

limited. This is because the amount of live animals exported into the United States from Panama is likely to remain small. Trade statistics indicate that since 2001, the United States has not imported any ruminants, swine, or dogs from Panama. Equine imports from Panama over this period have numbered only 163, which is approximately 0.06 percent of all horse imports.<sup>1</sup>

According to Small Business Administration size standards for beef cattle ranching and farming (North American Industry Classification System (NAICS) 112111), dairy cattle and milk production (NAICS 112120), hog and pig farming (NAICS 112210), sheep farming (NAICS 112410), goat farming (NAICS 112420), and horse and other equine production (NAICS 112920), as well as the commercial production of dogs, which is classified under "all other animal production" (NAICS 112990),<sup>2</sup> operations with not more than \$750,000 in annual sales are considered small entities. We do not expect that these producers, small or otherwise, would be affected significantly by the proposed change in Panama's screwworm status. This is because, for the reasons discussed above, live ruminants, swine, horses and dogs from Panama do not play much, if any, of a role in their operations, and few susceptible live animals are expected to be exported.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork

Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR part 93 as follows:

#### PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

1. The authority citation for part 93 continues to read as follows:

**Authority:** 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

##### § 93.301 [Amended]

2. In § 93.301, paragraph (j) is amended by removing the word "Panama,".

##### § 93.405 [Amended]

3. In § 93.405, paragraph (a)(3) is amended by removing the word "Panama,".

##### § 93.505 [Amended]

4. In § 93.505, paragraph (b) is amended by removing the word "Panama,".

##### § 93.600 [Amended]

5. In § 93.600, paragraph (a) is amended by removing the word "Panama,".

Done in Washington, DC, this 7th day of May 2008.

**Cindy J. Smith,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E8–10918 Filed 5–15–08; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF ENERGY

### 10 CFR Parts 600 and 1024

**RIN 1991–AB77**

#### Assistance Regulations

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Department of Energy (DOE) is proposing to amend its Assistance Regulations to make changes to streamline and simplify its procedures for soliciting, awarding, and administering its financial assistance

agreements. These changes are being made to make technical corrections, to revise sections affected by the Energy Policy Act of 2005, and to further DOE's implementation of the Federal Financial Assistance Management Improvement Act of 1999. DOE is also proposing to remove Part 1024, Procedures for Financial Assistance Appeals, in its entirety.

**DATES:** Interested parties should submit written comments on or before July 15, 2008.

**ADDRESSES:** This proposed rule is available and comments may be submitted online at <http://www.regulations.gov>. Comments may also be submitted electronically to [Jacqueline.kniskern@hq.doe.gov](mailto:Jacqueline.kniskern@hq.doe.gov). Comments may be mailed to: Jacqueline Kniskern, Procurement Policy Analyst; MA–61/Forrestal Building; U.S. Department of Energy; 1000 Independence Avenue, SW., Washington, DC 20585. Electronic submissions are encouraged to ensure timely receipt.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jacqueline Kniskern, Office of Procurement and Assistance Policy, U.S. Department of Energy, at 202–287–1342 or [Jacqueline.kniskern@hq.doe.gov](mailto:Jacqueline.kniskern@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Explanation of Changes
- III. Procedural Requirements
  - A. Review Under Executive Order 12866
  - B. Review Under the Regulatory Flexibility Act of 1980
  - C. Review Under the Paperwork Reduction Act of 1995
  - D. Review Under the National Environmental Policy Act
  - E. Review Under Executive Order 13132
  - F. Review Under Executive Order 12988
  - G. Review Under the Unfunded Mandates Reform Act of 1995
  - H. Review Under the Treasury and General Government Appropriations Act, 1999
  - I. Review Under the Treasury and General Government Appropriations Act, 2001
  - J. Review Under Executive Order 13211
  - K. Approval by the Office of the Secretary of Energy

#### I. Background

DOE has been actively engaged in the government-wide effort to streamline and simplify the application, administrative and reporting procedures for Federal financial assistance programs pursuant to the Federal Financial Assistance Management Improvement Act of 1999, Public Law No. 106–107.

