

Notice of Issuance of Decisions and Orders During the Week of October 23 Through October 27, 1995

During the week of October 23 through October 27, 1995, the decision and order summarized below was issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of this decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: August 30, 1996.

Richard W. Dugan,
Associate Director, Office of Hearings and Appeals.

Appeals

Kenneth H. Besecker, 10/24/95, VFA-0075

Kenneth H. Besecker filed an Appeal from the determination issued to him by the Director of the Office of Economic Impact and Diversity (Director) of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the Director properly withheld under the "executive" privilege of Exemption 5 of the FOIA handwritten notes evaluating an EEO investigator's investigation and report. In particular, the DOE determined that

the material was both predecisional and deliberative within the meaning of the FOIA privilege. The DOE also determined that release of the document could cause a reasonably foreseeable harm to a protectable FOIA principle, as enunciated in the Memorandum to All Department Heads on the FOIA by Attorney General Janet Reno. Accordingly, the Appeal was denied.

Personnel Security Hearings

Albuquerque Operations Office, 10/26/95, VSO-0045

A Hearing Officer of the Office of Hearings and Appeals issued an opinion concerning the continued eligibility of an individual for access authorization under 10 CFR Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." After considering the records in view of the standards set forth in Part 710, the Hearing Officer found that the derogatory information presented by the Albuquerque Operations Office under 10 CFR § 710.8(l) established that the individual used marijuana on one occasion in 1994. The Hearing Officer also found that the individual presented sufficient evidence of rehabilitation and reformation to mitigate this derogatory information. Finally, the Hearing Officer found that the individual's violation of his Drug Certification was mitigated by the circumstances surrounding the execution of that certification, including the passage of time of fifteen years. Accordingly, the Hearing Officer concluded that, in his opinion, the individual's access authorization should be restored.

Pittsburgh Naval Reactors Office, 10/27/95, VSO-0041

An Office of Hearings and Appeals Hearing Officer issued an opinion under 10 CFR Part 710 concerning the continued eligibility of an individual for access authorization. After considering the testimony at the hearing convened at

the request of the individual and all other information in the record, the Hearing Officer found that the individual deliberately omitted substantial information from a Questionnaire for Sensitive Positions and that this constituted a security concern under 10 CFR § 710.8(f). The Hearing Officer also found that the individual had engaged in a pattern of financial irresponsibility and that this conduct raised a security concern under 10 CFR § 710.8(l). The Hearing Officer further found that the individual failed to present sufficient evidence of rehabilitation, reformation or other factors to mitigate the derogatory information. With respect to the individual's financial irresponsibility, the Hearing Officer specifically found that the individual's recent bankruptcy filing did not reduce the agency's security concerns or constitute evidence of rehabilitation. Accordingly, the Hearing Officer recommended that the individual's access authorization, which had been suspended, should not be restored.

Pittsburgh Naval Reactors Office, 10/27/95, VSO-0048

A Hearing Officer recommended that access authorization not be restored to an individual whose access was suspended due to evidence of his engaging in a pattern of financial irresponsibility. The Hearing Officer found the individual's defense that a substantial amount in unpaid bills and taxes was due to his misplaced generosity to his family failed to mitigate valid security concerns.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

CANADA STEAMSHIP LINES, INC. ET AL	RF272-73779	10/24/95
CARTER TRUCK LINES, INC. ET AL	RF272-98004	10/23/95
CRESTHAVEN ENTERPRISES ET AL	RK272-154	10/27/95
CRUDE OIL SUPPLE REF DIST	RB272-56	10/27/95
CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION	RB272-55	10/26/95
DUNMYRE MOTOR LINES	RF272-97187	10/27/95
FARMERS UNION OIL CO. OF CALVALIER-NECHE	RJ272-2	10/26/95
FREMONT COUNTY SCHOOL DIST. #2 ET AL	RF272-97700	10/27/95
MANASQUAN BOARD OF EDUCATION ET AL	RF272-86513	10/23/95
PROSSER SCHOOL DISTRICT, WA ET AL	RF272-98064	10/27/95
SCA SERVICES, INC	RF272-77541	10/23/95
T.E. MERCER TRUCKING, INC. ET AL	RF272-90797	10/23/95
TEXACO INC./KIRKWOOD TEXACO	RF321-20616	10/27/95
TEXACO INC./STUCKEY STORE #1761 ET AL	RF321-5361	10/26/95
TEXACO INC./WAYNE RUDOLPH	RF321-16356	10/24/95
ARCHER DANIELS MIDLAND CO	RF321-19932

