

RAS 6368

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
www.morganlewis.com

Morgan Lewis
C O U N S E L O R S A T L A W

Donald J. Silverman
(202) 739-5502
djsilverman@morganlewis.com

DOCKETED
USNRC

May 1, 2003 (10:14AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

April 25, 2003

The Honorable Thomas S. Moore, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

**RE: MOX Fuel Fabrication Facility ("MOX Facility") Construction Authorization
Request Proceeding, Docket No. 70-3098-ML**

Dear Judge Moore:

Duke Cogema Stone & Webster ("DCS") has new information related to the MOX Facility Construction Authorization Request ("CAR") proceeding. The Department of Energy ("DOE") has published an Amended Record of Decision ("AROD") in the Federal Register providing for the disposition of up to 34 metric tons ("MT") of surplus weapons-grade plutonium as mixed oxide ("MOX") fuel to be irradiated in commercial nuclear reactors. 68 FR 20134 (Apr. 24, 2003). A copy is attached for the convenience of the Board and the parties.

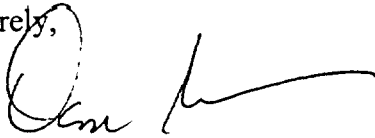
As you are aware, Georgians Against Nuclear Energy ("GANE") has submitted "Late-Filed Contentions Regarding Inadequacies in the Draft Environmental Impact Statement for the Proposed MOX Plutonium Fuel Factory at Savannah River Site," dated March 27, 2003 ("DEIS Contentions"). GANE's proposed Contention 19.B challenges NRC's DEIS, because DOE had not yet acted to reassign 6.5 MT of plutonium originally intended for immobilization to disposition using the MOX Facility. In "Duke Cogema Stone & Webster's Answer to Late-Filed DEIS Contentions" dated April 17, 2003, DCS indicated (page 15, note 18) its understanding

The Honorable Thomas S. Moore, Chairman
April 25, 2003
Page 2

Morgan, Lewis
& Bockius LLP

that DOE's formal action was imminent, and DCS committed to keep the Board advised. DCS refers the Board to the AROD which reassigns to the MOX program "approximately 6.5 MT of the 17 MT of surplus plutonium originally intended for immobilization." 68 FR at 20134.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Silverman", with a long horizontal flourish extending to the right.

Donald J. Silverman

Attachment

cc: Service List

CERTIFICATE OF SERVICE

I hereby certify that copies of Duke Cogema Stone & Webster's Letter to Judge Moore dated April 25, 2003 were served this day upon the persons listed below, by both e-mail and United States Postal Service, first class mail.

Secretary of the Commission*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Rulemakings and Adjudications Staff
(E-mail: HEARINGDOCKET@nrc.gov)

Administrative Judge
Thomas S. Moore, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: tsm2@nrc.gov)

Administrative Judge Charles N. Kelber
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: cnk@nrc.gov)

Glenn Carroll
Georgians Against Nuclear Energy
P.O. Box 8574
Atlanta, Georgia 30306
(E-mail: atom.girl@mindspring.com)

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: hrb@nrc.gov)

Administrative Judge Peter S. Lam
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: psl@nrc.gov)

Dennis C. Dambly, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
(E-mail: dcd@nrc.gov)

John T. Hull, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: jth@nrc.gov)

Donald J. Moniak
Blue Ridge Environmental Defense League
P.O. Box 3487
Aiken, S.C. 29802
(E-mail: donmoniak@earthlink.net)

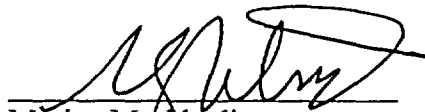
Mitzi A. Young, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
(E-mail: may@nrc.gov)

Diane Curran, Esq.
Harmon, Curran, Spielberg, & Eisenberg, L.L.P.
1726 M Street N.W., Suite 600
Washington, D.C. 20036
(E-mail: dcurran@harmoncurran.com)

Louis Zeller
Blue Ridge Environmental Defense League
PO Box 88
Glendale Springs, N.C. 28629
(E-mail: BREDL@skybest.com)