As part of this initiative, DOE has solicited comments and suggestions from the grant community and made

<sup>1</sup> Based on U.S. Census Bureau data, as presented by Foreign Agricultural Service, USDA: [http://www.fas.usda.gov/ustrade/USTImHS10.asp?QI=online\\_trade\\_dataTRad](http://www.fas.usda.gov/ustrade/USTImHS10.asp?QI=online_trade_dataTRad).

<sup>2</sup> The "all other animal production" classification also includes the production of other animals, such as adornment birds (swans, peacocks, flamingos), alpacas, birds for sale, buffalos, cats, crickets, deer, elk, laboratory animals, llamas, rattlesnakes, worms, and breeding of pets.

changes to its assistance regulations. In particular, the DOE added to 10 CFR Part 600 Subpart D, Administrative Requirements for Grants and Cooperative Agreements with For-Profit Organizations, in a rule published in the **Federal Register** (68 FR 50645, August 21, 2003).

DOE has also incorporated policy directives issued by the Office of Management and Budget (OMB) that established a standard format for Federal agency announcements of funding opportunities under programs that award discretionary grants or cooperative agreements, established standard data elements for electronically posting synopses of Federal agencies' announcements of funding opportunities, and required Federal agencies to post synopses of their discretionary grant and cooperative agreement funding opportunity announcements on the Grants.gov Web site, <http://www.Grants.gov>. The final rule incorporating these policy directives was published in the **Federal Register** at 69 FR 7865 on February 20, 2004. In addition, DOE developed a standard format for its funding opportunity announcements and revised systems to comply with the new posting requirements.

Today, DOE is proposing to update, streamline and simplify the general rules in Subpart A of its Financial Assistance Rules. DOE is proposing to eliminate sections that are duplicative of other sections that incorporated OMB Circulars and provide no additional guidance or information to applicants and recipients or require applicants to look at multiple sections for the same information. In addition, DOE is proposing to eliminate sections containing outdated requirements, which can be confusing to applicants and recipients.

Section 988 of the Energy Policy Act of 2005, Public Law No. 109-58, established Department-wide cost sharing requirements for most research, development, demonstration, and commercial application activities initiated after the date of enactment. The requirements of section 988 take the place of the numerous, current cost sharing requirements that have been contained in previous authorization and appropriations laws. This proposed rule will implement the requirements of section 988 replacing those promulgated after the Energy Policy Act of 1992, Public Law No. 102-486.

DOE is making technical corrections to provide consistency and clarity throughout the Financial Assistance Rules as put in practice and to provide

references to sections in Subpart D that were not incorporated with that rule, 68 FR 50645 (August 21, 2003).

Lastly, the DOE Financial Assistance Appeals Board was abolished when DOE's Energy Board of Contract Appeals was merged into the Civilian Board of Contract Appeals as required by section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law No. 109-163. While DOE has maintained appeal rights by providing for appeals to the DOE Senior Procurement Executive (SPE) (see section 29 of this notice for changes in 10 CFR 600.22), the regulatory procedures designed for the Financial Assistance Appeals Board are not necessary for those appeals. Internal agency procedures will be used instead.

## II. Section-by-Section Analysis

DOE is proposing to amend 10 CFR Parts 600 and 1024 as follows.

1. Section 600.2 is amended by changing "solicitation" to "funding opportunity announcement" in paragraph (a) to be consistent with section 600.

2. Section 600.3 is amended by capitalizing "Contracting Officer" in the definition of "Amendment"; by adding definitions for "Cost sharing or matching" and "Total project cost" to facilitate changes made in section 600.30, "Cost Sharing."

3. Section 600.4 is amended to add a reference to section 600.304 in paragraph (a) that was not incorporated at the time Subpart D was added to Part 600.

4. Section 600.6 is amended in paragraphs (b), (b)(1), and (c)(7) by changing "solicitation" to "funding opportunity announcement" to be consistent with section 600.8. Paragraphs (b) and (d) are amended to restate the concurrence and approval requirements in plain English. This revision is not intended to alter substantially the concurrence and approval requirements.

