

PROPOSED RULES

culls shall be determined on the basis of such definition and in accordance with such classification.

14. Section 932.52 is revised to read:

§ 932.52 Outgoing regulations.

(a) *Minimum standards for packaged olives.* No handler shall use processed olives in the production of packaged olives or ship such packaged olives unless they have first been inspected as required pursuant to § 932.53 and meet each of the following applicable requirements:

(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C, as such grade is defined in the then current U.S. Standards for Grades of Canned Ripe Olives or as modified by the committee, with the approval of the Secretary for purposes of this part.

(2) Canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the size designations set forth in the then current U.S. Standards for Grades of Canned Ripe Olives, or such other sizes by variety or variety group as may be recommended by the committee and approved by the Secretary.

(3) Subject to the provisions set forth in subparagraph (4) of this paragraph, processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same size requirements as prescribed pursuant to subparagraph (2) of this paragraph. Olives smaller than those so prescribed, as recommended by the committee and approved by the Secretary, may be authorized, including authorization by variety or variety groups, for limited use. Each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary.

(4) The Secretary may, upon recommendation of the committee, restrict the total quantity of limited use size olives for limited use during any crop year. Such restricted quantity shall be apportioned among the handlers by applying a percentage established annually by the Secretary upon recommendation by the committee, to each handler's total receipts of limited use olives during such crop year.

(5) Canned ripe olives of the "tree-ripened" type and green olives shall meet such grade, size, and pack requirements as may be established by the Secretary based upon the recommendation of the committee or other available information.

(6) The size designations used in this section mean the size designations described in paragraph (a)(1)(ii) of § 932.51.

(7) For the purposes of this part the committee may, with the approval of the Secretary, specify the styles of olives, including the requirements with respect thereto, for limited use.

[FR Doc. 78-4512 Filed 2-17-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[7 CFR Part 2858]

U.S. STANDARDS FOR GRADES OF ICE CREAM

Study Draft

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Poultry and Dairy Quality Division of the Food Safety and Quality Service, U.S. Department of Agriculture, has study drafts available for review and comments in its consideration of proposed U.S. Standards for Grades of Ice Cream.

DATE: Comments must be received by April 15, 1978.

ADDRESS: Send requests for study drafts and comments to: Richard W. Webber, Assistant Chief, Dairy Section, Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Richard W. Webber, 202-447-7473.

SUPPLEMENTARY INFORMATION: The preliminary proposal for grades for ice cream was developed following USDA's request for public comments on the feasibility of setting up a grading system for ice cream (42 FR 56717, October 28, 1977). Of the 396 comments received, 240 expressed interest in having grade standards for ice cream, 23 were opposed, and the rest expressed no opinion.

Official voluntary U.S. grade standards for ice cream would provide a uniform and nationally recognized system for identifying the quality of the product to consumers. If quality grade standards are established, manufacturers that are interested may identify consumer packages of their ice cream with the appropriate U.S. grade to inform consumers of the quality of ice cream they are buying.

In the development of this draft standard, the Department conferred with various recognized experts in the manufacturing of ice cream to obtain technical advice. This information, together with technical data, knowledge, and experience within the Depart-

ment, forms a basis for establishing this draft standard. The concepts and basis for the grading procedure have been used for many years by colleges, universities, and the ice cream industry to evaluate the quality of ice cream.

The standard would be implemented on a voluntary basis and a charge made for the Department's services. When ice cream is officially graded, the regulations governing the inspection and grading services of manufactured or processed dairy products would be in effect. These regulations require all dairy ingredients and the finished product to be produced in a USDA-approved plant. The regulations also provide for the use of official identification to indicate the U.S. grade on consumer packages. The U.S. grade would be determined on the finished ice cream in consumer packages.

This advance notice of proposed rulemaking is issued under the authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621).

Done at Washington, D.C., this 15th day of February 1978.

ROBERT ANGELOTTI,
Administrator.

[FR Doc. 78-4684 Filed 2-17-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[10 CFR Parts 208, 711, and 1021]

COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Proposed Rulemaking; Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a proposal to establish Part 1021 of Chapter X of Title 10 of the Code of Federal Regulations, providing for compliance with the National Environmental Policy Act (NEPA). Written comments will be received and a public hearing will be held with respect to this proposal.

The proposed regulations are based primarily on policies and procedures which governed compliance with NEPA in the Federal Energy Administration (FEA), the Energy Research and Development Administration (ERDA), and the Federal Power Commission (FPC), the three major constituent agencies whose functions were transferred to DOE. In addition, certain initiatives, designed to meet the emerging NEPA responsibilities of DOE, have been incorporated. These regulations will be applicable to all organizational units of DOE, except the

Federal Energy Regulatory Commission (FERC), which has indicated its intention to issue NEPA regulations generally consistent with those proposed herein.

DATES: Comments must be received on or before April 10, 1978; request to speak by March 10, 1978; hearing testimony by March 24, 1978; hearing date: March 30, 1978.

ADDRESSES: Comments and requests to speak to Box RY, Department of Energy, Public Hearing Management, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Hearing location: Room 3000A, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Robert J. Stern, Office of the Assistant Secretary for Environment, Room 7121, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. The Proposed Regulations.
- III. Comment Procedure.

I. BACKGROUND

A. NATIONAL ENVIRONMENTAL POLICY ACT

The National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., requires that Federal agencies give appropriate weight to factors affecting the human environment during all stages of their decisionmaking process. In this connection, NEPA requires Federal agencies to prepare detailed statements on proposals for major Federal actions significantly affecting the quality of the human environment.

B. DEPARTMENT OF ENERGY

The Department of Energy Organization Act (the Act), 42 U.S.C. 7101 et seq., transferred to DOE the functions of ERDA, FEA and FPC as well as energy-related functions of various other Federal agencies and departments. As provided in section 705 of the Act, the regulations in effect on October 1, 1977, for the various agencies whose functions were transferred to DOE continue in effect with respect to those functions until superseded, modified or revoked by regulations promulgated by the Secretary of DOE or by FERC for functions under their respective jurisdictions.

When promulgated, these regulations will be applicable to all functions transferred to DOE (except those functions transferred to FERC) and will supersede and effect a revocation of the NEPA regulations promulgated by ERDA (10 CFR Part 711) and FEA (10 CFR Part 208). NEPA regulations

relating to other functions transferred to the Secretary of DOE will be superseded to the extent that they affect functions transferred to the Secretary of DOE. The NEPA regulations relating to functions transferred to FERC will remain applicable to FERC actions until superseded, modified, or revoked by FERC. FERC has indicated its intention to issue, in a timely manner, NEPA regulations generally consistent with those proposed herein.

The proposed regulations establish general policies and procedures for compliance with NEPA by all units of DOE other than FERC. Pending adoption of final regulations, DOE will, to the extent feasible, carry out its NEPA responsibilities pursuant to the regulations now in effect, and will interpret such regulations in a manner consistent with the policies and procedures proposed today.

II. THE PROPOSED REGULATIONS

In establishing policies and procedures for DOE compliance with NEPA, the regulations attempt to assure that environmental factors are considered by DOE in its planning and decisionmaking. To the extent practicable, coordination of other Federal environmental review and consultation requirements shall also be carried out through the NEPA process.

A. APPLICABILITY

The regulations will apply to all organizational units of DOE except FERC and will affect new and continuing DOE projects and programs. The regulations also will apply to the establishment or modification by DOE (excluding FERC) of other regulations and policies.

The proposed regulations specify certain classes of actions that have been determined not to be major Federal actions significantly affecting the quality of the human environment and that, therefore, are not subject to the requirements of the regulations. The regulations further specify other classes of actions that, except in unusual circumstances, will not require the preparation of an environmental assessment (EA) or an environmental impact statement (EIS).

B. ENVIRONMENTAL ASSESSMENTS

Subpart B of Part 1021 establishes procedures governing preparation and review of EA's, which are required for proposed DOE actions when it is unclear whether an EIS is required. EA's shall include, as appropriate, a brief description of the proposed action and its reasonable alternatives, and an analysis of their probable environmental impacts. EA's shall be reviewed against the criteria set forth in Subpart C to determine whether an EIS is required for a proposed action. When

an EA has been prepared and a determination made not to prepare an EIS on a proposed action, a negative determination (ND) that briefly describes the proposed action, and the reasons for not preparing an EIS, will be prepared.

C. ENVIRONMENTAL IMPACT STATEMENTS

Requirements associated with preparation and circulation of EIS's are contained in Subpart C.

1. *Need for an EIS.* In determining whether an EIS is required, DOE shall consider: (a) The magnitude of the action in terms of the extent of DOE control and the size of the commitment of resources involved; and (b) the significance of the environmental impacts in terms of the cumulative impact of the proposed action and related Federal actions; the potential for environmental degradation and curtailment of the range of beneficial uses of the environment; the effects on important, scarce, or nonrenewable resources; the presence of responsible opposing views concerning the environmental impacts; and the unique characteristics of the environment to be affected.

