

appropriate circuit by March 17, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 10, 1996.  
Kerrigan Clough,  
Acting Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

**Subpart G—Colorado**

2. Section 52.320 is amended by adding paragraph (c)(79) to read as follows:

**§52.320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(79) On August 23, 1996, the Governor of Colorado submitted a revision to the long-term strategy portion of Colorado's State Implementation Plan (SIP) for Class I Visibility Protection. The revision was made to incorporate into the SIP, among other things, emissions reduction requirements for the Hayden Station (a coal-fired steam generating plant located near the town of Hayden, Colorado) that are based on a consent decree addressing numerous air pollution violations at the plant. This SIP revision replaces the previous existing impairment portion of the long-term strategy as it relates to the Mt. Zirkel Wilderness Area.

(i) Incorporation by reference.

(A) Long-Term Strategy Review and Revision of Colorado's State Implementation Plan for Class I Visibility Protection Part I: Hayden Station Requirements, as follows:

Section VI., effective on August 15, 1996.

[FR Doc. 97-1043 Filed 1-15-97; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 82**

**Protection of Stratospheric Ozone**

*CFR Correction*

In title 40 of the Code of Federal Regulations, parts 81 to 85, revised as of July 1, 1996, § 82.32 (e)(1) and (2) was incorrectly revised. The corrected text should read as follows.

**§ 82.32 Definitions.**

\* \* \* \* \*

(e)(1) Properly using means using equipment in conformity with Recommended Service Procedures and Recommended Practices for the Containment of R-12 (CFC-12) set forth in appendix A or appendix B to this subpart, as applicable. In addition, this term includes operating the equipment in accordance with the manufacturer's guide to operation and maintenance and using the equipment only for the controlled substance for which the machine is designed. For equipment that extracts and recycles refrigerant, properly using also means to recycle refrigerant before it is returned to a motor vehicle air conditioner. For equipment that only recovers refrigerant, properly using includes the requirement to recycle the refrigerant on-site or send the refrigerant off-site for reclamation.

(2) Refrigerant from reclamation facilities that is used for the purpose of recharging motor vehicle air conditioners must be at or above the standard of purity developed by the Air-conditioning and Refrigeration Institute (ARI 700-93) (which is codified at 40 CFR part 82, subpart F, appendix A, and is available at 4301 North Fairfax Drive, Suite 425, Arlington, Virginia 22203). Refrigerant may be recycled off-site only if the refrigerant is extracted using recover only equipment, and is subsequently recycled off-site by equipment owned by the person that owns both the recover only equipment and owns or operates the establishment at which the refrigerant was extracted. In any event, approved equipment must be used to extract refrigerant prior to performing any service during which discharge of refrigerant from the motor vehicle air conditioner can reasonably be expected. Intentionally venting or disposing of

refrigerant to the atmosphere is an improper use of equipment.

\* \* \* \* \*

[FR Doc. 97-55573 Filed 1-15-97; 8:45 am]

BILLING CODE 1505-01-D

**DEPARTMENT OF ENERGY**

**48 CFR Parts 904, 906, 908, 915, 923, 925, 945, 952, and 970**

RIN 1991-AB34

**Acquisition Regulation; Technical Amendments**

AGENCY: Department of Energy (DOE).

ACTION: Final rule, technical amendments.

**SUMMARY:** The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to perform "housekeeping" duties such as conforming certain sections of the DEAR to recent Federal Acquisition Regulation changes, updating organizational and other references, correcting dates in contract clauses, and clarifying certain text. These corrections and changes are technical in nature and none of them raises substantive issues or represents changes in policy.

**EFFECTIVE DATE:** This final rule will be effective February 18, 1997.

**FOR FURTHER INFORMATION CONTACT:** P. Devers Weaver, Office of Policy (HR-51), Office of Procurement and Assistance Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585-0705, 202-586-8250.

**SUPPLEMENTARY INFORMATION:**

- I. Explanation of Revisions
- II. Procedural Requirements
  - A. Procedural Determinations
  - B. Review Under Executive Order 12612
  - C. Review Under Executive Order 12866
  - D. Review Under Executive Order 12988
  - E. Review Under the National Environmental Policy Act
  - F. Review Under the Paperwork Reduction Act
  - G. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996
  - H. Review Under the Unfunded Mandates Reform Act of 1995

I. Explanation of Revisions

None of the revisions in this rule is substantive. However, readers may benefit from an explanation of some of the revisions.

The authority citations for Parts 925 and 952 have been conformed to those used for all other parts of the regulation

(except for Part 970, which requires a different citation).

Subpart 904.6, Contract Reporting, is deleted because the approach used in the referenced DOE order has been discontinued in conjunction with streamlining initiatives of the Department.