5. Section 600.8 has been renamed "Funding Opportunity Announcement" to more accurately reflect the coverage of this section. Paragraphs (a), (a)(1), and (a)(2) are amended by deleting "solicitation" and "program announcement" and replacing with "funding opportunity announcement" or its acronym "FOA."

6. Section 600.10 is amended to add the requirement for all applicants to be registered in the Central Contractor Registration and to make changes related to the receipt of applications electronically.

7. Section 600.11 is deleted in its entirety as this information more

accurately belongs in a funding opportunity announcement when applicable.

8. Section 600.12 is deleted in its entirety as the requirements of assurances and certifications have been incorporated Government-wide in the standard application forms maintained by Grants.gov.

9. Section 600.14 is marked as reserved for consistency and clarity with the rest of Part 600.

10. Section 600.15 is amended by changing "solicitation" to "funding opportunity announcement" in paragraph (b)(2) for clarity and consistency with the rest of Part 600.

11. Section 600.16 is amended by inserting a new paragraph (b) that describes a recipient's acceptance of an award and redesignating the old paragraph (b) as paragraph (c).

12. Section 600.17 is amended to facilitate changes to administration requirements.

13. Section 600.18 is deleted in its entirety. The recipient's responsibility for acceptance of an award has been moved to section 600.16.

14. Section 600.19 is amended by deleting, in the second sentence, the word "briefly" and the phrase "and, if for grounds other than unavailability of funds, shall offer the unsuccessful applicant the opportunity for a more detailed explanation upon request" as the applicant may always request additional information no matter the reason for the unsuccessful application.

15. Section 600.21 is amended by adding a cross reference to the applicable section of Subpart D in paragraph (a) that was not incorporated at the time Subpart D was added to Part 600.

16. Section 600.22 is amended to update the section for changes to the Financial Assistance Appeals Board. The Financial Assistance Appeals Board was staffed by the Energy Board of Contract Appeals which was abolished by Section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law No. 109-163. The Department is maintaining the right of recipients to appeal certain Contracting Officer's determinations by providing for appeals to the DOE or National Nuclear Security Administration (NNSA) Senior Procurement Executive (SPE) in place of the now defunct appeals board. Specifically, the reference to 10 CFR 1024 in paragraph (a) is deleted as this Part is being removed by this proposed rulemaking; paragraph (d) is updated with the correct contact information for the two SPEs; paragraphs (e) and (f) are updated by changing the reference to the Board

to SPEs. Paragraph (f) is also updated to include references to the applicable sections of Subpart D of this part that were not added at the time Subpart D was implemented.

17. Section 600.23 is deleted in its entirety as this information has recently been moved to Title 2 of the CFR as part of the implementation of the OMB guidance provided at 2 CFR Part 180 and as part of OMB's initiative to streamline and consolidate all federal regulations on nonprocurement debarment and suspension.

18. Section 600.24 is amended by adding references to Subpart D of 10 CFR part 600 in addition to Subparts B and C that were not updated as part of the rulemaking that added Subpart D in 2003.

19. Section 600.25 is amended by adding references to Subpart D of 10 CFR Part 600 in addition to Subparts B and C that were not updated as part of the rulemaking that added Subpart D in 2003 and to delete certain references to Subparts B, C and D that do not require written notification as previously indicated in Section 600.25.

20. Section 600.26 is deleted in its entirety as it is duplicative of sections in other areas of Part 600.

21. Section 600.28 is deleted in its entirety as it is duplicative of sections in other areas of Part 600 and 10 CFR Part 601.

22. Section 600.29 is amended to raise the dollar threshold to provide greater flexibility to Contracting Officers and recipients in award and administration of financial assistance agreements.

23. Section 600.30 is amended to incorporate the requirements of section 988 of the Energy Policy Act of 2005, Public Law No. 109-58, which standardized cost sharing requirements for research and development activities.

24. Section 600.31 is amended by capitalizing all references to Contracting Officer for consistency purposes.

25. Section 600.112 is amended by changing "solicitation" to "funding opportunity announcement" to be consistent with 600.8; deleting paragraphs (a)(1), (a)(2) and (b)(1) in order to delete requirements to use specific DOE forms as DOE is using the forms maintained by Grants.gov for applying for financial assistance as part of an overall government-wide policy; and renumbering paragraphs (b)(2) and (c) as paragraphs (c) and (d).

