core academic outcomes of reading and writing, mathematics, and science will be emphasized, as will discipline and social interactions within schools that support learning. At the post-secondary level, the focus will be on enrollment in and completion of programs that prepare students for rewarding and constructive careers. The same outcomes are emphasized for students with disabilities across each of these periods. The acquisition of basic skills by adults with low levels of education is also of interest, as is the learning of skills that support independent living for individuals with significant cognitive disabilities.

In conducting research on factors that affect the academic outcomes on which it focuses, the Institute will concentrate on conditions that are within the control of the education system, with the aim of identifying, developing, and validating effective education programs, practices, policies, and approaches. Conditions that are of greatest interest to the Institute are in the areas of curriculum, instruction, assessment, the quality of the teaching and administrative workforce, and the systems and policies that affect these factors and their interrelationships, such as accountability systems and education options for parents.

The successful pursuit of the Institute's goals and priorities requires increased capacity to produce and use rigorous education research. To that end, the Institute's priorities include support of doctoral and post-doctoral training in the education sciences, development and refinement of education research methods, and expansion for research purposes of longitudinal databases that link individual student data to information on conditions that can affect student outcomes, such as curriculum. To assure increased capacity to use and apply the results of research, the Institute will support systematic reviews of evidence, enhanced access to findings through advanced electronic systems, and outreach to parents, educators, students, policymakers, and the general public.

These are not exclusive or absolute priorities: To the extent that resources permit and the Institute's priorities are being adequately addressed, the Institute may address other important education issues.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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(Catalog of Federal Domestic Assistance number does not apply.)

Program Authority: 20 U.S.C. 9501 *et seq.*

Dated: June 13, 2005.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

[FR Doc. 05–11921 Filed 6–15–05; 8:45 am]

BILLING CODE 4001–01–P

DEPARTMENT OF ENERGY

West Valley Demonstration Project Waste Management Activities

AGENCY: U.S. Department of Energy.

ACTION: Record of decision.

SUMMARY: In the *Final West Valley Demonstration Project Waste Management Environmental Impact Statement* (WVDP WM EIS, Department of Energy (DOE)/EIS–0337, December 2003), DOE considered alternatives for the management of WVDP low-level radioactive waste (LLW), mixed (radioactive and hazardous) LLW (MLLW), transuranic (TRU) waste, and high-level radioactive waste (HLW). DOE prepared the WVDP WM EIS pursuant to the National Environmental Policy Act (NEPA), 42 United States Code (U.S.C.) 4321 *et seq.*, the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) (40 Code of Federal Regulations (CFR) parts 1500–1508), and DOE's NEPA Implementing Procedures (10 CFR part 1021). To make progress toward fulfilling its responsibilities under the WVDP Act, DOE needs to disposition the wastes that are either currently in storage at the site or that will be generated at the site over the next ten years. DOE evaluated three alternatives for the management of the wastes: A *No Action Alternative* (Continuation of Ongoing Waste Management Activities), *Alternative A* (Off-site Shipment of HLW, LLW, MLLW, and TRU Wastes to Disposal), and Alternative B (Off-site Shipment of LLW and MLLW to Disposal, and Shipment of HLW and TRU Waste to Interim Storage [prior to disposal]). Based on the analysis of the potential impacts documented in the EIS, implementation of any of the alternatives would result in very low impacts to human health and the environment.

DOE has decided to partially implement Alternative A, the preferred alternative, for the management of WVDP LLW, MLLW, and HLW that are either currently in site over the next ten years:

DOE will ship LLW and MLLW off site for disposal in accordance with all applicable regulatory requirements, including permit requirements, waste acceptance criteria (WAC), and applicable DOE Orders. DOE will dispose of LLW and MLLW at commercial sites (such as Envirocare, a commercial radioactive waste disposal site in Clive, Utah), one or both of two DOE sites (the Nevada Test Site [NTS] in Mercury, Nevada; or the Hanford Site in Richland, Washington), or a combination of commercial and DOE sites, consistent with DOE's February 2000 decision regarding LLW and MLLW disposal.[1] Disposal of WVDP LLW and MLLW at Hanford would be subject to the limits DOE has imposed upon non-Hanford waste receipts in its June 2004 decision regarding waste management at the Hanford Site,[2] and contingent upon the resolution of ongoing Hanford litigation in which a preliminary injunction has been entered against shipping off site LLW and MLLW to Hanford.

