

names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (“CBI”). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

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Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters’ names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked “non-confidential” with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE’s policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process or would like to request a public meeting should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at [ApplianceStandardsQuestions@ee.doe.gov](mailto:ApplianceStandardsQuestions@ee.doe.gov).

#### Signing Authority

This document of the Department of Energy was signed on February 25, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been

authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 22, 2020.

**Treena V. Garrett,**

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

[FR Doc. 2020–08851 Filed 4–30–20; 8:45 am]

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## DEPARTMENT OF ENERGY

### 10 CFR Part 1021

[DOE–HQ–2020–0017]

RIN 1990–AA49

### National Environmental Policy Act Implementing Procedures

**AGENCY:** Office of the General Counsel, Department of Energy.

**ACTION:** Notice of proposed rulemaking and request for comment.

**SUMMARY:** The U.S. Department of Energy (DOE or the Department) proposes to update its National Environmental Policy Act (NEPA) implementing procedures regarding authorizations issued under section 3 of the Natural Gas Act. These changes will improve the efficiency of the DOE decision-making process by saving time and money in the NEPA review process and eliminating unnecessary environmental documentation. DOE invites public comments on the proposed changes.

**DATES:** Comments must be received by (or, if mailed, postmarked by) June 1, 2020 to ensure consideration.

**ADDRESSES:** Documents relevant to this rulemaking are posted on the Federal eRulemaking Portal at <https://www.regulations.gov> (Docket: DOE–HQ–2020–0017). Documents posted to this docket include: This notice of proposed rulemaking; DOE’s “Technical Support Document” which provides additional information; and a “redline/strikeout” (markup) file of affected sections of the DOE NEPA regulations indicating the changes proposed in this proposed rule.

Submit comments, labeled “DOE NEPA/NG Procedures, RIN 1990–AA49,” by one of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments electronically. This

rulemaking is assigned *Docket: DOE–HQ–2020–0017*.

2. *Postal Mail:* Mail comments to Office of NEPA Policy and Compliance (GC–54), ATTN: NEPA/NG Procedures (RIN 1990–AA49), U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Because security screening may delay mail sent through the U.S. Postal Service, DOE encourages electronic submittal of comments through the Federal eRulemaking Portal.

**FOR FURTHER INFORMATION CONTACT:** For questions concerning how to comment on this proposed rule, contact Yardena Mansoor, Office of NEPA Policy and Compliance, at *DOE-NEPA-Rulemaking@hq.doe.gov* or 800–472–2756. For detailed information on submitting comments, see “How may the public comment on DOE’s proposed changes?”.

**SUPPLEMENTARY INFORMATION:** DOE is responsible for authorizing exports of domestically produced natural gas to foreign countries under section 3 of the Natural Gas Act (NGA).<sup>1</sup> Section 3(a) of the NGA requires DOE to issue an order authorizing natural gas exports unless it finds that such an order “will not be consistent with the public interest.” DOE complies with NEPA<sup>2</sup> before reaching a final decision on applications to export natural gas to countries with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas (non-FTA countries).

DOE authorization also is required for imports of natural gas under section 3(a) of the NGA. However, section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992<sup>3</sup> to require that applications to authorize the import of natural gas (as well as the export of natural gas to FTA countries) be “deemed consistent with the public interest, and . . . granted without modification or delay.” This requirement leaves DOE with no discretion in its approvals of natural gas imports, as they are deemed to be in the public interest. Accordingly, DOE proposes to remove the reference to authorizations to import natural gas from its NEPA regulations consistent with the legal principle that an agency is not required to prepare a NEPA analysis when it has no discretion in its action.

In addition, with regard to authorizations for export to non-FTA countries, DOE proposes to revise its regulations consistent with the legal

principle that potential environmental effects considered under NEPA do not include effects that the agency has no authority to prevent, because they would not have a sufficiently close causal connection to the proposed action.<sup>4</sup> Here, DOE’s proposed action is authorization of natural gas exports.

The statutory term “export” is not defined in the NGA. In adjudications under NGA section 3(a), however, DOE has construed an “export” of LNG from the United States as occurring “when the LNG is delivered to the flange of the LNG export vessel.”<sup>5</sup> To ensure that DOE’s NEPA regulations are consistent with this longstanding practice, DOE will focus exclusively on NEPA review of potential environmental impacts resulting from actions occurring at or after the point of export.<sup>6</sup>

Additionally, this proposed rulemaking is consistent with two life cycle analyses (LCAs) that DOE commissioned to calculate the life cycle greenhouse gas (GHG) emissions for LNG exported from the United States. DOE commissioned both the original LCA GHG Report, published in 2014,<sup>7</sup> and an updated LCA GHG Report, published in 2019,<sup>8</sup> to evaluate

<sup>4</sup> See *Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004); *Sierra Club v. Fed. Energy Regulatory Comm’n*, 827 F.3d 36 (D.C. Cir. 2016).

