

attendance rates, and college persistence rates (where applicable and available)) for low-income and other educationally disadvantaged students served by the charter schools operated or managed by the applicant that are significantly above the average academic achievement results for such students in the State.

(b) *Contribution in assisting educationally disadvantaged students.*

The contribution the proposed project will make in assisting educationally disadvantaged students served by the applicant to meet or exceed State academic content standards and State student academic achievement standards, and to graduate college- and career-ready. When responding to this selection criterion, applicants must discuss the proposed locations of schools to be created or substantially expanded and the student populations to be served.

(c) *Quality of the project design.*

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, measurable, and attainable. Applicants proposing to open schools serving substantially different populations than those currently served by the model for which they have demonstrated evidence of success must address the attainability of outcomes given this difference.

(d) *Quality of the management plan and personnel.*

The Secretary considers the quality of the management plan and personnel to replicate and substantially expand high-quality charter schools. In determining the quality of the management plan and personnel for the proposed project, the Secretary considers:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The business plan for improving, sustaining, and ensuring the quality and performance of charter schools created or substantially expanded under these grants beyond the initial period of Federal funding in areas including, but not limited to, facilities, financial management, central office, student academic achievement, governance, oversight, and human resources of the charter schools.

(3) A multi-year financial and operating model for the organization, a

demonstrated commitment of current and future partners, and evidence of broad support from stakeholders critical to the project's long-term success.

(4) The plan for closing charter schools supported, overseen, or managed by the applicant that do not meet high standards of quality.

(5) The qualifications, including relevant training and experience, of the project director, chief executive officer or organization leader, and key project personnel, especially in managing projects of the size and scope of the proposed project.

Final Priorities, Requirements, Definitions, and Selection Criteria

We will announce the final priorities, requirements, definitions, and selection criteria in a notice in the **Federal Register**. We will determine the final priorities, requirements, definitions, and selection criteria after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these proposed priorities, requirements, definitions, and selection criteria, we invite applications through a notice in the **Federal Register**.

Executive Order 12866: This notice has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this proposed regulatory action.

The potential costs associated with this proposed regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this proposed regulatory action, we have determined that the benefits of the proposed priorities, requirements, definitions, and selection criteria justify the costs.

We have determined, also, that this proposed regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a

strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/news/fedregister>. To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: <http://www.gpo.gov/fdsys>.

Dated: March 22, 2011.

James H. Shelton, III,
Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2011-7125 Filed 3-24-11; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

DOE Response to Recommendation 2010-1 of the Defense Nuclear Facilities Safety Board, Safety Analysis Requirements for Defining Adequate Protection for the Public and the Workers

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board Recommendation 2010-1, concerning *Safety Analysis Requirements for Defining Adequate Protection for the Public and the Workers* was published in the **Federal Register** on November 30, 2010 (75FR 74022). In accordance with section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b), the Secretary of Energy transmitted the following response to the Defense Nuclear Facilities Safety Board on February 28, 2011.

ADDRESSES: Send comments, data, views, or arguments concerning the

Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Ms. Amanda Anderson, Nuclear Engineer, Departmental Representative to the Defense Nuclear Facilities Safety Board, Office of Health, Safety and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, on March 17, 2011.

Mari-Josette Campagnone,

Departmental Representative to the Defense Nuclear Facilities Safety Board, Office of Health, Safety and Security.

February 28, 2011

The Honorable Peter S. Winokur
Chairman, Defense Nuclear Facilities
Safety Board
625 Indiana Avenue, NW., Suite 700,
Washington, DC 20004.

Dear Mr. Chairman: This is in response to your October 29, 2010, letter which provided Defense Nuclear Facilities Safety Board (DNFSB) Recommendation 2010-1, *Safety Analysis Requirements for Defining Adequate Protection for the Public and the Workers*.

The Department of Energy (DOE) is strongly dedicated to the safety of the public, our workers, and the environment at all of our facilities. We share your conviction that a clear set of requirements and standards is vital for safe operations. In 2008, we began a comprehensive re-examination of our nuclear safety requirements to assure they were clear, concise, complete, and current. In March 2010, we enhanced our Directives Reform effort to better define and expedite it, and we have made good progress in revising key nuclear safety Directives and the DOE Nuclear Safety Policy.

