

another Federal agency or other service provider to assist in the administration of the VMLRP. However, the determination of the veterinarian shortage areas, peer review of individual VMLRP applications, and the overall VMLRP oversight and coordination will reside with the Secretary.

§ 3431.21 Breach.

(a) *General.* If a program participant fails to complete the period of obligated service incurred under the service agreement, including failing to comply with the applicable terms and conditions of a waiver granted by the Secretary, the program participant must pay to the United States an amount as determined in the service agreement. Payment of this amount shall be made within 90 days of the date that the program participant failed to complete the period of obligated service, as determined by the Secretary.

(b) Exceptions.

(1) A termination of service for reasons that are beyond the control of the program participant will not be considered a breach.

(2) A transfer of service from one shortage situation to another, if approved by the Secretary, will not be considered a breach.

(3) A call or order to active duty will not be considered a breach.

(c) The Secretary may renegotiate the terms of a participant's service agreement in the event of a transfer, termination or call to active duty pursuant to paragraph (b) of this section.

(d) *Amount of repayment.* The service agreement shall provide the method for the calculation of the amount owed by a program participant who has breached a service agreement.

(e) *Debt Collection.* Individuals in breach of a service agreement entered into under this part are considered to owe a debt to the United States for the amount of repayment. Any such debt will be collected pursuant to the Department's Debt Management regulations at 7 CFR part 3.

§ 3431.22 Waiver.

(a) A program participant may seek a waiver or suspension of the service or payment obligations incurred under this part by written request to the Secretary setting forth the bases, circumstances, and causes which support the requested action.

(b) The Secretary may waive any service or payment obligation incurred by a program participant whenever compliance by the program participant is impossible or would involve extreme hardship to the program participant and if enforcement of the service or payment

obligation would be against equity and good conscience.

(1) Compliance by a program participant with a service or repayment obligation will be considered impossible if the Secretary determines, on the basis of information and documentation as may be required:

(i) That the program participant suffers from a physical or mental disability resulting in the permanent inability of the program participant to perform the service or other activities which would be necessary to comply with the obligation; or

(ii) That the employment of the program participant has been terminated involuntarily for reasons unrelated to job performance.

(2) In determining whether compliance by a program participant with the terms of a service or repayment obligation imposes an extreme hardship, the Secretary may, on the basis of information and documentation as may be required, take into consideration the nature of the participant's personal problems and the extent to which these affect the participant's ability to perform the obligation.

(c) All requests for waivers must be submitted to the Secretary in writing.

(d) A program participant who is granted a waiver in accordance with this section will be notified by the Secretary in writing.

(e) Any obligation of a program participant for service or payment will be canceled upon the death of the program participant.

§ 3431.23 Service to Federal government in emergency situations.

(a) The Secretary may enter into agreements of 1 year duration with veterinarians who have service agreements for such veterinarians to provide services to the Federal Government in emergency situations, as determined by the Secretary, under terms and conditions specified in the agreement.

(b) Pursuant to a service agreement under this section, the Secretary shall pay an amount, in addition to the amount paid, as determined by the Secretary and specified in the agreement, of the principal and interest of qualifying educational loans of the veterinarians. This amount will be provided in the RFA.

(c) Agreements entered into under this paragraph shall include the following:

(1) A veterinarian shall not be required to serve more than 60 working days per year of the agreement.

(2) A veterinarian who provides service pursuant to the agreement shall

receive a salary commensurate with the duties and shall be reimbursed for travel and per diem expenses as appropriate for the duration of the service.

§ 3431.24 Reporting requirements, monitoring, and close-out.

VMLRP participants will be required to submit periodic reports per the terms and conditions of their service agreements. In addition, the Secretary is responsible for ensuring that a VMLRP participant is complying with the terms and conditions of their service agreement, including any additional reporting or close-out requirements.

Done in Washington, DC, this 9th day of April 2010.

Dr. Meryl Broussard,

Interim Deputy Director, National Institute of Food and Agriculture.

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC-2009-0269]

RIN 3150-AI27

Categorical Exclusions From Environmental Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations that describe the categories of actions which do not require an environmental review under the requirements of the National Environmental Policy Act of 1969 (NEPA) as the NRC has determined that such actions do not individually or cumulatively have a significant effect on the human environment. The amended regulations eliminate the need for the preparation of environmental assessments for NRC actions that are minor, administrative, or procedural in nature. The amendments do not change any requirements for licensees, but may provide for more time for NRC action on more substantial issues and/or speed up the process for review of the amendments.

