

DEPARTMENT OF DEFENSE

Office of the Secretary

Draft Department of Defense Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice"

AGENCY: General Counsel of the Department of Defense.

ACTION: Notice of availability.

SUMMARY: Executive Order 12473, July 13, 1984, states that the Secretary of Defense shall cause the Manual for Courts-Martial to be reviewed annually and recommend to the President any appropriate amendments. Under the direction of the General Counsel of the Department of Defense, a Joint Service Committee on Military Justice (JSC) has been established to accomplish this review and make recommendations for amendments to the Manual. Department of Defense Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice" provides for the organization, functions, and procedures applicable to the JSC and the annual review process. The Office of Management and Budget (OMB) has provided all government agencies guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated to the public. OMB has directed the agencies to publish a notice in the **Federal Register** by May 1, 2002, that their draft policies complying with the OMB requirement are available for public view and comment on their public Web sites. The draft Department of Defense Directive is available on the Deputy General Counsel (Personnel and Health Policy), Office of the General Counsel public Web site located at <http://www.defenselink.mil/dodgc/php>.

DATES: Consideration will be given to all comments received on or before January 17, 2003.

ADDRESSES: Submit comments to Robert E. Reed, ODGC (P&HP), Office of the General Counsel of the Department of Defense, 1600 Defense Pentagon, Room 3E999, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Reed, ODGC (P&HP), 703-695-1055, reedr@osdgc.osd.mil.

Dated: September 24, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF ENERGY

Waste Isolation Pilot Plant Disposal Phase Supplemental Environmental Impact Statement

AGENCY: U.S. Department of Energy.

ACTION: Amendment to a Record of Decision.

SUMMARY: The U.S. Department of Energy (DOE) has decided to revise its approach for managing approximately 0.97 metric tons (MT) of plutonium-bearing materials (containing about 0.18 MT of surplus plutonium) that are currently located at the Rocky Flats Environmental Technology Site (RFETS). The Department has decided to repackage and transport these materials for direct disposal as transuranic waste (TRUW) at the Waste Isolation Pilot Plant (WIPP) near Carlsbad, New Mexico instead of shipping them to the Savannah River Site (SRS) in South Carolina for storage pending possible disposition. These materials will be repackaged to meet the WIPP waste acceptance criteria (WAC) for TRUW and safeguards termination requirements. DOE has prepared a supplement analysis for this action pursuant to 10 CFR 1021.314, entitled *Supplement Analysis for the Disposal of Certain Rocky Flats Plutonium-Bearing Materials at the Waste Isolation Pilot Plant (WIPP SA)* (DOE/EIS-0026-SA-3, November 2002). On the basis of that document, DOE has concluded this action would not result in significant environmental impacts or in impacts significantly different from those analyzed in the *Waste Isolation Pilot Plant Disposal Phase Supplemental Environmental Impact Statement (SEIS-II)* (DOE-EIS-0026-FS2, September 1997).

ADDRESSES: Copies of the SEIS-II, the WIPP SA, this Amended Record of Decision, and other documents referenced herein, can be obtained by contacting the Center for Environmental Management Information, P.O. Box 23769, Washington, DC 20026-3769, telephone 1-800-736-3282 (in Washington, DC: 202-863-5084).

FOR FURTHER INFORMATION CONTACT: For information concerning the management of plutonium-bearing materials currently stored at Rocky Flats, contact: Dr. W. Eric Huang, Program Manager, Rocky Flats Office (EM-33), Office of Site Closure, Environmental Management, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874, Telephone: 301-903-4630.

For information concerning DOE's National Environmental Policy Act

(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 1-800-472-2756.

SUPPLEMENTARY INFORMATION:**Background**

Historically, Rocky Flats has used a material identification system that segregated plutonium-bearing materials by process origin and/or to designate the subsequent process steps for plutonium recovery and recycle. The categorization is known as Item Description Codes (IDCs). In January 1993, these IDCs were grouped into two major categories, Product and Residue, in order to plan and manage the future disposition of the Site's plutonium-bearing materials. The characterization of plutonium-bearing materials as Product or Residue was based on the average plutonium concentration of each IDC, the relative ease or difficulty of recovery, and/or whether an IDC was traditionally considered Product or Residue. In general, the Product category was comprised of IDCs with average plutonium concentrations greater than 50 percent by weight. However, an IDC could be designated as residue material although some individual items within this IDC exceed 50 percent by weight. Similarly, an IDC could be designated as Product material although some individual items within this IDC are less than 50 percent by weight.

DOE has already decided to dispose of the Residue materials at WIPP as transuranic waste (TRUW).¹ See "Record of Decision on the Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site," 63 FR 66136 (December 1, 1998) and "Amended Record of Decision on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site," 66 FR 4803 (January 18, 2001). The Product materials were originally part of a set of materials destined to be repackaged and sent to the Savannah River Site (SRS) for storage and possible subsequent disposition. See "Record of Decision on the Storage and Disposition of Weapons-Usable Fissile Materials," 62 FR 3014 (January 21, 1997) and "Amended Record of Decision on the

¹ For waste classification, DOE specifically defines TRUW as waste containing more than 100 nanocuries of alpha emitting transuranic isotopes per gram of waste with half-lives greater than 20 years except as noted in Chapter III of DOE Guide 435.1-1.

