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(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.

(b) If there will be a lengthy delay between the time DOE has decided to prepare an EIS and the beginning of the public scoping process, DOE may publish an Advance NOI in the FEDERAL REGISTER to provide an early opportunity to inform interested parties of the pending EIS or to solicit early public comments. This Advance NOI does

not serve as a substitute for the NOI provided for in paragraph (a) of this section.

(c) Publication of the NOI in the FEDERAL REGISTER shall begin the public scoping process. The public scoping process for a DOE EIS shall allow a minimum of 30 days for the receipt of public comments.

(d) DOE shall hold at least one public scoping meeting as part of the public scoping process for a DOE EIS. DOE shall announce the location, date, and time of public scoping meetings in the NOI or by other appropriate means, such as additional notices in the FEDERAL REGISTER, news releases to the local media, or letters to affected parties. Public scoping meetings shall not be held until at least 15 days after public notification. Should DOE change the location, date, or time of a public scoping meeting, or schedule additional public scoping meetings, DOE shall publicize these changes in the FEDERAL REGISTER or in other ways as appropriate.

(e) In determining the scope of the EIS, DOE shall consider all comments received during the announced comment period held as part of the public scoping process. DOE may also consider comments received after the close of the announced comment period.

(f) A public scoping process is optional for DOE supplemental EISs (40 CFR 1502.9(c)(4)). If DOE initiates a public scoping process for a supplemental EIS, the provisions of paragraphs (a) through (e) of this section shall apply.

[57 FR 15144, Apr. 24, 1992, as amended at 61 FR 36239, July 9, 1996; 76 FR 63787, Oct. 13, 2011]

§ 1021.312 [Reserved]

§ 1021.313 Public review of environmental impact statements.

(a) The public review and comment period on a DOE draft EIS shall be no less than 45 days (40 CFR 1506.10(c)). The public comment period begins when EPA publishes a Notice of Availability of the document in the FEDERAL REGISTER.

(b) DOE shall hold at least one public hearing on DOE draft EISs. Such public hearings shall be announced at least 15 days in advance. The announcement shall identify the subject of the draft EIS and include the location, date, and time of the public hearings.

(c) DOE shall prepare a final EIS following the public comment period and hearings on the draft EIS. The final EIS shall respond to oral and written comments received during public review of the draft EIS, as provided at 40 CFR 1503.4. In addition to the requirements at 40 CFR 1502.9(b), a DOE final EIS may include any Statement of Findings required by 10 CFR part 1022, ''Compliance with Floodplain and Wetland Environmental Review Requirements,'' or a Statement of Findings may be issued separately.

(d) DOE shall use appropriate means to publicize the availability of draft and final EISs and the time and place for public hearings on a draft EIS. The methods chosen should focus on reaching persons who may be interested in or affected by the proposal and may include the methods listed in 40 CFR 1506.6(b)(3).

[57 FR 15144, Apr. 24, 1992, as amended at 68 FR 51432, Aug. 27, 2003]

§ 1021.314 Supplemental environmental impact statements.

(a) DOE shall prepare a supplemental EIS if there are substantial changes to the proposal or significant new circumstances or information relevant to environmental concerns, as discussed in 40 CFR 1502.9(c)(1).

(b) DOE may supplement a draft EIS or final EIS at any time, to further the purposes of NEPA, in accordance with 40 CFR 1502.9(c)(2).

(c) When it is unclear whether or not an EIS supplement is required, DOE shall prepare a Supplement Analysis.

(1) The Supplement Analysis shall discuss the circumstances that are pertinent to deciding whether to prepare a supplemental EIS, pursuant to 40 CFR 1502.9(c).

(2) The Supplement Analysis shall contain sufficient information for DOE to determine whether:

(i) An existing EIS should be supplemented;

(ii) A new EIS should be prepared; or

(iii) No further NEPA documentation is required.