Cassie E. Bray, Esq.
U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop: O 15 D21
Washington, D.C. 20555
(E-mail: ceb4@nrc.gov)

* Original and 2 copies



Marjan Mashhadi
4/25/2003

Date

j *Deadline for filing comments and/or motions* May 19, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Please include the project number (P-10855-005) on any comments or motions filed.

k *Description of Request:* Upper Peninsula Power Company (UPPCO) proposes to add additional acreage to the project boundary in the area of the Emergency Fuse Plug. The additional acres are necessary for project operations.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. *Comments, protests and interventions* may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-filing" link.

Magalie R. Salas,

Secretary

[FR Doc 03-10207 Filed 4-23-03; 8 45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Surplus Plutonium Disposition Program

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Amended record of decision.

SUMMARY: The U.S. Department of Energy/National Nuclear Security Administration (DOE/NNSA) is amending the Record of Decision (ROD) for the *Surplus Plutonium Disposition Environmental Impact Statement* (SPD EIS) to allow for the disposition of up to 34 metric tons (MT) of surplus weapons-grade plutonium as mixed oxide (MOX) fuel to be irradiated in commercial nuclear reactors. The ROD for the SPD EIS indicated that DOE would dispose of up to 50 MT of weapons-usable surplus plutonium by making MOX fuel from 33 MT and immobilizing the remaining 17 MT. However, on April 19, 2002, DOE/NNSA amended that ROD to cancel the immobilization portion of the surplus plutonium disposition program due to budgetary constraints. DOE/NNSA also noted in the April 19, 2002 ROD that in response to a statutory directive, it had submitted to Congress a report on a strategy for the disposal of surplus plutonium currently located at, or to be shipped to the Savannah River Site (SRS). That strategy involved converting this plutonium to MOX fuel and irradiating it in commercial power reactors. DOE/NNSA stated in the April 19, 2002 ROD that it was evaluating the changes to the MOX fuel portion of the surplus plutonium disposition program that would be entailed by such a MOX-only strategy, including the need for

additional environmental reviews pursuant to the National Environmental Policy Act (NEPA), and that it would make no final decisions regarding the MOX portion of the program until these reviews were completed.

In accordance with the April 19, 2002 amended ROD, DOE/NNSA has now evaluated the changes to the MOX fuel portion of the program that would be entailed by pursuit of such a MOX-only disposition strategy and the impacts of those changes. This evaluation is presented in a Supplement Analysis (SA) prepared pursuant to DOE procedures implementing NEPA (10 CFR 1021.314), Supplement Analysis for Changes Needed to the Surplus Plutonium Disposition Program (DOE/EIS-0283-SA1). It concludes that the potential environmental impacts of the changes in the MOX program are not significantly different from the impacts analyzed in the SPD EIS. Therefore, DOE/NNSA will now pursue a MOX-only surplus plutonium disposition program. The program will dispose of 34 MT of surplus plutonium, including approximately 6.5 MT of the 17 MT of surplus plutonium originally intended for immobilization.

FOR FURTHER INFORMATION CONTACT: For further information concerning the disposition of surplus plutonium, copy of the Supplement Analysis for Changes Needed to the Surplus Plutonium Disposition Program or this amended ROD, contact Hitesh Nigam, Deputy NEPA Compliance Officer, Office of Fissile Materials Disposition, National Nuclear Security Administration, 1000 Independence Avenue, SW., Washington, DC 20585, or leave a message at 800-820-5134.

For further information concerning DOE's NEPA process, contact Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (EH-42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 586-4600, or leave a message at (800) 472-2756. Additional information regarding the DOE NEPA process and activities is also available on the Internet through the NEPA home page at <http://tis.eh.doe.gov/nepa>.

