ending October 15, 1996. Two comments were received.

The Board commented that it supports the rule, in part, but it requested that the Department reconsider allowing the application of interest and late payment charges on assessments delinquent prior to the effective date of the final rule. The Board commented that the proposed rule ignored the industry's recommendations with regard to assessments which are delinquent prior to the effective date of the final rule and no one should be allowed to benefit from a ''free ride'' at the expense of other handlers. The Board believes that allowing handlers a short period of notice, such as 60 days, before imposing interest and late payment charges after the final rule is effective would give handlers ample opportunity to become current with all assessments past due. Those that do not become current during the notice period should be subject to interest and late payment charges, the Board believes. The Board further states that it believes this is consistent with the order language.

The Department does not believe that the Board's recommendation would be consistent with the order language. The amended order language states that assessments not paid within the prescribed period of time ''subsequent'' to approval by the Secretary shall be subject to interest or late payment charges. This language clearly indicates that only after the authority is implemented by a final rule should assessments be subject to interest and late payment charges. Although the Board may disagree with the Department's position that the order authorizes it to charge interest and late payment charges only on handlers who fail to pay assessments accrued and billed after the effective date of the final rule, the Department believes that the clear language and the intent of the order amendment is being met with this action and the long term benefits of this final rule will be significant to the effective administration of the order. For the above stated reasons, no change is being made to the rule in response to the Board's comment.

The second comment was submitted by an attorney on behalf of an almond handler. This commenter requested clarification on the portion of the rule which states that no interest or late payment charges will accrue prior to the effective date of the rule and that interest and late payment charges will only be applicable to assessments accrued and billed after the effective date of the rule. As an example, he asked if a handler could be charged interest or late payment charges for assessments accrued in 1993. The commenter's interpretation of this language was that it would not. The commenter is correct. Only those assessments accrued and billed after the effective date of this final rule will be subject to interest and late payment charges.

The commenter also asked if a handler has filed a petition in good faith under section 608 15(a) of the Act, challenging the constitutionality of any or all portions of the almond marketing order, and withholds assessments pending the outcome of this action, is the handler subject to interest and late payment charges from the time the assessments were originally accrued and billed? The commenter stated that interest and late payment charges should not apply during the pendency of a 15(a) proceeding because the Department will not stipulate to a refund of assessments in the event the handler prevails. The commenter proposed an exemption from interest and late payment charges for those assessments owed for promotion and advertising programs if the handler has filed a 15(a) petition. The handler would maintain such assessments in an interest bearing account and the funds would ultimately be the property of the prevailing party.

It is the Department's position that filing a 15(a) petition does not relieve a handler from complying with marketing order requirements. If a handler prevails in a legal proceeding challenging the validity of marketing order provisions, the Department would comply with any final unappealable order granting relief to petitioners. Petitioners have the opportunity to argue relief remedies in the appropriate legal forum. For the foregoing reasons, no change is being made to the rule in response to this comment.

After thoroughly analyzing the comments received and other available information, the Department has concluded that this final rule is appropriate.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because this rule should be implemented as soon as possible so that the Board will be in a position to implement an incentive for handlers to make timely assessment payments. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 981.481 is added to read as follows:

§ 981.481 Interest and late payment charges.

(a) Pursuant to § 981.481, the Board shall impose an interest charge on any handler whose assessment payment has not been received in the Board's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 30 days of the invoice date shown on the handler's statement. The interest charge shall be a rate of one and one half percent per month and shall be applied to the unpaid assessment balance for the number of days all or any part of the unpaid balance is delinquent beyond the 30 day payment period.

(b) In addition to the interest charge specified in paragraph (a) of this section, the Board shall impose a late payment charge on any handler whose payment has not been received in the Board's office, or the envelope containing the payment legibly postmarked by the U.S. Postal Service, within 60 days of the invoice date. The late payment charge shall be 10 percent of the unpaid balance.

Dated: December 2, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–31027 Filed 12–5–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 1021

RIN 1901–AA67

National Environmental Policy Act Implementing Procedures

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE or the Department) is amending its regulations governing compliance with the National Environmental Policy Act (NEPA). These amendments incorporate changes primarily related to DOE's power marketing activities, based on DOE's experience in applying the current NEPA regulations. The revised regulations are intended to improve DOE's efficiency in implementing NEPA requirements by reducing costs and preparation time, while maintaining quality, consistent with the DOE Secretarial Policy Statement on NEPA issued in June 1994.