2. *Content and Circulation of EIS's.* General guidance for the content of EIS's is contained in Subpart D. Procedures for preparation and circulation of draft and final EIS's are set out in Subpart C.

3. *Public Participation.* In order to further public participation in the NEPA process, DOE will publish in the FEDERAL REGISTER a Notice of Intent to prepare an EIS, except as provided in § 1021.25. The Notice will describe the proposed action and invite comments from interested persons. To the extent practicable, DOE shall endeavor to provide for additional public notification through press releases and other forms of announcements, as appropriate. DOE will also maintain lists of persons and groups known to be interested in the environmental impacts of specific DOE actions, and will notify such persons and groups of proposed DOE actions judged to be of interest to them.

Except where there are emergency circumstances, statutory deadlines, or overriding considerations of expense or effectiveness, as provided in § 1021.31, DOE will allow a minimum 45-day comment period on draft EIS's, and may, upon request, extend that period.

A public hearing on an EIS may be held if DOE determines, in accordance with criteria set forth in § 1021.28, that it would be appropriate.

4. *Post-EIS Responsibilities.* Following completion of a final EIS and DOE decisionmaking with respect to a proposed action, DOE shall verify that the implementation of the selected alternative, particularly with regard to

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any mitigating measures included in the action, is proceeding as described in the EIS.

D. COORDINATION OF OTHER FEDERAL ENVIRONMENTAL CONSULTATION REQUIREMENTS

Subpart E of the proposed regulations requires, to the extent practicable, coordination of various Federal environmental review and consultation requirements, through the NEPA process. This is intended to improve and expedite the DOE decisionmaking process.

E. APPLICANT PROCEDURES

Applicants for a DOE permit, certificate, license, financial assistance, contract award, or similar action may be required to submit an environmental report (ER) containing information to be specified by DOE in the context of specific programs. Such information will, to the extent feasible and appropriate, be independently verified by DOE prior to its use by DOE in the preparation of an EA or EIS.

To permit appropriate coordination of required Federal environmental review, DOE applicants shall identify all other Federal actions required for completion of the undertaking. Applicants should submit applications for Federal approvals early in their planning process, and should take no steps that may cause a significant environmental impact or foreclose DOE alternatives prior to completion of the EA/EIS process.

III. COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to submit written comments with respect to the proposed regulations to Box RY, Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Compliance with the National Environmental Policy Act." Fifteen (15) copies should be submitted. All comments and related information should be received by DOE by April 10, 1978, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

B. PUBLIC HEARING

1. *Participation procedures.* A public hearing on the proposed regulations

will be held at 9:30 a.m., on March 30, 1978, in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C., to receive oral presentations from interested persons.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to the Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who in DOE's judgment proposes to present relevant, and material information shall be selected to be heard, shall be notified by DOE of his participation before 4:30 p.m., March 17, 1978, and shall submit 15 copies of his or her proposed statement to the Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461, on or before March 24, 1978.

2. *Conduct of Hearings.* DOE reserves the right to arrange the schedule of presentations to be heard, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

NOTE.—DOE has determined that this document does not contain a major proposal re-

quiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

In consideration of the foregoing, it is proposed that Chapters II, III, and X of Title 10 of the Code of Federal Regulations be amended as provided below.

Issued in Washington, D.C., February 14, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

1. Part 208 of Chapter II and Part 711 of Chapter III, Title 10 of the Code of Federal Regulations are revoked.

PART 208—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT [Revoked]

PART 711—GUIDELINES FOR ENVIRONMENTAL REVIEW [Revoked]

2. Part 1021 is added to Title 10, Chapter X, of the Code of Federal Regulations to read as follows:

PART 1021—COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

Subpart A—General

Sec.
1021.1 Background.
1021.2 Purpose and scope.
1021.3 Policy.
1021.4 Definitions.
1021.5 Applicability.

Subpart B—Environmental Assessments

1021.11 Need for environmental assessments.
1021.12 Content of environmental assessments.
1021.13 Review of environmental assessments.
1021.14 Negative determinations.

Subpart C—Environmental Impact Statements

1021.21 Need for environmental impact statements.
1021.22 Selection of a lead agency and consultation among participating agencies.
1021.23 Scope of environmental impact statements.
1021.24 Timing of environmental impact statement preparation.
1021.25 Notice of intent.
1021.26 Interest lists.
1021.27 Publication of draft environmental impact statements.
1021.28 Public hearings.
1021.29 Preparation and publication of final environmental impact statements.
1021.30 Post-EIS responsibilities.
1021.31 Timing of DOE actions.
1021.32 Contractor services.
1021.33 Review of environmental impact statements prepared by other agencies.

Subpart D—General Guidance for Content of Environmental Impact Statements

1021.41 Body of statement.

Subpart E—Coordination of Other Federal Environmental Consultation Requirements

1021.51 Additional Federal environmental review requirements.

Subpart F—Applicant Procedures

- 1021.61 Applicant responsibilities.
- 1021.62 DOE responsibilities.
- 1021.63 Content of environmental reports.
- Appendix A—Summary sheet for draft and final environmental impact statements.
- Appendix B—Contents of environmental reports prepared for applications under the Natural Gas Act.

AUTHORITY: Department of Energy Organization Act of 1977, Pub. L. 95-91; National Environmental Policy Act of 1969, Pub. L. 91-190, as amended, Pub. L. 94-83; E.O. 11514, 35 FR 4247, as amended.

Subpart A—General

§ 1021.1 Background.

(a) Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.), as implemented by Executive Order 11514 of March 5, 1970, as amended, and the Guidelines of the Council on Environmental Quality (CEQ) of August 1, 1973 (40 CFR Part 1500), requires all agencies of the Federal Government to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. NEPA further requires Federal agencies to give appropriate consideration to the environmental effects of proposed actions in their decisionmaking.

(b) Other environmental legislation pertaining to historic sites, wild and scenic rivers, endangered species, fish and wildlife, coastal zones and other resources requires consultation with designated agencies and review of impacts in environmentally sensitive areas in conjunction with Federal decisionmaking.

§ 1021.2 Purpose and scope.

(a) This part establishes policy and procedures for discharging the Department of Energy's (DOE's) responsibilities with respect to NEPA, including:

(1) DOE procedures for the implementation of Section 102(2)(C) of NEPA, with provisions for early identification of those DOE actions which require environmental assessments (EA's) and environmental impact statements (EIS's); preparation and processing of EA's and EIS's; participation by the public and other Federal agencies, States, and local governmental units in the environmental review process; and consideration of environmental factors in DOE planning and decisionmaking; and

(2) DOE policy with respect to the appropriate balancing of national environmental goals, energy requirements, and other essential considerations of national policy.

(b) This part also establishes DOE policy for the coordination of other Federal environmental review and consultation requirements in conjunction with the procedures of Section 102(2)(C) of NEPA.

§ 1021.3 Policy.

DOE shall:

(a) To the maximum extent practicable, conduct its activities in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations, consistent with DOE's nondiscretionary statutory responsibilities and other essential considerations of national policy;

(b) Assure incorporation of national environmental protection goals in the formulation and implementation of energy programs, and advance goals of restoring, protecting, and enhancing environmental quality, and assuring public health and safety, in accordance with Section 102(13) of the Department of Energy Organization Act (42 U.S.C. 7112); and

(c) Incorporate into its planning, regulatory, and decisionmaking processes a careful consideration of the potential environmental consequences of its proposed actions by:

(1) Evaluating the long- and short-range impacts, both direct and indirect, of such actions on man, including his physical and social surroundings, and on the natural environment;

(2) Exploring, developing, analyzing, and implementing, as appropriate, alternative actions which may mitigate adverse environmental impacts; and

(3) Providing for public disclosure of and comment on the impacts of all its major actions significantly affecting the quality of the human environment.

§ 1021.4 Definitions.

For purposes of this part—

(a) "Action" means a DOE activity which may be major and may significantly affect the quality of the human environment.

(b) "Administrative action" means a major DOE activity, other than a legislative action as defined herein, significantly affecting the quality of the human environment.

(c) "Legislative action" means a DOE recommendation or report on DOE proposals for legislation significantly affecting the quality of the human environment.

(d) "DOE" means all organizational units of the Department of Energy, except the Federal Energy Regulatory Commission.

(e) "Environmental report" (ER) means a document submitted to DOE by an applicant in support of an un-

dertaking which identifies the environmental impacts of the proposed undertaking and its alternatives.

(f) "Environmental - assessment" (EA) means a document prepared by DOE which assesses whether a proposed DOE action would be "major" and would "significantly affect" the quality of the human environment, and which serves as the basis for a determination as to whether an environmental impact statement (EIS) is required.