SUPPLEMENTARY INFORMATION:

I. Background

On April 19, 2002, DOE/NNSA issued an amended ROD (67 FR 19432) for the *Surplus Plutonium Disposition Environmental Impact Statement* (SPD EIS) (DOE/EIS-0283, November 1999) and the *Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact*

Statement (Storage and Disposition PEIS) (DOE/EIS-0229, December 1996) That amended ROD canceled the immobilization component of the U.S. surplus plutonium disposition program for surplus weapons-usable¹ (weapons-grade² and non-weapons-grade) plutonium described in the two EISs. The amended ROD selected the alternative of immediate implementation of consolidated long-term storage at the SRS of surplus non-pit plutonium now stored separately at the Rocky Flats Environmental Technology Site (RFETS). DOE has begun shipping the RFETS surplus non-pit plutonium to SRS pursuant to that ROD, and anticipates that the shipping campaign will be completed by late summer of 2003.

The April 19 amended ROD also explained that in response to a Congressional directive set out in Section 3155(c) of The National Defense Authorization Act for Fiscal Year 2002, on February 15, 2002 DOE/NNSA submitted a Report to Congress: Disposition of Surplus Defense Plutonium at Savannah River Site (supplemented by letter on March 5, 2002). That report stated that DOE/NNSA's current disposition strategy involves a MOX-only approach, under which DOE/NNSA would dispose of up to 34 MT of surplus weapons-grade plutonium by converting it to MOX fuel and irradiating it in commercial power reactors. The April 19 ROD noted that implementation of this strategy would allow the successful completion of the September 2000 Agreement Between the Government of the United States and the Government of the Russian Federation Concerning the Management and Disposition of Plutonium Designated as No Longer Required for Defense Purposes and Related Cooperation (U.S.-Russia Agreement). It also stated, however, that DOE was in the process of analyzing the changes to the MOX fuel portion of the surplus plutonium disposition program that would be entailed by such a strategy, including analysis conducted pursuant to NEPA, and that no final decisions regarding the MOX portion of the surplus plutonium disposition program would be made until DOE/NNSA completed this analysis.

DOE has previously prepared a number of NEPA documents regarding

the surplus plutonium disposition program. The Storage and Disposition PEIS evaluated the potential environmental consequences of alternative strategies for the long-term storage of weapons-usable plutonium and highly enriched uranium and the disposition of weapons-usable plutonium that has been or may be declared surplus to national security needs. The ROD for the Storage and Disposition PEIS, issued on January 21, 1997 (62 FR 3014), outlined DOE's decision to pursue a hybrid disposition strategy that allowed for both the immobilization of some (and potentially all) of the surplus plutonium and the fabrication of some of the surplus plutonium into MOX fuel to be irradiated in existing domestic, commercial reactors. Subsequent to issuing the ROD for the Storage and Disposition PEIS, DOE conducted a competitive procurement and in March 1999 selected the team of Duke Cogema Stone & Webster (DCS) to design, construct and operate a potential MOX facility in accordance with U.S. Nuclear Regulatory Commission (NRC) regulations.

The SPD EIS, which tiered from the Storage and Disposition PEIS, evaluated site-specific alternatives for the construction and operation of three facilities to dispose of up to 50 MT³ of surplus plutonium. The ROD for the SPD EIS, issued on January 11, 2000 (65 FR 1608), affirmed DOE's decision to implement a hybrid approach for the safe and secure disposition of up to 50 MT of surplus plutonium. Clean metals and clean oxides were identified as feed for the MOX fuel fabrication facility (MOX facility). Impure metals, plutonium alloys, impure oxides, uranium/plutonium oxides, alloy reactor fuel, and oxide reactor fuel were identified as feed for the immobilization facility. In addition, SRS was selected as the site for construction and operation of the three disposition facilities: the pit disassembly and conversion facility, the MOX facility, and the plutonium conversion and immobilization facility (immobilization facility).

In 2001, the schedule for design, construction and operation of the immobilization facility was delayed due to budgetary constraints. In its February 15, 2002 Report to Congress, DOE/NNSA stated that after evaluating the feasibility of implementing two disposition approaches, it believed that

the best way to make the most progress with available funds while maintaining Russian interest in and commitment to surplus plutonium disposition was to pursue a MOX-only disposition strategy. On April 19, 2002, DOE/NNSA issued an amended ROD revising the earlier decisions announced in the RODs for the Storage and Disposition PEIS and the SPD EIS. With respect to surplus plutonium disposition, the amended ROD announced DOE/NNSA's decision to cancel the immobilization program and conduct additional NEPA analyses, as appropriate, before making any final decisions regarding the MOX portion of the surplus plutonium disposition.