EFFECTIVE DATE: This rule will become effective January 6, 1997.

FOR FURTHER INFORMATION CONTACT: Carol Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, (202) 586–4600 or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

The National Environmental Policy Act of 1969 (42 USC 4321 et seq.) requires that Federal agencies prepare environmental impact statements for major Federal actions that may ''significantly affect the quality of the human environment.'' NEPA also created the President's Council on Environmental Quality (CEQ), which issued regulations in 1978 implementing the procedural provisions of NEPA. Among other requirements, the CEQ NEPA regulations (40 CFR Parts 1500–1508) require Federal agencies to adopt their own implementing procedures to supplement the Council's regulations. DOE's NEPA implementing regulations were promulgated in 1992 (57 FR 15122, April 24, 1992) and are codified at 10 CFR Part 1021.

On February 20, 1996, DOE published a proposed rulemaking to revise the 1992 NEPA implementing regulations (61 FR 6414). Publication of the Notice of Proposed Rulemaking began a 45-day public comment period that originally ended on April 5, 1996. In response to requests, the comment period was subsequently reopened on April 19, 1996 (61 FR 17257), and extended until May 10, 1996. As part of the notice and comment process and also in response to requests, DOE held a public hearing on the proposed amendments on May 6, 1996. The final rule on all of the proposed amendments, other than those that pertain to power marketing activities, was published on July 9, 1996 (61 FR 36222). Regarding the power marketing activities, DOE decided to solicit further input, especially from state and Federal agencies that have responsibility for environmental review of comparable non-federal utility projects in the Pacific Northwest. Therefore, in the same issue of the Federal Register as noted above (July 9, 1996), DOE published a notice of limited reopening of the comment period on the following proposed amendments to Subpart D—Typical Classes of Actions, which primarily affect power marketing activities: B4.1–B4.3, B4.6, B4.10–B4.13, C4, C7, and D7 (61 FR 35990). In response to a request, DOE also provided further clarification of the rationale for two of the proposed amendments: B4.1, Contracts/marketing plans/policies for excess electric power, and B4.3, Electric power marketing rate changes. The comment period was extended until August 8, 1996.

Copies of all written comments and the transcript of the public hearing held on May 6, 1996, have been provided to CEQ and are available for public inspection at the DOE Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020.

The following amendments relating primarily to power marketing activities revise subpart D of the existing regulations by expanding or clarifying existing classes of actions. This final rule adopts the amendments proposed in the Notice of Proposed Rulemaking for the power marketing classes of actions listed above, with certain changes discussed below, and amends the existing regulations at 10 CFR Part 1021. Copies of the final amendments to the rule are available upon request from the information contact listed above.

In accordance with the CEQ NEPA regulations, 40 CFR 1507.3, DOE has consulted with CEQ regarding these final amendments to the DOE NEPA rule. CEQ has found that the amendments conform with NEPA and the CEQ regulations and has no objection to their promulgation.

II. Statement of Purpose

The amendments to the DOE NEPA regulations are intended to improve the efficiency of DOE's implementation of NEPA by expanding or clarifying certain classes of actions, primarily related to power marketing activities, thereby reducing implementation costs and time. This goal is consistent with the DOE Secretarial Policy Statement on NEPA (June 1994), which encourages actions to streamline the NEPA process without sacrificing quality and to make the process more useful to decision makers and the public. Full compliance with the letter and spirit of NEPA is an essential priority for DOE. In addition, DOE's experience in applying the DOE NEPA regulations since they were issued in 1992 suggested the need for DOE to make changes to its NEPA regulations.

III. Comments Received and DOE's Responses

DOE has considered and evaluated the comments on the proposed rulemaking concerning power marketing activities received during the public comment periods. Minor revisions suggested in these comments have been incorporated into the final amendments to the rule. The following discussion describes the comments received, provides DOE's responses to the comments, and describes any resulting changes to the proposed amendments. Section references and headings below are identical to those in the proposed amendments.

A. Procedural Comments

One commenter requested that no action be taken to adopt any of the proposed power marketing administration amendments until additional information could be obtained from relevant state and Federal agencies (e.g., state environmental review procedures for comparable non-federal utility projects). In response, the final rule published on July 9, 1996 (61 FR 36222) excluded the proposed amendments pertaining primarily to power marketing activities, and the comment period for the proposed amendments pertaining to power marketing activities was reopened from July 9, 1996 through August 8, 1996 (61 FR 35990, July 9, 1996). As explained below, DOE received one set of new comments during this reopened comment period.

