

### Subpart C—Implementing Procedures

#### § 1021.300 General requirements.

(a) DOE shall determine, under the procedures in the CEQ Regulations and this part, whether any DOE proposal:

- (1) Requires preparation of an EIS;
- (2) Requires preparation of an EA; or
- (3) Is categorically excluded from preparation of either an EIS or an EA.

DOE shall prepare any pertinent documents as required by NEPA, the CEQ Regulations, or this part.

(b) Notwithstanding any other provision of these regulations, DOE may prepare a NEPA document for any DOE action at any time in order to further the purposes of NEPA. This may be done to analyze the consequences of ongoing activities, support DOE planning, assess the need for mitigation, fully disclose the potential environmental consequences of DOE actions, or for any other reason. Documents prepared under this paragraph shall be prepared in the same manner as DOE documents prepared under paragraph (a) of this section.

#### § 1021.301 Agency review and public participation.

(a) DOE shall make its NEPA documents available to other Federal agencies, states, local governments, American Indian tribes, interested groups, and the general public, in accordance with 40 CFR 1506.6, except as provided in § 1021.340 of this part.

(b) Wherever feasible, DOE NEPA documents shall explain technical, scientific, or military terms or measurements using terms familiar to the general public, in accordance with 40 CFR 1502.8.

(c) DOE shall notify the host state and host tribe of a DOE determination to prepare an EA or EIS for a DOE proposal, and may notify any other state or American Indian tribe that, in DOE's judgment, may be affected by the proposal.

(d) DOE shall provide the host state and host tribe with an opportunity to review and comment on any DOE EA prior to DOE's approval of the EA. DOE may also provide any other state or American Indian tribe with the same

opportunity if, in DOE's judgment, the state or tribe may be affected by the proposed action. At DOE's discretion, this review period shall be from 14 to 30 days. DOE shall consider all comments received from a state or tribe during the review period before approving or modifying the EA, as appropriate. If all states and tribes afforded this opportunity for preapproval review waive such opportunity, or provide a response before the end of the comment period, DOE may proceed to approve or take other appropriate action on the EA before the end of the review period.

(e) Paragraphs (c) and (d) of this section shall not apply to power marketing actions, such as rate-setting, in which a state or American Indian tribe is a customer, or to any other circumstances where DOE determines that such advance information could create a conflict of interest.

#### § 1021.310 Environmental impact statements.

DOE shall prepare and circulate EISs and related RODs in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart. DOE shall include in draft and final EISs a disclosure statement executed by any contractor (or subcontractor) under contract with DOE to prepare the EIS document, in accordance with 40 CFR 1506.5(c).

[61 FR 36239, July 9, 1996]

#### § 1021.311 Notice of intent and scoping.

(a) DOE shall publish an NOI in the FEDERAL REGISTER in accordance with 40 CFR 1501.7 and containing the elements specified in 40 CFR 1508.22 as soon as practicable after a decision is made to prepare an EIS. However, if there will be a lengthy period of time between its decision to prepare an EIS and the time of actual preparation, DOE may defer publication of the NOI until a reasonable time before preparing the EIS, provided that DOE allows a reasonable opportunity for interested parties to participate in the EIS process. Through the NOI, DOE shall invite comments and suggestions on the scope of the EIS. DOE shall disseminate the NOI in accordance with 40 CFR 1506.6.