Consistent with the Waste Management Programmatic Environmental Impact Statement High-Level Waste Record of Decision (64 FR

[1] Record of Decision for the Department's Waste Management Program: Treatment and Disposal of Low-Level Waste and Mixed Low-Level Waste; Amendment of the Record of Decision for the Nevada Test Site (65 FR 10061, February 25, 2000).

[2] Record of Decision for the Solid Waste Program, Hanford Site, Richland, Washington: Storage and Treatment of Low-Level Waste and Mixed Low-Level Waste; Disposal of Low-Level Waste and Mixed Low-Level Waste, and Storage, Processing and Certification of Transuranic Waste for Shipment to the Waste Isolation Pilot Plant (69 FR 39449, June 30, 2004.

46661, August 26, 1999), DOE will store canisters of vitrified HLW at the WVDP site until transfer to a geologic repository. Contingent upon issuance of a license by the Nuclear Regulatory Commission (NRC) to construct and operate the repository and the execution of a disposal contract between DOE and the State of New York, DOE plans to dispose of the canisters there when the repository becomes available.

DOE is deferring a decision on the disposal of WVDP TRU waste, pending a determination by DOE that the waste meets all statutory and regulatory requirements for disposal at the Waste Isolation Pilot Plant (WIPP).

ADDRESSES: Copies of the WVDP WM EIS and this Record of Decision (ROD) may be obtained by calling (716) 942–2152 or (800) 633–5280 (toll-free), by sending an e-mail request to *sonja.allen@wvnsco.com,* or by mailing a request to: Mr. Daniel W. Sullivan, EIS Document Manager, DOE West Valley Area Office, 10282 Rock Springs Road, WV–49, West Valley, New York 14171–9799.

This ROD will be available on the DOE NEPA Web site, *http://www.eh.doe.gov/nepa/pub_rods_toc.html,* and the WVDP Web site, *http://www.wv.doe.gov.* The WVDP WM EIS is available at the WVDP Web site and through DOE's NEPA Web site at *http://www.eh.doe.gov/nepa/.*

FOR FURTHER INFORMATION CONTACT: Questions concerning WVDP waste management activities can be submitted by calling (716) 942–2152 or (800) 633–5280 (toll-free), by sending an e-mail request to *sonja.allen@wvnsco.com,* or by mailing them to Mr. Daniel W. Sullivan at the above address.

For general information on the DOE NEPA process, please contact: Ms. Carol M. 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 (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

The Western New York Nuclear Service Center (Center) comprises 14 square kilometers (5 square miles) in West Valley, New York, and is located in the town of Ashford, approximately 50 kilometers (30 miles) southeast of Buffalo, New York. It was the only commercial nuclear fuel reprocessing plant to have operated in the United States. The Center operated under a license issued by the Atomic Energy Commission in 1966 to Nuclear Fuel Services, Incorporated, and the New York State Atomic and Space Development Authority, now known as the New York State Energy Research and Development Authority (NYSERDA).

During reprocessing, spent nuclear fuel from commercial nuclear power plants and DOE sites was chopped, dissolved, and processed by a solvent extraction system to recover uranium and plutonium. Fuel reprocessing ended in 1972, when the plant was shut down for modifications to increase its capacity, reduce occupational radiation exposure, and reduce radioactive effluents. At the time, the owner and operator of the reprocessing plant, Nuclear Fuel Services, Incorporated, expected that the modifications would take two years and $15 million to complete. However, between 1972 and 1976, there were major changes in regulatory requirements, including more stringent seismic and tornado siting criteria for nuclear facilities and more extensive regulations for radioactive waste management, radiation protection, and nuclear material safeguards. In 1976, Nuclear Fuel Services, Incorporated, judged that over $600 million would be required to modify the facility to increase its capacity and to comply with these changes in regulatory standards.