In addition to these various NEPA documents that DOE has prepared, DOE/NNSA notes that the NRC is preparing an EIS for the MOX facility based on an Environmental Report submitted by DCS in support of its application, pursuant to 10 CFR part 70, for an NRC license to possess and use special nuclear material in the MOX facility.

Finally, DOE/NNSA takes note of Division C, Title XXXI, Subtitle E of the recently enacted Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Pub. L. 107-314, December 2, 2002). That Subtitle, entitled "Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina," directs the Secretary to submit to Congress a plan for and series of reports regarding construction and operation of a MOX facility at SRS under a specific timetable. It also directs the Secretary to take certain actions if that schedule is not being met, which depending on the circumstance may include preparation of a corrective action plan, cessation of further transfers of weapons-usable plutonium to SRS until the Secretary certifies that the MOX production objective can be met, removal of weapons-usable plutonium transferred to SRS, and payment of economic assistance to SRS from funds available to the Secretary. In DOE/NNSA's view, enactment of this legislation demonstrates strong congressional interest in seeing DOE/NNSA proceed with the MOX facility as promptly as is reasonably possible, and DOE/NNSA is proceeding accordingly.

II. Changes to the MOX Facility and Program

There are two sets of changes that are relevant to evaluating the environmental impacts of a MOX facility that would be used in the MOX program currently being contemplated as compared with the impacts of the MOX facility evaluated in the SPD EIS. First, entirely independently of the fact that the

¹ Weapons-usable plutonium is plutonium in forms (e.g., metals or oxides) that can be readily converted for use in nuclear weapons. Weapons-grade, fuel-grade, and power-reactor-grade plutonium are all weapons-usable.

² Weapons-grade plutonium is plutonium with an isotopic ratio of plutonium-240 to plutonium-239 of no more than 0.10.

³ This amount (50 MT) accommodates the potential declaration of additional surplus plutonium in the future. To date, 38 MT of weapons-grade plutonium have been declared surplus. Of this amount, approximately 4 MT is already in the form of waste or spent nuclear fuel.

revised strategy contemplates the fabrication of additional material into MOX, as the detailed design for the MOX facility has progressed in conjunction with the NRC licensing process, some of the facility design parameters originally assumed in preparing the SPD EIS have changed.

Second, the MOX-only program DOE is now contemplating would entail fabricating into MOX slightly more plutonium than previously analyzed (34 MT rather than 33 MT, a difference of approximately 3%). It would also include in the MOX program a portion (approximately 6.5 MT) of the 17 MT of plutonium originally destined for immobilization.⁴ This latter plutonium, referred to as "alternate feedstock," is currently in storage at various sites around the DOE complex. The majority of this material is now at RFETS, and DOE/NNSA is in the process of shipping it to SRS.⁵ The remainder is located primarily at the Hanford Reservation, SRS, the Lawrence Livermore National Laboratory, and the Los Alamos National Laboratory. This alternate feedstock has more impurities and some larger particles sizes than the plutonium originally analyzed. This means

additional equipment will need to be incorporated into the MOX facility to homogenize and reduce the particle size of some of the new feedstock and to remove the additional impurities.

III. NEPA Process for Amending ROD

The Council on Environmental Quality (CEQ) regulations implementing NEPA at 40 CFR 1502.9(c) require Federal agencies to prepare a supplement to an EIS when an agency makes substantial changes in the proposed action that are relevant to environmental concerns or when there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. DOE regulations at 10 CFR 1021.314(c) direct that when it is unclear whether a supplement to an EIS is required, an SA be prepared to assist in making that determination. DOE/NNSA has recently prepared the Supplement Analysis for Changes Needed to the Surplus Plutonium Disposition Program (DOE/EIS-0283-SA1) in accordance with these CEQ and DOE regulations.