(g) "Environmental impact statement" (EIS) means a document prepared in accordance with the requirements of Section 102(2)(C) of NEPA.

(h) "Negative determination" (ND) means a document prepared to certify a decision that an EIS will not be prepared for a proposed DOE action.

(i) "Project" means an individual, unitary DOE action.

(j) "Program" means an aggregate of projects which share a common objective or purpose and are so interrelated that planning or decisionmaking with respect to any one component is likely to significantly affect planning or decisionmaking with respect to any other component.

(k) "Undertaking" means a proposed initiative of a private person or non-Federal governmental entity which may result in an action.

§ 1021.5 Applicability.

(a) This Part shall apply to all organizational units of DOE, except that it shall not apply to the Federal Energy Regulatory Commission (FERC).

(b) This part covers proposed DOE actions, including those actions sponsored jointly with other agencies, and uncompleted and continuing actions when modifications of or alternatives to the DOE action are still available.

(c) DOE shall conduct a review of proposed actions, in accordance with § 1021.21, to ascertain the applicability of Section 102(2)(C) of NEPA. Proposed actions subject to such review include but are not limited to the following:

(1) A new or continuing project or program, or expansion or revision of a continuing project or program which is directly undertaken by DOE; supported in whole or in part through DOE contracts, grants, loans, guarantees, subsidies, or other forms of financial assistance; or involves a DOE lease, permit, license, certificate, or similar action.

(2) The establishment or modification by DOE of rules, regulations, or policies.

(d) There are classes of DOE activities which are exempt from the requirements of this part, since they have been determined not to be major Federal actions significantly affecting the quality of the human environment. Such classes of activities in-

clude, but are not necessarily limited to, the following:

(1) Administrative procurement (e.g., general supplies);

(2) Contracts for personal services;

(3) Personnel actions;

(4) Reports or recommendations on legislation which was not initiated by DOE;

(5) Compliance actions, including investigations, conferences, hearings, notices of probable violation, and remedial orders;

(6) Interpretations and rulings, or modifications or rescissions thereof;

(7) Promulgation of rules and regulations which are clarifying, corrective, or procedural in nature, or which do not substantially change the effect of the regulations being amended;

(8) Actions with respect to the planning and implementation of emergency measures pursuant to the International Energy Program;

(9) Information gathering, analysis, and dissemination;

(10) Issuance of prohibition orders and construction orders pursuant to the Energy Supply and Environmental Coordination Act of 1974;

(11) Actions in the nature of conceptual design or feasibility studies.

(e) The following actions ordinarily are not considered to be major Federal actions significantly affecting the quality of the human environment and generally are exempt from the requirements of this part: (1) Adjustments, assignments, exceptions, exemptions, appeals, stays or modifications or rescissions of orders issued pursuant to the Emergency Petroleum Allocation Act, as amended; and (2) the establishment or modification of prices charged by DOE for DOE goods and services. However, where unusual circumstances exist, DOE shall consider the need for an EA or EIS on these types of actions.

Subpart B—Environmental Assessments

§ 1021.11 Need for Environmental Assessments.

DOE shall prepare an EA when it is unclear whether an EIS is required. An EA is not required when it is clear that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Where it is clear that an EIS is required, preparation of the EIS shall begin as soon as practicable, without preparation of an EA. An EA shall not ordinarily be prepared with respect to a proposed DOE action for which an EA or EIS has been formerly prepared, by DOE or another Federal agency. *Provided*, That such EA or EIS affords a currently valid evaluation of the environmental impacts of the proposed action. The relevant EA or EIS shall accompany the proposal throughout the DOE review and decisionmaking process.

§ 1021.12 Content of Environmental Assessments.

The EA shall be a brief, factual document that analyzes and evaluates the environmental consequences of a proposed action in sufficient detail to permit DOE to determine whether an EIS is required. An EA should be structured in the manner that is most useful for planning and decisionmaking, and shall, as appropriate, contain the following information: A clear and concise description of the proposed action, including drawings, maps, and charts, if directly pertinent to analyzing the environmental consequences of the proposed action; a description of the existing environment affected by the proposed action only in sufficient detail to permit a meaningful evaluation of the potential environmental consequences of the proposed action; an assessment of the probable impacts of the proposed action, including direct and indirect effects and those adverse impacts which cannot be avoided should the proposal be implemented; an evaluation of the probable cumulative and long-term environmental effects, including any beneficial impacts; an assessment of the risk of credible accidents; a discussion of the relationship of the proposed action to any applicable Federal, State, regional, or local land use plans and policies likely to be affected; and a brief description of all reasonable alternatives to the proposed action and their environmental effects.

§ 1021.13 Review of Environmental Assessments.

(a) Based upon its review of an EA, DOE shall determine whether, in accordance with § 1021.21, the proposed action requires the preparation of an EIS.

(b) If it is determined that an EIS is required, DOE shall, whenever practicable, publish a Notice of Intent in the FEDERAL REGISTER, in accordance with § 1021.25. If DOE determines that an EIS is not required, a Negative Determination shall be published in the FEDERAL REGISTER, in accordance with § 1021.14. DOE may consult with CEQ in determining whether a specific action requires an EIS.

§ 1021.14 Negative Determinations.

DOE shall prepare a negative determination (ND) to certify a decision that an EIS is not required with respect to an action for which an EA has been prepared. The ND shall briefly describe the proposed action and the reasons for not preparing an EIS. For administrative actions and legislative actions not related to the President's budget, the ND shall be published in the FEDERAL REGISTER, with an announcement that the EA may be obtained from DOE on request. DOE shall take no action related to the sub-

ject of the ND sooner than 15 days following publication in the FEDERAL REGISTER, except as provided under § 1021.31, and shall consider any comments received during that period. A list of ND's for legislative actions related to the President's budget shall be furnished in the FEDERAL REGISTER as soon as practicable after the President's budget is transmitted to Congress, with an announcement that the EA's may be obtained from DOE on request.

Subpart C—Environmental Impact Statements

§ 1021.21 Need for Environmental Impact Statements

(a) An environmental impact statement (EIS) shall be prepared for a proposed action which DOE determines to be a major Federal action significantly affecting the quality of the human environment. In making that determination, DOE shall consider:

(1) The magnitude of the action in terms of the extent of control, by virtue of DOE funds or discretionary approval/disapproval authority, to influence the course of the action, and the size of the commitment of resources involved; and

(2) The significance of the environmental impacts in terms of the overall cumulative impact of the proposed action and related Federal actions; the potential for degradation of the quality of the human environment, including direct and indirect impacts on the natural, physical, and social environment, and the curtailment of the range of beneficial uses of the environment; effects on management, allocation or consumption of important, scarce, or nonrenewable resources; the presence of responsible opposing views concerning the environmental impacts; and the unique characteristics of the environment to be affected.

§ 1021.22 Selection of a Lead Agency and Consultation Among Participating Agencies.

(a) When DOE and one or more other Federal agencies are directly involved in a project or program or in a group of projects directly related to each other, DOE shall consult with such other agencies to determine if an EIS is required; to identify the appropriate lead agency or joint-agency responsibilities for EIS preparation; and to establish procedures for inter-agency coordination during the environmental review process.

(b) If an EIS is required, DOE shall take no action with respect to the proposed project that would significantly affect the quality of the human environment or curtail the range of alternatives under consideration until completion of the EIS process, whether or not DOE is the designated lead agency.

(c) Where DOE is frequently associated with another agency or agencies in the preparation of EIS's for similar projects, DOE shall attempt to negotiate memoranda of understanding specifying generic lead agency responsibilities for EIS preparation.

(d) If an interagency dispute arises concerning the need for an EIS, designation of the lead agency, or appropriate divisions of responsibility for EIS preparation, and the affected agencies are unable to resolve the dispute, DOE shall refer the issue to CEQ for its recommendation.

§ 1021.23 Scope of Environmental Impact Statements.

(a) A draft EIS shall contain, to the fullest extent possible, the information required by Subpart D of this part, and shall include a summary sheet, as described in Appendix A of this part.

(d) A final EIS shall consist of an appropriately revised draft EIS, the comments (or summaries thereof) received on the draft EIS and appropriate responses to those comments.

(c) (1) DOE shall identify the related actions most appropriately serving as the subject of a program EIS. Broad program EIS's may be required to assess the environmental effects of multiple actions within specific geographical areas, or environmental impacts that are generic to a series of DOE actions. Subsequent project EIS's applicable to components of the program may be necessary where such individual actions have significant environmental impacts not adequately evaluated in the program EIS.

(2) Program EIS's shall assess, as appropriate: The probable environmental consequences generic to component projects and actions; the cumulative effects of such related activities; and in the case of EIS's covering research, development, demonstration, or commercialization programs, the anticipated impacts of commercial deployment of such technology, including any major uncertainties with respect to the environmental effects of such deployment.