As a result, the company announced its decision to withdraw from the nuclear fuel reprocessing business and exercise its contractual right to yield responsibility for the Center to NYSERDA. Nuclear Fuel Services, Incorporated, withdrew from the Center without removing any of the in-process nuclear wastes. NYSERDA now holds title to and manages the Center on behalf of the people of the State of New York.

In 1980, Congress passed the WVDP Act (Public Law No. 96–368, 42 U.S.C. 2021a). The WVDP Act requires DOE to demonstrate that the liquid HLW from reprocessing can be safely managed by solidifying it at the Center and transporting it to a geologic repository for permanent disposal. Specifically, Section 2(a) of the Act directs DOE to take the following actions:

1. Solidify HLW by vitrification or such other technology that the DOE deems effective;

2. Develop containers suitable for the permanent disposal of the solidified HLW;

3. Transport the solidified HLW to an appropriate Federal repository for permanent disposal;

4. Dispose of the LLW and TRU waste produced by the HLW solidification program; and

5. Decontaminate and decommission the waste storage tanks and facilities used to store HLW, the facilities used for solidification of the HLW, and any material and hardware used in connection with the project in accordance with such requirements as the NRC may prescribe.

In the 20 years since the WVDP Act was enacted, DOE has succeeded in preparing all 2.3 million liters (600,000 gallons) of waste resulting from reprocessing of spent nuclear fuel for disposal, including treatment of HLW by vitrification (combining liquid HLW with borosilicate glass), and has developed stainless-steel canisters suitable for HLW permanent disposal (actions 1 and 2). The *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS,* currently being prepared, will address decommissioning and closure alternatives. DOE published a Notice of Intent to prepare the *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS* on March 13, 2003 (68 FR 12044, March 13, 2003).

Although DOE does not manage low-level radioactive waste according to the classes of NRC's regulations for shallow land disposal, 10 CFR 61.55, a 1987 Stipulation of Compromise between the Coalition on West Valley Nuclear Wastes and DOE specified that an EIS be prepared that addresses the disposal of those Class B and C wastes generated as a result of the activities of DOE at the WVDP.

Purpose and Need for Action

In accordance with the directives in the WVDP Act, DOE is responsible for the facilities used in connection with the WVDP HLW vitrification effort and for disposal of the LLW, MLLW, HLW, and TRU waste produced by the WVDP HLW solidification program. To make progress in fulfilling its responsibilities under the WVDP Act, DOE needs to identify a disposal path for the wastes that are currently stored onsite and that will be generated from ongoing operations and decontamination activities that will occur over the next ten years. Decommissioning and/or long-term stewardship (LTS) decisions will be made under the *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS.*

Alternatives Considered

The WVDP WM EIS evaluates alternatives for meeting DOE's onsite waste management and off-site

transportation and disposal responsibilities under the WVDP Act. To address the range of reasonable alternatives, the WVDP WM EIS evaluated three alternatives. Each alternative is described below. In implementing any of these alternatives, DOE would comply with applicable laws, regulations, orders, agreements, receiving site permits and WAC, and state-approved closure plans.

No Action Alternative—Continuation of Ongoing Waste Management Activities

Under this alternative, DOE would provide continued operational support and monitoring of WVDP waste management facilities to meet the requirements for safety and hazard management.

Waste management activities currently in progress would continue for onsite storage of existing Class A, B, and C (per 10 CFR 61.55) LLW and MLLW, TRU waste and HLW waste and off-site disposal of a limited quantity of Class A LLW at a commercial facility such as Envirocare in Utah, or at DOE disposal facilities at the Hanford Site in Washington or NTS in Nevada. Removal of these wastes for off-site disposal would require 169 truck shipments or 85 rail shipments. The HLW storage tanks and their surrounding vaults would continue to be ventilated to manage moisture levels as a corrosion prevention measure until decommissioning and/or LTS decisions are made based in part on the impact assessment to be provided by the *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS.*

Alternative A (Preferred Alternative)—Off-Site Shipment of HLW, LLW, MLLW, and TRU Wastes to Disposal