DATES: This final rule is effective on April 19, 2010.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

- *Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search

for documents filed under Docket ID NRC-2008-0269. Address questions about NRC dockets to Carol Gallagher at 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

- *NRC's Public Document Room (PDR)*: The public may examine and may have copied for a fee publicly available document at the NRC's PDR, Public File Area O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

- *NRC's Agencywide Documents Access and Management System (ADAMS)*: Publicly available documents created or received at the NRC are available electronically at the NRC's electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-899-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Cardelia H. Maupin, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-2312, e-mail, Cardelia.Maupin@nrc.gov.

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I. Background

NEPA requires Federal agencies to undertake an assessment of the environmental effects of their proposed actions prior to making a decision on

whether to approve or disapprove of the proposed action. The NRC's NEPA regulations are contained in 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

A. General Overview of Categorical Exclusion

There are three types of NEPA analyses: An environmental impact statement (EIS), an environmental assessment (EA), and a categorical exclusion. An EIS documents an agency's evaluation of the environmental impacts of a major Federal action significantly affecting the quality of the human environment. An EA is a concise, publicly available document that provides sufficient evidence and analysis for determining whether to prepare an EIS or make a finding of no significant impact (FONSI). If an EA supports a FONSI, the environmental review process is complete. If the EA reveals that the proposed action may have a significant effect on the human environment, the Federal agency then prepares an EIS. A categorical exclusion, in contrast, is a category of actions that the agency has determined not to have a significant effect, either individually or cumulatively, on the human environment. A categorical exclusion is established by rulemaking. Once it has been established a categorical exclusion, the agency is not required to prepare an EA or EIS for any action that falls within the scope of the categorical exclusion, unless the agency finds, for any particular action, that there are special (e.g., unique, unusual or controversial) circumstances that may have a significant effect on the human environment. Categorical exclusions streamline the NEPA process, saving time, effort, and resources.

B. NRC Categorical Exclusion Regulations

On July 18, 1974, the NRC published a final rule (39 FR 26279) that added 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," to the NRC regulations. This rulemaking listed four categorical exclusions. On March 12, 1984, the NRC published a final rule (49 FR 9352) revising and renaming 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions and Related Conforming Amendments." This final rule expanded the number of categorical exclusions from four to eighteen, and redesignated the section listing the NRC's approved categorical exclusions as 10 CFR 51.22, "Criterion

for and identification of licensing and regulatory actions eligible for categorical exclusion."¹

C. Amendments to NRC Categorical Exclusion Regulations

NRC has made 14 amendments to the categorical exclusions in § 51.22 since 1984. Ten of these amendments were minor, corrective, or conforming changes, and four were more substantive. All resulted from rulemaking efforts addressing other parts of NRC regulations. As a result of the 14 amendments, the list of categorical exclusions in § 51.22(c) increased from 18 to 23 categorical exclusions. The NRC's categorical exclusions include administrative, managerial, or organizational amendments to certain types of NRC regulations, licenses, and certificates; minor changes related to application filing procedures; and certain personnel and procurement activities.

D. Basis for Amendment of Categorical Exclusion Regulation

The NRC is amending the 10 CFR 51.22 categorical exclusions to reflect regulatory experience gained since the development of this regulation in March 1984. Prior to this amendment effort, there has been no comprehensive review and update of § 51.22. The amendments being adopted in this final rule are based, in part, on the Council on Environmental Quality (CEQ) September 2003 NEPA Task Force Report (Task Force Report) "Modernizing NEPA Implementation," <http://www.nepa.gov/ntf/report/pdftoc.html>. The Task Force Report notes that the development and updating of categorical exclusions by Federal agencies occurs infrequently and recommends that Federal agencies examine their categorical exclusion regulations to identify potential revisions that would eliminate unnecessary and costly EAs. It also provides recommendations for categorical exclusion development and revision.

