has been detected in native-born animals in that region. Greece is currently listed among the regions that present an undue risk of introducing BSE into the United States. Regardless of which of the two lists a region is on, the same restrictions apply to the importation of ruminants and meat, meat products, and most other products and byproducts of ruminants that have been in the region. Therefore, this action, which is necessary in order to update the disease status of Greece regarding BSE, will not result in any change in the restrictions that apply to the importation of ruminants and meat, meat products, and certain other products and byproducts of ruminants that have been in Greece.

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has retroactive effect to July 2, 2001; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no 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 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.18 [Amended]

2. Section 94.18 is amended as follows:

a. In paragraph (a)(1), by adding, in alphabetical order, the word ''Greece,''.

b. In paragraph (a)(2), by removing the word ''Greece,''.

Done in Washington, DC, this 24th day of October 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–27263 Filed 10–29–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF ENERGY

10 CFR Part 1044

[Docket No. SO–RM–00–3164]

RIN 1992–AA26

Office of Security and Emergency Operations; Security Requirements for Protected Disclosures Under Section 3164 of the National Defense Authorization Act for Fiscal Year 2000

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) adopts, with minor change, an interim final rule published on January 18, 2001, which prescribed the security procedures that a DOE employee or DOE contractor employee, including an employee or contractor employee of the National Nuclear Security Administration, must follow to make a protected disclosure of classified or other controlled information under section 3164 of the National Defense Authorization Act for Fiscal Year 2000.

EFFECTIVE DATE: This final rule is effective November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Raymond C. Holmer, Office of Safeguards and Security (SO–211.3), U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874, (301) 903–7325 or by electronic mail *raymond.holmer@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 18, 2001, DOE published an interim final rule in the **Federal Register** (66 FR 4639). The interim final rule added a new part 1044 to title 10 of the Code of Federal Regulations to establish security requirements for the disclosure of classified and other controlled information under section 3164 of the National Defense Authorization Act for Fiscal Year 2000 (NDAA for FY 2000) (42 U.S.C. 7239). Section 3164 directed the Secretary of Energy to establish a program to ensure that DOE employees or DOE contractor employees engaged in defense activities may not be discharged, demoted, or otherwise discriminated against as a reprisal for making protected disclosures. The Secretary was required by section 3164(g) to prescribe regulations to ensure the security of any information disclosed under the program (42 U.S.C. 7239(g)). To qualify as a ''protected disclosure'' of classified or other controlled information, a covered employee must take appropriate steps to protect the security of the information in accordance with guidance provided by the DOE Inspector General, and reveal the information only to a person or entity specified in the statute (42 U.S.C. 7239(c)).

DOE provided a 30-day public comment period for the interim final rule, and the rule was to become effective on February 20, 2001. In accordance with the memorandum of January 20, 2001, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Review Plan,'' published in the **Federal Register** on January 24, 2001, (66 FR 7702) DOE temporarily delayed for 60 days the effective date of the interim final rule (66 FR 8747, February 2, 2001). Upon completion of its review of the regulation, DOE published a notice in the **Federal Register** on May 10, 2001, (66 FR 23833) confirming the effective date of the interim final rule as April 23, 2001.

II. Discussion of Public Comment

DOE received one comment during the public comment period provided for the interim final rule. The Special Counsel of the U.S. Office of Special Counsel stated her concern that the interim final rule failed to include any reference to section 3164(l) of the NDAA for FY 2000, which provides that the protections of section 3164 are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Pub. L. 101–12) or any other law that may provide protection for disclosures of information by an employee of DOE or of a DOE contractor. The Special Counsel requested DOE to clarify this issue in the final rule by making clear that whistleblower disclosures of classified or controlled information by DOE employees, including disclosures to the Special Counsel or to the DOE Inspector General, are also protected under the Whistleblower Protection Act of 1989.

DOE agrees that the scope of the section 3164 whistleblower protection program should be addressed in the

final rule to avoid confusion by employees of DOE and its contractors. Therefore, DOE is amending section 1044.01 to include a new paragraph (b) that tracks the language of section 3164(l) of the NDAA for FY 2000.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (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 will not have a ''significant economic impact on a substantial number of small entities.'' This final rule prescribes the security procedures that a DOE or DOE contractor employee engaged in defense activities must follow when making a protected disclosure of classified or other controlled information under section 3164 of the NDAA for FY 2000. DOE is not required by the Administrative Procedure Act (5 U.S.C. 553) or any other law to propose this rule for public comment. Accordingly, the Regulatory Flexibility Act requirements do not apply to this rulemaking, and no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No additional information or record keeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act

Today's rule describes the security requirements a DOE or DOE contractor employee engaged in defense activities must follow when making a protected disclosure of classified or other controlled information under section 3164 of the NDAA for FY 2000. Implementation of this rule will not affect whether such information might cause or otherwise be associated with an environmental impact. The Department has, therefore, determined that this rule is covered under the Categorical Exclusion found at paragraph A.6. of Appendix A to subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. 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 Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

F. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' (64 FR 43255, August 10, 1999) requires agencies to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. DOE published its intergovernmental consultation policy and procedures on March 14, 2000, (65 FR 13735). ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have substantial direct effects 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. DOE has examined this final rule and has determined that it would 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.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity to timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. DOE's intergovernmental consultation process under the Unfunded Mandates Reform Act of 1995 is described in a statement of policy published by DOE on March 18, 1997, (62 FR 12820). The final rule published today does not contain any Federal mandate, so these requirements do not apply.

