

**DEPARTMENT OF ENERGY****Compliance With the National Environmental Policy Act (NEPA); Amendments to the DOE NEPA Guidelines****AGENCY:** Energy Department.**ACTION:** Amendments to Guidelines for Compliance with the National Environmental Policy Act.

**SUMMARY:** The Department is amending its guidelines for compliance with the National Environmental Policy Act (NEPA) by making additions and deletions to the guidelines' included list of classes of agency actions which normally do or do not require environmental assessments or environmental impact statements.

**EFFECTIVE DATE:** February 23, 1982.**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****A. Background**

On March 28, 1980 (45 FR 20694), the Department of Energy published in the *Federal Register* final guidelines for implementing the procedural provisions of NEPA as required by the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508). The guidelines are applicable to all organizational units of the Department of Energy, except the Federal Energy Regulatory Commission which is not subject to the supervision or direction of the other parts of the Department.

Section D of the Department's NEPA guidelines identifies typical classes of Department actions: Which normally do not require either an environmental assessment or an environmental impact statement; which normally require an environmental assessment but not necessarily an environmental impact statement; and which normally require an environmental impact statement. These classes of actions were identified pursuant to 40 CFR 1507.3(b)(2).

The Department's NEPA guidelines state that the Department of Energy may

add to or remove actions from the categories in Section D based on experience gained during the implementation of the CEQ regulations and the guidelines. Pursuant to the guidelines, substantive revisions are to be published in the *Federal Register* and adopted only after opportunity for public review.

**B. Adoption of Amendments Proposed on August 11, 1980 (45 FR 53199)**

On August 11, 1980 (45 FR 53199), the Department of Energy proposed five (5) classes of exemption actions under Title II and Title III of the Powerplant and Industrial Fuel Use Act of 1978 for categorical exclusion status, i.e., actions which require neither an environmental assessment nor an environmental impact statement. These actions involve the grant or denial of a permanent exemption for: The use of certain fuel mixtures containing natural gas or petroleum; new peakload powerplants; limited operation for emergency purposes only; purposes of meeting schedules equipment outages; and limited use due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum.

A 30-day period was established for public comment on the categorical exclusions. No comments were received during the public comment period. Accordingly, the Department hereby adopts the categorical exclusions as proposed.

**C. Adoption of Amendments Proposed on July 16, 1981 (46 FR 36884)**

On July 16, 1981 (46 FR 36884), the Department of Energy proposed the addition of eleven (11) typical classes of action and the modification of three (3) existing typical classes of action.

Typical classes of action proposed for categorical exclusion, i.e., actions which require neither an environmental impact statement nor an environmental assessment included: General plant projects located within previously developed areas and not part of a project that is or may be the subject of an EA or EIS; installation of meteorological towers and associated activities to assess potential wind energy resources; emergency repair of transmission lines; additions or modifications to transmission facilities; grant or denial of requests for multiple-use of DOE transmission line rights-of-way; execution of contracts for short-term or seasonal allocation of excess power; and the renewal of existing power contracts in kind.

The following typical classes of action were proposed for addition as actions

which normally require environmental assessments but not necessarily environmental impact statements: Construction and operation of wind resource, low-head hydro, and solar energy pilot projects; allocation of power resources in a manner differing from existing contractual arrangements; implementation of a systemwide erosion control program; and the demonstration or implementation of intermediate-depth burial of low-level waste at DOE sites.

Typical classes of actions proposed for modification included: DOE actions which enable or result in engineering development activities, i.e., detailed design, development, fabrication, and test of energy system prototypes (**Note.**—Changed existing class of action normally requiring an environmental assessment but not necessarily an environmental impact statement by adding the word "fabrication."); DOE actions which are expected to result in the construction and operation of a large scale project (**Note.**—Modified an existing class of action normally requiring an environmental impact statement by substituting "large scale project" for "full-scale energy system project."); and DOE actions resulting in the site selection, construction, or operation of major treatment, storage and/or disposal facilities for transuranic and high level nuclear waste and/or spent nuclear fuel such as spent fuel storage facilities and geologic repositories (**Note.**—Clarified an existing class of action normally requiring an environmental impact statement.).