The Task Force Report notes that in developing new or broadening existing categorical exclusions, a key issue is how to evaluate whether a proposed categorical exclusion is appropriate and how to support the determination that it describes a category of actions that do not individually or cumulatively have a significant effect on the human

¹ The section heading was revised to its current heading, "Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review," by a final rule published on July 3, 1989 (54 FR 27870).

environment. The Task Force Report recommends the use of information from past actions to establish the basis for the no significant effect determination. It further advises Federal agencies to evaluate past actions that occurred during a particular period to determine how often the NEPA analyses resulted in FONSI for the category of actions being considered. The Task Force Report indicates that an adequate basis for developing new or broadening existing categorical exclusions exists if all the evaluated past actions resulted in FONSI. It also provides that criteria for identifying new categorical exclusions should include: (1) Repetitive actions that do not individually or cumulatively have significant effects on the human environment; (2) actions that generally require limited environmental review; and (3) actions that are noncontroversial.

The amendments being adopted in this final rule are also based upon a review of NRC regulatory actions. As noted, the Task Force Report recommends that agencies evaluate past EA/FONSI for particular categories of actions to develop new or broaden existing categorical exclusions. To comply with this recommendation, an NRC search of files for EA/FONSI completed during the 20-year period from 1987 to 2007 was conducted. The search revealed that more than 1,500 actions resulted in EA/FONSI. NRC conducted an in-depth review of the EA/FONSI issued during the period 2003–2007. That review identified several recurring categories of regulatory actions that are not addressed in 10 CFR 51.22, and have no significant effect on the human environment, either individually or cumulatively. These categories of actions were considered in the amendments being adopted in this final rule.

II. Discussion

A. What Is a Categorical Exclusion?

The CEQ Task Force report defines the term “categorical exclusion” as “a category of actions that do not individually or cumulatively have a significant effect on the human environment and, therefore, preparing an EA or an EIS is not required unless extraordinary circumstances indicate otherwise.”² If a certain type of regulatory action, such as the amendment of regulations, would not normally result in any significant effect upon the human environment, then it is unnecessary to spend time and effort to

repeatedly document that fact. The Task Force Report’s definition of a “categorical exclusion” also provides for “extraordinary circumstances” (essentially, the NRC equivalent of special circumstances) in which a normally excluded action may have a significant environmental effect, and thus require preparation of an EA or an EIS.

B. What Is NRC’s Definition of Categorical Exclusion?

A “categorical exclusion” is defined in NRC’s regulations in 10 CFR 51.14 as a “category of actions which do not individually or cumulatively have a significant effect on the human environment and which the Commission has found to have no such effect in accordance with procedures set out in § 51.22, and for which, therefore neither an environmental assessment nor an environmental impact statement is required.” The NRC has determined that the categorical exclusions listed in 10 CFR 51.22 do not have a significant effect on the human environment.

C. How Should a Categorical Exclusion Be Applied?

Before applying a categorical exclusion to a proposed action, it should be determined whether there are any special circumstances that would potentially effect the human environment. If such special circumstances are, or are likely to be present, the NRC would then prepare an EA and, if necessary, an EIS. If special circumstances are not present, then the categorical exclusion may be applied and the NRC will satisfy its NEPA obligation for that proposed action. The determination of whether special circumstances are present is a matter of NRC discretion. The determination that special circumstances are not present will not require the preparation of any specific or additional documentation beyond the documentation normally prepared, if any, indicating that the categorical exclusion is being invoked for the proposed action.

D. What Action Is the NRC Taking?

The NRC is amending its list of categorical exclusions to clarify the scope of existing categories and to add new categories of actions that have been shown to have no significant effect on the human environment. For example, the provisions in § 51.22(c)(10) cover administrative and procedural changes to a license or permit. However, because of the ambiguity of the language in this provision, the NRC has prepared numerous EA/FONSI for changes to a licensee’s name, address, or telephone

number. In addition, these amendments broaden the scope of the categorical exclusion that addresses decommissioning activities and adds categorical exclusions that address the awarding of education grants and the granting of exemptions from certain regulatory requirements.

The amendments to the categorical exclusion regulations will reduce inefficiencies and inconsistencies in the implementation of NRC’s regulatory program. The amendments will eliminate the need to prepare unnecessary EAs for NRC regulatory actions that have no significant effect on the human environment. The amendments will also support the NRC’s organizational objectives of ensuring that its actions are effective, efficient, realistic, and timely.