Under this alternative, DOE would ship Class A, B, and C LLW and MLLW to either or both of two DOE potential disposal sites (the Hanford Site or NTS) and/or to a commercial disposal site (such as Envirocare), ship TRU waste to WIPP (near Carlsbad, New Mexico), and ship HLW to the Yucca Mountain Repository (in Nye County, Nevada). LLW and MLLW would be shipped over the next ten years (requiring approximately 1,966 truck shipments or 608 rail shipments). TRU waste shipments to WIPP could be completed within the next ten years if the TRU waste is determined to meet all the requirements for disposal at WIPP (requiring approximately 270 truck shipments or 172 rail shipments); however, if some or all of WVDP's TRU waste does not meet these requirements, the DOE would need to explore other alternatives for disposal of this waste.

Approximately 300 canisters of HLW would be shipped to the Yucca Mountain Repository (requiring approximately 300 truck shipments or 60 rail shipments). These shipments would occur when the repository becomes available, which is contingent upon authorization by NRC to construct and operate the repository, and the execution of a disposal contract between the DOE and the State of New York. The waste storage tanks would continue to be managed as described under the No Action Alternative.

Alternative B—Off-Site Shipment of LLW and MLLW to Disposal, and Shipment of HLW and TRU Waste to Interim Storage

Under this alternative, LLW and MLLW would be shipped off-site for disposal at the same locations as Alternative A. TRU wastes would be shipped to the Hanford Site; Idaho National Laboratory in Idaho Falls, Idaho; the Oak Ridge National Laboratory in Oak Ridge, Tennessee; and/or the Savannah River Site (SRS) in Aiken, South Carolina, for interim storage and then to WIPP for disposal. TRU waste also could be shipped to WIPP for interim storage prior to disposal there. HLW would be shipped to SRS or Hanford for interim storage, with subsequent shipment to the Yucca Mountain Repository for disposal. Implementation of this alternative would require 540 truck shipments or 344 rail shipments of TRU waste and 600 truck shipments or 120 rail shipments of HLW; this represents the number of shipments required from WVDP to the interim storage site and then from interim storage to the disposal site.

It is assumed that the shipment of LLW and MLLW to disposal would occur within the next ten years, and that TRU waste and HLW would be shipped to interim storage during that same ten years. Ultimate disposal of TRU wastes and HLW wastes would be subject to the same constraints described under Alternative A. The impacts of transporting these wastes to their ultimate disposal sites, as well as to the interim storage sites, were included in the impact analyses for this alternative. The waste storage tanks would continue to be managed as described under the No Action Alternative.

Environmental Impacts

The waste management actions proposed under all alternatives would be conducted in existing facilities (and in the case of waste transportation, on existing road and rail lines) by the existing work force at the involved facilities and would not involve either new construction or building demolition. Because there would be no mechanism for new land disturbance under any alternative, there is no potential, except for transportation accidents, to directly or indirectly impact current land use; biotic communities; cultural, historical, or archaeological resources; visual resources; ambient noise levels; threatened or endangered species or their critical habitats; wetlands; or floodplains. None of the onsite management activities under any of the alternatives would result in any new criteria air pollutant emissions. Additionally, because the work force needed for the waste management activities analyzed in this EIS would be the same under all alternatives and there would be no increases or decreases from current employment levels as a result of waste management activities, there is no potential for socioeconomic impacts.

Waste management activities under each alternative would result in the limited exposure of workers to small amounts of radiation and contaminated material, and exposure of the public to very small quantities of radioactive materials. The human health impacts to involved and noninvolved workers and the public at or near the WVDP site are small and are dominated by ongoing WVDP site operations that would continue under all alternatives. Any differences in the potential impacts among the three alternatives would not be discernible. Implementation of any of the alternatives would result in very small impacts to human health or the environment.

The EIS analysis of potential human health impacts shows that onsite waste management actions under each alternative would result in less than one latent cancer fatality (LCF) among workers (maximum 0.1 LCF) and the public (maximum 0.0015 LCF) under normal operating conditions. Further, neither individual involved workers, the maximally exposed individual, nor the public, near the WVDP site would be expected to incur a LCF under any atmospheric conditions if an accident were to occur during waste management activities.