26. Section 600.113 is amended to correct the citation for "Debarment and Suspension" to 2 CFR Parts 180 and 901.

27. Section 600.117 is deleted in its entirety as representations, certifications and assurances are now received

through the submission of standard application forms with government-wide changes due to the implementation of Grants.gov.

28. Section 600.305 is amended to correct the citation for Debarment and Suspension to 2 CFR Parts 180 and 901.

29. DOE is proposing to remove Part 1024 in its entirety as the Financial Assistance Appeals Board, staffed by the Energy Board of Contract Appeals, was abolished by the Department to comply with section 847 of the National Defense Authorization Act for Fiscal Year 2006, Public Law No. 109-163. The Department is maintaining the right of recipients to appeal Contracting Officer's determinations by providing for appeals to the DOE or NNSA Senior Procurement Executive (SPE) in place of the now defunct appeals board. See 10 CFR Part 600.22 as amended by this proposed rulemaking.

### III. Procedural Requirements

#### A. 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 is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of OMB.

#### B. Review Under the Regulatory Flexibility Act of 1980

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>. DOE has reviewed today's rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. Today's proposed rule would subject small entities either to requirements that parallel government-wide requirements that OMB Circular A-110 establishes for other assistance awards, or to less

burdensome requirements that enable firms from the commercial marketplace to participate in DOE research, development, and demonstration projects. Today's proposed amendments would not alter the substance of the OMB requirements or impose significant additional burdens. On the basis of the foregoing, DOE certifies that the rule does not have a significant economic impact on a substantial number of small entities. DOE did not prepare a regulatory flexibility analysis for this rulemaking.

#### C. Review Under the Paperwork Reduction Act of 1995

This regulatory action will not impose any additional reporting or recordkeeping requirements subject to approval under the Paperwork Reduction Act.

#### D. 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 establishes guidelines and procedures for application and review, administration, audit and closeout of assistance instruments, and, therefore, is covered under the Categorical Exclusion in paragraph A6 of Appendix A to Subpart D, 10 CFR Part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

#### E. Review Under Executive Order 13132

Executive Order 13132, 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. DOE has examined today's proposed 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.

#### F. 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; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) 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 United States Attorney General. Section 3(c) of Executive Order 12988 requires executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or if 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 rule meets the relevant standards of Executive Order 12988.

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

The Unfunded Mandates Reform Act of 1995, Public Law No. 104-4, generally requires federal agencies to examine closely the impacts of regulatory actions on state, local, or tribal governments. Subsection 101(5) of Title I of that law defines a federal intergovernmental mandate to include a regulation that would impose upon state, local, or tribal governments an enforceable duty, except a condition of federal assistance or a duty arising from participating in a voluntary federal program. Title II of that law requires each Federal agency to assess the effects of Federal regulatory actions on state, local, and tribal governments, in the aggregate, or the private sector, other than to the extent such actions merely incorporate requirements specifically set forth in a statute. Section 202 of the title requires a federal agency to perform a detailed assessment of the anticipated

costs and benefits of any rule that includes a Federal mandate which may result in costs to state, local, or tribal governments, or the private sector, of \$100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposed a rule containing a significant federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of state, local, and tribal governments. 2 U.S.C. 1534.

This proposed rule would amend the assistance regulations with changes that streamline and simplify procedures for soliciting, awarding, and administering financial assistance agreements. The proposed rule would not result in the expenditure by state, local, and tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

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

Section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law No. 105-277, requires federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. This rule will 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.

#### I. 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 implementing guidelines established by each agency pursuant to general guidelines 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.

#### J. 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 OMB 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.

This regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

#### K. Approval by the Office of the Secretary of Energy

The Office of the Secretary has approved the issuance of this proposed rule.

#### List of Subjects in 10 CFR Parts 600 and 1024

Administrative practice and procedure, Assistance programs.

#### Edward R. Simpson,

Director, Office of Procurement and Assistance Management, Office of Management, Department of Energy

#### David O. Boyd,

Director, Office of Acquisition and Supply Management, National Nuclear Security Administration.

