

## § 372.6

(iii) Permitting for confined field releases of genetically engineered organisms and products; and

(iv) Permitting of:

(A) Importation of nonindigenous species into containment facilities,

(B) Interstate movement of nonindigenous species between containment facilities, or

(C) Releases into a State's environment of pure cultures of organisms that are either native or are established introductions.

(4) [Reserved]

(5) *Minor renovation, improvement, and maintenance of facilities.* Examples are:

(i) Renovation of existing laboratories and other facilities.

(ii) Functional replacement of parts and equipment.

(iii) Minor additions to existing facilities.

(iv) Minor excavations of land and repairs to properties.

(d) *Exceptions for categorically excluded actions.* Whenever the decision-maker determines that a categorically excluded action may have the potential to affect "significantly" the quality of the "human environment," as those terms are defined at 40 CFR 1508.27 and 1508.14, respectively, an environmental assessment or an environmental impact statement will be prepared. For example:

(1) When any routine measure, the incremental impact of which, when added to other past, present, and reasonably foreseeable future actions (regardless of what agency or person undertakes such actions), has the potential for significant environmental impact;

(2) When a previously licensed or approved biologic has been subsequently shown to be unsafe, or will be used at substantially higher dosage levels or for substantially different applications or circumstances than in the use for which the product was previously approved; or

(3) When a confined field release of genetically engineered organisms or products involves new species or organisms or novel modifications that raise new issues.

[60 FR 6002, Feb. 1, 1995; 60 FR 13212, Mar. 10, 1995; 83 FR 24010, May 24, 2018; 85 FR 29838, May 18, 2020]

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### § 372.6 Early planning.

Prospective applicants are encouraged to contact APHIS program officials to determine what types of environmental analyses or documentation, if any, need to be prepared.

[83 FR 24011, May 24, 2018]

### § 372.7 Planning and decision points and public involvement.

(a) *Major planning and decisions points.* The NEPA process will be fully coordinated with APHIS planning in cooperation with program personnel. Specific decision points or milestones will be identified and communicated to the public and others in a notice of intent and in the context of the public scoping process.

(b) *Public involvement.* There will be an early and open process for determining the scope of issues to be addressed in the environmental impact statement process.

(1) A notice of intent to prepare an environmental impact statement will be published in the FEDERAL REGISTER as soon as it is determined that a proposed major Federal action has the potential to affect significantly the quality of the human environment. The notice may include a preliminary scope of environmental study. All public and other involvement in APHIS' environmental impact statement process, including the scoping process, commenting on draft documents, and participation in the preparation of any supplemental documents, will be pursuant to CEQ's implementing regulations.

(2) Opportunities for public involvement in the environmental assessment process will be announced in the same fashion as the availability of environmental assessments and findings of no significant impact.

(3) Notification of the availability of environmental assessments and findings of no significant impact for proposed activities will be published in the FEDERAL REGISTER, unless it is determined that the effects of the action are primarily of regional or local concern. Where the effects of the action are primarily of regional or local concern, notice will normally be provided through

publication in a local or area newspaper of general circulation and/or the procedures implementing Executive Order 12372, “Intergovernmental Review of Federal Programs.”

(4) All environmental documents and comments received will be made available to the public via *Regulations.gov*.

[60 FR 6002, Feb. 1, 1995, Redesignated and amended at 83 FR 24011, May 24, 2018]

#### **§ 372.8 Processing and use of environmental documents.**

(a) Environmental assessments will be forwarded immediately upon completion to the decisionmaker for a determination of whether the proposed action may have significant effects on the quality of the human environment, and for the execution, as appropriate, of a finding of no significant impact or a notice of intent to prepare an environmental impact statement. This determination is based on information provided in the NEPA document and available in the record.

(1) The availability of environmental assessments will be announced by publishing a notice consistent with the notification provisions of § 372.7.

(2) Comments, if any, will be transmitted, together with any analyses and recommendations, to the APHIS decisionmaker who may then take appropriate action.

(3) Changes to environmental assessments and findings of no significant impact that are prompted by comments, new information, or any other source, will normally be announced in the same manner as the notice of availability prior to implementing the proposed action or any alternative. APHIS will mail notice upon request.

(b) Environmental impact statements will be processed from inception (publication of the notice of intent) to completion (publication of a final environmental impact statement or a supplement) according to the Council on Environmental Quality implementing regulations.

(c) For rulemaking or adjudicatory proceedings, relevant environmental documents, comments, and responses will be a part of the administrative record.

(d) For all APHIS activity that is subject to the NEPA process, relevant

environmental documents, comments, and responses will accompany proposals through the review process.

(e) The APHIS decisionmaker will consider the alternatives discussed in environmental documents in reaching a determination on the merits of proposed actions.

(f) APHIS will implement mitigation and other conditions established in environmental documentation and committed to as part of the decision-making process.

[60 FR 6002, Feb. 1, 1995, Redesignated and amended at 83 FR 24011, May 24, 2018]

#### **§ 372.9 Supplementing environmental impact statements.**

Once a decision to supplement an environmental impact statement is made, a notice of intent will be published. The supplemental document will then be processed in the same fashion (exclusive of scoping) as a draft and a final statement (unless alternative procedures are approved by CEQ) and will become part of the record.

[60 FR 6002, Feb. 1, 1995, Redesignated and amended at 83 FR 24011, May 24, 2018]

#### **§ 372.10 Process for rapid response to emergencies.**

When it is determined (by the Administrator or the delegated Agency official responsible for environmental review) that an emergency exists that requires immediate action before preparing and completing the usual NEPA review, then the provisions of this section apply.

(a) The Administrator or the delegated Agency official responsible for environmental review may take actions that are necessary to control the immediate impacts of the emergency and that are urgently needed to prevent imminent damage to public health or safety, or prevent threats to valuable resources. When taking such actions, the Administrator or the delegated Agency official responsible for environmental review will consider the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practicable.

(b) If a proposed emergency action is normally analyzed in an environmental assessment as described in § 372.5 and