<sup>5</sup> See, e.g., *Freeport LNG Expansion L.P., et al., DOE/FE Order No. 3282–C*, FE Docket No. 10–161–LNG, Final Opinion and Order Granting Long-Term, Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal on Quintana Island, Texas, to Non-Free Trade Agreement Nations, at 23 (Nov. 14, 2014) (“Export occurs when the LNG is delivered to the flange of the LNG export vessel.”) (citing *Dow Chem. Co., DOE/FE Order No. 2859*, FE Docket No. 10–57–LNG, Order Granting Blanket Authorization to Export Liquefied Natural Gas, at 1 (Oct. 5, 2010)).

<sup>6</sup> This scope of analysis is also consistent with decisions in recent years of the U.S. Court of Appeal for the District of Columbia Circuit (D.C. Circuit), which recognized that DOE “maintains exclusive jurisdiction over the export of natural gas as a commodity.” *Sierra Club v. Fed. Energy Regulatory Comm’n*, 827 F.3d 36, 40 (2016). Specifically, the D.C. Circuit observed that the Federal Energy Regulatory Commission (FERC) has an obligation to comply with the NGA and NEPA with respect to its decisions to authorize the construction of LNG terminals, whereas DOE has an independent obligation “to consider the environmental impacts of its export authorization decision under NEPA and determine whether it satisfied the Natural Gas Act’s ‘public interest’ test.” *Sierra Club v. U.S. Dep’t of Energy*, 867 F.3d 189, 192 (D.C. Cir. 2017).

<sup>7</sup> See U.S. Dep’t of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States, 79 FR 32260 (June 4, 2014) (LCA GHG Report).

<sup>8</sup> See U.S. Dep’t of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States; Notice of Availability of Report Entitled Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update and Request for Comments, 84 FR 49278 (Sept. 19, 2019) (LCA GHG Update).

environmental aspects of the LNG export chain under NGA section 3(a). Both Reports concluded that the use of U.S. LNG exports for power production in European and Asian markets will not increase global GHG emissions from a life cycle perspective, when compared to regional coal extraction and consumption for power production.<sup>9</sup> DOE has used these Reports to support its public interest determination regarding a proposed export. These Reports are not, however, part of DOE’s NEPA reviews because the regasification and ultimate burning of LNG in foreign countries are beyond the scope of DOE’s NEPA review.

### What parts of DOE’s current NEPA regulations does DOE propose to amend?

DOE’s current NEPA regulations list classes of actions for each level of NEPA review.<sup>10</sup> Five of these classes regard applications to import or export natural gas to a non-FTA country. There are two categorical exclusions: B5.7 (Import or export of natural gas, with operational changes) and B5.8 (Import or export of natural gas, with new cogeneration powerplant); one class of actions normally requiring an EA: C13 (Import or export natural gas involving minor new construction); and two classes of action normally requiring an EIS: D8 (Import or export of natural gas involving major new facilities) and D9 (Import or export of natural gas involving major operational change).<sup>11</sup>

### What changes does DOE propose?

DOE proposes to revise the classes of action in its NEPA regulations regarding authorizations under section 3 of the NGA consistent with the legal principle enunciated in *Public Citizen* and *Sierra Club*<sup>12</sup> that potential environmental effects considered under NEPA do not include effects that the agency has no authority to prevent. DOE’s authority under Section 3 of the NGA is limited to authorization of exports of natural gas. Therefore, DOE need not review potential environmental impacts associated with the construction or

<sup>9</sup> See, e.g., U.S. Dep’t of Energy, Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments, 85 FR 72, 78, 85 (Jan. 2, 2020).

<sup>10</sup> There are three levels of NEPA review established in the Council on Environmental Quality’s (CEQ’s) NEPA implementing regulations (40 CFR parts 1500–1508)—categorical exclusion, environmental assessment (EA), and environmental impact statement (EIS)—each involving different levels of information and analysis.

<sup>11</sup> See 10 CFR 1021.410 and subpart D.

<sup>12</sup> See *Dep’t of Transp. v. Pub. Citizen*, 541 U.S. 752 (2004); *Sierra Club v. Fed. Energy Regulatory Comm’n*, 827 F.3d 36 (D.C. Cir. 2016).

<sup>1</sup> 15 U.S.C. 717b.

<sup>2</sup> 42 U.S.C. 4321 *et seq.*

<sup>3</sup> EPACT 1992, Public Law 102–486.

operation of natural gas export facilities because DOE lacks authority to approve the construction or operation of those facilities. DOE's review is properly focused on potential environmental impacts resulting from the exercise of its NGA section 3 authority. These impacts occur at or after the point of export.