B. Comments on Appendices of Subpart D—Typical Classes of Actions

Two commenters objected to several categorical exclusions (B4.1, B4.10–B4.13) on the grounds of cumulative effects, connected actions, or extraordinary circumstances. Another commenter objected to a number of categorical exclusions (B4.1, B4.2, B4.6, B4.10–B4.13) on the grounds that they appear to expand substantially the universe of power marketing administration actions that would no longer require an environmental impact statement or perhaps an environmental assessment.

Under the current regulations, before a proposed action may be categorically excluded, DOE must determine in accordance with § 1021.410(b) that: (1) The proposed action fits within a class of actions listed in appendix A or B to subpart D; (2) there are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the action; and (3) there are no connected or related actions with cumulatively significant impacts and, where appropriate, the proposed action is a permissible interim action. In addition, to fit within a class of actions that is normally categorically excluded under appendix B, a proposed action must include certain integral elements (appendix B, paragraphs B(1) through (4)). These conditions are intended to ensure that an excluded action will not threaten a violation of applicable requirements, require siting and construction of waste management facilities, disturb hazardous substances such that there would be uncontrolled or unpermitted releases, or adversely affect environmentally sensitive resources. DOE believes that the general restrictions on the application of categorical exclusions will provide adequate safeguards to ensure that they are not applied to activities that could result in significant effects. For actions that do not satisfy these conditions, an environmental impact statement or an environmental assessment would be prepared. DOE believes that it will serve environmental concerns and the public's interest best by focusing its efforts on the careful analysis of those actions that actually have the potential for significant impact.

Finally, after considering all public comments on the proposed amendments, DOE has determined that the final amendments to appendix B constitute classes of actions that do not individually or cumulatively have a significant effect on the human environment, and are covered by a finding to that effect in Section 1021.410(a). In making this finding, DOE has considered, among other things, its own experience with these classes of actions, other agencies' experience as reflected in their NEPA procedures, DOE's technical judgment, and the comments received on the proposed amendments.

Classes of Actions Listed in Appendix B

• Proposed Clarification B4.1—Contracts/marketing plans/policies for excess electric power.

One commenter requested explanation of the rationale for the proposed clarification of B4.1. The existing categorical exclusion is for the establishment and implementation of contracts, plans, and policies, the terms of which do not exceed five years, would not cause changes in normal operating limits, and any related transmission would occur over existing transmission systems. The existing five-year term limit was proposed for elimination from this categorical exclusion because experience has demonstrated that the mere length of a contract, policy, or plan does not have the potential for environmental impacts. Rather, the development or integration of new generating resources, changes in the operation of existing generation resources, or construction of transmission facilities, are the types of activities that have shown the potential for environmental impacts. By not including these changes in generation, operation or transmission, the categorical exclusion ensures that only those actions that have no potential for environmental impact would be categorically excluded. Those contracts, plans, and policies that do not fit within this categorical exclusion would require further NEPA analysis to ascertain the associated environmental impacts.

• Proposed Modification B4.2—Export of electric energy.

DOE proposed to modify the existing categorical exclusion for the export of electric energy over existing transmission systems to also apply to exports over transmission system changes that are themselves categorically excluded (e.g., short powerline segments, substations). One commenter stated that DOE should consider the social and economic impacts on U.S. utility ratepayers caused by selling power to foreign countries. DOE believes that the potential for physical impacts of such a proposed action are very slight and notes that socioeconomic impacts alone do not require the preparation of an environmental impact statement (40 CFR 1508.14).

• Proposed Modification B4.3—Electric power marketing rate changes.

The proposed modification would eliminate the existing restriction that, in order to be categorically excluded, a proposed rate change must not exceed the rate of inflation, a condition that DOE has found is not relevant to the action's potential for environmental impacts. Any environmental impacts resulting from rate changes would be caused only if the rate change involved associated changes in the operation of generation resources. Therefore, this categorical exclusion would only apply to those rate changes that would not affect the operation of generation projects. The term ''changes in rates,'' as in the proposed rule, was changed to ''rate changes'' to be consistent with C3.