In the SPD EIS ROD, DOE selected the Preferred Alternative (SPD EIS Alternative 3), which involves the construction and operation of three disposition facilities at SRS. The SA evaluates the proposed changes to the MOX facility within the context of the SPD EIS Preferred Alternative, and recognizes that, with the cancellation of the immobilization facility, only two disposition facilities are to be constructed and operated at SRS. The analysis also reflects the design changes in the MOX facility proposed during the NRC licensing process. The SA also evaluates the proposed processing of 34 MT of surplus plutonium, including the alternate feedstock, and compares the impacts of that proposal to the associated impacts presented in the SPD EIS. The conclusions from the SA are summarized in Section IV of this amended ROD. Section IV also discusses the effect of using the alternate feedstock to fabricate MOX fuel on DOE/NNSA's decision in the April 19, 2002 amended ROD to consolidate long-term storage at SRS of surplus non-pit plutonium stored separately at RFETS (see Section I).

IV. Summary of Impacts

None of the changes to the program described above would result in impacts significantly different from, or significantly greater than, those described in the SPD EIS. For most of the resource areas analyzed, no differences or only very minor differences in impacts were identified

Where there are differences in impacts, they are relatively small and are well within DOE's capacity to manage.

Increased impacts result from increases in the volume of low-level radioactive waste, transuranic (TRU) waste, and nonradioactive, nonhazardous wastewater from the MOX facility over levels identified in the SPD EIS. However, there is sufficient capacity within the waste management infrastructure at SRS, and available disposal capacity within the DOE complex, to accommodate the additional waste. Moreover, the total number of shipments of TRU waste from SRS to the Waste Isolation Pilot Plant (WIPP) remains within the number of shipments evaluated in the Waste Isolation Pilot Plant Disposal Phase Final Supplemental Environmental Impact Statement (WIPP SEIS) when the additional shipments of TRU waste generated by MOX facility operations are included. Finally, from a programmatic perspective (*i.e.*, construction and operation of only two facilities rather than three), overall generation of non-radioactive, non-hazardous wastewater decreases.

The amount of land estimated to be temporarily and permanently disturbed for construction of the MOX facility would increase from that identified in the SPD EIS. However, construction of the MOX facility in F-Area is consistent with other SRS uses and with the surrounding industrial land use.

Changes to the MOX facility and associated operations would result in only minor additional impacts on other resource areas, including an overall decrease in water use and a small positive socioeconomic benefit from the need for a slightly larger workforce. No new or different bounding accident scenarios or impacts have been identified, and operation of the MOX facility continues to pose no more than a small risk to human health and the environment.

Prior to issuing the April 19 amended ROD to provide for the transfer of RFETS surplus non-pit plutonium to SRS, DOE prepared an SA entitled Supplement Analysis for Storage of Surplus Plutonium Materials in the K-Area Material Storage Facility at the Savannah River Site (KAMS SA), DOE/EIS-0229-SA-2, February 2002. That SA analyzed the impacts of storing up to 15 MT of plutonium in the KAMS facility for up to 50 years. Like the rest of the non-pit plutonium, this material will have to be sampled before any final decision can be made whether it can be fabricated into MOX, but DOE/NNSA anticipates that, depending on system performance and actual material

⁴ In its original February 15, 2002 Report to Congress, DOE/NNSA indicated that it believed that 6.4 MT of impure surplus plutonium, previously intended for immobilization, could reasonably be purified and used as feedstock for MOX fuel fabrication. That report also indicated that an additional 2 MT of impure surplus plutonium was too heavily contaminated to be cost-effectively used as MOX feedstock, and would therefore be disposed of as waste. A March 5, 2002 letter supplementing the February 15 Report noted that, while disposal of the 2 MT as waste remains a possibility, DOE was evaluating other disposal options, including additional processing that might result in the recovery of additional plutonium suitable for fabrication as MOX fuel. DOE recently determined that a small portion of this material, currently stored at RFETS, would most appropriately be disposed of as waste at the Waste Isolation Pilot Plant near Carlsbad, New Mexico. See Supplement Analysis for the Disposal of Certain Rocky Flats Plutonium-Bearing Materials at the Waste Isolation Pilot Plant (DOE/EIS-0026-SA-3, November 2002), Amendment to the Record of Decision on Waste Isolation Pilot Plant Disposal Phase Supplemental Environmental Impact Statement (67 FR 69512, November 18, 2002). DOE is still evaluating options to determine the most cost-effective manner for disposing of the remainder of the 2 MT of impure plutonium, and at present this plutonium is not included in the surplus plutonium that will be used to implement the U.S.-Russia Agreement. If that remains the case, this 2 MT would be replaced with an equivalent amount of additional weapons-grade plutonium to be identified in a future surplus declaration.