For the reasons set out in the preamble, Part 600 of Chapter II, and Part 1024 of Chapter X, Title 10 of the Code of Federal Regulations are proposed to be amended as follows:

#### PART 600—FINANCIAL ASSISTANCE RULES

1. The authority citation for part 600 continues to read as follows:

**Authority:** 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301-6308; 50 U.S.C. 2401 *et seq.*, unless otherwise noted.

#### § 600.2 [Amended]

2. Section 600.2 is amended in paragraph (a) by removing "solicitations" and adding "funding

opportunity announcements” in its place.

3. Section 600.3 is amended in the definition of “Amendment” by capitalizing “Contracting Officer”, and by adding new definitions in alphabetical order for “Cost sharing or matching” and “Total Project Cost” to read as follows:

**§ 600.3 Definitions.**

\* \* \* \* \*

*Cost sharing or matching* means that portion of project or program costs not borne by the Federal Government.

\* \* \* \* \*

*Total Project Cost* means all allowable costs, as set forth in the applicable federal cost principles, incurred in accomplishing the objective of the project during the project period, including the value of contributions made by third parties and costs incurred by Federally Funded Research and Development Centers.

4. Section 600.4 paragraph (a)(1) is amended by revising the second sentence to read as follows:

**§ 600.4 Deviations.**

(a) *General.* (1) \* \* \* The use of optional or discretionary provisions of this part, including special restrictive conditions used in accordance with §§ 600.114, 600.212, and 600.304 are not deviations. \* \* \*

\* \* \* \* \*

5. Section 600.6 is revised to read as follows:

**§ 600.6 Eligibility.**

(a) *General.* DOE shall solicit applications for financial assistance in a manner which provides for the maximum amount of competition feasible.

(b) *Restricted eligibility.* If DOE restricts eligibility, an explanation of why the restriction of eligibility is considered necessary shall be included in the funding opportunity announcement, program rule, or published notice.

(1) If the aggregate amount of DOE funds available for award under a funding opportunity announcement or published notice is \$1 million or more, unless authorized by statute or program rule, such restriction of eligibility shall be:

(i) Supported by a written determination initiated by the program office;

(ii) Concurred in by legal counsel and the Contracting Officer; and

(iii) Approved by an official no less than one level below the responsible program Assistant Secretary, Deputy

Administrator, or other official of equivalent authority.

(2) Where the amount of DOE funds is less than \$1 million, the cognizant Head of Contracting Activity (HCA) and the Contracting Officer may approve the determination.

(c) *Noncompetitive financial assistance.* DOE may award a grant or cooperative agreement on a noncompetitive basis only if the application satisfies one or more of the following selection criteria:

(1) The activity to be funded is necessary to the satisfactory completion of, or is a continuation or renewal of, an activity presently being funded by DOE or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity.

(2) The activity is being or would be conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

(3) The applicant is a unit of government and the activity to be supported is related to the performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

(4) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

(5) The award implements an agreement between the United States Government and a foreign government to fund a foreign applicant.

(6) Time constraints associated with a public health, safety, welfare or national security requirement preclude competition.

(7) The proposed project was submitted as an unsolicited proposal and represents a unique or innovative idea, method, or approach which would not be eligible for financial assistance under a recent, current, or planned funding opportunity announcement, and if, as determined by DOE, a competitive funding opportunity announcement would not be appropriate.

(8) The responsible program Assistant Secretary, Deputy Administrator, or other official of equivalent authority determines that a noncompetitive award is in the public interest. This authority may not be delegated.

(d) *Approval requirements.* (1) Where the amount of DOE funds is \$1 million or greater, determinations of noncompetitive awards shall be:

(i) Documented in writing;

(ii) Concurred in by the responsible program technical official and local legal counsel; and

(iii) Approved, prior to award, by the responsible program Assistant Secretary, Deputy Administrator, or official of equivalent authority and the Contracting Officer. The approval authority may be delegated to one organizational level below the Assistant Secretary, Deputy Administrator, or official of equivalent authority.