One commenter expressed concern regarding the economic impact to domestic utility customers of allowing electric power marketing rate changes to be raised more than the rate of inflation, and of the unrestrained sale of electricity to the highest bidder, whether foreign or domestic. Federal Power Marketing Administrations market their power resources at cost. Existing law prevents Federal electric power from being sold at a profit, and further prohibits customers from reselling Federal power for profit. Federal Power Marketing Administrations are not allowed to sell power to the highest bidder, but rather must recover all costs associated with the power. DOE believes that there is no potential for environmental impacts from rate changes based on revenue requirements where, as the categorical exclusion requires, the operations of generation projects would remain within normal operating limits.

• Proposed Modification B4.10—Deactivation, dismantling and removal of electric powerlines and substations.

DOE proposed to add deactivation to the categorical exclusion for dismantling and removal of transmission lines and to add substations, switching stations and other transmission facilities. One commenter suggested that this categorical exclusion applies to deactivation of power plants and that such actions should include public participation. Deactivation under this categorical exclusion, however, would not apply to power plants, but only to transmission facilities.

• Proposed Modification B4.11—Construction or modification of electric power substations.

• Proposed Modification B4.12—Construction of electric powerlines (generally less than 10 miles in length), not integrating major new sources.

• Proposed Modification B4.13—Reconstruction and minor relocation of existing electric powerlines (generally less than 20 miles in length).

The proposed amendments include: (1) expanding categorically excluded modification activities to substations of any voltage, provided that the modification does not increase the existing voltage (B4.11); (2) expanding the construction of tap lines to include all electric powerlines not integrating major new sources (B4.12); and (3) increasing the length of powerlines that can be reconstructed from 10 miles to 20 miles (B4.13).

One commenter noted correctly that the word ''generally'' as applied to the

length of electric powerlines in proposed modifications to B4.11 could allow the class of actions to be applied to proposed actions that would otherwise not even approximately fit the definition. Second, commenters questioned the justification for the specific quantity values chosen and even whether any specific value could be justified.

DOE's intention with respect to both issues is better expressed by the concept of ''approximately'' rather than ''generally,'' and the class of actions in the final rule has been changed accordingly. By using ''approximately,'' DOE is indicating that the numerical values used in defining the class of actions are to be interpreted flexibly rather than with unwarranted precision. DOE has also changed the phrases in B4.11 and B4.12 to be consistent in wording. In addition, for consistency DOE has changed the phrase ''major new resource'' in B4.11 and ''major new sources of generation into a main transmission system'' in B4.12, as in the proposed rule, to read ''major new generation resources into a main transmission system'' in both B4.11 and B4.12.

Two commenters stated that the proposed modifications to these three categorical exclusions would exempt a wide array of power marketing administration electric power transmission line construction, reconstruction and/or relocation from the requirements of an environmental assessment or environmental impact statement, possibly resulting in a lower standard of environmental review than is imposed by relevant state agencies, on comparable projects undertaken by non-federal utilities, or those imposed by other Federal agencies on non-federal entities, or even those adopted by other Federal agencies for their own actions. In response to this concern, in conjunction with the second reopened comment period, DOE asked the appropriate state agencies for their views on the proposed modifications to the classes of actions primarily related to power marketing, and on how the environmental review that would result for Federal power marketing administration projects would compare with the review those state agencies require for comparable non-federal utility projects. Similarly, the Department solicited the views of other Federal agencies that may engage in comparable activities or issue permits to non-federal entities conducting comparable activities.

Of the states and Federal agencies that DOE contacted, one commenter responded to this initiative. The commenter was concerned about exempting facilities of this magnitude from meaningful environmental review given the level of controversy and the potential environmental consequences typically associated with the construction of new transmission lines. In response to this general concern regarding environmental review, DOE notes that the exemption could only be applied if there were no extraordinary circumstances, connected actions with cumulatively significant impacts, or violation of the integral elements, as discussed above under Section III.B. For example, any proposed action with potential impacts on a sensitive resource, or involving scientific controversy about the environmental effects of the proposal would constitute a violation of the integral elements or extraordinary circumstances and thus would not be categorically excluded. Similarly, if the electric powerline or substation was ''a connected action'' with regard to a facility not covered by a categorical exclusion (such as a power plant), the appropriate level of NEPA review would be conducted, i.e., environmental assessment or environmental impact statement. Therefore, the expansion of these categorical exclusions will not reduce the meaningful environmental review of Federal proposals with significant controversy or potential environmental consequences, as compared to non-federal proposals.