Projected impacts from off-site waste transportation are less than one LCF among workers and the public for all three alternatives. The consequences of the maximum reasonably foreseeable transportation accidents under each alternative would vary slightly among the alternatives and between truck and

rail transport. Under the No Action Alternative, the maximum reasonably foreseeable transportation accident would involve Class A LLW. For truck transport, this accident could result in about one LCF, and for rail about two LCF's, among the exposed population (the annual probability of such an accident occurring is about five in ten million for truck transport, or about two in one million for rail transport). For Alternatives A and B, the maximum reasonably foreseeable truck or rail transportation accident with the highest consequences would involve TRU waste. Because one TRU waste shipping container (a TRUPACT–II container) was assumed to be involved in either the truck or rail accident, the consequences for the truck or rail accident would be the same. Among the exposed population, this accident could result in about four LCF's (for Alternative A, the annual probability of such an accident occurring is about six in ten million for truck transport, or about one in ten million for rail transport; for Alternative B, the annual probability of such an accident occurring is about eight in ten million for truck transport, or about three in ten million for rail transport). Potential impacts of waste management activities at off-site receiving locations have been addressed in earlier NEPA documents, as described in the WVDP WM EIS (Section 1.7.1). For all waste types, WVDP waste represents less than two percent of the total DOE waste inventory. Human health impacts at all sites as a result of the management (storage or disposal) of WVDP waste during the ten-year period of analysis would be very minor (substantially less than one LCF).

Based on the analysis of the potential impacts documented in the WVDP WM EIS, DOE has determined that implementation of any of the alternatives would result in very low impacts to human health and the environment.

Environmentally Preferable Alternative

Alternative A (Off-site Shipment of HLW, LLW, MLLW, and TRU Wastes to Disposal) is the environmentally preferable alternative. Because less radioactive waste would be transported under the No Action Alternative, implementation of that alternative is likely to result in the smallest impacts over the next ten years as compared to Alternatives A or B. Over time, however, the removal of waste from the WVDP site to a safer and more secure disposal site will reduce radiological risk to workers and the public. Alternative A would have the smallest transportation risks among the action alternatives because implementation of this alternative would require half the number of TRU waste and HLW shipments as under Alternative B, and potential transportation risks decrease as the number of miles traveled and individual shipments decrease.

Public Comments on the Final WVDP WM EIS and Agency Response

Following the issuance of the Final WVDP WM EIS, DOE received comment letters from the Southwest Research and Information Center (SRIC) (dated January 23, 2004), the Coalition on West Valley Nuclear Wastes (Coalition) (dated February 14, 2004), and from the State of Nevada Department of Administration (dated February 17, 2004). These letters are summarized below, followed by DOE's response to the comments presented.

SRIC Comment Summary: SRIC stated that it objects to those portions of the Final WVDP WM EIS action alternatives related to disposing of TRU waste at WIPP. The commenter stated that the EIS is inadequate with regard to TRU waste, and that the DOE should analyze alternatives for storage and disposal of WVDP TRU waste that do not include WIPP. The commenter further stated that WVDP waste is prohibited from disposal at WIPP under the WIPP Land Withdrawal Act because it is not defense waste and because the EIS did not describe all of the requirements for disposal at WIPP; the U.S. Environmental Protection Agency certification for the repository does not include any WVDP TRU waste; the State of New Mexico operating permit does not include any WVDP TRU waste; inventory estimates in the WVDP WM EIS differ from previous estimates such as those in the *WIPP Supplemental EIS–II* (DOE/EIS–0026-S–2, 1997) (WIPP SEIS–II), which shows that the DOE has inadequate waste characterization and inventory information for decisionmaking; DOE should not consider bringing West Valley HLW to be stored or disposed of at WIPP; and the public comment process on the EIS was inadequate.

DOE Response: DOE is deferring a decision on the disposal of WVDP TRU waste, pending a determination by the DOE that the waste meets all statutory and regulatory requirements for disposal at the WIPP. With regard to potential WVDP TRU waste disposal at WIPP, DOE will further respond to SRIC comments when a decision on WVDP TRU waste disposal is made. However, it is appropriate at this time to respond to two more general SRIC comments.