Subsection 906.303-70, Exemption, is removed because it references Special Research Contracts which are no longer addressed in the regulation.

Section 915.401 is revised to delete reference to Special Research Contracts, now obsolete.

Subsection 952.202-1, Definitions, is updated to conform the DEAR to the Federal Acquisition Regulation (FAR) for this subsection.

Subsections 952.211-72 and 952.211-73, sections 970.0406, and subsection 970.5204-50 are deleted because the approaches used in the referenced DOE Directives have been discontinued in conjunction with streamlining initiatives of the Department.

Subsection 970.5204-60 is revised by deleting two paragraphs which referenced DOE Directives that are no longer in existence.

## II. Procedural Requirements

### A. Procedural Determinations

Pursuant to the Department of Energy Organization Act and the Administrative Procedure Act, DOE hereby waives prior notice and opportunity for public comment as unnecessary because the regulatory amendments are purely technical and largely non-discretionary. 42 U.S.C. 7191(b)(3), 5 U.S.C. 553(b)(3).

### B. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

### C. Review Under Executive Order 12866

This 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).

### D. 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 Executive 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. With regard to the review required by section 3(a), 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, the regulations meet the relevant standards of Executive Order 12988.

### E. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500-1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*). Pursuant to Appendix A of Subpart D of 10 CFR 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A6), DOE has determined that this rule is categorically excluded from the need to prepare an

environmental impact statement or environmental assessment.

### F. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

### G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. 5 U.S.C. 801. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(3).

### H. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of \$100 million or more. This rulemaking only affects private sector entities, and the impact is less than \$100 million.

List of Subjects in 48 CFR Parts 904, 906, 908, 915, 923, 925, 945, 952, and 970

#### Government procurement.

Issued in Washington, D.C., on January 3, 1997.

Richard H. Hopf,

*Deputy Assistant Secretary for Procurement and Assistance Management.*

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for Parts 904, 906, 908, 915, 923, and 945 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. The authority citation for Parts 925 and 952 is revised to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

3. The authority citation for Part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Public Law 95-91 (42 U.S.C. 7254).

**PART 904—ADMINISTRATIVE MATTERS**

**904.6 [Removed and Reserved]**

4. Subpart 904.6, Contract Reporting, is removed and reserved.

**904.702 [Amended]**

5. Section 904.702, Applicability, is amended in paragraph (b) by revising the phrase "Chapter V of DOE Order 1324.2 (see current version)," to read "applicable DOE Directives in the records management series".

**PART 906—COMPETITION REQUIREMENTS**

**906.303-70 [Removed]**

6. Subsection 906.303-70, Exemption, is removed.

**PART 908—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

**908.7121 [Amended]**

7. Section 908.7121, Special materials, is amended in paragraph (b) in the first sentence by inserting the acronym "DOE" between the words "The" and "Oak" and in the third sentence by inserting the words "The DOE" before "Oak Ridge."

**PART 915—CONTRACTING BY NEGOTIATION**

**915.401 [Amended]**

8. Section 915.401, Applicability, is amended by deleting the words "Special Research Contracts (See 917.71)" and the comma immediately after the parenthetical phrase "(See 917.72)."

**PART 923—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

**923.7002 [Amended]**

9. Section 923.7002, Contract clauses, is amended in paragraph (d), the fourth sentence, by revising "The Principal Deputy Assistant Secretary for Environment, Safety and Health" to read "The Assistant Secretary for Environment, Safety and Health (or designee)."

**PART 945—GOVERNMENT PROPERTY**

10. Subsection 945.608-2 is amended by revising paragraph (b)(1)(ii) to read as follows:

**945.608-2 Standard screening.**

(b)(1) \* \* \*

(ii) Excess screening documents and Address Notification forms shall be submitted to the Office of Contractor Management and Administration,

within the Headquarters procurement organization.

**PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

11. Subsection 952.202-1 is amended by revising the introductory text of paragraph (b) and by redesignating clause paragraph (d) as clause paragraph (h) to read as follows:

**952.202-1 Definitions.**

\* \* \* \* \*

(b) The following shall be added as paragraph (h) except it will be designated paragraph (g) if Alternate I of the FAR clause is used.

