

neither increase the incidence of floodplain and wetland assessments nor increase burdens associated with carrying out such an assessment. Therefore, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared. We received no comments on our decision not to prepare a regulatory flexibility analysis.

F. Review Under the Paperwork Reduction Act

No additional information or recordkeeping requirements are imposed by this rulemaking. The changes would actually reduce paperwork requirements by eliminating a requirement that public notices always be published in the **Federal Register** and by increasing the number of exemptions from requirements for preparing a floodplain or wetland assessment. Accordingly, no clearance by the Office of Management and Budget was required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

G. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these revisions to existing regulations falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, the revisions to 10 CFR parts 1021 and 1022 would amend DOE's policies to streamline and simplify existing procedures for environmental review of actions proposed in a floodplain or wetland under two E.O.s. The proposed regulations are covered under the categorical exclusion in paragraph A6, "Rulemakings, Procedural" (rulemakings that are strictly procedural) to Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an EIS is required.

H. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency regulation that may result in the expenditure by state, tribal, or local governments, on the aggregate, or by the private sector, of \$100 million in any one year. The Act also requires a

Federal agency to develop an effective process to permit timely input by elected officials of state, tribal, or local governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity to provide timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. DOE has determined that the revisions to 10 CFR parts 1021 and 1022 published today do not contain any Federal mandates affecting small governments, so these requirements do not apply.

I. Review Under Executive Order 13211

E.O. 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 the Office of Information and Regulatory Affairs in the Office of Management and Budget a Statement of Energy Effects for any significant energy action. Today's rule is not a significant energy action, as that term is defined in the E.O. Accordingly, DOE has not prepared a Statement of Energy Effects.

J. Review Under the Treasury and General Government Appropriations Act

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105-277) requires Federal agencies to issue a "Family Policymaking Assessment" for any proposed rule that may affect family well-being. This rule has no 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.

K. Review Under the 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 dissemination of information to the public under guidelines established by each agency pursuant to general guidelines issued by the Office of Management and Budget. The Office of Management and Budget 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 today's notice under the Office of Management and Budget and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that is has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

List of Subjects in 10 CFR Parts 1021 and 1022

Floodplains, Wetlands.

Issued in Washington, DC, August 19, 2003.

Beverly A. Cook,

Assistant Secretary, Environment, Safety and Health.

■ For the reasons set forth in the preamble, parts 1021 and 1022 of chapter III of title 10, Code of Federal Regulations, are amended as follows:

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

■ 1. The authority citation for part 1021 is revised 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.*

§ 1021.313 [Amended]

■ 2. In § 1021.313, paragraph (c), the last sentence is amended as follows:

■ a. Remove the word "shall" and add in its place the word "may".

■ b. Remove the phrase "Floodplain/Wetlands" and add in its place "Floodplain and Wetland".

■ c. Remove the period and add the words ", or a Statement of Findings may be issued separately." at the end of the sentence.

PART 1022—COMPLIANCE WITH FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS

■ 3. Part 1022 is revised to read as follows:

PART 1022—COMPLIANCE WITH FLOODPLAIN AND WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS

Subpart A—General

Sec.

- 1022.1 Background.
- 1022.2 Purpose and scope.
- 1022.3 Policy.
- 1022.4 Definitions.
- 1022.5 Applicability.
- 1022.6 Public inquiries.