(d) Project EIS's shall assess the localized or regional environmental impacts of a specific proposed project.

(e) EIS's covering a site under DOE jurisdiction (such as major research laboratories or production facilities) shall assess the individual and cumulative environmental consequences of a number of continuing and/or proposed actions at the given site.

§ 1021.24 Timing of Environmental Impact Statement Preparation.

(a) An EIS shall be prepared as early as practicable in the planning and decisionmaking process of a proposed action. EIS preparation shall begin early enough to provide a useful con-

tribution to decisionmaking, but late enough in the formulation of the proposed project or program to permit analysis of the potential environmental impacts of the proposal and its alternatives. The EIS shall be prepared before major resources are irreversibly committed or alternatives foreclosed, and prior to taking any action with respect to the proposed project which may cause significant environmental impact, except as provided in § 1021.31.

(b) In determining the appropriate timing of an EIS for research, development, or demonstration programs, DOE shall consider the magnitude of the Federal investment in the program; the likelihood and proximity of widespread application of the technology; the pace at which the program is moving from basic research toward demonstration of a viable technology; the extent to which continued investment in the new technology is likely to foreclose or restrict future alternatives; and the degree of environmental impacts of the program, individually and cumulatively, which are likely to occur in the event the technology is widely applied.

(c) To the extent practicable, DOE shall prepare a final EIS on a legislative proposal prior to submission of the proposal to Congress. In cases where this is not practicable or where the scheduling of Congressional hearings on such actions does not allow adequate time for completion of a final EIS, a draft EIS shall be furnished to Congress, with any comments transmitted as received. DOE may, in consultation with CEQ, forego the preparation of a final EIS on legislative actions.

§ 1021.25 Notice of Intent.

As soon as possible after a decision has been made to prepare an EIS, DOE shall publish a Notice of Intent regarding the forthcoming EIS in the FEDERAL REGISTER, with a brief description of the proposed action, and alternatives to be analyzed. The Notice of Intent shall announce the availability of the EA, if one has been prepared, and shall invite comments and suggestions for DOE consideration in the preparation of the EIS. To the extent practicable, DOE shall transmit copies of such Notices to appropriate Federal, State, and local agencies and to persons or groups known to be interested in the environmental implications of the proposed action. DOE shall also endeavor to provide for public notification through press releases and other forms of announcement, as appropriate. DOE may waive or delay the Notice of Intent in those instances where overriding considerations of policy or program effectiveness so warrant.

§ 1021.26 Interest Lists.

(a) DOE shall prepare and maintain lists of persons or groups known to be

interested in the environmental impacts of DOE actions. Such lists shall be compiled from those individuals or groups who have requested copies of draft EIS's; commented on a previous draft EIS; participated in a public hearing on an EIS; or been identified by the responsible supervisory official as having an interest in the environmental impacts of a proposed DOE action. Such interest lists shall be maintained in accordance with the provisions of the Privacy Act of 1974 (5 U.S.C. 552a).

(b) Individuals or organizations desiring to be placed on specific interest lists or to request copies of EIS's and related notices should address their requests to:

Assistant Secretary for Environment, Department of Energy, Washington, D.C. 20461.

§ 1021.27 Publication of Draft Environmental Impact Statements.

(a) Upon completion of a draft EIS, DOE shall provide copies to and invite comments from: (1) The Environmental Protection Agency (EPA) and other Federal agencies with jurisdiction by law or special expertise with respect to any environmental impact involved; (2) State and local agencies and members of the public and private organizations which in DOE's judgment have special expertise of a particular interest with respect to any environmental impact involved, and (3) any other persons who have requested a copy of the draft EIS.

(b) DOE shall publish a Notice of Availability of the draft EIS in the FEDERAL REGISTER, which specifies the period for review, the instructions for obtaining a copy of the EIS, and the procedures for submitting comments. To the extent practicable, DOE shall endeavor to provide for public notification through press releases and other forms of announcement, as appropriate.

(c) Comments on the draft EIS shall be considered in connection with the preparation of the final EIS, if received by DOE within the specified comment period. Unless otherwise specified (§ 1021.31), DOE shall allow 45 calendar days from publication of the appropriate Notice of Availability for comments to be received.

(d) DOE will consider requests for extensions of time if such requests are received during the comment period. In determining the appropriate period for comment or in acting upon an extension request, DOE shall consider the complexity of the issues addressed in the EIS, the extent of public interest in the proposed action, and the need for expeditious decisionmaking on the proposed action.

(e) Where no comments are received within the designated comment period, DOE shall assume that no comment is to be made.

§ 1021.28 Public Hearings.

(a) In determining whether to provide a public hearing with respect to an EIS, DOE shall consider the magnitude of the proposed action in terms of economic costs, the geographic area involved, and the uniqueness or size of the commitment of the resources involved; the degree of interest in the proposed action, as evidenced by requests from the public and from Federal, State, and local authorities that a hearing be held; the complexity of the issues and the likelihood that additional information generated by the hearing will assist DOE in fulfilling its responsibilities under NEPA; the extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives and/or written comments on the proposed action; and the need for expeditious decisionmaking on the proposed action.

(b) If a hearing is to be held, DOE shall publish a notice in the FEDERAL REGISTER and make the EIS available to the public at least 20 calendar days prior to the scheduled date of such hearing. To the extent practicable, DOE shall endeavor to provide for public notification through press releases and other forms of announcement, as appropriate.

(c) Public hearings under this section may be combined with other DOE hearings, or hearings of other agencies, as appropriate. Public hearings under this section that are not so combined shall be legislative rather than adjudicatory in nature, with no right to formal discovery, subpoena of witnesses, cross-examination of participants, testimony under oath, or other similar formalities more appropriate to an adjudicatory procedure. Where a hearing under this section is combined with another hearing, the applicable procedures shall be determined with reference to considerations relevant to all of the affected hearings.

§ 1021.29 Preparation and Publication of Final Environmental Impact Statements.

(a) DOE shall consider the comments received on the draft EIS and at the public hearing, if held, and prepare a final EIS, except as provided in § 1021.24. In addition to the information required by Subpart D of this part, the final EIS shall contain all substantive comments received on the draft EIS (or summaries thereof) together with DOE's response to those comments, and changes in the statement, as appropriate.

(b) Upon approval of the final EIS, DOE shall publish a notice in the FEDERAL REGISTER announcing the availability of the final EIS and distribute copies of the statement to EPA, and Federal, State, and local agencies, and

others who submitted comments on the draft EIS, participated in the public hearing on the draft EIS, or requested a copy of the final EIS. Final EIS's on legislative actions shall be submitted to Congress and the Office of Management and Budget.

§ 1021.30 Post-EIS Responsibilities.

(a) Following completion of the final EIS and DOE decisionmaking with respect to a proposed action, DOE shall verify that the implementation of the selected alternative, particularly with regard to any mitigating measures included in the action, is proceeding as described in the EIS. Upon identification of any significant modifications of the plans as described in the EIS, DOE shall determine appropriate steps to be taken.

(b) DOE shall identify and consider, to the maximum possible extent, the full range of environmental impacts at the time of EIS preparation. However, additional review may be necessary as the action evolves. Whenever substantial new information pertinent to an existing EIS becomes available, or whenever a modification of an action covered by an EIS is proposed that may be environmentally significant, DOE shall consider the need for a supplement to the EIS. Based on the significance of the modification and environmental impacts involved, relative to the impacts originally discussed, DOE shall determine whether to prepare a supplement to the EIS and, if so, whether it shall be a draft (related to either a draft or final EIS) or a final (related to a final EIS only) supplement. Draft supplements will be subject to the review procedures for draft EIS's specified in this subpart. When a final supplement is prepared, DOE shall publish a notice of availability in the FEDERAL REGISTER and distribute copies to EPA, and Federal, State, and local agencies and others who have expressed interest in the proposed action. DOE shall take no action with respect to the subject of the final supplement until 15 days after publication of the notice of availability and shall consider any comments received during that period.

§ 1021.31 Timing of DOE Actions.

(a) To the maximum extent practicable:

(1) No proposed administrative action for which an EIS is prepared shall be taken sooner than 90 calendar days after a draft EIS has been issued; or sooner than 30 calendar days after the final EIS has been issued. The 90-day and 30-day periods may run concurrently.

(2) No proposed action for which an ND has been prepared shall be taken prior to 15 calendar days after the ND and notice of availability of the EA are published in the FEDERAL REGISTER.

(b) Where emergency circumstances, statutory deadlines, or overriding considerations of expense or effectiveness of the relevant action make it necessary to take an administrative or legislative action without observing the minimum time periods required by this part, or before the preparation of an EA or draft or final EIS, or supplement thereto, DOE shall, at the earliest possible time, consult with CEQ concerning appropriate alternative arrangements for full compliance with NEPA requirements. Where only overriding considerations of expense or effectiveness are involved, such consultation shall occur before taking the proposed action.