\* \* \* \* \*

12. Subpart 952.2, Text of Provisions and Clauses, is amended to correct the parenthetical dates following clause titles wherever they appear in accordance with the following table:

*Subpart 952.2—Text of Provisions and Clauses*

Clause at 48 CFR Chapter 9 (DEAR)	Change the date in the parentheses following the clause title from	to read
952.204-2 ..	(APR 1984)	(APR 1994)
952.204-71	(APR 1984)	(APR 1994)
952.204-72	(APR 1984)	(APR 1994)
952.204-73	(APR 1984)	(APR 1994)
952.224-70	(APR 1984)	(APR 1994)
952.227-75	(APR 1984)	(APR 1994)
952.227-76	(APR 1984)	(APR 1994)
952.227-77	(APR 1984)	(APR 1994)
952.227-78	(APR 1984)	(APR 1994)
952.227-79	(APR 1984)	(APR 1994)
952.227-82	(APR 1984)	(APR 1994)
952.235-70	(APR 1984)	(APR 1994)
952.236-71	(APR 1984)	(APR 1994)
952.249-70	(APR 1984)	(APR 1994)

**952.211-72 [Removed and Reserved]**

13. Subsection 952.211-72, Uniform Reporting System, is removed and reserved.

**952.211-73 [Removed and Reserved]**

14. Subsection 952.211-73, Cost and schedule control systems criteria, is removed and reserved.

**952.216-15 [Amended]**

15. Subsection 952.216-15, Predetermined indirect cost rates, is amended by inserting "(APR 1994)" between the word "Alternate" and the colon.

**952.247-70 [Amended]**

16. Subsection 952.247-70 is amended by revising the parenthetical date following the clause title to read "FEB 1997" and in the last sentence of

clause paragraph (a) by inserting "Mexico" between "Canada" and "and."

**PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS**

**970.0404-3 [Amended]**

17. Subsection 970.0404-3, Responsibilities of contracting officers, is amended in paragraph (a) by revising the phrase "as noted in DOE Order 5631.2" to read "in accordance with applicable DOE Directives in the safeguards and security series." Also, in paragraph (b) the phrase "provisions of DOE Orders (See current versions.) 5634.1; 5635.1; and 5632.2" is revised to read "applicable DOE Directives in the safeguards and security series."

**970.0406 [Removed and Reserved]**

18. Section 970.0406, Uniform reporting system, is removed and reserved.

**970.2273 [Amended]**

19. Section 970.2273, Administrative controls and criteria for application of the Davis-Bacon Act in operational or maintenance activities, is amended in paragraph (a)(3) by deleting the words "defined as" and the words "in 922.470(e)." Paragraphs (a)(4), (a)(5), and (a)(6) are amended by removing the last parenthetical sentence "(See 922.403-7302(g) and 920.2273(c).)" Paragraph (c)(1) introductory text is amended by deleting the quotation marks around the words "incidental amount," and deleting the words "as defined in 922.470(e)."

**Subpart 970.29—Taxes**

20. Section 970.2903 is revised to read as follows:

**970.2903 Contract clause.**

Contracting officers shall include the clause Taxes, at 970.5204-23, in management and operating contracts.

*Subpart 970.41—[Added]*

21. A new subpart 970.41, Acquisition of Utility Services, is added. Section 970.0803 is transferred to that subpart and redesignated 970.4100, General. In paragraph (a) of newly designated 970.4100, the citation "FAR 8.301" is revised to read "FAR 41.101." In paragraph (c) the citation "FAR subpart 8.3" is revised to read "FAR part 41." Paragraph (d) is removed.

**970.52 [Amended]**

22. Subpart 970.52, Contract Clauses for Management and Operating Contracts is amended to correct the parenthetical dates following clause titles in accordance with the following table:

Clause at 48 CFR Chap-ter 9 (DEAR)	Change the date in the parentheses following the clause title from	to read
970.5204-12	(APR 1984)	(JUL 1994)
970.5204-15	(SEP 1991)	(APR 1994)
970.5204-16	(JAN 1991)	(JUL 1991)
970.5204-17	(JUNE 1988)	(JAN 1996)
970.5204-18	(JUL 1991)	(APR 1994)
970.5204-20	(JAN 1992)	(AUG 1993)
970.5204-21	(APR 1984)	(OCT 1995)
970.5204-24	(APR 1984)	(OCT 1995)
970.5204-26	(APR 1984)	(SEP 1991)
970.5204-31	(JUL 1991)	(APR 1994)
970.5204-33(a) and (b) [two places].	(JUNE 1987)	(APR 1994)
970.5204-35	(APR 1984)	(JUL 1994)
970.5204-38	(APR 1984)	(APR 1994)
970.5204-41	(APR 1984)	(APR 1994)
970.5204-43	(APR 1984)	(APR 1994)
970.5204-45	(APR 1984)	(OCT 1995)
970.5204-54	(JUL 1991)	(APR 1994)
970.5204-55	(JUL 1991)	(APR 1994)
970.5204-56	(JUL 1991)	(APR 1994)
970.5204-57	(AUG 1992)	(APR 1994)
970.5204-61	(DEC 1993)	(APR 1994)

