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significant impact or final EIS, as appropriate, or issue such statement separately.

(d) DOE shall send copies of the floodplain statement of findings to appropriate government agencies (*e.g.*, FEMA regional offices, host and affected states, and tribal and local governments) and to others who submitted comments on the proposed floodplain action.

(e) For proposed floodplain actions that may result in effects of national concern, DOE shall publish the floodplain statement of findings in the FEDERAL REGISTER, describing the location of the action and stating where a map is available.

(f) For floodplain actions subject to E.O. 12372—Intergovernmental Review of Federal Programs (July 14, 1982), DOE also shall send the floodplain statement of findings to the State in accordance with 10 CFR part 1005—Intergovernmental Review of Department of Energy Programs and Activities.

§ 1022.15 Timing.

(a) For a proposed floodplain action, DOE shall allow 15 days for public comment following issuance of a notice of proposed floodplain action. After the close of the public comment period and before issuing a floodplain statement of findings, DOE shall reevaluate the practicability of alternatives to the proposed floodplain action and the mitigating measures, taking into account all substantive comments received. After issuing a floodplain statement of findings, DOE shall endeavor to allow at least 15 days of public review before implementing a proposed floodplain action. If a FEDERAL REGISTER notice is required, the 15-day period begins on the date of publication in the FEDERAL REGISTER.

(b) For a proposed wetland action, DOE shall allow 15 days for public comment following issuance of a notice of proposed wetland action. After the close of the public comment period, DOE shall reevaluate the practicability of alternatives to the proposed wetland action and the mitigating measures, taking into account all substantive comments received, before implementing a proposed wetland action. If a

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FEDERAL REGISTER notice is required, the 15-day period begins on the date of publication in the FEDERAL REGISTER.

§ 1022.16 Variances.

(a) *Emergency actions.* DOE may take actions without observing all provisions of this part in emergency situations that demand immediate action. To the extent practicable prior to taking an emergency action (or as soon as possible after taking such an action) DOE shall document the emergency actions in accordance with NEPA procedures at 10 CFR 1021.343(a) or CERCLA procedures in order to identify any adverse impacts from the actions taken and any further necessary mitigation.

(b) *Timing.* If statutory deadlines or overriding considerations of program or project expense or effectiveness exist, DOE may waive the minimum time periods in §1022.15 of this subpart.

(c) *Consultation.* To the extent practicable prior to taking an action pursuant to paragraphs (a) or (b) of this section (or as soon as possible after taking such an action) the cognizant DOE program or project manager shall consult with the Office of NEPA Policy and Compliance.

§ 1022.17 Follow-up.

For those DOE actions taken in a floodplain or wetland, DOE shall verify that the implementation of the selected alternative, particularly with regard to any adopted mitigation measures, is proceeding as described in the floodplain or wetland assessment and the floodplain statement of findings.

Subpart C—Other Requirements

§ 1022.21 Property management.

(a) If property in a floodplain or wetland is proposed for license, easement, lease, transfer, or disposal to non-Federal public or private parties, DOE shall:

- (1) Identify those uses that are restricted under applicable floodplain or wetland regulations and attach other appropriate restrictions to the uses of the property; or
- (2) Withhold the property from conveyance.

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(b) Before completing any transaction that DOE guarantees, approves, regulates, or insures that is related to an area located in a floodplain, DOE shall inform any private party participating in the transaction of the hazards associated with locating facilities or structures in the floodplain.

§ 1022.22 Requests for authorizations or appropriations.

It is DOE policy to indicate in any requests for new authorizations or appropriations transmitted to the Office of Management and Budget, if a proposed action is located in a floodplain or wetland and whether the proposed action is in accord with the requirements of E.O. 11988 and E.O. 11990 and this part.

§ 1022.23 Applicant responsibilities.

DOE may require applicants for any use of real property (*e.g.*, license, easement, lease, transfer, or disposal), permits, certificates, loans, grants, contract awards, allocations, or other forms of assistance or other entitlement related to activities in a floodplain or wetland to provide information necessary for DOE to comply with this part.

§ 1022.24 Interagency cooperation.

If DOE and one or more agencies are directly involved in a proposed floodplain or wetland action, in accordance with DOE's NEPA or CERCLA procedures, DOE shall consult with such other agencies to determine if a floodplain or wetland assessment is required by subpart B of this part, identify the appropriate lead or joint agency responsibilities, identify the applicable regulations, and establish procedures for interagency coordination during the environmental review process.

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AUTHORITY: 42 U.S.C. 2201, 5814, 7151, 7251; 5 U.S.C. 301; 41 U.S.C. 321, 322, 601–613; 5 U.S.C. 571–583; 9 U.S.C. 1–16, unless otherwise noted.

OVERVIEW: ORGANIZATION, FUNCTIONS AND AUTHORITIES

SOURCE: 62 FR 24806, May 7, 1997, unless otherwise noted.

§ 1023.1 Introductory material on the Board and its functions.

(a) The Energy Board of Contract Appeals (“EBCA” or “Board”) functions as a separate quasi-judicial entity