Accordingly, DOE proposes to revise the scope of categorical exclusion B5.7 by deleting the reference to operation of natural gas facilities. The revised B5.7 would include a new statement that the scope includes any "associated transportation of natural gas by marine vessel," which is the only source of potential environmental impacts associated with DOE's decision regarding authorizations under section 3 of the NGA. Based on prior NEPA reviews and technical reports, DOE has determined that transport of natural gas by marine vessel normally does not pose the potential for significant environmental impacts. (See Technical Support Document.)

DOE also proposes to remove the reference to import authorizations from B5.7 because section 3(c) of the Natural Gas Act directs that authorization requests to import natural gas "shall be granted without modification or delay." DOE is not required to prepare NEPA analysis when it has no discretion in its action.<sup>13</sup>

Finally, DOE proposes to remove and reserve categorical exclusion B5.8 and classes of action C13, D8, and D9. These would no longer be needed with the proposed changes to categorical exclusion B5.7.

#### How does DOE make a categorical exclusion determination?

The proposed revision to B5.7 would be subject to the same conditions as other categorical exclusions listed in appendix B to subpart D of DOE's NEPA regulations. Before a proposed action such as an export authorization may be categorically excluded, DOE must determine in accordance with 10 CFR 1021.410(b) that: (1) The proposed action fits within a categorical exclusion listed in appendix A or B to subpart D; (2) there are no extraordinary circumstances related to the proposal that may affect the significance of the environmental impacts of the proposed action; and (3) the proposal has not been segmented to meet the definition of a categorical exclusion, there are no connected or related actions with cumulatively significant impacts and the proposed action is not precluded as an impermissible interim action.<sup>14</sup>

In addition, to fit within a class of actions in appendix B (including B5.7), a proposed action must satisfy certain conditions known as "integral elements" (appendix B, paragraphs (1) through (5)). These conditions ensure that a proposed action would not have the potential to cause significant environmental impacts—for example, due to a threatened violation of applicable environmental, safety, and health requirements, or by disturbing hazardous substances such that there would be uncontrolled or unpermitted releases.

#### How may the public comment on DOE's proposed changes?

DOE invites interested persons to participate in this proposed rulemaking by submitting comments on the proposed rule and on the supporting information for proposed changes set forth in the preamble and the Technical Support Document, including on industry experience with marine transport of natural gas. As appropriate, comments should refer to the specific section of the proposed rule to which the comment applies, identify a comment as a general comment, or identify a comment as a new proposal.

DOE will consider all timely comments received in response to this notice of proposed rulemaking.

Comments may be submitted by one of the methods in the **ADDRESSES** section of this proposed rule. Comments received will be included in the administrative record and will be made available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information specifically identified as Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider to be CBI or otherwise protected should be submitted by mail, not through <https://www.regulations.gov>. If you submit information that you believe to be exempt by law from public disclosure, you should mail one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been redacted. Please include written justification as to why the redacted information is exempt from disclosure. DOE is responsible for the final determination with regard to disclosure or nondisclosure of the information and for treating it accordingly under the DOE Freedom of Information Act regulations (10 CFR 1004.11).

The Federal eRulemaking Portal is an "anonymous access" system, which

means DOE will not know your contact information unless you provide it. If you choose not to provide contact information and DOE cannot read your comment due to technical difficulties, DOE may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses.

#### Procedural Requirements

##### A. Review Under Executive Order 12866

This proposed rule has been determined not to be a significant regulatory action under E.O. 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

##### B. Review Under National Environmental Policy Act

The requirements for Federal agencies to establish NEPA implementing procedures are set forth in the CEQ regulations at 40 CFR 1505.1 and 40 CFR 1507.3. DOE NEPA procedures assist the Department in the fulfillment of its responsibilities under NEPA but are not final determinations of the level of NEPA analysis required for particular actions. The CEQ regulations do not require agencies to prepare a NEPA analysis before establishing or updating agency procedures for implementing NEPA. DOE has determined that the proposed revision would not have a significant effect on the environment because it would not authorize any activity or commit resources to a project that may affect the environment. Therefore, DOE does not intend to conduct a NEPA analysis of these proposed regulations.

##### C. Review Under Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process (68 FR 7990).

<sup>13</sup> 15 U.S.C. 717b(c).

<sup>14</sup> 40 CFR 1506.1 and 10 CFR 1021.211.

DOE has made its procedures and policies available on the Office of the General Counsel's website: <https://energy.gov/gc>.

DOE has reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. The proposed rule would not directly regulate small entities. The proposed revisions to 10 CFR part 1021 would revise the scope of categorical exclusion B5.7 by removing reference to operation of natural gas facilities and adding "transportation of natural gas by marine vessel." The proposed revisions would also focus on the export of natural gas because imports are deemed by law to be in the public interest. The proposal is intended to appropriately focus DOE's NEPA analysis for natural gas export applications, and does not impose any new requirements on small entities. DOE anticipates that the rule could reduce the burden on applicants for conducting environmental reviews.