We have not changed our interpretation of requirements for developing and approving Documented Safety Analyses (DSAs). We have made significant nuclear safety improvements by upgrading facility safety bases and designs and by improving our safety standards and procedures. Much has been learned and will continue to be learned about improving safety. With your assistance, we have applied the lessons learned from industry incidents to upgrade our requirements. Our improving safety record reflects these lessons.

Though DOE has an improving safety record, we always strive to do better. Complacency will not be tolerated. With this in mind, the Department has carefully evaluated Recommendation

2010-1 and how we can use it to improve nuclear safety at the Department. The Department partially accepts the Board's Recommendation; a detailed explanation is provided below. We have clarified aspects of sub-recommendation 1, 2, 3c, 4 and 5e. Several elements of Recommendation 2010-1 will be addressed in the revision of Standard 3009, *Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses*. As we develop the Implementation Plan for Recommendation 2010-1, we will further engage the Board.

Sub-recommendation 1—Immediately affirm the requirement that unmitigated, bounding-type accident scenarios will be used at DOE's defense nuclear facilities to estimate dose consequences at the site boundary, and that a sufficient combination of SSCs must be designated safety class to prevent exposures at the site boundary from approaching 25 rem TEDE [Total Effective Dose Equivalent].

DOE Standard 3009 details DOE's expectations for accident analyses to identify hazard controls for most DOE nuclear facilities. DOE agrees that Standard 3009 specifies that the consequences of unmitigated accidents should to be compared to the 25 rem TEDE Evaluation Guideline to determine if safety class controls are warranted. As you know, new facilities follow the 25 rem TEDE limit as a siting criteria according to DOE Standard 1189, *Integration of Safety into the Design Process*. For existing facilities safety class Structures, Systems and Components (SSCs) are normally utilized to prevent exposures from exceeding 25 rem TEDE. Standard 3009 also includes provisions for use of other means and controls to assure safety where off-site exposures are not reduced to below 25 rem TEDE, or where SSCs are not available. The revised Standard 3009 will further clarify the use of the Evaluation Guideline in accident analyses for both new and existing facilities.

Sub-recommendation 2—For those defense nuclear facilities that have not implemented compensatory measures sufficient to reduce exposures at the site boundary below 25 rem TEDE, direct the responsible program secretarial officer to develop a formal plan to meet this requirement within a reasonable timeframe.

DOE's responsible Program Secretarial Officer has evaluated the safety measures planned or currently in place to protect the public at the few remaining defense nuclear facilities that have potential accident doses above the

25 rem TEDE, and has determined that these measures provide adequate protection. This conclusion is based on an evaluation of all protective measures in place at these facilities, including disciplined formal operations, training, safety management programs, control of materials, and layers of controls to prevent accidents and/or mitigate their consequences.

Consistent with DOE's commitment to continuous safety improvement, we will continue to evaluate options for enhancing the safety of these facilities. In some cases, such as the Plutonium Facility (PF-4) at Los Alamos National Laboratory, DOE anticipates that several near-term planned improvements will reduce the bounding mitigated dose to below 25 rem TEDE. Additionally, we have already made substantial progress in reducing the projected offsite dose that could result from specific types of accidents. For many limited life facilities we will achieve permanent, long-term risk reduction through deactivation and decommissioning. Once we revise DOE Standard 3009, DOE will evaluate the documented safety analyses for all facilities as part of the required periodic update process. The Implementation Plan will describe the steps that will be taken to evaluate safety improvement options for those facilities determined to need such improvements.

Sub-recommendation 3—Revise DOE Standard 3009-94 to identify clearly and unambiguously the requirements that must be met to demonstrate that an adequate level of protection for the public and workers is provided through a DSA. This should be accomplished, at a minimum, by: (followed by four paragraphs labeled a-d).

DOE is revising DOE Standard 3009 to clearly indicate which of its provisions are mandatory. DOE will implement the specific steps identified in paragraphs (a), (b), and (d) of this sub-recommendation. However, DOE will not commit to implementing paragraph (c) as written, because doing so would predetermine a specific outcome to the current revision process without any technical basis. This would be contrary to DOE's standards development process. DOE will consider the advice provided in paragraph (c) (i.e., identification of the criteria that must be met for safety class Systems, Structures and Components (SSCs)), during the Standard 3009 revision process.

The Implementation Plan will outline the development process and how the steps identified in all the paragraphs in this sub-recommendation will be followed.

Sub-recommendation 4—Amend 10 CFR Part 830 by incorporating the revised version of DOE Standard 3009–94 into the text as a requirement, instead of as a safe harbor cited in Table 2.