This commenter previously provided a similar comment regarding specific concerns about all three proposed modifications stemming, in part, from the nature of the transmission grid owned and operated by the Bonneville Power Administration (BPA) in the Pacific Northwest. The commenter noted that, unlike other Federal Power Marketing Administrations, BPA is the predominant owner and operator of major transmission lines in the Pacific Northwest. Because of the ubiquity of BPA's lines in this area, the commenter stated that the proposed categorical exclusions could permit BPA to build substantial facilities in the Northwest, including facilities in major metropolitan areas, without being subject to meaningful environmental scrutiny. For the reasons stated immediately above, DOE does not believe that the circumstance described in the comment could occur.

The commenter suggested that these proposed amendments to the 1992 DOE NEPA regulations would supplant a Memorandum of Understanding (MOU) between the commenter and BPA. The NEPA regulations have no effect on the MOU; it remains in effect as agreed upon by the two parties. The commenter also incorrectly implied that the proposed categorical exclusions are new. However, these categorical exclusions have existed since 1992. Under B4.11, the proposal would allow the modification of substations at any voltage, as opposed to those at a power delivery of 230 kV, as long as there is no voltage increase. Under B4.12, the proposal would allow the construction of any electric powerline, not just ''tap'' lines. Under B4.13, the length of existing electric powerlines that could be reconstructed would be increased from 10 to 20 miles. DOE notes, however, that this reconstruction and/or minor relocation under B4.13 is only for existing electric powerlines and only to enhance environmental and land use values.

Classes of Actions Listed in Appendix C

- Modification C3—Electric Power Marketing Rate Changes, not Within Normal Operating Limits.

As discussed above in reference to exclusion B4.3, DOE has determined that inflation is not relevant to an action's potential for environmental impact. Consistent with that determination, and as a necessary conforming change, DOE has modified paragraph C3 of Appendix C. This modification bases the application of the class of actions on the effect on the operation of generation projects, rather than on the rate of inflation.

- Proposed Modification C4—Upgrading and constructing electric power lines.

There were no comments on the proposed modification to this class of actions; however, to be consistent with language in categorical exclusions B4.11, B4.12, and B4.13, DOE is changing ''powerline'' to ''powerlines'' and ''upgrading (reconstructing)'' to ''reconstructing (upgrading and rebuilding).''

- Proposed Modification C7—Allocation of electric power, no major new generation resource/major changes in operation of generation resources/major new loads.

DOE proposed amending this class of actions to be consistent with B4.1 and D7 and to focus on market responses to the action rather than the duration of the contract. One commenter expressed concern that DOE was privatizing its energy resources. This class of actions does not address privatization or sale of facilities, but rather the marketing or allocation of power by the power marketing administrations and the associated changes in generation resources, operating limits, or new loads.

Classes of Actions Listed in Appendix D

• Proposed Modification D7—Allocation of electric power, major new generation resources/major changes in operation of power generation resources/major loads.

DOE proposed amending this class of actions to be consistent with B4.1 and C7 to focus on market responses to the change in allocation or operation rather than duration of the underlying contract. One commenter questioned the use of the word ''major,'' referencing ''Major Projects'' as used in the previous C1 class of action which was removed by the recent final rule (61 FR 36222). The word ''major'' in this class of actions is used as an adjective with its normal usage, in this case modifying the terms generation resources, changes, and loads.

IV. Procedural Review Requirements

A. Environmental Review Under the National Environmental Policy Act

These amendments to the DOE NEPA rule establish, modify, and clarify procedures for considering the environmental effects of DOE actions within the Department's decision making process. Implementation of this rule will not affect the substantive requirements imposed on DOE or on applicants for DOE licenses, permits, and financial assistance, and this rule will not result in environmental impacts. Therefore, DOE has determined that this rule is covered by the categorical exclusion found at paragraph A6 of appendix A to subpart D, 10 CFR Part 1021, which applies to procedural rulemaking. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 USC 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 USC 603). The rule modifies existing policies and procedural requirements for DOE compliance with NEPA. The rule makes no substantive changes to requirements imposed on applicants for DOE licenses, permits, financial assistance, and similar actions as related to NEPA compliance. Therefore, DOE certifies that the rule will not have a ''significant economic impact on a substantial number of small entities.''

C. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by these amendments. Accordingly, no Office of Management and Budget clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

D. Review Under Executive Order 12612

Executive Order 12612, ''Federalism,'' 52 FR 41685 (October 30, 1987) requires that regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of a Federalism assessment is required to assist senior policymakers. These amendments will affect Federal NEPA compliance procedures, which are not subject to state regulation. The amendments will not have any substantial direct effects on states and local governments within the meaning of the Executive Order. Therefore, no Federalism assessment is required.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, ''Civil Justice Reform'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by Section 3(a), Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in Section 3(a) and Section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 12866

The final amendments were reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993), which requires a Federal agency to prepare a regulatory assessment, including the potential costs and benefits, of any ''significant regulatory action.'' The order defines ''significant regulatory action'' as any regulatory action that may have an annual effect on the economy of $100 million or more and may adversely affect the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments in a material way; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; or raise novel legal or policy issues arising out of legal mandates (section 3(f)).

These amendments will modify already existing policies and procedures for compliance with NEPA. The amendments contain no substantive changes in the requirements imposed on applicants for a DOE license, financial assistance, permit, or similar actions. Therefore, DOE has determined that the incremental effect of these amendments to the DOE NEPA regulations will not have the magnitude of effects on the economy, or any other adverse effects, to bring this proposal within the definition of a ''significant regulatory action.''

G. Review Under the Unfunded Mandates Reform Act

Under Section 205 of the Unfunded Mandates Reform Act of 1995 (2 USC 1533), Federal agencies are required to prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Because the DOE NEPA regulations affect only DOE and do not create obligations on the part of any other person or government agency, neither state, local or tribal governments nor the private sector will be affected by amendments to these regulations. Therefore, DOE has determined that further review under the Unfunded Mandates Reform Act is not required.

H. Congressional Notification

The final regulations published today are subject to the Congressional notification requirements of Small Business Regulatory Enforcement Fairness Act of 1996 (Act) (5 USC 801). The Office of Management and Budget has determined that the final regulations do not constitute a ''major rule'' under the Act (5 USC 804). DOE will report to Congress on the promulgation of the final regulations prior to the effective date set forth at the beginning of this notice.

List of Subjects in 10 CFR Part 1021

Environmental impact statements.

Issued in Washington, D.C., November 27, 1996.

Peter N. Brush,

Principal Deputy Assistant Secretary, Environment, Safety and Health.

For reasons set out in the preamble, 10 CFR Part 1021 is amended as follows:

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

1. The authority citation for Part 1021 continues to read as follows:

Authority: 42 U.S.C. 7254; 42 U.S.C. 4321 *et seq.*

2. Appendix B to Subpart D, is amended to revise the Table of Contents entries for B4.1, B4.2, B4.3, B4.6, B4.10, B4.11, B4.12, and B4.13 to read as follows:

Appendix B to Subpart D to Part 1021—Categorical Exclusions Applicable to Specific Agency Actions

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B4.1 Contracts/marketing plans/policies for excess electric power.

B4.2 Export of electric energy.

B4.3 Electric power marketing rate changes, within normal operating limits.

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B4.6 Additions/modifications to electric power transmission facilities within previously developed area.

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B4.10 Deactivation, dismantling and removal of electric powerlines and substations.

B4.11 Construction or modification of electric power substations.

B4.12 Construction of electric powerlines approximately 10 miles in length or less, not integrating major new sources.

B4.13 Reconstruction and minor relocation of existing electric powerlines approximately 20 miles in length or less.

3. Appendix B to Subpart D, section B4, is amended to revise paragraphs B4.1, B4.2, B4.3, B4.6, B4.10, B4.11, B4.12 and B4.13, to read as follows:

B4. Categorical Exclusions Applicable to Power Marketing Administrations and to all of DOE with Regard to Power Resources.

B4.1 Establishment and implementation of contracts, marketing plans, policies, allocation plans, or acquisition of excess electric power that does not involve: (1) the integration of a new generation resource, (2) physical changes in the transmission system beyond the previously developed facility area, unless the changes are themselves categorically excluded, or (3) changes in the normal operating limits of generation resources.

B4.2 Export of electric energy as provided by Section 202(e) of the Federal Power Act over existing transmission systems or using transmission system changes that are themselves categorically excluded.

B4.3 Rate changes for electric power, power transmission, and other products or services provided by a Power Marketing Administration that are based on a change in revenue requirements if the operations of generation projects would remain within normal operating limits.

* * * * *

B4.6 Additions or modifications to electric power transmission facilities that would not affect the environment beyond the previously developed facility area including, but not limited to, switchyard rock grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms.