A 30-day period was established for public comment on these typical classes of action. No comments were received during the public comment period. Accordingly, the Department hereby adopts the typical classes as proposed.

**D. Amendments Proposed on December 17, 1980 (45 FR 82987)**

On December 17, 1980 (45 FR 82987), the Department of Energy proposed that "the grant of entitlements for petroleum substitutes where the facility using the petroleum substitute is existing and operating, and the receipt of entitlements will not cause an increase in size, product mix, or emission" be added to Section D as a categorical exclusion.

Executive Order 12287 (46 FR 9909), exempted all crude oil and refined petroleum products from the price and allocation regulations adopted pursuant to the Emergency Petroleum Allocation Act of 1973, as amended (Pub. L. 93-159), including those regulations concerning entitlements for petroleum substitutes.

Therefore, the Department of Energy withdraws the previously proposed amendment to Section D for the grant of entitlements.

**E. Other Actions**

Activities under the Emergency Petroleum Allocation Act such as those associated with the Propane Allocation Program and the Synthetic Natural Gas Feedstock Allocation Program no longer represent typical classes of action for the Department. Therefore, the Department is deleting from Section D the following classes of actions: Assignments and allocations of propane to retail and wholesale outlets for commercial and residential use; assignments and allocations of propane to gas utilities for peak shaving or Btu enrichment which do not involve new construction or a substantial change in operation and where DOE has determined that such actions will not impact the supplies available for

competing uses; assignments and allocations of propane to gas utilities for peak shaving, Btu enrichment or supplemental gas supplies involving new construction or a substantial change in operations or potential impact on competing users of propane; new assignments and allocations of propane feedstock to enable operation of or increases in operation of petrochemical plants; changes in regulatory status such as the decontrol of propane; approval/disapproval of an application for supplier assignment and feedstock allocation which involves continuation of SNG production at historical levels, and where DOE has determined that the requested assignment will not adversely impact competing users due to the projected availability of supply; issuance of an Order which reduces SNG production below historical levels and where the probability of fuel switching or other impacts caused by the reduction is unknown; issuance of

an Order for an existing plant which increases the SNG production above historical levels; approval/disapproval of an application for supplier assignment and feedstock allocation which involves the construction of a new SNG plant or a major modification at an existing plant; and issuance of an Order which significantly reduces the feedstock allocation to an existing plant in cases where the gas supply/demand outlook indicates significant fuel switching or economic hardship may occur as a result of the curtailment of SNG feedstock.

Section D of the Department's NEPA guidelines is being reprinted in its entirety. Typical classes of actions added or modified since March 28, 1980, are so noted. Issued in Washington, D.C., February 1, 1982.

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**SECTION D.—TYPICAL CLASSES OF ACTION**

