limited. The text in question is now covered by 10 CFR part 707; however, to respond fully to the commenter, the following is provided:

In paragraph 710.59(e)(1) (superseded by § 707.12(a) of 10 CFR part 707) there was a requirement that laboratories conducting drug testing for the PSAP use the cutoff levels in the HHS Guidelines for determining whether a test is negative or positive. The paragraph continued with the requirement that any laboratory utilized for PSAP drug testing be certified by the Department of Health and Human Services. Paragraph 710.59(e)(3) (superseded by § 707.12(b)(2)) stated that the amount of urine collected in a specimen will be at least 60 milliliters, in accordance with the HHS Guidelines. This statement provided the rationale for the amount specified (i.e., it reflected the widely used and accepted standard). Under 10 CFR part 707, the requirement for a specific volume is deleted and the site collection person is directed to ascertain that a sufficient amount of urine is collected for an initial test, a confirmatory test, and a retest. Paragraph 710.59(f)(1) (superseded by § 707.13(a)) indicated that the gas chromatography/mass spectrometry method would be used in confirmatory tests and directed the reader to certain paragraphs in the HHS Guidelines for information on the procedure. Paragraph 710.59(f)(2) (superseded by § 707.13(b)) directed the medical review officer to make any determinations of substance abuse in accordance with the criteria provided in the Medical Review Officer Manual issued by HHS.

It was never intended that the HHS Guidelines be adopted in their entirety by contractors under the PSAP. Only those sections of the Mandatory Guidelines and the Medical Review Officer Manual referenced in 10 CFR part 707 apply to the PSAP. An inadvertent reference was made in § 710.59(e)(3) to a "permanent record book," which reflects an HHS requirement. This reference has been deleted, as the paragraph was superseded by the provisions of 10 CFR part 707, which replaces the requirement for a permanent record book with the use of a multi-part specimen chain of custody form.

## C. Drug Testing

Two commenters took exception to the requirement in paragraph 710.59(b) that employees who have not undergone a random drug test for a given year at the time of that year's medical examination be tested for the use of illegal drugs during the medical

examination. It was observed that, under the procedures used in certain facilities, this would prevent the test from being unannounced. The intent of the statement was to offer a method of assuring that all individuals in the PSAP were tested annually. There are any number of mechanisms through which the testing can be conducted on an unannounced, random basis, with every individual in the population being tested at least annually. The sentence is therefore removed and the precise mechanism of testing administration left to the contractor, with the stipulation that any method used result in random, unannounced, annual tests.

## D. Training

One commenter felt that the supervisor training referred to in the preamble to the proposed rule implied that training would be incorporated as a requirement in the final rule without due opportunity for public comment. This was never intended. The reference to training was solely to provide information to contractors on the assistance available through the DOE for implementation of the PSAP. This final rule contains no training requirements.

# **III. Changes From Proposed Rule**

In addition to the removal of alcohol testing requirements and those drug testing protocols now found in 10 CFR part 707, there has been a revision in the security requirements, based on recent personnel security research findings and on comments from within the Department of Energy. Specifically, in § 710.60(c), the investigative requirement is now a single-scope background investigation, the standard used by the Department for the granting of a Q access authorization. In keeping with that standard, § 710.60(e) now requires a periodic reinvestigation in accordance with those procedures used to maintain a Q access authorization. Paragraph 710.60(d) is changed to eliminate the annual national agency check (NAC) and to clarify that the yearly update of the SF-86 is for Part II of that form only. The strength of the PSAP is in its continuing evaluation of covered individuals, and while its investigative elements are important, it is felt that there is little benefit gained by a 15-year scope investigation and annual NAC, relative to the cost

In § 710.54, Definitions, the definition for "drug certification" has been deleted, as this administrative instrument is not a form or procedure of the PSAP.

A non-substantive change has been made to §§ 710.50(a) and 710.55,

regarding the positions covered by the Personnel Security Assurance Program. The second category of positions in each of those paragraphs has been revised to refer to positions "which afford unescorted access to the control areas of a nuclear material production reactor," instead of positions "identified as nuclear material production reactor operators." This change makes the second category of covered positions grammatically parallel with the first category. The Department does not intend any change in the scope of the second category of covered positions.

# IV. Procedural Requirements

#### A. 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, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

#### B. Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., DOE finds that sections 603 and 604 of the said Act do not apply to this rule because, if promulgated, the rule will affect only DOE contractors operating Government-owned or leased sites and their subcontractors, and will not have significant economic impact on a substantial number of small entities.

# C. National Environmental Policy Act

There is no impact on the environment under today's rule. Accordingly, preparation of neither an environmental assessment nor an environmental impact statement is required.

### D. Paperwork Reduction Act

Today's rule has been reviewed in accordance with the Paperwork Reduction Act and has been determined to contain no collection of information requirements other than those already approved under OMB Control Number 1910–1800.

## E. Federalism Effects

The principal impact of today's rule will be on government contractors and their employees. The rule is unlikely to have a substantial direct effect on the States, the relationship between the States and Federal government, or the distribution of power and responsibilities among various levels of government. No Federalism assessment under E.O. 12612 is required.