Dismissals

The following submissions were dismissed:

Name	Case No.
CARSON CITY COUNTY, NV	RF272-96245
DCW PRODUCTION	RF272-94179
ELLIS AIR TAXI, INC.	RF272-98000
IDAHO OPERATIONS OFFICE	VSO-0050
ROSEAU COUNTY CO-OP ASSOC.	RG272-00719
UNION DISTRIBUTING COMPANY	VEE-0011

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5609-7]

Agency Information Collection Activities Scheduled for Administration; Collection of Economic and Regulatory Impact Supporting Data: Corrective Action Questionnaire Under EPA Information Collection Request (ICR) No. 1641.01

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following information collection: Collection of Economic and Regulatory Impact Supporting Data: Corrective Action Questionnaire will be administered under the generic ICR No. 1641.01 Collection of Economic and Regulatory Support Data Under RCRA OMB Control Number 2050-0136, expiration date 10/31/97. In order to comply with the terms of clearance set forth by the Office of Management and Budget, EPA is submitting this announcement to notify the public of the specific survey that the Agency plans to undertake during this year.

DATES: For further information or a copy call: Paul Balserak at EPA, (703) 308-0486, and refer to EPA ICR No. 1641.01.

SUPPLEMENTARY INFORMATION:

Title: Collection of Economic and Regulatory Impact Supporting Data: Corrective Action Questionnaire EPA Information Collection Request (ICR) No. 1641.01. (OMB Control No. 2050-0136; EPA ICR No. 1641.01) expiring 10/31/97. This is a new collection under the approved generic information collection request (ICR) number 1641.01.

Abstract: EPA's Office of Solid Waste is conducting the Corrective Action Questionnaire which is a voluntary survey designed to collect information on the type and extent of contamination, remedial alternatives selected, and the corrective action implementation process at corrective action sites which have a stabilization or a final remedy in place. As the sites in this universe are divided between state-lead and region-lead sites, the sample of sites randomly selected for this survey will include both; this ICR is required only for surveying the states. The survey respondents, the State and EPA Regional RCRA Corrective Action regulators, are asked only to gather available data from their files to complete the survey. The data collected through this survey will provide valuable information for future Resource Conservation and Recovery Act (RCRA) regulatory initiatives, such as Subpart S Initiative rulemaking, guidance, and training.

RCRA as amended by the Hazardous and Solid Waste Amendments (HSWA) requires EPA to establish a national regulatory program to ensure that hazardous waste is managed in a manner protective of human health and the environment. EPA is authorized under section 2002 and 3007 of RCRA to collect information from industry and other parties when necessary to carry out its regulatory responsibilities. Executive Order No. 12866 requires that all administrative decisions be based on adequate information concerning the need for and consequences of proposed government action. Executive Order 12866 requires the preparation and evaluation of an Assessment of Costs and Benefits for all proposed regulatory action determined to be significant. An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number (this applies only to the state respondents in this information collection). The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The

Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/17/94 (59 FR 31238); 0 comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average (4) hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. The total burden hours calculated for this ICR are based upon surveying 100 respondents. For purposes of this calculation it was assumed that all 100 sites would be state-lead, rather than region-lead, sites. Due to this fact, the burden hours presented below represent an overestimate of the actual burden of this survey.

Respondents/Affected Entities: EPA Regional and State RCRA Corrective Action regulators.

Estimated Number of Respondents: 100.

Frequency of Response: 1.

Estimated Total Annual Hour Burden: 400 hours.

Dated: August 22, 1996.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

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