First, with regard to the suggestion that the DOE not send WVDP HLW to WIPP, this EIS did not propose to send HLW to WIPP and did not analyze an alternative that would support such a decision. The WIPP Land Withdrawal Act prohibits disposal of HLW at WIPP, and DOE does not intend to dispose of West Valley HLW at WIPP.

Second, DOE disagrees with the commenter's assertion that the public comment process for this EIS was inadequate. Pursuant to the NEPA implementing regulations, DOE published notices (66 FR 16447, March 26, 2001, and 68 FR 26587, May 16, 2003) for public scoping and the public comment period for the Draft EIS in the **Federal Register**, and held two public hearings at the WVDP. The Draft WVDP WM EIS (and the Final EIS) were provided to the agencies in all states hosting proposed disposal or storage sites. Specifically, in New Mexico, the documents were sent to the New Mexico Environment Department (State National Environmental Policy Act Clearinghouse). DOE also provided copies of the Draft WVDP WM EIS (and the Final WVDP WM EIS) to all persons known to be interested. Copies of the Draft and Final EIS were provided to governors and Members of Congress in all potentially affected states (including Idaho, New Mexico, Nevada, Oregon, South Carolina, Tennessee, Utah, and Washington). DOE received and considered comments from stakeholders in states hosting DOE sites analyzed for waste storage and/or disposal; these are identified in the Final WVDP WM EIS.

Coalition Comment Summary: The Coalition stated that the DOE did not respond to its comments on the Draft WVDP WM EIS regarding the Coalition's position that shipment of Class B/C waste (as determined under NRC classification regulations) off site for disposal violates the 1987 Stipulation of Compromise (Stipulation) resolving the litigation between the Coalition and DOE. In addition, the Coalition stated that the DOE did not respond to other specific comments: the preparation of the WVDP WM EIS and the *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS* do not comply with the Coalition's position that only one EIS can satisfy the Stipulation; by preparing two EISs, DOE has improperly segmented the actions under NEPA by not including the impacts at receiving sites and has failed to identify impacts at those sites for larger volumes of waste that could be generated under the *Decommissioning and/or Long-Term Stewardship at the WVDP and the*

Western New York Nuclear Service Center EIS; in accordance with the Stipulation, Class B/C waste cannot be shipped off site until the entire closure EIS process has been completed; and DOE has acknowledged that additional NEPA documentation would be needed before West Valley waste could be shipped to Hanford. The Coalition also stated that it objects to the ''counterfeit'' version of the Stipulation DOE included in Appendix A of the WVDP WM EIS, as that version is not identical to the original version.

DOE Response: DOE has reviewed all comments received on the Draft WVDP WM EIS, including those from the Coalition and its members, and has addressed the comments in Appendix E of the Final WVDP WM EIS. DOE understands that it is the Coalition's position that the Stipulation does not allow disposal of Class B or C LLW until the *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS* is completed. DOE agrees with the Coalition that a decision to dispose of WVDP LLW *on site* would be precluded by the Stipulation prior to completion of the Decommissioning EIS; however, DOE does not believe that the Stipulation was intended to preclude a decision to dispose of WVDP LLW *off site* prior to completion of that EIS. Moreover, DOE's waste management activities described in the WVDP WM EIS will not affect the range of reasonable alternatives available for decommissioning or LTS. Therefore, DOE concludes that its NEPA strategy does not constitute impermissible segmentation, and that the shipment of stored wastes off site for disposal has independent utility.

Chapter 5 of the WVDP WM EIS states that impacts at receiving sites, including the potential inventory of wastes to be shipped from WVDP, were analyzed in the WM Programmatic EIS *(Final Waste Management Programmatic Environmental Impact Statement for Managing, Treatment, Storage, and Disposal of Radioactive and Hazardous Waste*, DOE/EIS–0200–F). In addition, DOE added a statement to Chapter 5 in the Final WVDP WM EIS that future wastes generated by decommissioning and LTS are not known at this time and would be addressed under the *Decommissioning and/or Long-Term Stewardship at the WVDP and the Western New York Nuclear Service Center EIS.* DOE's responses to comments also stated that additional site-specific review as called for in the WM Programmatic EIS was in progress at Hanford. The Final Hanford Solid and Radioactive Waste EIS has since been issued (January 2004) and analyzes waste from off-site generators, including WVDP.