| Normally do not require either EA's or EIS's  | Normally require EA's but not necessarily EIS's  | Normally require EIS's   |
|---|--|--|
| Classes of Actions Generally Applicable to All of DOE   |  |  |
| Administrative procurements (e.g., general supplies).....   | DOE actions which enable or result in engineering development activities, i.e., detailed design, development, fabrication, and test of energy system prototypes. NOTE.—Modifies existing class of action by adding the word "fabrication". | DOE actions which are expected to result in the construction and operation of a large scale project. (NOTE.—Modifies existing class of action by substituting "large scale project" for "full-scale energy system project.") |
| Contracts for personal services.....  | DOE actions which provide grants to state and local governments for energy conservation programs.  | DOE actions which cause energy conservation on a substantial scale.  |
| Personnel actions.....  |  |  |
| Reports or recommendations on legislation or proposed rule-making which was not initiated by DOE.   |  |  |
| Compliance actions, including investigations, conferences, hearings, notices of probable violations and remedial orders. Interpretations and rulings, or modification or rescissions thereof.   |  |  |
| Promulgation of rules and regulations which are clarifying in nature, or which do not substantially change the effect of the regulations being amended.   |  |  |
| Actions with respect to the planning and implementation of emergency measures pursuant to the International Energy Program.   |  |  |
| Information gathering, analysis, and dissemination.....   |  |  |
| Actions in the nature of conceptual design or feasibility studies.  |  |  |
| Actions involving routine maintenance of DOE-owned or operated facilities.  |  |  |
| Actions in the nature of analytic energy supply/demand studies which do not result in a DOE report or recommendation on legislation or other DOE proposals.   |  |  |
| Adjustments, exceptions, exemptions, appeals, stays or modifications or rescissions of orders issued by the Office of Hearings and Appeals.   |  |  |
| Rate increases for products or services marketed by DOE, and approval of rate increases for non-DOE entities, which do not exceed the rate of inflation in the period since the last rate increase.   | Rate increases for products or services marketed by DOE, and approval of rate increases for non-DOE entities which exceed the rate of inflation in the period since the last increase.   |  |
| Actions that are substantially the same as other actions for which the environmental effects have already been assessed in a NEPA document and determined by DOE to be clearly insignificant and where such assessment is currently valid.  |  |  |
| General Plant Projects such as road and parking area resurfacing, modifications to heating-ventilating-air conditioning systems, minor alterations of existing buildings, and other similar projects where: (1) The projects are located within previously developed areas and will not affect environmentally sensitive areas such as floodplains, wetlands, archeological sites, and critical habitats, and (2) the projects are not part of a proposed action that is or may be the subject of an EA or EIS. (NOTE.—Proposed on July 16, 1981, 46 FR 36884). |  |  |

SECTION D.—TYPICAL CLASSES OF ACTION—Continued

| Normally do not require either EA's or EIS's   | Normally require EA's but not necessarily EIS's   | Normally require EIS's   |
|--|---|--|
| <p>Installation of meteorological towers and associated activities to assess potential wind energy resources where the installation has no impacts on environmentally sensitive areas such as archeological sites, critical habitats, etc., and where the installation does not prejudice future site selection decisions for large wind turbines. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).</p>   |   |  |
| <p>Classes of Actions Applicable to Licenses to Import/Export Natural Gas Pursuant to Section 3 of the Natural Gas Act</p>   |   |  |
|  | <p>Approval/disapproval of a new license or amendment to an existing license which does not involve new construction, but which requires operational changes which may or may not be significant, such as an increase in LNG throughput, change in transportation or storage operations.</p>  | <p>Approval/disapproval of applications involving the construction of new liquid natural gas terminal, regasification or storage facilities, or a significant expansion of an existing LNG terminal, regasification or storage facility.<br/>Approval/disapproval of an application involving a significant operational change, such as a major increase in the quality of LNG imported or exported.</p> |
| <p>Classes of Action Applicable to International Activities</p>  |   |  |
| <p>Approval of DOE participation in international "umbrella" agreements for cooperation in energy R&amp;D which do not commit the U.S. to any specific projects or activities.<br/>Approval of technical exchange arrangements for information, data or personnel with other countries or international organization.<br/>Approval of technical exchange arrangements for information, data or personnel with other countries or international organization.<br/>Approval of export of small quantities of special nuclear materials or isotopic material in accordance with the Nuclear Non-Proliferation Act of 1978 and the "Procedures Established Pursuant to the Nuclear Non-Proliferation Act of 1978" (FEDERAL REGISTER, Part VII, June 9, 1978).</p>  |   |  |
| <p>Classes of Actions Applicable to Power Marketing Administrations (PMA)</p>  |   |  |
| <p>Minor additions to a substation, transformer additions, or changes in transformer assignments that do not affect the area beyond the previously developed substation area.<br/><br/>Emergency repair of transmission lines including replacement or repair of damaged equipment as well as the removal and replacement of downed transmission lines. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).</p>  | <p>Upgrading (reconstructing or reconditioning) an existing transmission line.<br/>Construction of new service facilities such as tap lines and substations.<br/>Modifications of existing facilities (e.g., substations, storage yards) where impacts extend beyond the previously developed facility area.<br/>Annual vegetation management program (system-wide) .....<br/>Construction and operation of wind resource, low-head hydro, and solar energy pilot projects. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).</p> | <p>Main Transmission System Additions—additions of new transmission lines, main grid substations and switching stations to PMA's main transmission grid.<br/>Integrating Transmission Facilities—transmission system additions for integrating new sources of generation into PMA's main grid.</p>   |
| <p>Classes of Actions Applicable to Power Marketing Administrations (PMA)</p>  |   |  |
| <p>Additions or modifications to transmission facilities which do not affect the environment beyond the previously developed facility area, including tower modifications, changing insulators, replacement of poles and crossarms, and similar actions. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).<br/>Grant or denial of requests for multiple use of DOE transmission line rights-of-way, such as grazing permits and crossing agreements including electric lines, water lines, and drainage culverts. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).<br/>Execution of contracts for the short term or seasonal allocation of excess power resources to customers who can receive these resources over existing transmission systems. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).<br/>The renewal of existing power contracts in kind. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).</p> | <p>The allocation of power resources to customers in a manner differing from existing contractual arrangements. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).<br/><br/>Implementation of an erosion control program that is system-wide. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).</p>  |  |
| <p>Classes of Actions Generally Applicable to Nuclear Waste Management Program.</p>  |   |  |
|  | <p>Exploratory and site characterization activities which by virtue of resource commitment or elapsed time for completion may foreclose reasonable site alternatives.<br/>Land acquisition activities solely for the purposes of reserving possible candidate sites and which do not prejudice future programmatic site selection decisions.<br/>The demonstration or implementation of intermediate-depth burial of low-level waste at DOE sites. (NOTE.—Proposed on July 16, 1981, 46 FR 36884).</p>                          | <p>DOE actions resulting in the site selection, construction, or operation of major treatment, storage and/or disposal facilities for transuranic and high level nuclear waste and/or spent nuclear fuel such as spent fuel storage facilities and geologic repositories. (NOTE.—Clarifies an existing class of action.)</p>   |
| <p>Classes of Action Generally Applicable to DOE Implementation of Powerplant and Industrial Fuel Use Act of 1976 (FUA)</p>  |   |  |
| <p>The grant or denial of any temporary exemption for any electric powerplant or major fuel-burning installation.</p>  | <p>D .....</p>  |  |