(c) In computing a period of time prescribed or allowed by this part, the earlier date of publication by DOE or EPA of any relevant notice published in the FEDERAL REGISTER shall be the date from which such period is calculated.

§ 1021.32 Contractor Services.

DOE may use contractor services to gather information, perform studies and provide for other assistance needed for DOE to prepare an EA, an EIS, or comments on an EIS prepared by another Federal Agency. DOE shall independently review all work performed by contractors and shall maintain full control over and responsibility for the content of such NEPA-related documents.

§ 1021.33 Review of Environmental Impact Statements Prepared by Other Agencies.

(a) DOE shall review and comment on EIS's prepared by other Federal agencies if requested, and if determined appropriate by DOE, whenever DOE has jurisdiction by law or special expertise. DOE comments shall be specific, substantive, and factual and may recommend modifications to the proposal and/or new alternatives. DOE shall give particular consideration to legislative or administrative proposals which might cause a change in the production, importation, transportation, use, availability, or storage of petroleum, other fuels, or sources of energy, or which deal with other matters related to DOE's statutory responsibilities. In reviewing EIS's prepared by other agencies, DOE shall: identify proposals which are unsatisfactory from the standpoint of environmental quality or which conflict with known current or future policies and programs within the jurisdiction of DOE; indicate areas of research which are underway or planned by DOE which may suggest new alternatives, ways to mitigate effects, or fill gaps in the state of relevant knowledge; and offer other appropriate comments in areas in which DOE has jurisdiction by law or special expertise.

(b) To the extent that its resources permit, DOE may review environmental documents prepared by State or local agencies under authority of State or local laws similar to NEPA.

Subpart D—General Guidance for Content of Environmental Impact Statements

§ 1021.41 Body of Statement.

(a) The EIS shall be a concise, factual and objective evaluation of the environmental effects of a proposed action and its reasonable alternatives, and shall include or reference relevant data, information, and analyses only to the extent necessary to permit independent evaluation and comparative appraisal of the environmental effects of the proposed action and its reasonable alternatives. EIS's shall not be drafted in a style which requires extensive scientific or technical expertise to comprehend and shall focus on the major environmental issues relevant to the proposed action. Underlying studies, reports and other information used in preparing the EIS shall be identified. Highly technical and specialized analyses and data should be avoided in the text, but should be attached as appendices or referenced with footnotes. Where documents not easily accessible are referenced, such as internal studies or reports, the EIS shall summarize the relevant information and indicate how the document may be obtained.

(b) The EIS shall discuss or refer to responsible opinions regarding the environmental impacts of the proposed action. Substantive suggestions and comments made by other Federal, State, and local agencies and by private organizations and individuals prior to preparation of the environmental impact statement (draft or final) shall be identified and analyzed in appropriate sections of the statement.

(c) EIS's shall contain, to the extent appropriate, the following information in a format most useful to planning and decisionmaking:

(1) *Summary.* The salient information and factual conclusions of the EIS shall be summarized at the beginning of the document. The summary shall include any unresolved environmental issues and factual conclusions concerning the significance of the impacts associated with the proposed action, and the relative merits of alternatives.

(2) *Description of proposed action.* The proposed action and the objectives sought to be realized by its implementation shall be briefly described. Among factors to be considered are the location and duration of the proposed action; historical information necessary to place the proposed action in proper perspective; its relationship to other projects or programs of the

Federal Government; and the overall physical description, if appropriate. The environmental controls and other mitigating measures, including plans for site restoration, that are designed into the proposed action shall also be described.

(3) *A characterization of the existing environment likely to be affected by the proposed action.* A brief overview of the environment likely to be affected by the proposed action, including natural, physical, and socioeconomic features, shall be provided as a baseline for analysis of environmental impacts. Detailed descriptions of the existing environment should either be included in an appendix to the statement or referenced in the text, when necessary for a thorough understanding of the environmental impacts of a proposed action.

(4) *Environmental impacts of the proposed action.* The probable environmental impacts of the proposed action, including the effects of proposed mitigating measures, shall be analyzed. The analysis shall describe those effects on the natural, physical, and socioeconomic environment, beneficial as well as adverse, which could be caused by the proposed action, evaluate the magnitude and importance of each such effect, and identify the time periods in which these effects are anticipated. Any unknown factors concerning the probable environmental impacts shall be identified. The probable primary (direct) as well as secondary (indirect) environmental consequences shall be assessed. For purposes of this subparagraph, "secondary" consequences refer to associated investments and changed patterns of social and economic activities likely to be induced by the proposed action. The extent to which the proposal will conform to or conflict with any Federal, State, or local statutes, regulations, standards, limitations, and policies respecting environmental quality (air and water quality, wastes, pesticides, land use, etc.) shall be discussed. The risks of environmental degradation attributable to accidental as well as normal operations associated with the proposed action shall be assessed, to the extent practicable, in terms of probability of occurrence and magnitude of consequences.

(5) *Unavoidable adverse environmental effects.* Adverse environmental effects that cannot be avoided should the proposed action be implemented, and the magnitude and importance of such effects, shall be discussed.

(6) *Irreversible and irretrievable commitment of resources.* The extent to which the proposed action would consume, destroy, or transform limited or nonrenewable resources, thus curtailing the diversity and range of potential uses of the environment, shall be discussed.

(7) *The relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity.* The extent to which the proposed action would constrain the diversity and range of potential uses of the environment shall be discussed. The cumulative and long-term environmental effects of the proposed action shall be assessed from the perspective that each generation is trustee of the environment for succeeding generations. This involves consideration of the present condition and use of the site of the proposed action, its use if the proposed action is implemented, and the long-term prospects for other uses. An assessment should be made of the extent to which the proposed action involves trade-offs between short-term gains and long-term losses, or the reverse, and the extent to which the proposed action and its alternatives foreclose future options.

(8) *Alternatives.* A rigorous exploration and factual evaluation of the environmental impacts of the full range of reasonable alternatives to the proposed action shall be presented. In particular, reasonable alternatives to the proposed action that might be formulated to enhance environmental quality or to avoid or mitigate adverse environmental effects shall be discussed. The specific alternative of taking no action shall always be evaluated. Examples of other potential alternatives include: postponing action pending further study; actions of a significantly different nature which would provide similar benefits with different environmental impacts; and different designs or details of the proposed action which would have different environmental impacts. A comparative evaluation of the environmental impacts of the proposed action and each reasonable alternative shall be included. Where an existing EIS already contains an analysis of an alternative(s), its treatment of the alternative(s) may be summarized and incorporated by reference: *Provided*, That such treatment is current and relevant to the precise objective of the proposed action. The range of alternatives discussed in an EIS shall not be limited to measures which DOE has authority to implement. However, the level of discussion for an alternative the implementation of which lies wholly within the private sphere, or State or local units of government, and which is expected to remain within the jurisdiction of those entities, shall be at DOE's discretion. A more detailed analysis may be made of the environmental impact of alternatives that can be implemented within the same time period as the proposed action than for those alternatives which require longer periods of time for completion.

PROPOSED RULES

Subpart E—Coordination of Other Federal Environmental Consultation Requirements

§ 1021.51 Additional Federal Environmental Review Requirements.

In order to expedite and improve the Federal decisionmaking process, DOE shall, to the extent practicable coordinate other requisite Federal environmental reviews in conjunction with the NEPA procedures set forth in this part. DOE shall establish procedures, where appropriate, to accomplish these reviews pursuant to: Section 13 of the Federal Nonnuclear Research and Development Act of 1974, 42 U.S.C. 5901; the National Historic Preservation Act of 1966, 16 U.S.C. 470; the Endangered Species Act of 1973, 16 U.S.C. 1531; the Wild and Scenic Rivers Act of 1972, 16 U.S.C. 1271; the Coastal Zone Management Act of 1972, 16 U.S.C. 1451; the Fish and Wildlife Coordination Act, 16 U.S.C. 661; the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431, 33 U.S.C. 1401; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901; and other Acts as deemed appropriate. Requests for consultation and results of such consultation shall be documented in writing and shall, where practicable, be incorporated in the draft or final EIS. In all cases where consultation has occurred, the agencies consulted shall receive copies of either the Notice of Intent and EIS or Negative Determination and EA prepared on the proposed action.

Subpart F—Applicant Procedures

§ 1021.61 Applicant Responsibilities.

