysis will contain sufficient information for NASA to determine whether:

(i) An existing EA or EIS should be supplemented;

(ii) A new EA or EIS should be prepared; or

(iii) No further NEPA documentation is required.

(3) NASA shall make the determination and the related Supplement Analysis available to the public for information.

(d) When applicable, NASA shall incorporate the determination and supporting Supplement Analysis made under paragraph (b) of this section, into the administrative record related to the action that is the subject of the

EA or EIS supplement or determination.

[89 FR 25502, Apr. 11, 2024]

§ 1216.309 Mitigation and monitoring.

When the analysis proceeds to an EA or EIS and mitigation measures are adopted for the purpose of avoiding or reducing the significance of environmental impacts, such mitigation measures will be identified in the EA Finding of No Significant Impact (FONSI) or the EIS Record of Decision (ROD). NASA shall implement mitigation measures (including adaptive management strategies, where appropriate) consistent with applicable FONSIs and/or RODs and shall monitor their implementation and effectiveness. The Responsible Official shall ensure that funding for such mitigation measures is included in the program or project budget.

[89 FR 25502, Apr. 11, 2024]

§ 1216.310 Classified actions.

(a) The classified status of a proposed action does not relieve NASA of the requirement to assess, document, and consider the environmental impacts of a proposed action.

(b) When classified information can reasonably be separated from other information and a meaningful environmental analysis can be produced, unclassified documents will be prepared and processed in accordance with these regulations. Classified portions will be kept separate and provided to properly cleared reviewers and decision makers in the form of a properly classified document that meets the requirements of these regulations to the extent permitted, given such classification.

[77 FR 3103, Jan. 23, 2012, as amended 89 FR 25502, Apr. 11, 2024]

§ 1216.311 Emergency responses.

(a) When the Responsible Official determines that emergency circumstances exist which make it necessary to take immediate response and/or recovery action(s) before preparing a NEPA analysis, then the following provisions apply:

(1) The Responsible Official may undertake immediate emergency response and/or recovery action(s) necessary to

protect life, property, or valuable resources. When taking such action(s), the Responsible Official shall, to the extent practicable, mitigate foreseeable adverse environmental impacts.

(2) At the earliest practicable time, the Responsible Official shall notify the SAO of the emergency and any past, ongoing, or future NASA emergency response and/or recovery action(s). The SAO shall determine if NEPA applies and the appropriate level of NEPA analysis to document the emergency. If the emergency response and/or recovery action(s) will reasonably result in significant environmental impacts, the SAO shall consult with the CEQ about alternative arrangements for compliance with NEPA.

(b) If the Responsible Official proposes emergency response and/or recovery actions that will continue beyond those needed to immediately protect life, property, and valuable resources, the Responsible Official shall consult with the SAO to determine the appropriate level of NEPA compliance. If continuation of the emergency actions will reasonably result in significant environmental impacts, the SAO shall consult with the CEQ about alternative arrangements for compliance.

[89 FR 25502, Apr. 11, 2024]

APPENDIX A TO SUBPART 1216.3 OF PART 1216—ACRONYMS

CatEx	Categorical Exclusion
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CWA	Clean Water Act
CZMA	Coastal Zone Management Act
DoI (U.S.)	Department of the Interior
EA	Environmental Assessment
EMD	Environmental Management Division
EIS	Environmental Impact Statement
FONSI	Finding of No Significant Impact
FR	Federal Register
GSA	General Services Administration
HQ	Headquarters
NASA	National Aeronautics and Space Administration
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
REC	Record of Environmental Consideration
RHU	Radioisotope Heater Unit
RPS	Radioisotope Power Systems
SAO	Senior Agency Official
SEO	Senior Environmental Official
OGC	Office of the General Counsel
ROD	Record of Decision

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U.S.C. United States Code
[89 FR 25503, Apr. 11, 2024]

**PART 1217—DUTY-FREE ENTRY OF
SPACE ARTICLES**

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1217.100 Scope.
1217.101 Applicability.
1217.102 Background.
1217.103 Authority to certify.
1217.104 Certification forms.
1217.105 Procedures.
1217.106 Articles brought into the United States by NASA from space.

AUTHORITY: 51 U.S.C. 20113; Proclamation No. 6780 of March 23, 1995, 60 FR 15845.

SOURCE: 62 FR 6467, Feb. 12, 1997, unless otherwise noted.

§ 1217.100 Scope.

This part sets forth policy and procedures with respect to the use of the NASA's authority to certify to the U.S. Commissioner of Customs duty-free entry of articles into the United States for the use of NASA or for implementation of a NASA international program, including articles that will be launched into space, spare parts for such articles, ground support equipment, or uniquely associated equipment for use in connection with a NASA international program or launch service agreement. This part also sets forth NASA's procedures with respect to the use of its authority to bring foreign-owned articles and articles from space into the customs territory of the United States, and describes the non-import status of such articles.

§ 1217.101 Applicability.

This part applies to qualifying articles entered or withdrawn from warehouse for consumption in the customs territory of the United States, and to articles brought into the customs territory of the United States by NASA from space or from foreign country as part of the NASA international program.

§ 1217.102 Background.

In order to encourage and facilitate the use of NASA's launch services for the exploration and use of space, section 116 of Public Law 97-446 provided for the duty-free entry into the United

States of certain articles imported by NASA for its space-related activities or articles imported by another person or entity for the purpose of meeting its obligations under a launch services agreement with NASA. Such articles were certified by NASA to the Commissioner of Customs for duty-free entry to be launched into space or space parts or necessary and uniquely associated support equipment for use in connection with a launch into space. This exemption from duty was provided for in Subheading 9808.00.80, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202). Also, HTSUS, Chapter VIII, U.S. note 1, pursuant to the same law, provided that return of articles by NASA from space to the United States would not be considered an importation, and similarly not be subject to a duty.

As a result of the Uruguay Round agreements of the 1994 General Agreement on Tariffs and Trade, this authority was revised and expanded in scope. It now provides that imports of articles for NASA's use and articles imported to implement NASA's international programs, including articles to be launched into space, parts thereof, ground support equipment, and uniquely associated equipment for use in connection with NASA's international programs and launch service agreements would be eligible for duty-free customs entry upon certification by NASA to the Commissioner of Customs. The revised authorities also provided, in U.S. note 1 to subchapter VIII of chapter 98 of the HTSUS, that articles brought into the customs territory of the United States by NASA from space or from a foreign country as part of a NASA's international programs would not be considered imports or subject to customs entry requirements.

§ 1217.103 Authority to certify.

(a) The following NASA officials, their deputies, and designees within their respective organizations are authorized, under the conditions described herein, to make the certification to the Commissioner of Customs required for the duty-free entry of space articles pursuant to subheading HTSUS 9808.00.80.