SECTION D.—TYPICAL CLASSES OF ACTION—Continued

| Normally do not require either EA's or EIS's  | Normally require EA's but not necessarily EIS's | Normally require EIS's |
|---|---|------------------------|
| The grant of denial of any permanent exemption of any existing electric powerplant or major fuel-burning installation, other than an exemption (1) under section 312(c), relating to cogeneration; (2) under section 312(1), relating to scheduled equipment outages; (3) under section 312(b), relating to certain State or local requirements; and (4) under section 312(g), relating to certain intermediate load powerplants. | D.....  |                        |
| The grant of denial of a permanent exemption from the Prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (Act) (Pub. L. 95-620) for any new electric powerplant or major fuel burning installation to permit the use of certain fuel mixtures containing natural gas or petroleum. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).  | D.....  |                        |
| The grant or denial of a permanent exemption from the prohibitions of Title II of the Act for any new peakload powerplant. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).  | D.....  |                        |

Classes of Action Generally Applicable to DOE Implementation of Powerplant and Industrial Fuel Use Act of 1978 (FUA)

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| The grant of denial of a permanent exemption from the prohibitions of Title II of the Act for any new electric powerplant or major fuel burning installation to permit operation for emergency purposes only. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).  | D..... |  |
| The grant or denial of a permanent exemption from the prohibitions of Titles II and III of the Act for any new or existing major fuel burning installation for purposes of meeting scheduled equipment outages not to exceed an average of 28 days per year over a three-year period. (NOTE.—Proposed on August 11, 1980, 45 FR 53199).  | D..... |  |
| The grant or denial of a permanent exemption from the prohibitions of title II of the Act for any new major fuel burning installation which, in petitioning for an exemption due to lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, certifies that it will be operated less than 600 hours per year. (NOTE.—Proposed on August 11, 1980, 45 FR 53199). | D..... |  |

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