(a) With respect to major categories of actions involving applicants for a DOE permit, certificate, license, financial assistance, contract award, or similar action, DOE may require the applicant to submit an environmental report (ER) on the proposed undertaking. Prior to the preparation of an ER, the applicant should consult with DOE to determine the appropriate information to be included in the ER. In general, an ER shall contain the types of information required for an EA or EIS, as specified in § 1021.12 and § 1021.41, respectively. The level of detail of the ER shall be commensurate with the complexity and expected significance of the environmental impacts of the proposed undertaking. An ER shall be accurate and complete, although DOE may request additional data and analyses whenever these are necessary to comply with the requirements of this part.

(b) In carrying out their environmental responsibilities, DOE expects applicants to: (1) Conduct any studies which are deemed necessary and appropriate by DOE to determine the impact of the proposed action on the

human environment; (2) consult with appropriate Federal, regional, State and local agencies during the preliminary planning stages of the proposed undertaking to assure that all environmental factors are identified; (3) submit applications for all Federal approvals as early as possible in their planning process; (4) notify DOE of all other Federal actions required for project completion in order that DOE may coordinate the Federal environmental review, if appropriate; and (5) take no steps in furtherance of an undertaking for which they are seeking DOE approval which may cause significant environmental impacts, or which may foreclose the alternative actions available to DOE, prior to completion of the EA/EIS process.

§ 1021.62 DOE Responsibilities.

(a) DOE shall provide either generic or case-by-case guidance to applicants regarding the need for and the appropriate scope and depth of analysis of an ER, commensurate with the anticipated EA and EIS requirements.

(b) Notwithstanding the applicant's responsibilities under § 1021.61, DOE shall independently verify, to the extent feasible and appropriate, any information or analysis in the ER which is used or relied upon in an EA or EIS prepared with respect to the proposed action. DOE shall review the methodologies employed in the ER and shall independently evaluate the environmental impacts of the proposed action and all reasonable alternatives. Utilizing the ER and other pertinent data and analyses, DOE shall independently determine, in accordance with § 1021.11 and § 1021.21, whether the proposed action requires the preparation of an EA or an EIS. If required, DOE shall independently prepare the EA or EIS in accordance with this part, utilizing the ER and other information developed by DOE, as appropriate. DOE may incorporate all or part of an ER into its EA or EIS.

§ 1021.63 Content of Environmental Reports.

(a) For all functions transferred to DOE under the Natural Gas Act, an ER prepared in support of the preparation of an EIS shall contain the information specified in Appendix B of this part. An ER prepared in support of the preparation of an EA shall contain, in abbreviated form, the information specified in Paragraphs 1, 2, 3, 4, 8 and 9 of Appendix B.

(b) This subpart may be amended to provide further guidance for specific DOE programs.

APPENDIX A—SUMMARY SHEET FOR DRAFT AND FINAL STATEMENTS

(check one) () Draft. () Final Environmental Statement.

Name of responsible Federal agency (with name of operating division where appropri-

ate). Name, address and telephone number of individual at the agency who can be contacted for additional information about the proposed action or the statement.

1. Brief description of proposed action, its type (administrative or legislative) and its purpose. Indicate what States (and counties) particularly affected, and what other proposed Federal actions in the area, if any, are discussed in the statement.

2. Summary of environmental impacts and adverse environmental effects.

3. Summary of major alternatives considered.

4. (For draft statements) List all Federal, State, and local agencies and other parties from which comments have been requested. (For final statements) List all Federal, State, and local agencies and other parties from which written comments have been received.

5. Date draft statement (and final environmental statement, if one has been issued) made available to EPA and the public.

APPENDIX B—CONTENTS OF ENVIRONMENTAL REPORTS PREPARED FOR APPLICATIONS UNDER THE NATURAL GAS ACT

1. Description of proposed undertaking. Provide as an introductory paragraph, a brief description of the undertaking under application. Then describe fully its:

1.1 Purpose. Describe the primary purpose of the proposed facilities (onshore/offshore pipelines, LNG, gas storage fields, SNG, and others) and how the proposed undertaking fits into Federal, regional, State, and local energy demand and supply requirements.

1.2 Location. Identify site(s) including all existing natural gas and other power and product pipelines in the general vicinity of the proposed undertaking; locate with respect to State boundaries, counties and major cities; and illustrate with a suitable general location map(s).

1.3 Land requirements. Indicate the length and width and location of all existing, joint, or new right-of-way required by the proposed undertaking; identify the size of each proposed plant and/or operational site; designate what portion of the land at the operation site which will remain unaffected by construction and operation; and identify auxiliary construction activities on adjacent land.

1.4 Proposed facilities.

1.4.1 Plant/operational facilities. Identify all plant and/or operation units to be constructed, such as compressors, unloading and storage facilities, liquefaction/gasification facilities. Provide plan, elevation, and perspective views of all plant facilities.

1.4.2 Pipeline facilities. Describe the length and size of all transmission, lateral, looping, and gathering pipelines to be constructed.

1.5 Construction procedures. Describe procedures to be taken prior to or during construction of the proposed undertaking such as the relocation of homes and commercial or industrial facilities, clearing, surveying, land acquisition, and environmental planning. Discuss the methods of pipeline construction which would be used (such as the push method, flotation method, lay method, and barge laying method). Provide a schedule of construction of major facilities and how this will meet future energy needs and avoid such limiting factors as floods, ground slides, or severe climatic conditions. Include schedules for needed reloca-

tions or development of transportation and other public use facilities and methods of maintaining service during these activities. Indicate the source of the work forces, numbers involved, and their housing needs in the area.

1.6 Operational and maintenance procedures. Describe fully the technical and operational considerations of the proposed undertaking, including details of the process, catalyst involved, design, mass, heat and energy balances, flow diagrams, water purification treatment and facilities, waste product disposal facilities, and days and hours of operation. Describe maintenance under normal conditions; include types of expected maintenance, anticipated maintenance problems, and how system or area needs will be met during shutdown for maintenance. Describe capacity of proposed action to withstand both usual and unusual but possible natural phenomena and accidents (e.g., floods, hurricanes or tornadoes, slides, etc.).

1.7 Future plans. Describe plans or potential for future expansion of facilities including land use and the compatibility of these plans with the proposed undertaking.

2. Description of the existing environment. Provide an overall description of existing conditions or resources which might be affected directly and indirectly by the proposed undertaking; include a discussion of such pertinent topics as:

2.1 Land features and uses. Identify present uses and describe the characteristics of the land area.

2.1.1 Land uses. Describe the extent of present uses, as in agriculture, business, industry, recreation, residence, wildlife, and other uses, including the potential for development; locate major nearby transportation corridors, including roads, highways, ship channels, and aviation traffic patterns; locate transmission facilities on or near the lands affected by the proposed undertaking and their placement (underground, surface, or overhead).

2.1.2 Topography, physiography, and geology. Provide a detailed description of the topographic, physiographic, and geologic features within the area of the proposed undertaking. Include U.S. Geological Survey Topographic Maps, aerial photographs, and other such graphic material.

2.1.3 Soils. Describe the physical and chemical characteristics of the soils. Sufficient detail should be given to allow interpretation of the nature of and fertility of the soil and stability of slopes.

2.1.4 Geological hazards. Indicate the probability of occurrence of geological hazards in the area, such as earthquakes, slumping, landslides, subsidence, permafrost, and erosion.

2.2 Species and ecosystems. Identify those species and ecosystems that will be affected by the proposed undertaking.

2.2.1 Species. List in general categories by common and scientific names, the plant and wildlife species found in the area of the proposed undertaking and indicate those having commercial and recreational importance.

2.2.2 Communities and associations. Describe the dominant plant and wildlife communities and associations located within the area of the proposed undertaking. Provide an estimate of the population densities of major species. If data are not available for the immediate area of the proposed undertaking, data from comparable areas may be used.

2.2.3 Unique and other biotic resources. Describe unique ecosystems or communities,

rare or endangered species, and other biotic resources that may have special importance in the area of the proposed undertaking. Describe any areas of critical environmental concern, e.g., wetlands and estuaries. Summarize findings of any studies conducted thereon.

2.3 Socioeconomic considerations. If the undertaking could have a significant socioeconomic effect on the local area, discuss the socioeconomic future, including population and industrial growth, of the area without the implementation of the proposed undertaking; describe the economic development in the vicinity of the proposed undertaking, particularly the local tax base and per capita income; and identify trends in economic development and/or land use of the area, both from a historical and prospective viewpoint. Describe the population densities of both the immediate and generalized area. Include distances from the site of the proposed undertaking to nearby residences, cities, and urban areas and list their populations. Indicate the number and type of residences, farms, businesses, and industries that will be directly affected and those requiring relocation if the proposed undertaking occurs.

2.4 Air and water environments. Describe the prevailing climate and the quality of the air (including noise) and water environments of the area. Estimate the quality and availability of surface water resources in the proposed undertaking area.

2.4.1 Climate. Describe the historic climatic conditions that prevail in the vicinity of the proposed undertaking; extremes and means of monthly temperatures, precipitation, and wind speed and direction. In addition, indicate the frequency of temperature inversions, fog, smog, icing, and destructive storms such as hurricanes and tornadoes.