**970.5204-23 [Amended]**

23. Subsection 970.5204-23 is amended in the introductory sentence by revising "970.2902" to read "970.2903".

**970.5204-32 [Amended]**

24. In subsection 970.5204-32 paragraphs (a) and (b) are amended by revising the introductory text and adding a heading immediately before the clause text to read as follows:

(a) In contracts with nonprofit contractors use the following clause:

Required Bond and Insurance—Exclusive of Government Property (Nonprofit) (APR 1994)

\* \* \* \* \*

(b) In contracts with profit making contractors use the following clause:

Required Bond and Insurance—Exclusive of Government Property (Profit Making) (APR 1994)

\* \* \* \* \*

**970.5204-44 [Amended]**

25. Subsection 970.5204-44, Flowdown of contract requirements to subcontracts, is amended by revising the date following the clause title to read "(FEB 1997)" and in clause paragraph (b)(11) "40 CFR part 60" is revised to read "41 CFR part 60."

**970.5204-50 [Removed and Reserved]**

26. Subsection 970.5204-50, Cost and schedule control systems, is removed and reserved.

27. Subsection 970.5204-52 is revised to read as follows:

**970.5204-52 Foreign travel.**

When foreign travel may be required under the contract, insert the clause at 952.247-70.

**970.5204-60 [Amended]**

28. Subsection 970.5204-60, Facilities management, is amended by revising the date "August 30, 1993" following the clause title to read "(FEB 1997)" and by deleting clause paragraphs (c), Maintenance Management, and (e), Capital Assets Management. Paragraphs (d), Energy Management, and (f), Subcontract Requirements, are redesignated as paragraphs (c) and (d), respectively.

**970.7105 [Amended]**

29. Section 970.7105, Purchasing from contractor affiliated sources, is amended in paragraph (a)(3) by deleting the parenthetical reference "(See 970.7101(c))".

[FR Doc. 97-938 Filed 1-15-97; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

RIN 1018-AC84

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Laguna Mountains Skipper and Quino Checkerspot Butterfly**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The Fish and Wildlife Service (Service) determines the Laguna Mountains skipper (*Pyrgus ruralis lagunae*) and quino checkerspot butterfly (*Euphydryas editha quino*) to be endangered species throughout their respective ranges in southwestern California and northwestern Baja California, Mexico, pursuant to the Endangered Species Act of 1973, as amended (Act). The Laguna Mountains skipper occupies montane meadow habitats in a very restricted range within San Diego County, California. The quino checkerspot is locally distributed in sunny openings within chaparral and coastal sage shrublands in portions of Riverside and San Diego counties, California, and northwestern Baja California, Mexico. These taxa are threatened by one or more of the following factors—loss and degradation and fragmentation of habitat due to grazing, urban development, and fire

management practices; over-collection and other human disturbance; and naturally occurring events such as fire or weather extremes. This rule implements Federal protection provided by the Act for the Laguna Mountains skipper and quino checkerspot butterflies.

**EFFECTIVE DATE:** January 16, 1997.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008.

**FOR FURTHER INFORMATION CONTACT:** Ms. Marjorie Nelson, Biologist, at the above address (telephone 619/431-9440).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Laguna Mountains skipper (*Pyrgus ruralis lagunae*) is a small butterfly in the skipper family (Hesperiidae). It has a wingspan of about 3 centimeters (cm) (1 inch (in.)) and is distinguished from the rural skipper (*P. ruralis ruralis*) by extensive white wing markings that give adults, particularly males, an overall appearance of white rather than mostly black, and by the banding patterns on the hind wings (Scott 1981, Levy 1994). The Laguna Mountains skipper is found in montane meadow habitats.

The Laguna Mountains skipper is one of two recognized subspecies of the rural skipper, *Pyrgus ruralis*. Scott (1981) described *P. ruralis lagunae* from a collection made in 1956 by F. Thorne in the Laguna Mountains of San Diego County, California, based upon population isolation and color differentiation. The Laguna Mountains skipper is restricted to the Laguna Mountains and Mount Palomar in San Diego County. The other subspecies of the rural skipper (*P. ruralis ruralis*) ranges from the mountains of British Columbia and Alberta, Canada, south to the coast ranges and Sierra Nevada of central California, as well as Nevada, Utah, and northern Colorado (Stanford and Opler 1993; John Brown, Dudek and Associates, *in litt.*, 1992) and has darker wings than the Laguna Mountains skipper.

Three other species in the genus *Pyrgus* occur in San Diego County: the common checkered skipper (*P. communis*), the small checkered skipper (*P. scriptura*), and the western checkered skipper (*P. albescens*). The Laguna Mountains skipper can be distinguished from all three of these species by the whitish appearance of the adults and the use of a single larval host