On the basis of the foregoing, DOE certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this proposed rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

#### *D. Review Under Paperwork Reduction Act*

This proposed rulemaking will impose no new information or record-keeping requirements. Accordingly, OMB clearance is not required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### *E. Review Under Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires Federal agencies to examine closely the impacts of regulatory actions on state, local, and tribal governments. Subsection 101(5) of title I of that law defines a Federal intergovernmental mandate to include any regulation that would impose upon state, local, or tribal governments an enforceable duty, except a condition of Federal assistance or a duty arising from participating in a voluntary Federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on state, local, and tribal governments, in the aggregate, or to the private sector, other than to the extent

such actions merely incorporate requirements specifically set forth in a statute. Section 202 of that title requires a Federal agency to perform a detailed assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to state, local, or tribal governments, or to the private sector, of \$100 million or more in any one year (adjusted annually for inflation) (2 U.S.C. 1532(a) and (b)). Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of state, local, and tribal governments (2 U.S.C. 1534).

The proposed rule would amend DOE's existing regulations governing compliance with NEPA to update DOE's regulations consistent with controlling legal principle. The proposed rule would not result in the expenditure by state, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

#### *F. Review Under Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105-277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. The proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

#### *G. Review Under Executive Order 13132*

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

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

#### *H. Review Under Executive Order 12988*

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the regulation's preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of E.O. 12988.

#### *I. Review Under Treasury and General Government Appropriations Act, 2001*

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB.

OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

#### *J. Review Under Executive Order 13211*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) Is a significant regulatory action under E.O. 12866, or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy, and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

#### K. Review Under Executive Order 12630

DOE has determined pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), that this proposed rule would not result in any takings that might require compensation under the Fifth Amendment to the United States Constitution.

#### L. Review Under Executive Orders 13771 and 13777

On January 30, 2017, the President issued E.O. 13771, “Reducing Regulation and Controlling Regulatory Costs.” E.O. 13771 states that the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. E.O. 13771 states that it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.

Additionally, on February 24, 2017, the President issued E.O. 13777, “Enforcing the Regulatory Reform Agenda.” E.O. 13777 requires the head of each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force

at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force must attempt to identify regulations that:

- (i) Eliminate jobs, or inhibit job creation;
- (ii) Are outdated, unnecessary, or ineffective;
- (iii) Impose costs that exceed benefits;
- (iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- (v) Are inconsistent with the requirements of Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or
- (vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

DOE initially concludes that this rulemaking is consistent with the directives set forth in these Executive Orders. This proposed rule would update and improve efficiency in DOE’s implementation of NEPA by appropriately focusing DOE’s NEPA analysis for natural gas export applications and eliminating certain requirements of its existing regulations that are unnecessary.

#### Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

#### List of Subjects in 10 CFR Part 1021

Environmental impact statements.

#### Signing Authority

This document of the Department of Energy was signed on April 16, 2020, by William S. Cooper III, General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 17, 2020.

**Treena V. Garrett,**

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

For the reasons stated in the preamble, DOE is proposing to amend part 1021 of Chapter X of Title 10 of the Code of Federal Regulations as set forth below:

#### PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

- 1. The authority citation for part 1021 continues to read as follows:

**Authority:** 42 U.S.C. 7101 *et seq.*; 42 U.S.C. 4321 *et seq.*; 50 U.S.C. 2401 *et seq.*

- 2. Appendix B to subpart D of part 1021 is amended by:
  - a. Revising section B5.7; and
  - b. Removing and reserving section B5.8.

The revision reads as follows:

#### APPENDIX B TO SUBPART D OF PART 1021—CATEGORICAL EXCLUSIONS APPLICABLE TO SPECIFIC AGENCY ACTIONS

\* \* \* \* \*  
B5. \* \* \*  
\* \* \* \* \*

*B5.7 Export of natural gas and associated transportation by marine vessel*

Approvals or disapprovals of new authorizations or amendments of existing authorizations to export natural gas under section 3 of the Natural Gas Act and any associated transportation of natural gas by marine vessel.

B5.8 [Removed and Reserved].

\* \* \* \* \*

#### APPENDIX C TO SUBPART D OF PART 1021—CLASSES OF ACTIONS THAT NORMALLY REQUIRE EAs BUT NOT NECESSARILY EISs

##### C13 [Removed and Reserved]

- 3. Remove and reserve section C13.

#### APPENDIX D TO SUBPART D OF PART 1021—CLASSES OF ACTIONS THAT NORMALLY REQUIRE EISs

##### D8 and D9 [Removed and Reserved]

- 4. Remove and reserve sections D8 and D9.

[FR Doc. 2020–08511 Filed 4–30–20; 8:45 am]

**BILLING CODE 6450–01–P**