2.4.2 Hydrology and hydrography. Describe surface waters, fresh, brackish, or saline, in the vicinity of the proposed undertaking and discuss drainage basins, physical and chemical characteristics, water-use, water supplies, and circulation. Describe the groundwater situation, water uses and sources, aquifer systems, and flow characteristics.

2.4.3 Air, noise, and water quality monitoring. Provide data on the existing quality of the air and water, indicate the distance(s) from the proposed undertaking site to monitoring stations and the mean and maximum audible noise and radio interference levels at the site boundaries.

2.5 Unique features. Describe unique or unusual features of the area, including historical, archeological, and scenic sites and values.

3. Environmental impact of the proposed undertaking. Describe all known or expected environmental effects and changes, both beneficial and adverse, which will take place should the undertaking be carried out. Include the impacts caused by (a) construction, (b) operation, including maintenance, breakdown, and malfunctions, and (c) termination of activities, including abandonment. Include both direct, and primary indirect changes in the existing environment in the immediate area and throughout the sphere of influence of the proposed undertaking.¹

¹Changes in the environment throughout the sphere of influence of proposed undertaking. Direct and indirect effects are those effects which can be discerned as occurring primarily because the proposed undertaking would occur. For example: (1) The impact of

3.1 Construction.

3.1.1 Land features and uses. Assess the impact on present or future land use, including commercial use, mineral resources, recreational areas, public health and safety, and the aesthetic value of the land and its features. Describe any temporary restriction on land use due to construction activities. State the effect of construction-related activities upon local traffic patterns, including roads, highways, ship channels, and aviation patterns.

3.1.2 Species and ecosystems. Assess the impact of construction on the terrestrial and aquatic species and habitats in the area, including clearing, excavation, and impoundment. Discuss the possibility of a major alteration to the ecosystem and any potential loss of an endangered species.

3.1.3 Socioeconomic considerations. Discuss the effect on local socioeconomic development in relation to labor, housing, local industry, and public services. Discuss the need for relocations of families and businesses. Describe the beneficial effects, both direct and indirect, of the undertaking on the human environment, such as benefits resulting from the services and products, and other results of the undertaking (include tax benefits to local and State governments, growth in local tax base from new business and housing development and payrolls). Describe the impact on human elements, including the need for increased public services (schools, health facilities, police and fire protection, housing, waste disposal, markets, transportation, communication, energy supplies and recreational facilities).

3.1.4 Air, noise and water environment. Estimate the qualitative and quantitative effects on air, noise, and water quality, including sedimentation, and whether regulatory standards in effect for the area will be complied with.

3.1.5 Waste disposal. Discuss the impact of disposal of all waste material such as spoils, vegetation, construction materials, and hydrostatic test water.

3.2 Operation and maintenance.

3.2.1 Land features and uses. Outline restrictions on existing and potential land use in the vicinity of the proposed undertaking, including mineral and water resources. State the effect of operation-related activities upon local traffic patterns including roads, highways, ship channels, and aviation patterns, and the possible need for new facilities.

3.2.2 Species and ecosystems. Assess the impact of operation upon terrestrial and aquatic species and habitats, including the importance of plant and animal species having economic or esthetic value to man that would be affected by the undertaking; provide pertinent information on animal migrations, foods, and reproduction in relation to the impacts; and describe any ecosystem imbalances that would be caused by the undertaking and the possibility of major alteration to an ecosystem or the loss of an endangered species. Assess any effects of this undertaking which would be cumulative to those of other similar undertakings or actions.

a borrow pit would be evaluated to the extent that it would be developed or expanded but the manufacture of conventional trucks to work the pit would not; (2) The impact of construction workers moving into the area would be evaluated but not the impact of their leaving present homes. However, the impact of their subsequent departure must be considered.

3.2.3 Socioeconomic considerations. Discuss the effect on the local socioeconomic development in relation to labor, housing, and population growth trends, relocation, local industry and industrial growth, and public service. Describe the beneficial effects, both direct and indirect, of the undertaking on the human environment such as economic benefits resulting from the services and products, energy, and other results of the undertaking (include tax benefits to local and State governments, growth in local tax base from new business and housing development, and payrolls). Describe impacts on human elements, including any need for increased public service (schools, police and fire protection, housing, waste disposal, markets, transportation, communication, and recreational facilities). Indicate the extent to which maintenance of the area is dependent upon new sources of energy or the use of such vital resources as water.

3.2.4 Air, noise, and water environment. Assess the impact on present air quality due to process discharge, quantities, and other discharging operational units. Assess the impact on present noise levels due to noises related to the undertaking. Assess the impact on present water quality, including sedimentation, due to cooling or heating system discharges, process effluents, sanitary and waste effluents, water use for hydrostatic testing, and water use for other operational units.

3.2.5 Solid wastes. Describe any impacts from accumulation of solid wastes and by-products that will be produced.

3.2.6 Use of resources. Quantify the resources necessary for operational processes; that is, water (human needs and processes); energy requirements, raw products, and specialized needs. Assess the impact of obtaining and using these resources.

3.2.7 Maintenance. Discuss the impact of maintenance programs, such as subsequent clearing or treatment of rights-of-way and hydrostatic testing and shutdowns. Discuss the potential impact of major breakdowns and shutdowns of the facilities and how service will be maintained during shutdowns.

3.2.8 Accidents and catastrophes. Describe any impacts resulting from accidents, natural catastrophes, and acts of sabotage which might occur, and provide an analysis of the capability of the area to absorb predicted impacts.

3.3 Termination and abandonment. Discuss the impact on land use and aesthetics of the termination and/or abandonment of facilities resulting from the proposed undertaking.

4. Measures to enhance the environment or to avoid or mitigate adverse environmental effects. Identify all measures which can reasonably be undertaken to enhance the environment or eliminate, avoid, mitigate, protect, or compensate for adverse and detrimental aspects of the proposed undertaking, as described under Section 3, above, including engineering planning and design, design criteria, contract specifications, selection of materials, construction techniques, monitoring programs during construction and operation, environmental tradeoffs, research and development, and restoration measures which will be taken routinely or as the need arises.

4.1 Preventative measures and monitoring. Discuss provisions for pre- and post-operation monitoring of environmental impacts of the proposed undertaking. Include programs for monitoring changes in oper-

ational phases. Describe proposed measures for detecting and modifying noise levels, monitoring air and water quality, inventorying key species in food chains, and detecting induced changes in the weather. Describe measures, including equipment, training procedures, and vector² control measures, that can reasonably be taken for protecting the health and welfare of workers and the public at the undertaking site during construction, operation, and maintenance, including structures to exclude people from hazardous areas or to protect them during changes in operations; include sanitary and solid and liquid waste disposal facilities for workers and the public during construction and operation. Discuss measures that can reasonably be undertaken to minimize problems arising from malfunctions and accidents (with estimates of probability of occurrence). Identify standard procedures for protecting services and environmental values during maintenance and breakdowns. Discuss proposed and alternative construction timetables to prevent environmental impacts and plans for implementation of changes whenever necessary to reduce environmental impact.

4.2 Environmental restoration and enhancement. Discuss all measures that can reasonably be taken to restore and enhance the environment including measures for restoration, replacement, or protection of flora and fauna and of scenic, historic, archeological, and other natural values; describe measures to facilitate animal migrations and movements and to protect their life processes; describe programs for landscaping and horticultural practices; discuss programs to assist displaced families and businesses in their relocations; and describe provisions for public access to, and use of, lands and waters in the area of the proposed action.

5. Unavoidable adverse environmental effects. Discuss all adverse environmental effects which cannot be avoided by measures outlined in section 4 above.

5.1 Human resources impacted. Indicate those human resources and values which will sustain unavoidable adverse effects and discuss whether the impact will be transitory, a one-time but lasting effect, repetitive, continual, incremental, or synergistic to other effects and whether secondary adverse consequences will follow. Focus on the displacement of people by the proposed undertaking and its local, economic, and aesthetic implications; on human health and safety; and on aesthetic and cultural values and standards of living which will be sacrificed or endangered. Where possible, provide quantitative evaluations of these effects.

5.2 Uses preempted and unavoidable changes. Discuss all unavoidable environmental impacts on the land and its present use caused by inundation, clearing, excavation and fills; losses to wildlife habitat, forests, unique ecosystems, minerals, and farmlands; effects on fish habitat and migrations; on relocation of populations and man-made facilities, such as homes, roads, highways, and trails; on historical, recreational, archeological, and aesthetic values or scenic areas.

5.3 Loss of environmental quality. Discuss any unavoidable adverse changes in the air, including dust and emissions to the air, and noise levels; impacts resulting from

²Carriers (e.g., ticks, mosquitoes, and rodents) of diseases.

solid wastes and their disposal; effects on the water resources of the area.

6. Relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. Compare the benefits to be derived from the immediate or short-term use of the environment, with and without the proposed undertaking, and the long-term consequences of the proposed undertaking.³ Actions which diminish the diversity of beneficial uses of the environment or preempt the options for future uses or needs require detailed analysis to assure that shortsighted decisions are not made which may commit future generations to undesirable courses of actions.

6.1 Short-term uses. Assess the local short-term uses of man's environment in terms of the proposed undertaking benefit to man, land use, alterations to the ecosystem, use of resources, and public health and safety.

6.2 Long-term productivity. Discuss any cumulative long-term effects which may be caused by the proposed undertaking in terms of land use, alterations to the ecosystem, use of resources, and public health and safety.

7. Irreversible and irretrievable commitments of resources. Discuss, and quantify when possible, any irrevocable commitments of resources which would be involved in the implementation of the proposed undertaking.

7.1 Land features and uses. Discuss any permanent changes in land features and/or land use.

7.2 Endangered species and ecosystems. Assess the possibility of eliminating any endangered species or the loss or alteration of an ecosystem.

7.3 Socioeconomic considerations. Discuss probable indirect actions or undertakings (e.g., new highway systems or wastewater treatment facilities, housing developments, etc.) made economically feasible by the implementation of the proposed undertaking that would likely be triggered and would irrevocably commit other resources. Identify the destruction of any historical, archeological, or scenic areas.

7.4 Resources lost or uses preempted. Analyze the extent to which the proposed undertaking would curtail the range of beneficial uses of the environment. Determine whether, considering presently known technology, the proposed use of resources or any resource extraction method would contaminate other associated resources or foreclose their usage.

7.5 Finite resources. Indicate the irreversible and/or irretrievable resources that would be committed as a result of the proposed undertaking, such as fossil fuels and construction materials.

8. Alternatives to the proposed undertaking. Discuss the range of alternative sites, facility designs, processes and/or operations that were considered in arriving at the proposed undertaking and the environmental impacts of each such alternative.

9. Permits and compliance with other regulations and codes.

³Duration of impacts: Short-term impacts and benefits generally are those which occur during the development and operation of an undertaking. Long-term productivity relates to an effect that remains many years (sometimes permanently), after the cause. As examples, strip mining without restoration and land inundation by reservoirs have obvious long-term effects.

9.1 Permits. Identify all necessary Federal, regional, State and local permits, licenses and certificates needed before the proposed undertaking can be completed, such as permits needed from State and local agencies for construction and waste discharges. Describe steps which have been taken to secure these permits and any additional efforts still required.

9.1.1 Authorities consulted. List all authorities consulted for obtaining permits, licenses, and certificates, including zoning approvals needed to comply with applicable statutes and regulations.

9.1.2 Dates of approval. Give dates of consultations and of any approvals received.

9.2 Compliance with health and safety regulations and codes. Identify all Federal, regional, State, and local safety and health regulations and codes which must be complied with in the construction, maintenance, and operation of the proposed undertaking. Also identify other health and safety standards and codes that will be complied with, such as underwriter codes and voluntary industry codes.

9.2.1 Authorities consulted. List all authorities and professional organizations consulted in identifying pertinent regulations and codes.

9.2.2 Procedures to be followed. Describe any specific procedures to steps that will be taken to assure compliance with each such regulation and code.

9.3 Compliance with other regulations and codes. Identify all other Federal, regional, State and local regulations and codes which must be complied with in the construction, maintenance, and operation of the proposed undertaking.

9.3.1 Authorities consulted. List all authorities and professional organizations consulted in identifying pertinent regulations and codes.

9.3.2 Procedures to be followed. Explain the specific procedures or steps that will be taken to assure compliance with each such regulation and code.

9.4 Special cases.

9.4.1 Liquefied natural gas facilities. Provide detailed design specifications for all facilities to be used for the liquefaction, transport, storage, and regasification of liquefied natural gas. Provide information on the flammability and flame resistance of all tank lining and insulation materials. Describe all construction, maintenance, and operational procedures with particular emphasis on procedures to protect public and worker safety and health. Identify and describe all pertinent safety regulations and codes and any revisions thereto including the Department of Transportation regulations issued by the Office of Pipeline Safety as amendment 192-10 (liquefied natural gas systems) to Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards" and by the U.S. Coast Guard as 33 CFR 6.14-1 (safety measures for waterfront facilities and vessels in port), 33 CFR 124.14 (notice in advance of arrival of a vessel laden with a dangerous cargo), 33 CFR Part 126 (permits for handling of dangerous cargoes within or contiguous to waterfront facilities), and 46 CFR Subchapter D (regulations governing tank vessels). Describe detailed procedures that will be used to comply with these safety regulations and codes. Identify all Federal, regional, State, and local government agencies that have responsibilities for assuring compliance with these construction, maintenance, and operation regula-

tions and codes. Describe safety reporting procedures, schedules, and recipients.

9.4.2 Ancillary facilities. Provide detailed design specifications for all ancillary facilities, owned and operated either by the applicant or other parties, which will be constructed or operated in relation to the proposed undertaking, such as processing plants and docking facilities. Describe all construction, maintenance, and operational procedures with particular emphasis on procedures to protect public and worker safety and health. Identify and describe all pertinent safety regulations and codes and describe detailed procedures that will be used to comply with these safety regulations and codes. Identify all Federal, regional, State, and local government agencies that have responsibilities for assuring compliance with these construction, maintenance, and operation regulations and codes. Describe safety reporting procedures, schedules, and recipients.

10. Source of information.

10.1 Public hearings. Describe any public hearings or meetings held, summarize the general tenor of public comments with the proportions of proponents to those in dissent, and include any public records resulting from these meetings. Include a description of the manner in which the public was informed of the time and place of the hearings. Fully discuss efforts made for seeking constructive inputs from affected people and how their concerns were accommodated.

10.2 Other sources. Identify all other sources of information utilized in the preparation of the environmental report, including:

10.2.1 Meetings with governmental and other entities. List meetings held with Federal, regional, State, and local planning, commerce, regulatory, environmental and conservation entities, the subjects discussed (e.g., recreation, fish, wildlife, aesthetics, other natural resources, and values of the area, and economic development), and any environmental conclusions reached as a result of the meetings.

10.2.2 Studies conducted. Identify the studies conducted, including those by consultants, the general nature and major findings of those studies, and the title and availability of any reports thereon.

10.2.3 Consultants. Give the names, addresses, and professional vitae of all consultants who contributed to the environmental report.

10.2.4 Bibliography. Provide a bibliography of the books, other publications, reports, documents, maps, and aerial photographs consulted for background information, including county land use and other planning reports. Indicate by some method, as by asterisks or numbers, those bibliographic references specifically cited in the environmental report.

10.3 Provide copies of supportive reports. Supply at least a single copy of all technical reports prepared in conjunction with the preparation of the environmental report, such as model, heat budget, plankton, fish, and benthic sampling studies.

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[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Chapter II]

COMPTROLLER OF THE CURRENCY

[12 CFR Chapter I]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Chapter III]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Chapter V]

[FRB Docket No. R-0139]

COMMUNITY REINVESTMENT ACT OF 1977

Regional Hearings

AGENCY: Federal Reserve Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Home Loan Bank Board.

ACTION: Notice of regional hearings.

SUMMARY: The Community Reinvestment Act of 1977 (the "CRA") requires each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. The financial supervisory agencies announced, in a notice published in the *FEDERAL REGISTER* on January 25, 1978, a joint hearing to be held in Washington on March 15 and 16, 1978, to aid the agencies in the preparation of regulations prescribed by the CRA. This document announces the dates and addresses of additional regional hearings for the same purpose.

DATES AND ADDRESSES:

Hearing: March 20, 1978, 10 a.m.: Auditorium, Federal Reserve Bank of Boston, Boston, Mass.: Federal Deposit Insurance Corporation presiding.

Hearing: March 23, 1978, 10 a.m.: American Room, Peachtree Plaza Hotel, Atlanta, Ga.: Federal Reserve System presiding.

Hearing: March 27, 1978, 10 a.m.: Conference Room C, Fifth Floor, Federal Reserve Bank of Dallas, Dallas, Tex.: Federal Deposit Insurance Corporation presiding.

Hearing: April 5 and 6, 1978, 10 a.m.: Conference Room, Fifth Floor, Federal Reserve Bank of Chicago, Chicago, Ill. Comptroller of the Currency presiding.

Hearing: April 12 and 13, 1978, 10 a.m.: Ceremonial Courtroom, Federal Building, 450 Golden Gate Avenue, San Francisco, Calif.: Federal Home Loan Bank Board presiding.

Comments: Due on or before March 8, 1978: Send to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.