(2) Where the amount of DOE funds is less than \$1 million, determinations of noncompetitive awards shall be:

(i) Documented in writing;

(ii) Concurred in by local legal counsel, unless for a particular award or class of awards of \$1 million or less, review is waived by legal counsel; and

(iii) Approved by the cognizant HCA and the Contracting Officer.

**§ 600.8 Funding opportunity announcement.**

6. Section 600.8 is amended as follows:

a. The section heading is revised as set forth above.

b. In paragraph (a) introductory text, the first sentence is amended by removing “Program announcement” and adding “Funding Opportunity Announcements (FOA)” in its place.

c. In paragraph (a)(1), the last sentence is amended by removing “Solicitations” and adding “FOAs” in its place.

d. In paragraph (a)(2) introductory text, the first sentence is amended by removing “Program announcements” and adding “FOAs” in its place.

7. Section 600.10 is amended as follows:

a. In paragraph (b), the first sentence is amended by removing “and in the number of copies”

b. In paragraph (c)(1), the second sentence is amended by removing “or other approved DOE application form”

c. Paragraph (c)(4) is removed.

d. A new paragraph (f) is added to read as follows:

**§ 600.10 Form and content of application.**

\* \* \* \* \*

(f) Registration is required in the Central Contractor Registration (CCR) for all applications. Information on registration can be obtained at <http://www.ccr.gov/Grantees.aspx>.

**§§ 600.11 and 600.12 [Removed]**

8. Sections 600.11 and 600.12 are removed and reserved.

**§ 600.14 [Reserved]**

9. Section 600.14 is added and reserved.

**§ 600.15 [Amended]**

10. Section 600.15, paragraph (b)(2) is amended by removing “solicitation” and adding “funding opportunity announcement” in its place.

11. Section 600.16, is amended by redesignating paragraph (b) as paragraph (c), and by adding a new paragraph (b) to read as follows:

**§ 600.16 Legal authority and effect of an award.**

(b) Recipients are free to accept or reject the award. A request to drawdown DOE funds constitutes acceptance; however DOE may require formal acceptance of an award.

12. Section 600.17 is revised to read as follows:

**§ 600.17 Contents of Award.**

Each financial assistance award shall be made on a cover agreement page, which contains basic identifying and funding information. The award will identify special terms and conditions, program regulations, the National Policy Assurances, and any other provisions necessary to establish the respective right, duties, obligations, and responsibilities of DOE and the recipient, consistent with the requirements of this part.

**§ 600.18 [Removed]**

13. Section 600.18 is removed and reserved.

**§ 600.19 [Amended]**

14. Section 600.19 is amended by removing, in the second sentence, “briefly” and “and, if for grounds other than unavailability of funds, shall offer the unsuccessful applicant the opportunity for a more detailed explanation upon request”.

**§ 600.21 [Amended]**

15. Section 600.21, paragraph (a) is amended by removing “§§ 600.153 and 600.242” and adding “§§ 600.153, 600.242 and 600.342” in its place.

16. Section 600.22 is amended as follows:

a. In the last sentence of paragraph (a), the words “available in 10 CFR Part 1024” are removed.

b. Paragraphs (d) and (f)(1) are revised.

c. Paragraphs (e), (f)(2), (f)(3) and (f)(4) are amended by removing “Board” and adding “SPE” in its place, for every occurrence.

The revisions read as follows:

**§ 600.22 Disputes and appeals.**

(d) *Right of appeal.* Except as provided in paragraph (f)(1) of this section, the final determination under paragraph (c) of this section may be appealed to the cognizant SPE for either DOE or the National Nuclear Security Administration (NNSA). The mailing address for the DOE SPE is Office of Procurement and Assistance Management, 1000 Independence Ave., SW., Washington, DC 20585. The mailing address for the NNSA SPE is Office of Acquisition and Supply Management, 1000 Independence Ave., SW., Washington, DC 20585.

