F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Unfunded Mandates Reform Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100 million (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

G. Executive Order 13175 (Tribal Consultation)

This rule does not have Tribal Implications under Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

H. Executive Order 13175 (Energy Impact Analysis)

DHS has analyzed this rule under Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use." DHS has determined that it is not a "significant energy action" under that Order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 6 CFR Part 37

Document security, Driver's licenses, Identification cards, Motor vehicle administrations, Physical security.

The Amendments

For the reasons set forth above, the Department of Homeland Security amends 6 CFR part 37 as follows:

PART 37—REAL ID DRIVER'S LICENSES AND IDENTIFICATION CARDS

■ 1. The authority citation for part 37 continues to read as follows:

Authority: 49 U.S.C. 30301 note 6 U.S.C. 111, 112.

§ 37.51 [Amended]

■ 2. Amend § 37.51(a) by removing the date "May 11, 2011" and adding in its place the date "January 15, 2013."

Janet Napolitano,

Secretary.

[FR Doc. 2011–5002 Filed 3–4–11; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF ENERGY

10 CFR Part 712

RIN 1992–AZ00

Human Reliability Program: Identification of Reviewing Official

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: DOE is amending the Human Reliability Program (HRP) rule to designate the appropriate Under Secretary as the person with the authority to issue a final written decision to recertify or revoke the certification of an individual in the HRP. This action places decisional authority in the Under Secretary responsible for the operational functioning of the program in which the certification issue arises. It also streamlines internal procedures and facilitates timely final agency decision-making. This amendment modifies internal agency responsibilities but does not alter substantive rights or obligations under current law.

DATES: *Effective Date:* This rule is effective on March 7, 2011.

FOR FURTHER INFORMATION CONTACT: John Gurney, Office of the General Counsel, GC–53, 1000 Independence Avenue, SW., Washington, DC 20585; *John.Gurney@hq.doe.gov;* 202–586–8269; Dane Woodard, Office of Personnel Security, 1000 Independence Avenue, SW., Washington, DC 20585; *Dane.Woodard@hq.doe.gov*; 202–586–4148.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to the Atomic Energy Act of 1954 (the AEA), the DOE owns, leases, operates or supervises activities at facilities in various locations in the United States. Many of these facilities are involved in researching, testing, producing, disassembling, or transporting nuclear explosives, which, when combined with Department of Defense delivery systems, become nuclear weapons systems. These facilities are often involved in other activities that affect the national security. Compromise of these and other DOE facilities would severely damage national security. To guard against such compromise, DOE established the Human Reliability Program (HRP), 10 CFR part 712. 69 FR 3213 (January 23, 2004). The HRP is designed to ensure that individuals who occupy positions affording unescorted access to certain materials, facilities, and programs meet the highest standards of reliability, as well as physical and mental suitability, through a system of continuous evaluation of those individuals. The purpose of this continuous evaluation is to identify, in a timely manner, individuals whose judgment may be impaired by physical or mental/personality disorders; the use of illegal drugs or the abuse of legal drugs or other substances; the abuse of alcohol; or any other condition or circumstance that may represent a reliability, safety, or security concern.

The HRP requires that all individuals who work in positions affording unescorted access to certain materials, facilities, and programs be certified as meeting the highest standards of reliability and physical and mental/personality suitability before such access may be granted.

Under current regulations, an individual's HRP certification is subject to immediate review in the event a supervisor has a reasonable belief that the individual is not reliable, based on either a safety or security concern (10 CFR 712.19(a)). During the pendency of the review, the individual will be removed from assigned HRP duties. This temporary removal is an interim, precautionary action and does not constitute a determination of reliability or access authorization status. If the removal is based on a general security concern, 10 CFR 712.19 provides for resolution under 10 CFR part 710, subpart A (General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material). Individuals who are removed from HRP duties for reasons not related to general security concerns (*e.g.,* reliability) are entitled to resolve these issues through a formal procedure outlined in 10 CFR 712.19 through 712.23. The part 712 regulations require that the individual be given a written statement of the issues, an opportunity to respond, including an opportunity for a hearing before a DOE Office of Hearings and Appeals hearing officer, and an opportunity to have the opinion of the hearing officer reviewed at a higher level before a final determination is made.

As promulgated in 2004, the existing part 712 rule designates the Deputy Secretary as the person responsible for conducting the review of the hearing officer's opinion and the Director, Office of Security's recommendation, and issuing a final written decision. This designation has proved to be impracticable, as the responsibility to review the entire record of every HRP certification suspension proceeding conducted before DOE's Office of Hearings and Appeals imposes an undue burden upon the Department's second highest-ranking official, given the substantial number and nature of the Deputy Secretary's responsibilities for the management of the Department. Consequently, to relieve this burden, promote administrative efficiency, and facilitate prompt resolution of HRP certification suspension cases, DOE is amending the HRP rule to assign the responsibility for reviewing the recommendation of the Chief Health, Safety, and Security Officer to the particular Under Secretary with cognizance over the program which makes the HRP certification in question. The amendment will streamline internal procedures, and more closely align the final agency decision in HRP certification suspension cases with the responsibilities of the relevant secretarial officer.