DOE agrees with the Coalition that DOE should have identified the version of the Stipulation in Appendix A of the WVDP WM EIS as a reprint. However, the differences between that version and the original Stipulation are minor (such as spacing and punctuation) and did not change or affect the content of the text.

State of Nevada Comment Summary: The State's Division of Water Resources stated that applications for the use of the waters of the State pertaining to the proposed geologic repository at Yucca Mountain, Nevada, have been denied by the State Engineer, a ruling which has been appealed to the Federal District Court in Nevada.

DOE Response: The Final WVDP WM EIS stated, and DOE further states in this decision, that the WVDP immobilized HLW planned for disposal at Yucca Mountain will be stored onsite until a repository becomes available.

Decision

The WVDP Act (Pub. L. 96–368) mandates that DOE dispose of LLW and TRU waste generated by the HLW solidification project. To make progress in meeting its obligations under the Act, DOE has decided to implement partially Alternative A, the preferred alternative, for the management of WVDP LLW and MLLW that is currently in storage at the site or that will be generated at the site over the next ten years. Of the two action alternatives evaluated, Alternative A is the environmentally preferable action alternative, has the fewest transportation impacts, and the least radiological risk to workers and the public.

In accordance with all applicable regulatory requirements, including WVDP permit requirements, WAC and applicable agreements, and DOE Orders, DOE will ship LLW and MLLW off site for disposal at commercial sites (such as Envirocare, a commercial radioactive waste disposal site in Clive, Utah); at one or both of two DOE sites, the NTS in Mercury, Nevada, or the Hanford Site in Richland, Washington; or a combination of commercial and DOE sites, consistent with DOE's February 2000 decision regarding LLW and MLLW disposal.[1] This decision includes wastes DOE may determine in the future to be LLW or MLLW pursuant to a waste incidental to reprocessing by evaluation process. Disposal at Hanford would be subject to any of the WVDP LLW and MLLW (as well as all other off-site DOE waste) limits DOE has imposed upon non-Hanford waste receipts in its June 2004 decision regarding waste management at the Hanford Site,[2] and contingent upon the resolution of ongoing Hanford litigation in which a preliminary injunction has been entered against shipping offsite LLW and MLLW to Hanford. During packaging, shipping, and managing WVDP waste at receiving facilities, DOE will continue to follow all practicable means to avoid or minimize environmental harm.

DOE will store the canisters of vitrified HLW at the WVDP site until they can be shipped to a geologic repository for the disposal of HLW. As stated in the Waste Management Programmatic Environmental Impact Statement Record of Decision, DOE plans to transfer the canisters to the geologic repository when the repository becomes available, which is contingent upon issuance of a license by the NRC to construct and operate the repository, and subject to the execution of a disposal contract between the DOE and the State of New York. DOE is deferring a decision on the disposal of WVDP TRU waste, pending a determination by the DOE that the waste meets all statutory and regulatory requirements for disposal at the WIPP.

Issued at Washington, DC, June 9, 2005.

Charles E. Anderson,

Principal Deputy Assistant Secretary for Environmental Management.

[FR Doc. 05–11882 Filed 6–15–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Innovative American Technology, Inc.

AGENCY: Department of Energy, Office of the General Counsel.

ACTION: Notice of intent to grant exclusive patent license.

SUMMARY: Notice is hereby given to an intent to grant to Innovative American Technology, Inc. (IAT), of Boca Raton, Florida, an exclusive license to practice the inventions described in U.S. Patent No. 6,545,281, entitled ''Pocked Surface Neutron Detector'' and U.S. Patent No. 6,479,826 entitled ''Coated Semiconductor for Neutron Detection''. The inventions are owned by the United States of America, as represented by the U.S. Department of Energy (DOE).

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than July 18, 2005.

ADDRESSES: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.