(f) *Review on appeal.* (1) The SPE shall have no jurisdiction to review

(i) Any preaward dispute (except as provided in paragraph (f)(2)(ii) of this section), including use of any special restrictive condition pursuant to §§ 600.114, 600.212, or 600.304;

(ii) DOE denial of a request for a deviation under §§ 600.4, 600.103, 600.205, or 600.303 of this part;

(iii) DOE denial of a request for a budget revision or other change in the approved project under §§ 600.125, 600.127, 600.222, 600.230, 600.315, or 600.317 of this part or under another term or condition of the award;

(iv) Any DOE action authorized under §§ 600.162(a)(1), (2), (3) or (5); 600.243(a)(1), (a)(3), or §§ 600.352(a)(1), (2), (3) or (5) for suspensions only; or §§ 600.162(a)(4), 600.243(a)(4) or 600.352(a)(4) for actions disapproving renewal applications or other requests for extension of time or additional funding for the same project when related to recipient noncompliance, or such actions authorized by program rule;

(v) Any DOE decision about an action requiring prior DOE approval under §§ 600.144, 600.236, or 600.331 of this part or under another term or condition of the award; \* \* \*

**§ 600.23 [Removed]**

17. Section 600.23 is removed and reserved.

**§ 600.24 [Amended]**

18. Section 600.24 is amended in paragraphs (a)(3) and (b) introductory text by removing “or § 600.243(a)” and adding “§§ 600.243(a), 600.312(g) or 600.352(a)” in its place.

19. Section 600.25 is amended in: a. Paragraph (a)(1) by removing “or § 600.243(a)” and adding “§ 600.243(a) or 600.352(a)” in its place.

b. Paragraph (a)(2) by removing “§ 600.23” and adding “2 CFR Part 180 and 901” in its place.

c. Paragraph (b) is revised.

d. Paragraph (d) by removing “or §§ 600.243 through 600.244” and adding “§§ 600.243 through 600.244 or §§ 600.350 through 600.353” in its place.

e. Paragraph (f) by removing “or §§ 600.243 through 600.244” and adding “§§ 600.243 through 600.244 or §§ 600.350 through 600.353” in its place.

The revision reads as follows:

**§ 600.25 Suspension and termination.**

(b) *Notification requirements.* Except as provided in §§ 600.24, 600.162(a), 600.243(a) or 600.352(a) before suspending or terminating an award for cause, DOE shall mail to the awardee (by certified mail, return receipt requested) a separate written notice in addition to that required by § 600.24(a) at least ten days prior to the effective date of the suspension or termination. Such notice shall include, as appropriate:

(1) The factual and legal basis for the suspension or termination;

(2) The effective date or dates of the DOE action;

(3) If the action does not apply to the entire award, a description of the activities affected by the action;

(4) Instructions concerning which costs shall be allowable during the period of suspension, or instructions concerning allowable termination costs, including in either case, instructions concerning any subgrants or contracts;

(5) Instructions concerning required final reports and other closeout actions for terminated awards (see §§ 600.170 through 600.173, §§ 600.250 through 600.252 and §§ 600.350 through 600.353);

(6) A statement of the awardees' right to appeal a termination for cause pursuant to section 600.22; and

(7) The dated signature of a DOE Contracting Officer.

**§ 600.26 [Removed]**

20. Section 600.26 is removed and reserved.

**§ 600.28 [Removed]**

21. Section 600.28 is removed and reserved.

**§ 600.29 [Amended]**

22. Section 600.29 is amended as follows:

a. Paragraph (b)(1), “\$100,000” is removed and “\$250,000” is added in its place.

b. In paragraphs (b)(5) and (b)(6) “Contracting Officer” is capitalized.

23. Section 600.30 is revised to read as follows:

**§ 600.30 Cost sharing.**

In addition to the requirements of §§ 600.123, 600.224, or 600.313, the following requirements apply to research, development, demonstration and commercial application activities projects:

(a) Cost sharing is required for most financial assistance awards for research, development, demonstration and commercial applications activities initiated after the enactment of the Energy Policy Act of 2005 on August 8, 2005. This requirement does not apply to:

(1) An award under the small business innovation research program or the small business technology transfer program; or

(2) A program with cost sharing requirements defined by other than Section 988 of the Energy Policy Act of 2005 including other sections of the 2005 Act and the Energy Policy Act of 1992.