E. Who Would This Action Affect?

This amendment will not impose any new requirements on NRC licensees. It will ensure that review of licensees’ amendment requests are completed by the NRC in a more efficient, effective, and timely manner, and will result in cost savings to the NRC and licensees. The amendments eliminate the need for the preparation of EA/FONSI for actions that routinely have been shown to have no effect on the human environment, e.g., licensee requests concerning administrative, managerial, or organizational matters. For example, current ambiguities in the categorical exclusion regulations have created delays in licensee decisions when organizational name changes occur, because these decisions must await the completion of an EA/FONSI and publication in the **Federal Register** by the NRC.

III. Summary of Public Comments on the Proposed Rule

The proposed rule to amend the categorical exclusions in 10 CFR 51.22 was published on October 9, 2008 (73 FR 59540), with a 75-day comment period, which ended on December 23, 2009. The NRC received four comment submissions on the proposed rule. The commenters included a member of the public, one industry organization, and two State agencies. Copies of the public comments are available for review in the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD, or <http://www.regulations.gov> under Docket ID NRC–2008–0269.

Analysis of Public Comments

1. *Comment.* The commenter, a member of the public, stated that there should never be exemptions from any environmental review. The comment

² CEQ regulations define the term “categorical exclusion” at 40 CFR 1508.4.

submission also included other comments that are beyond the scope of this rulemaking.

Response: Excluding categories of actions from environmental review, for which the agency has demonstrated that there will be no significant effect on the human environment, either individually or cumulatively, is an established, authorized NEPA practice. CEQ regulations expressly authorize and encourage the use of categorical exclusions by agencies to reduce “excessive paperwork.”³ According to the CEQ Task Force Report, CEQ “strongly discourages procedures that require additional paperwork to document that an activity has been categorically excluded.”⁴ The categorical exclusion process provides that if a certain type of regulatory action would not normally result in any significant effect upon the human environment, then it is unnecessary to spend time and effort to repeatedly document that fact.

Moreover, a categorical exclusion does not indicate the absence of an environmental review, but rather, that the agency has established a sufficient administrative record to show that the subject actions do not, either individually or cumulatively, have a significant effect on the human environment. Agencies establish sufficient administrative records to support categorical exclusions through the use of professional staff opinions, past NEPA records which show that the agency made a FONSI each time it considered the action, and the establishment of similar categorical exclusions by other agencies.⁵

With respect to those categorical exclusions established by this final rule, the NRC has established a sufficient administrative record, consisting of professional staff opinions and past NEPA records, which shows that these actions, either individually or cumulatively, do not result in a significant effect on the human environment. The statements of consideration for this final rule summarize the NRC’s administrative record for each categorical exclusion. Also, under 10 CFR 51.22(b), in the event that special circumstances are present, the NRC retains discretion to

prepare either an EA or EIS for an action that is otherwise categorically excluded.

2. *Comment:* The commenter, an industry organization, stated in its comment submission that it had reviewed the proposed revisions to 10 CFR Part 51 as described in the proposed rule and agreed that the categories of actions included therein have been shown to have no significant effect on the human environment, either individually or collectively, and should be excluded in accordance with NEPA and as defined in NRC regulations. The commenter supported issuance of a final rule to implement the proposed revisions set forth in the proposed rule.

Response: No response necessary.

3. *Comment:* The commenter, a State Department of Health, stated in its comment submission that it had reviewed the proposed revisions to 10 CFR Part 51 as described in the proposed rule and concurred with the recommendation that the NRC periodically examine its categorical exclusion regulations to identify potential revisions that would eliminate unnecessary and costly environmental assessments. The commenter also supported the concept that information from past actions be used to identify and modify or eliminate requirements that have no significant impact on humans or the environment. The commenter also agreed that the proposed revisions of the categorical exclusion regulations would minimize inefficiencies and inconsistencies in the implementation of NRC’s regulatory program.

Response: No response necessary.