H. 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 Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to the 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 proposed action be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's final rule is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

I. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the final rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 10 CFR Part 1044

Administrative practice and procedure, Classified information, Energy, Government contracts, National security information, Security information, Whistleblowing.

Issued in Washington, DC, on October 4, 2001.

Spencer Abraham,

Secretary of Energy.

Accordingly, the interim final rule adding 10 CFR part 1044, which was published at 66 FR 4639 on January 18, 2001, is adopted as a final rule with the following changes:

PART 1044—SECURITY REQUIREMENTS FOR PROTECTED DISCLOSURES UNDER SECTION 3164 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

1. The authority citation for part 1044 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*, 7239, and 50 U.S.C. 2401 *et seq.*

2. Section 1044.01 is revised to read as follows:

§ 1044.01 What are the purpose and scope of this part?

(a) *Purpose.* This part prescribes the security requirements for making protected disclosures of classified or unclassified controlled nuclear information under the whistleblower protection provisions of section 3164 of the National Defense Authorization Act for Fiscal Year 2000.

(b) *Scope.* The security requirements for making protected disclosures in this part are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101–12) or any other law that may provide protection for disclosures of information by employees of DOE or of a DOE contractor.

[FR Doc. 01–27230 Filed 10–29–01; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 303

RIN 3064–AC49

Engaged In The Business of Receiving Deposits Other Than Trust Funds

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: This final rule amends the FDIC's regulations covering filing procedures and delegations of authority, to clarify the meaning of the phrase ''engaged in the business of receiving deposits other than trust funds'' in the Federal Deposit Insurance Act. Under the rule, an insured depository institution must maintain one or more non-trust deposit accounts in the aggregate amount of $500,000 in order to be ''engaged in the business of receiving deposits other than trust funds''. Each newly insured depository institution will be deemed to be ''engaged in the business of receiving deposits other than trust funds'' for a period of one year from the date it opens for business. If a newly insured depository institution fails to achieve the minimum deposit standard by the end of that time period, it will be subject to a determination by the FDIC that the institution is not ''engaged in the business of receiving deposits other than trust funds'', and to appropriate administrative action to terminate its insured status. Similarly, each insured depository institution, other than a newly insured depository institution, that is below the minimum deposit standard on two consecutive call report dates will be subject to a determination by the FDIC that the institution is not ''engaged in the business of receiving deposits other than trust funds'', and to appropriate administrative action to terminate its insured status. The final rule also clarifies that the maintenance of one or more non-trust deposit accounts in the aggregate amount of $500,000 is not a ''safe harbor'', but rather the minimum standard in order for an institution to be considered ''engaged in the business of receiving deposits other than trust funds'' under the Federal Deposit Insurance Act.

EFFECTIVE DATE: November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Christopher L. Hencke, Counsel, (202) 898–8839, or Robert C. Fick, Counsel, (202) 898–8962, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. The Statute

The FDIC is authorized to approve or disapprove applications by depository institutions for federal deposit insurance. *See* 12 U.S.C. 1815. In determining whether to approve deposit insurance applications, the FDIC considers the seven factors set forth in section 6 of the Federal Deposit Insurance Act (FDI Act). These factors are (1) the financial history and condition of the depository institution; (2) the adequacy of the institution's capital structure; (3) the future earnings prospects of the institution; (4) the general character and fitness of the management of the institution; (5) the risk presented by the institution to the Bank Insurance Fund or the Savings Association Insurance Fund; (6) the convenience and needs of the community to be served by the institution; and (7) whether the institution's corporate powers are consistent with the purposes of the FDI Act. 12 U.S.C. 1816. Also, under the FDI Act, the FDIC must determine as a threshold matter that an applicant is a ''depository institution which is engaged in the business of receiving deposits other than trust funds * * *'' 12 U.S.C. 1815(a)(1). Applicants that do not satisfy this threshold statutory requirement are ineligible for deposit insurance.

The FDIC applies the seven statutory factors in accordance with its ''Statement of Policy on Applications for Deposit Insurance''. *See* 63 FR 44752 (August 20, 1998). The Statement of Policy discusses each of the factors at length; however, it does not address the threshold requirement that an applicant be ''engaged in the business of receiving deposits other than trust funds''.

The threshold requirement for obtaining federal deposit insurance is set forth in section 5 of the FDI Act. *See* 12 U.S.C. 1815(a)(1). The language used by section 5 (''engaged in the business of receiving deposits other than trust funds'') also appears in section 8 and section 3 of the FDI Act. Under section 8, the FDIC is obligated to terminate the insured status of any depository institution ''not engaged in the business of receiving deposits, other than trust funds * * *'' 12 U.S.C. 1818(p). In section 3, the term ''State bank'' is defined in such a way as to include only those State banking institutions