⁵ In the April 19, 2002 amended ROD, DOE decided to transfer the non-pit surplus plutonium at RFETS to SRS for long-term storage, in order to facilitate the closure of RFETS. It otherwise left unmodified its earlier decision to continue to store the non-pit material at the sites where it is currently located. Today's decision likewise leaves unmodified that earlier decision to leave that material in place.

characteristics, almost all of the RFETS plutonium will be included in the approximately 6.5 MT of alternate feedstock, meaning that this material would not require long-term storage.

Based on these analyses, DOE/NNSA has determined that the potential environmental impacts associated with the proposed changes to the revised disposition program, including facility design changes, a small increase in the total amount of material to be fabricated into MOX fuel, and the processing of approximately 6.5 MT of surplus plutonium originally intended for immobilization, would not constitute significant new circumstances or information relevant to environmental concerns and bearing on the action and impacts previously analyzed in the SPD EIS. Therefore, pursuant to 10 CFR 1021.314, no additional NEPA analysis is required for DOE/NNSA to move forward with the design changes and modify its disposition program so that it will entail processing 34 MT of surplus plutonium, including approximately 6.5 MT of plutonium originally intended for immobilization, into MOX fuel.

V. Amended Decision

DOE/NNSA is modifying its previous surplus plutonium disposition decisions in order to implement the U.S.-Russia Agreement using a 34-MT MOX-only approach. DOE/NNSA is modifying its decisions on the disposition of surplus plutonium as follows:

- Pursue a program of fabricating into MOX fuel (after appropriate sampling to determine actual material characteristics) approximately 6.5 MT of surplus weapons-grade plutonium originally intended for immobilization, including the material transferred from RFETS to SRS for storage that after appropriate sampling is determined to meet the MOX fabrication facility's specifications.

- Increase the total amount of surplus plutonium to be fabricated into MOX fuel under that program from 33 MT to 34 MT.

Issued in Washington, DC, this 17th day of April, 2003

Linton F. Brooks,

Acting Administrator, National Nuclear Security Administration

[FR Doc 03-10151 Filed 4-23-03, 8 45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[OW-2002-0064; FRL-7487-6]

Agency Information Collection Activities; Submission of EPA ICR No. 0029.08 (OMB No. 2040-0068) to OMB for Review and Approval; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NPDES Modifications and Variance Requests. This ICR describes the nature of the information collection and its estimated burden and cost. **DATES:** Additional comments may be submitted on or before May 27, 2003. **ADDRESSES:** Follow the detailed instructions in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jack Faulk, Water Permits Division, Office of Wastewater Management, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number 202-564-0768; fax number (202) 564-6431; email address: faulk.jack@epa.gov

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On January 10, 2003, (68 FR 1454), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OW-2002-0064, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to

access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to ow-docket@epa.gov, or by mail to, EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code: 4101T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's Federal Register notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

Title: NPDES Modification and Variance Requests (OMB Control Number 2040-0068, EPA ICR Number 0029.08). This is a request to renew an existing approved collection that is scheduled to expire on April 30, 2003. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: This ICR calculates the burden and costs associated with modifications and variances made to NPDES permits and to the National Sewage Sludge Management Program permit requirements. The regulations specified at 40 CFR 122.62 and 122.63 specify information a facility must report in order for the U.S.