

# memorandum

DATE: November 21, 2001

REPLY TO:

ATTN OF: Office of Environmental Policy and Guidance:Koss:6-7964

SUBJECT: Environmental Protection Agency Regulatory Interpretations of Clean Air Act  
40 *CFR* Parts 60, 61 and 63 Issues, for Review and Comment

TO: Distribution

On November 15, 2001, the Environmental Protection Agency (EPA) published a Notice in the *Federal Register* (at 66 *FR* 57453; available at the Office of Environmental Policy and Guidance Web Site at: <http://www.eh.doe.gov/oepa/rules/66/66fr57453.pdf>). This notice announced the availability of recent postings to a database of regulatory interpretations of rule applicability and alternative monitoring decisions which have been made by EPA under the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAP). The NSPS (40 *CFR* Part 60) and NESHAP (40 *CFR* Parts 61 and 63) allow source owners or operators to: (1) request determinations from EPA on certain rule applicability issues, and (2) seek permission to use monitoring or recordkeeping which is different from the promulgated requirements. EPA has compiled these regulatory determinations and alternative monitoring and recordkeeping decisions into an electronic database called the Applicability Determination Index (ADI) database system, along with their responses to written inquiries about a broader range of NSPS and NESHAP regulatory requirements. The ADI database system is available at EPA's Office of Enforcement and Compliance Assurance Web Site at: <http://es.epa.gov/oeca/eptdd/adi.html>. Because this data base appears to be a useful information source for examining compliance interpretations and for identifying areas of potential regulatory flexibility, Department of Energy (DOE) and DOE contractor staff responsible for sources subject to NSPS and NESHAP should examine the ADI database.

In the November 15 Notice, EPA provided summaries of 24 regulatory interpretations recently added to the ADI database system. More comprehensive documentation for these interpretations is available at the aforementioned EPA Web Site. Some of these interpretations have been made for rules that are relevant to the DOE complex (such as the Subpart H NESHAP for radionuclides and the Subpart M NESHAP for asbestos). Although the Notice indicates that EPA is soliciting comments on all of the ADI determinations, EPA staff have indicated that the agency is seeking comments on only the 24 recently-added regulatory interpretations.

Please review the Notice and the ADI, and submit any comments by January 4, 2002, to Ted Koss of my staff ([theodore.koss@eh.doe.gov](mailto:theodore.koss@eh.doe.gov); fax: 202-586-7964) for compilation into a DOE-wide comment package. Questions on this should be directed to Mr. Koss (202-586-7964).

(Original signed by Andy Lawrence)

Andy Lawrence  
Director  
Office of Environmental Policy and Guidance