

as a method that works better than the index-based pricing fails based on the Department's past experience and due to Employ America's inaccurate premise regarding recent purchases. Further, its support of those purchases actually supports the use of index-based pricing method.²

Finally, DOE received a comment from a member of the public (Comment DOE-HQ-2025-0009-0003) that raises procedural objections regarding Executive Order 14192 requiring identification of 10 regulations to be repealed and an analysis of such repeal and a claim that the rulemaking is subject to the National Environmental Policy Act (NEPA). However, as discussed in the May 2025 DFR, this rule is an E.O. 14192 deregulatory action, and therefore, the repeal of additional regulations is not required. 90 FR 20764, 20766. Further, this rule is a procedural rule that is excepted from NEPA review under appendix A to subpart D of 10 CFR part 1021.

III. Conclusion

For the reasons discussed in the preceding sections of this document, DOE is not withdrawing the May 2025 DFR, which finalizes an amendment to part 626 of title 10 of the Code of Federal Regulations to require index-priced contracts.

DOE also notes, to the extent that 5 U.S.C. 553 applies to the delay of effective date, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a "substantive rule" for which a 30-day delay in effective date is required under 5 U.S.C. 553(d)

Signing Authority

This document of the Department of Energy was signed on July 9, 2025, by Chris Wright, 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 10, 2025.
Treena V. Garrett,
Federal Register Liaison Officer, U.S. Department of Energy.
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DEPARTMENT OF ENERGY

10 CFR Part 708

[DOE-HQ-2025-0012]

RIN 1910-AA56

Revisions to the Office of Hearings and Appeals Procedural Regulations for the DOE Contractor Employee Protection Program

AGENCY: Office of Hearings and Appeals, Department of Energy.
ACTION: Direct final rule; delay of effective date; response to comments.

SUMMARY: The Department of Energy ("DOE") is publishing this document to

respond to comments received on the direct final rule to rescind an unnecessary regulation encouraging alternative dispute resolution to resolve complaints under the DOE Contractor Employee Protection Program that published on May 16, 2025. As a result, DOE delays the effective date of the direct final rule, and is responding to the comment it received on the direct final rule.

DATES: As of July 14, 2025, the effective date of the direct final rule published May 16, 2025, at 90 FR 20766, is delayed until August 13, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Novak, U.S. Department of Energy, Office of the General Counsel, GC-1, 1000 Independence Avenue SW, Washington, DC 20585-0121; (202) 586-5281 or DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. May 2025 Direct Final Rule

On May 16, 2025, DOE published a direct final rule rescinding § 708.10 of title 10, Code of Federal Regulations ("CFR"). 90 FR 20766 ("May 2025 DFR") Section 708.10 contains a statement that encourages the use of alternative dispute resolution ("ADR") for resolving complaints under the DOE Contractor Employee Protection Program. The regulation does not confer any substantive right or obligation on DOE or any party and is not required by statute.

II. Response to Comments

DOE received three comments in response to the May 2025 DFR.¹

TABLE II.1—LIST OF COMMENTERS FROM THE MAY 2025 DFR

Commenter	Reference in this rule	Comment No. in the docket	Commenter type
Anonymous	Anonymous	2	Individual.
Professor Bridget C.E. Dooling	Dooling	3	Individual.
Anonymous	Anonymous	4	Individual.

A. Response to Administrative Procedure Act Procedural Comment

Dooling stated that the May 2025 DFR did not satisfy the good cause exemption from notice and comment rulemaking under the Administrative

Procedure Act ("APA"). (Dooling, No. 3 at p. 4).

In response, DOE notes that the APA requires that agencies provide all interested persons with fair notice and an opportunity to comment on the rulemaking. See 5 U.S.C. 553(b) & (c). The May 2025 DFR provided the public

with fair notice of DOE's changes to its own administrative procedures regarding ADR in the DOE Contractor Employee Protection Program. See 90 FR 20766, 20767 (discussing specific administrative changes encouraging ADR). DOE also requested comments on the May 2025 DFR, and stated, if the

² Employ America's misunderstanding further supports DOE's statement in the May 16, 2025, direct final rule that the changes made to DOE

regulations to permit the use of fixed-price contracts have only served to create confusion.
¹ This rule also corrects an error in the May 2025 DFR that identified the docket as DOE-HQ-2025-

00120012. To address that error, this document correctly identifies the docket as DOE-HQ-2025-0012.

Department received significant adverse comments, the Department would withdraw the rule or issue a new final rule which responds to such comments. *Id.* at 90 FR 20766. Thus, DOE provided interested persons with fair notice and an opportunity to comment as required by the APA. As a result, there was no need for a good cause exemption from notice-and-comment rulemaking under 5 U.S.C. 553(b).