Surplus Plutonium Disposition Program,” 67 FR 19432 (April 19, 2002). However, as the Rocky Flats closure plans matured, a more detailed review has been undertaken of the items within the Product oxide IDCs. This evaluation revealed that a significant quantity of the materials in the Product oxide IDCs contained plutonium concentrations comparable to the Residue materials. Additionally, these items contained the same plutonium compounds and many of the same impurities and physical characteristics as the materials in the Residue IDCs. In fact, these low assay oxides from the Product IDCs:

- Originated from the same aqueous recovery processes and/or contain impurities similar to the Wet Residue category; or
- Originated from the same pyrochemical processes and/or contained impurities similar to the Salt Residue category; or
- Originated from the same process lines and/or contained impurities comparable to the Ash Residue category.

DOE has therefore concluded that by reason of their similarity to the materials already slated for disposal at WIPP, an additional approximately 0.97 MT of low assay oxides (containing about 0.18 MT of surplus plutonium) from the Product IDCs should be disposed of in the same fashion after being repackaged to meet the requirements for safeguards termination and the WIPP waste acceptance criteria (WAC).

Additional NEPA Review

DOE has prepared a supplement analysis for this proposed action, entitled *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). This supplement analysis was prepared to determine whether the activities associated with repackaging approximately 0.97 MT of plutonium-bearing materials (containing about 0.18 MT of surplus plutonium) at RFETS, shipping the materials to WIPP, and disposal at WIPP would present any significant new information or circumstances relevant to environmental concerns. The supplement analysis indicated that the potential impacts of the proposed action were small and not significantly different from the impacts evaluated in the SEIS-II.

With respect to repackaging, the impacts of ordinary operations would be bounded by the analysis in the SEIS-II, even when adding the very small impacts from repackaging the proposed

action material to those of repackaging the other Rocky Flats material currently slated for disposal at WIPP. This is due to the fact that the SEIS-II contemplated the repackaging of considerably more plutonium than the total amount of plutonium that will actually be repackaged at RFETS. The SEIS-II analyzed repackaging and sending to WIPP 17,000 cubic meters of TRUW, but DOE projects that no more than approximately 12,500 cubic meters will eventually be sent. With regard to the most severe accident scenario, an earthquake, the impacts would be greater than predicted in the SEIS-II because the proportion of plutonium in the containers being repackaged is larger than in the containers analyzed in the SEIS-II. But the difference is not significant because the impacts are still small, and because the earthquake scenario has a predicted frequency of less than once over 100,000 years.

The impacts from transporting and disposing of the proposed action materials are small and bounded by those predicted in the SEIS-II. With respect to transportation, the impacts are bounded by the analysis contained in the SEIS-II for two reasons. First, once the material has been repackaged for shipment, the shipments containing those packages will be in all applicable respects similar to the shipments analyzed in the SEIS-II. Second, the actual number of shipments from RFETS to WIPP will be fewer than the number of shipments analyzed in the SEIS-II, even when the shipments of the proposed action materials are included. The SEIS-II assumed that approximately 2,100 shipments would be sent from RFETS to WIPP, but DOE projects that no more than 1,700 shipments, including the 45 shipments for the proposed action, will be sent. With respect to disposal, once the material at issue has been repackaged, it will meet the WIPP waste acceptance criteria, the relevant consideration used in analyzing the impacts of disposing of the material analyzed in the SEIS II. Furthermore, the volume (and impacts) of material slated for disposal from all sites, including the proposed action material, will remain well below the total analyzed in the SEIS-II.

Other Considerations

This proposed action will reduce the technical uncertainty associated with removing these materials from RFETS and thus will enhance DOE's ability to meet the RFETS site closure schedule. In order to send these materials to SRS as originally planned, they would need to be stabilized and repackaged to meet DOE-STD-3013 requirements. Because

of their low density, it would be difficult to efficiently repackage these materials to meet these requirements. The 3013 containers are relatively small and were developed for high density plutonium metal and oxides. Also, these materials contain impurities which present a significant technical challenge to maintaining the moisture specifications of the DOE-STD-3013 requirements. Sending these materials to WIPP as TRUW eliminates this technical risk.

Conclusion

DOE has determined that repackaging and transporting approximately 0.97 MT of RFETS plutonium-bearing materials (containing about 0.18 MT of surplus plutonium) for direct disposal at the WIPP would not constitute a substantial change in actions previously analyzed. Furthermore, this proposed action would not constitute significant new circumstances or information relevant to environmental concerns and bearing on the previously analyzed action or its impacts. The potential impacts associated with the new action are encompassed within the activities and impacts analyzed under Action Alternative 1 of the SEIS-II. Therefore, DOE does not need to undertake additional NEPA analysis before issuing this amendment.

Decision

After consideration of the potential environmental impacts identified in the SEIS-II and the WIPP SA, DOE has decided to dispose of at WIPP approximately 0.97 MT of the plutonium-bearing materials (containing about 0.18 MT of surplus plutonium) currently located at RFETS. These materials would be repackaged to meet the WIPP WAC and safeguards termination requirements.

This Amended Record of Decision is effective upon being made public, in accordance with DOE's NEPA implementation regulations (10 CFR 1021.315).

Issued in Washington, DC, on November 8, 2002.

Jessie Hill Roberson,

Assistant Secretary for Environmental Management.

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