(b) A cost share of at least 20 percent of the cost of the activity is required for research and development except where:

(1) A research or development activity of a basic or fundamental nature has been excluded by an appropriate officer of the Department, generally an Under Secretary; or

(2) The Secretary or delegatee has determined it is necessary and appropriate to reduce or eliminate the cost sharing requirement for a research and development activity of an applied nature.

(c) A cost share of at least 50 percent of the cost of a demonstration or commercial application program or activity is required unless the Secretary or delegatee has determined that it is necessary and appropriate to reduce the cost sharing requirements, taking into consideration any technological risk relating to the activity.

(d) Cost share shall be provided by non-Federal funds unless otherwise authorized by statute. In calculating the amount of the non-Federal contribution:

(1) Base the non-Federal contribution on total project costs, including the cost of work where funds are provided directly to a partner, consortium member or subrecipient, such as a Federally Funded Research and Development Center;

(2) Include the following costs as allowable in accordance with the applicable cost principles:

(i) Cash;

(ii) Personnel costs;

(iii) The value of a service, other resource, or third party in-kind

contribution determined in accordance with the applicable Circular of the Office of Management and Budget;

(iv) Indirect costs or facilities and administrative costs; and/or

(v) Any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act);

(3) Exclude the following costs:

(i) Revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(ii) Proceeds from the prospective sale of an asset of an activity; or

(iii) Other appropriated Federal funds.

(iv) Repayment of the Federal share of a cost-shared activity under Section 988 of the Energy Policy Act of 2005 shall not be a condition of the award.

**§ 600.31 [Amended]**

24. Section 600.31 is amended as follows:

a. In paragraph (c), Contracting Officer is capitalized in all occurrences.

b. In paragraph (d) introductory text, Contracting Officer is capitalized.

c. In paragraph (f)(5), Contracting Officer is capitalized.

25. Section 600.112 is revised to read as follows:

**§ 600.112 Forms for applying for Federal assistance.**

(a) An application for an award shall be on the form or in the format specified in a program rule or in the funding opportunity announcement. When a version of the Standard Form 424 is not used, DOE shall indicate whether the application is subject to review by the State under Executive Order 12372.

(b) DOE may request and the applicant shall submit the minimum budgetary information necessary to evaluate the costs of the proposed project.

(c) DOE may, subsequent to receipt of an application, request additional information from an applicant when necessary for clarification or to make informed preaward determinations.

(d) DOE may require that an application for a continuation or renewal award be made in the format or on the forms authorized by paragraphs (a) and (b) of this section.

**§ 600.113 [Amended]**

26. Section 600.113 is amended by removing “10 CFR 1036” and adding “2 CFR 180 and 901” in its place.

**§ 600.117 [Removed]**

27. Section 600.117 is removed and reserved.

**§ 600.305 [Amended]**

28. Section 600.305 is amended by removing “10 CFR 1036” and adding “2 CFR 180 and 901” in its place.

29. Under the authority of the Department of Energy Organization Act, Public Law 95–91, 91 Stat. 577 (42 U.S.C. 7101, *et seq.*); E.O. 10789; Public Law 95–224, 92 Stat. 3 (41 U.S.C. 501–509), part 1024 is removed.

**PART 1024—[REMOVED]**

[FR Doc. E8–11005 Filed 5–15–08; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2007–1125; FRL–8363–6]

**Pesticide Inert Ingredient; Proposal to Revoke the Obsolete Tolerance Exemption for Sperm Oil**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revoke the existing obsolete tolerance exemption under 40 CFR 180.910 for residues of sperm oil conforming to 21 CFR 172.210 as part of a broader administrative effort to correct errors and clarify permitted uses of pesticide inert ingredients in the Code of Federal Regulations. There have not been any active Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) pesticide product registrations containing this substance for many years. In addition, the sperm whale (from which sperm oil is derived) is a federally listed endangered species, and taking (or harming) this species is prohibited under the U.S. Endangered Species Act. Therefore, since this exemption corresponds to uses no longer current or registered under FIFRA in the United States, EPA is proposing to revoke the existing tolerance exemption under 40 CFR 180.910 because it is no longer necessary.

**DATES:** Comments must be received on or before June 16, 2008.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–1125, by one of the following methods:

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

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200