Finally, contrary to the comment from Dooling (Dooling, No. 3 at p. 5), Dooling cannot argue commenters were denied fair notice and an opportunity to comment solely based on how the notice was labeled. *See Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 683 (2020) (holding that “[f]ormal labels aside, the [interim final rules] contained all of the elements of a notice of proposed rulemaking as required by the APA”). Irrespective of its title, the May 2025 DFR contained the required elements of a proposed rulemaking under the APA.

B. Response to Other Comments

DOE received two comments, which stated (1) that parties benefit from ADR and the rescission of this regulation would make complainants less aware of this cost-saving service; and (2) that this regulation was required by the Administrative Dispute Resolution Act (“ADRA”), 5 U.S.C. 573. (Anonymous, No. 2 at p. 1; Anonymous, No. 4 at p. 1) In response to the first point, DOE notes that it will continue to advise all parties to disputes under the DOE Contractor Employee Protection Program as to the availability of ADR services in order to promote cost-efficient methods of problem solving pursuant to 10 CFR 708.18 and 10 CFR 708.27. In light of DOE’s direct outreach to parties who might benefit from ADR, there is no evidence that parties rely on this regulation to learn of the availability of ADR, and, therefore, there is no evidence that the rescission of this regulation will reduce the use of ADR in any meaningful way. And in response to the second point, ADRA does not require the DOE to maintain specific regulations encouraging the use of ADR; rather it requires generally that agencies “encourage and facilitate agency use of alternative means of dispute resolution.” (5 U.S.C. 573(c)(1)) DOE will continue to encourage and facilitate the use of ADR when appropriate regardless of any specific regulation, and, thus, will adhere to the requirements of ADRA.

III. Conclusion

For the reasons discussed in the preceding sections of this document, DOE is not withdrawing the May 2025 DFR, which rescinds the regulation encouraging the use of ADR for resolving complaints under the DOE Contractor Employee Protection Program.

DOE also notes, to the extent that 5 U.S.C. 553 applies to the delay of effective date, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a “substantive rule” for which a 30-day delay in effective date is required under 5 U.S.C. 553(d).

Signing Authority

This document of the Department of Energy was signed on July 9, 2025, by Chris Wright, 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 10, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

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DEPARTMENT OF ENERGY

10 CFR Part 800

[DOE–HQ–2025–0014]

RIN 1903–AA23

Rescinding Regulations for Loans for Minority Business Enterprises Seeking DOE Contracts and Assistance

AGENCY: Office of Civil Rights and EEO, Department of Energy.

ACTION: Direct final rule; delay of effective date.

SUMMARY: Due to the receipt of significant adverse comments, the U.S. Department of Energy (DOE) is

extending the effective date of the direct final rule “Rescinding Regulations for Loans for Minority Business Enterprises Seeking DOE Contracts and Assistance,” published on May 16, 2025.

DATES: As of July 14, 2025, the effective date of the direct final rule published May 16, 2025, at 90 FR 20769, is extended to September 12, 2025.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Novak, U.S. Department of Energy, Office of the General Counsel, GC–1, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586–5281 or DOEGeneralCounsel@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On May 16, 2025, DOE published a direct final rule (90 FR 20769). DOE stated in that direct final rule that if significant adverse comments were received by June 16, 2025, DOE would withdraw the direct final rule or issue a new final rule which responds to the significant adverse comments.

Because DOE subsequently received significant adverse comments on that direct final rule, DOE is extending the effective date to consider comments submitted in response to the direct final rule.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a “substantive rule” for which a 30-day delay in effective date is required under 5 U.S.C. 553(d).

Signing Authority

This document of the Department of Energy was signed on June 9, 2025, by Chris Wright, 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 June 10, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

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