The purpose of a “safe-harbor” is to provide a standard methodology that, if followed, will provide credible analyses and adequate safety. Nothing in the concept implies that “safe-harbor” methodologies are the only way to meet requirements. Of course, alternative approaches must be approved by DOE, and the criteria for accepting these alternatives should be clearly defined.

DOE is planning to review 10 CFR 830 (issued in 2001), which identifies nuclear safety requirements, but we cannot commit to the exact language prescribed in the Recommendation—that is placing Standard 3009 in the body of the rule. As a part of our review, we will update DOE Standard 3009, clearly identifying those provisions that are mandatory. When DOE Standard 3009 is not applied, appropriate means for reviewing and improving alternative methodologies will be established. This will assure implementation of DOE Standard 3009, where appropriate, while maintaining the flexibility to improve the standard, as needed. This approach has allowed DOE to make several important improvements to DOE Standards in the past. Details of the revision process will be provided in the Implementation Plan.

Sub-recommendation 5—Formally establish the minimum criteria and requirements that govern Federal approval of the DSA, by revision of DOE Standard 1104–2009, and other appropriate documents. The criteria and requirements should include: (followed by five paragraphs labeled a–e).

DOE agrees with the need for clear guidelines and requirements on the appropriate delegation of nuclear safety authorities and will revise DOE Standard 1104–2009 and other appropriate DOE documents to achieve this. DOE will implement the specific steps identified in paragraphs (a) through (d) of this sub-recommendation. However, DOE cannot commit to implementing paragraph (e) as written, because it implies that quantitative risk-based decision making must be established and used. The Department is exploring how quantitative methods could be applied to support decision-making on safety issues at our sites and will keep the Board apprised of developments in this area. Today, deterministic and qualitative means are used.

The Department agrees that the decision to approve safety bases must rest on a documented conclusion. The conclusion should indicate that the safety basis provides a reasonable assurance that the facility can be operated safely, that the hazards have been adequately analyzed, and that the engineered and administrative controls provide adequate protection for the public, workers and the environment. The Implementation Plan will outline DOE’s revision to standard 3009 and the safety basis development process, will clarify the safety basis approval process, and identify how the steps in this sub-recommendation will be addressed.

Sub-recommendation 6—Formally identify the responsible organization and identify the processes for performing independent oversight to ensure the responsibilities identified in Item 5 above are fully implemented.

DOE has already identified the responsible organization for performing independent oversight for the Secretary: the Office of Independent Oversight, within the Office of Health, Safety and Security (HSS). However, HSS Independent Oversight protocols and delegation processes will be reviewed and modified as necessary to assure adequate oversight of nuclear safety delegations. The Implementation Plan will describe the steps DOE will take, review and update the protocols and delegation processes.

We appreciate your advice and will continue working closely with the Board to improve the Department’s Directives in a manner that meets our shared objectives to the safe, effective, and efficient execution of our mission. We look forward to working further with the Board and its staff as we prepare the Implementation Plan.

If you have any further questions please contact Glenn Podonsky, Chief, Office of Health, Safety and Security, at 202–287–6071.

Sincerely,

Steven Chu.

[FR Doc. 2011–7085 Filed 3–24–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–018]

Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Notice of Granting the Application for Interim Waiver of Samsung From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of petition for waiver, notice of granting application for interim waiver, and request for public comments.

SUMMARY: This notice announces receipt of and publishes the Samsung Electronics America, Inc. (Samsung) petition for waiver (hereafter, “petition”) from specified portions of the U.S. Department of Energy (DOE) test procedure for determining the energy consumption of electric refrigerators and refrigerator-freezers. The waiver request pertains to Samsung’s product lines that incorporate multiple defrost cycles. In its petition, Samsung provides an alternate test procedure that DOE recently published in an interim final rule. DOE solicits comments, data, and information concerning Samsung’s petition and the suggested alternate test procedure. DOE also publishes notice of the grant of an interim waiver to Samsung.

DATES: DOE will accept comments, data, and information with respect to the Samsung Petition until, but no later than April 25, 2011.

ADDRESSES: You may submit comments, identified by case number “RF–017,” by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* AS_Waiver_Requests@ee.doe.gov. Include the case number [Case No. RF–017] in the subject line of the message.

- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2/J/1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.

- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L’Enfant Plaza, SW., Suite 600,