* * * * *

B4.10 Deactivation, dismantling, and removal of electric powerlines, substations, switching stations, and other transmission facilities, and right-of-way abandonment.

B4.11 Construction of electric power substations (including switching stations and support facilities) with power delivery at 230 kV or below, or modification (other than voltage increases) of existing substations and support facilities, that could involve the construction of electric powerlines approximately 10 miles in length or less, or relocation of existing electric powerlines approximately 20 miles in length or less, but not the integration of major new generation resources into a main transmission system.

B4.12 Construction of electric powerlines approximately 10 miles in length or less that are not for the integration of major new generation resources into a main transmission system.

B4.13 Reconstruction (upgrading or rebuilding) and/or minor relocation of existing electric powerlines approximately 20 miles in length or less to enhance environmental and land use values. Such actions include relocations to avoid right-of-way encroachments, resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts to environmentally sensitive areas.

4. Appendix C to Subpart D is amended to revise the Table of Contents entries for C3, C4, and C7 to read as follows:

Appendix C to Subpart D to Part 1021—Classes of Actions That Normally Require EAs But Not Necessarily EISs

Table of Contents

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C3 Electric power marketing rate changes, not within normal operating limits.

C4 Reconstructing and constructing electric powerlines.

* * * * *

C7 Allocation of electric power, no major new generation resource/major changes in operation of generation resources/major new loads.

* * * * *

5. Appendix C to Subpart D to Part 1021 is amended to revise paragraphs C3, C4, and C7 to read as follows:

* * * * *

C3 Rate changes for electric power, power transmission, and other products or services provided by Power Marketing Administrations that are based on changes in revenue requirements if the operations of generation projects would not remain within normal operating limits.

C4 Reconstructing (upgrading or rebuilding) existing electric powerlines more than approximately 20 miles in length or constructing new electric powerlines more than approximately 10 miles in length.

* * * * *

C7 Establishment and implementation of contracts, policies, marketing plans, or allocation plans for the allocation of electric power that do not involve (1) the addition of new generation resources greater than 50 average megawatts, (2) major changes in the operating limits of generation resources greater than 50 average megawatts, or (3) service to discrete new loads of 10 average megawatts or more over a 12 month period. This applies to power marketing operations and to siting, construction, and operation of power generating facilities at DOE sites.

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6. Appendix D to Subpart D is amended to revise the Table of Contents entry for D7 to read as follows:

Appendix D to Subpart D to Part 1021—Classes of Actions That Normally Require EISs

Table of Contents

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D7 Allocation of electric power, major new generation resources/major changes in operation of generation resources/major loads.

* * * * *

7. Appendix D to Subpart D to Part 1021 is amended to revise paragraph D7 to read as follows:

D7 Establishment and implementation of contracts, policies, marketing plans or allocation plans for the allocation of electric power that involve (1) the addition of new generation resources greater than 50 average megawatts, (2) major changes in the operating limits of generation resources greater than 50 average megawatts, or (3) service to discrete

new loads of 10 average megawatts or more over a 12 month period. This applies to power marketing operations and to siting construction, and operation of power generating facilities at DOE sites.

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

Assessments; Continuation of Adjusted Rate Schedule for BIF-Assessable Deposits

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Continuation of adjusted rate schedule.

SUMMARY: On November 26, 1996, the Board of Directors of the FDIC (Board) adopted a resolution to continue in effect the current downward adjustment to the assessment rate schedule applicable to deposits assessable by the Bank Insurance Fund (BIF). The continuation of the downward adjustment will apply to the semiannual assessment period beginning January 1, 1997. As a result, the BIF assessment rates will continue to range from 0 to 27 basis points. The only difference between the existing adjustment and the continuing adjustment adopted by the Board is that the continuing schedule will no longer include a reference to a minimum assessment amount. This change results from recent legislation that eliminates a statutorily-imposed minimum assessment amount. With this modification, the adjusted rate schedule will result in an estimated average annual assessment rate of approximately 0.17 basis points; the estimated annual revenue produced by this rate schedule will be $43 million. In connection with the elimination of the mandatory assessment amount, the Board has also decided to refund minimum assessment payments made to BIF with respect to that portion of the current semiannual assessment period remaining after enactment of the amending legislation.