None of the regulatory amendments in this final rule alter substantive rights or obligations under current law.

This final rule has been approved by the Office of the Secretary of Energy.

II. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be "a significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Administrative Procedure Act

The regulatory amendments in this notice of final rulemaking reflect a transfer of function that relates solely to internal agency organization, management or personnel. As such, pursuant to 5 U.S.C. 553(a)(2), this rule is not subject to the rulemaking requirements of the Administrative Procedure Act, including the requirements to provide prior notice and an opportunity for public comment and a 30-day delay in effective date.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.*

As this rule of agency organization, management and personnel is not subject to the requirement to provide prior notice and an opportunity for public comment under 5 U.S.C. 553 or any other law, this rule is not subject to the analytical requirements of the Regulatory Flexibility Act.

D. Review Under the Paperwork Reduction Act

This final rule does not impose a collection of information requirement subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

E. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule amends existing regulations without changing the environmental effect of the regulations being amended, and, therefore, is covered under the Categorical Exclusion in paragraph A5 of Appendix A to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

F. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

G. 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 Federal 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. 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, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to assess the effects of a Federal regulatory action on State, local, and tribal governments, and the private sector. DOE has determined that today's regulatory action does not impose a Federal mandate on State, local or tribal governments or on the private sector.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guideline issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

Issued in Washington, DC, on February 28, 2011.

Scott Blake Harris,

General Counsel.

For the reasons stated in the preamble, part 712 of chapter III of title 10, Code of Federal Regulations, is amended as set forth below:

PART 712—HUMAN RELIABILITY PROGRAM

■ 1. The authority citation for part 712 continues to read as follows:

Authority: 42 U.S.C. 2165; 42 U.S.C. 2201; 42 U.S.C. 5814–5815; 42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended; 3 CFR Chap. IV.

§ 712.12 [Amended]

■ 2. Section 712.12(d) is amended by removing "Deputy Secretary" and adding in its place "Under Secretary with cognizance over the program which makes the HRP certification at issue (hereinafter 'cognizant Under Secretary'), in consultation with the DOE General Counsel".

§ 712.22 [Amended]

■ 3. Section 712.22 is amended by removing "Deputy Secretary" and adding in its place "cognizant Under Secretary".

■ 4. Section 712.23 is amended by revising the section heading to read as set forth below, and in the first sentence by removing "Deputy Secretary" and adding in its place "cognizant Under Secretary, in consultation with the DOE General Counsel".

§ 712.23 Final decision by DOE Under Secretary.

* * * * *

[FR Doc. 2011–5046 Filed 3–4–11; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

RIN 3245–AF53

8(a) Business Development Program Regulation Changes; Tribal Consultation

AGENCY: U.S. Small Business Administration

ACTION: Notice of tribal consultation meeting; request for comments.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) announces that it is holding a tribal consultation meeting in Las Vegas, Nevada to discuss the recent changes to the 8(a) Business Development (BD) program regulations and take general comments on 8(a) BD program provisions. Additionally, SBA will take comments on the mandatory reporting of community benefits of provision 13 CFR 124.604. Testimony presented at this tribal consultation meeting will become part of the administrative record for SBA's consideration when the Agency deliberates on approaches to tracking community benefits.

DATES: The tribal consultation meeting will be held on Thursday, March 17, 2011 from 1 p.m. to 3 p.m. at the Reservation Economic Summit (RES) Conference in the Las Vegas Hilton, Las Vegas, Nevada.

The tribal consultation meeting pre-registration deadline date is March 10, 2011 at 5 p.m. (Eastern Standard Time).

ADDRESSES:

1. The Las Vegas Tribal Consultation Meeting address is the Las Vegas Hilton, 3000 Paradise Road, Las Vegas, NV 89109.

2. Send pre-registration requests to attend and/or testify to Mr. Marcus Grignon, Office of Native American Affairs, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; by e-mail to *marcus.grignon@sba.gov;* or by facsimile to (202) 481–6386.

3. Send all written comments to Ms. LaTanya Wright, Senior Advisor, Office of Business Development, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; *BDRegs@sba.gov* or by facsimile to (202) 481–2740.

FOR FURTHER INFORMATION CONTACT: If you have questions on SBA's Final Rule