

are available upon request and filed in FDA's Dockets Management Branch.

(2) For actions for which notice is not published in the FEDERAL REGISTER, the FONSI and the EA shall be made available to the public upon request according to the procedures in 40 CFR 1506.6.

(3) For a limited number of actions, the agency may make the FONSI and EA available for public review (including review by State and areawide information clearinghouses) for 30 days before the agency makes its final determination whether to prepare an EIS and before the action may begin, as described in 40 CFR 1501.4(e). This procedure will be followed when the proposed action is, or is closely similar to, one that normally requires an EIS or when the proposed action is one without precedent.

#### § 25.52 Environmental impact statements.

(a) If FDA determines that an EIS is necessary for an action involving investigations or approvals for drugs, animal drugs, biologic products, or devices, an EIS will be prepared but will become available only at the time of the approval of the product. Disclosure will be made in accordance with 40 CFR 1506.6 and part 20 of this chapter. The EIS will in all other respects conform to the requirements for EIS's as specified in 40 CFR part 1502 and 1506.6(f).

(b) Comments on the EIS may be submitted after the approval of the drug, animal drug, biologic product, or device. Those comments can form the basis for the agency to consider beginning an action to withdraw the approval of applications for a drug, animal drug, or biologic product, or to withdraw premarket notifications or premarket approval applications for devices.

(c) In those cases where the existence of applications and premarket notifications for drugs, animal drugs, biologic products, or devices has already been disclosed before the agency approves the action, the agency will make diligent effort (40 CFR 1506.6) to involve the public in preparing and implementing the NEPA procedures for EIS's while following its own disclosure requirements including those list-

ed in part 20, §§312.130(b), 314.430(d), 514.11(d), 514.12(b), 601.51(d), 807.95(e), 812.38(b), and 814.9(d) of this chapter.

(d) Draft and final EIS's, comments, and responses will be included in the administrative record and will be available from the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

### Subpart F—Other Requirements

#### § 25.60 Environmental effects abroad of major agency actions.

(a) In accordance with Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" of January 4, 1979 (44 FR 1957, January 9, 1979), the responsible agency official, in analyzing actions under his or her program, shall consider the environmental effects abroad, including whether the actions involve:

(1) Potential environmental effects on the global commons and areas outside the jurisdiction of any nation, e.g., oceans and the upper atmosphere.

(2) Potential environmental effects on a foreign nation not participating with or otherwise involved in an FDA activity.

(3) The export of products (or emissions) that in the United States are prohibited or strictly regulated because their effects on the environment create a serious public health risk.

(4) Potential environmental effects on natural and ecological resources of global importance designated under the Executive Order.

(b) Before deciding on any action falling into the categories specified in paragraph (a) of this section, the responsible agency official shall determine, in accordance with section 2-3 of the Executive Order, whether such actions may have a significant environmental effect abroad.

(c) If the responsible agency official determines that an action may have a significant environmental effect abroad, the responsible agency official shall determine, in accordance with section 2-4 (a) and (b) of the Executive Order, whether the subject action calls for:

(1) An EIS;