EFFECTIVE DATE: January 1, 1997, through June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Steven Ledbetter, Chief, Assessment Evaluation Section, Division of Insurance, (202) 898–8658; James R. McFadyen, Senior Financial Analyst, Division of Research and Statistics, (202) 898–7027; Martha Coulter, Counsel, Legal Division, (202) 898–7348; Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

This announcement pertains to deposit insurance assessments to be paid for the semiannual assessment period beginning January 1, 1997, by insured depository institutions on deposits assessable by the Bank Insurance Fund (BIF). Invoices reflecting these assessments will be sent to BIF member institutions around December 11, 1996.[1]

These invoices will also bill for assessments to be paid to the Financing Corporation (FICO). As a result of recently-enacted legislation, BIF-assessable deposits are now also subject to assessment by FICO. As it has in the past, the FDIC will continue to collect FICO assessments on FICO's behalf.

In providing for the FICO-assessability of BIF-assessable deposits, section 2703 of the Deposit Insurance Funds Act of 1996 (DIFA)[2] further provided that the assessments imposed by FICO on insured depository institutions with respect to BIF-assessable deposits will be at a rate equal to one-fifth the assessment rate applicable to deposits assessable by the Savings Association Insurance Fund (SAIF). Thus, the upcoming FDIC assessment invoice is expected to reflect a FICO rate for BIF-assessable deposits of approximately 1.3 basis points, which is one-fifth the FICO rate of approximately 6.4 basis points anticipated for SAIF-assessable deposits.

The remainder of this announcement pertains solely to deposit insurance assessments and does not further address FICO assessments.

II. Continuation of Adjustment to BIF Rate Schedule 2

Section 7(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b), provides that the Board shall set semiannual deposit insurance assessments for insured depository institutions. On August 8, 1995, the Board adopted a new assessment rate schedule for deposits subject to assessment by BIF. 60 FR 42680 (August 16, 1995). The new schedule was codified as Rate Schedule 2 at 12 CFR 327.9(a). This schedule provided for an assessment-rate range of 4 to 31 basis points and became effective retroactively on June 1, 1995, the beginning of the month following the month in which the BIF reached its designated reserve ratio (DRR) of 1.25 percent of total estimated insured deposits.

In adopting Rate Schedule 2, the Board also amended the FDIC's assessment regulations to permit the Board to make limited adjustments to the schedule without notice-and-comment rulemaking. Any such adjustments can be made as the Board deems necessary to maintain the BIF reserve ratio at the DRR and can be accomplished by Board resolution. Under this provision, codified at 12 CFR 327.9(b), any such adjustment must not exceed an increase or decrease of 5 basis points and must be uniform across the rate schedule.

The amount of an adjustment adopted by the Board under 12 CFR 327.9(b) is to be determined by the following considerations: (1) The amount of assessment revenue necessary to maintain the reserve ratio at the DRR; and (2) the assessment schedule that would generate such amount of assessment revenue considering the risk profile of BIF members. In determining the relevant amount of assessment revenue, the Board is to consider BIF's expected operating expenses, case resolution expenditures and income, the effect of assessments on BIF members' earnings and capital, and any other factors the Board may deem appropriate.

Having considered all of these factors, the Board decided on November 14, 1995, to adopt an adjustment factor of 4 basis points for the semiannual assessment period beginning January 1, 1996, with a resulting adjusted schedule ranging from 0 to 27 basis points. 60 FR 63400 (December 11, 1995). The Board continued the same adjustment for the semiannual period beginning July 1, 1996. 61 FR 26078 (May 24, 1996).

Until now, the adjusted schedule has included a reference to a statutory requirement in section 7(b)(2)(A)(iii) of the Federal Deposit Insurance Act, 12 U.S.C. 1817(b)(2)(A)(iii), that each insured depository institution pay a minimum assessment amount of $2,000 annually. However, that requirement

[1] Normally, invoices are sent approximately one month prior to collection date, which would be December 3 for the January 2 collection date. However, in this instance the invoices are being delayed approximately one week in order to permit the FDIC to include any reduction in Savings Association Insurance Fund (SAIF) rates adopted by the Board in early December for the upcoming semiannual assessment period. The Board has decided to delay all invoices, not just invoices for SAIF-member institutions, because of the large number of BIF members with SAIF-assessable deposits and SAIF members with BIF-assessable deposits. The Board is concerned that sending bifurcated invoices approximately one week apart would result in significant confusion and additional burden for such institutions that can be avoided by a delayed, combined invoice.

[2] DIFA is Subtitle G of Title II of Pub. L. 104–208, which was enacted on September 30, 1996.