4. *Comment:* The commenter, a State Department of Environmental Conservation, raised concerns about the broadening of existing categorical exclusion 10 CFR 51.22(c)(9) to include power reactor licensee exemption requests from requirements concerning the installation or use of a facility component located within the restricted area of a Part 50 or 52 facility. The commenter stated that the fact that an EA and FONSI have been issued in the past is not sufficient justification to preclude all future requests for an exemption from Part 50 or 52 from a NEPA review. The commenter noted that Parts 50 and 52 regulate a broad range of activities at nuclear facilities and urged the NRC to take a hard look at the breadth of activities to be covered under the proposed revisions and to more carefully define the types of exception requests that qualify to be classified as a “categorical exclusion.” The commenter stated that the proposed revision to 10 CFR 51.22(c)(9) had two critical defects: (1) That the public will

be deprived of an opportunity to comment on an exemption from one or more of the enumerated requirements that potentially impacts public health, safety or welfare, and (2) important technical reviews will be foregone because a permit or license holder’s request for exemption is erroneously considered insignificant. The commenter concludes that the amendment to 10 CFR 51.22(c)(9) is overly broad and warrants additional, more refined conditioning language to ensure that the above two critical defects are avoided.

Response: The commenter asserts that the fact that an EA and FONSI have been issued in the past is not sufficient justification to preclude all future requests for an exemption from Part 50 or 52 from a NEPA review under the amendment to 10 CFR 51.22(c)(9). As described in the CEQ Task Force Report, a consistent record of EA and FONSIs for a given category of actions is an acceptable basis to establish a categorical exclusion. In this regard, the NRC staff determined that during the 5-year period 2003 through 2007, over 50 EAs were prepared for licensee requests for exemptions, all of which resulted in a FONSI.

Moreover, an environmental review is not precluded by the establishment of this categorical exclusion. Before the categorical exclusion is applied, the NRC staff must find that the exemption request involves no significant hazards consideration, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, and there is no significant increase in individual or cumulative occupational radiation exposure.⁶ The above findings would be made as part of the NRC’s safety analysis for any licensee exemption request. If the NRC cannot make these findings, then the categorical exclusion will not apply and the NRC will prepare an EA, and if necessary, an EIS. Furthermore, the NRC can, in the event of special circumstances, as provided in 10 CFR 51.22(b), choose to prepare an EA or an EIS. Thus, the NRC concludes that the broadening of 10 CFR 51.22(c)(9) is appropriate.

The commenter urges the NRC to take a “hard look” at the breadth of activities to be covered under the amendment to 10 CFR 51.22(c)(9) in order to more carefully define the types of exemption requests that “truly qualify” to be classified as categorical exclusions. The amendment to this categorical exclusion, however, only covers exemption requests from a specified

³ 40 CFR 1500.4(p). See also 40 CFR 1501.4(a)(2) (agency determines under its procedures whether action would be one that is normally subject to an EIS or is not subject to an EIS or EA and thus, a categorical exclusion); and 40 CFR 1508.4 (CEQ definition of categorical exclusion).

⁴ CEQ, “The NEPA Task Force Report to the Council on Environmental Quality: Modernizing NEPA Implementation” (Task Force Report) 57–58 (2003).

⁵ Task Force Report at 59.

⁶ 10 CFR 51.22(c)(9)(i)–(iii).

subset of requirements under Part 50 or 52, namely, those exemption requests from Part 50 or 52 requirements related to the installation of or use of a facility component located within the restricted area, as defined by 10 CFR Part 20. The land covered by the restricted area is typically improved or otherwise previously disturbed and restricted to plant personnel or other screened individuals.

Given the 10 CFR 51.22(c)(9)(i)–(iii) criteria and the nature of the restricted area, it is extremely unlikely that granting any such exemption request would create any significant impact on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act. Similarly, it is extremely unlikely that there will be any impacts to socioeconomic, or historical and cultural resources. Thus, the NRC concludes that the amendment to 10 CFR 51.22(c)(9) is not overly broad, has sufficient protection, and is supported by an adequate administrative record.

The commenter further asserts that the public will be deprived of an opportunity to comment on an exemption from one or more of the enumerated requirements that potentially impact public health, safety, or welfare. In response, the NRC has concluded that broadening the categorical exclusion to include exemption requests will not have a significant effect on the human environment and will reduce unnecessary agency work. The NRC has further concluded that this amendment will not adversely impact public health and safety. This conclusion is based on the NRC's administrative record and the findings that must be made before the exemption can be approved, as required by 10 CFR 51.22(c)(9)(i)–(iii).

The commenter also asserts that important technical reviews will be foregone because a permit or license holder's request for exemption is erroneously considered insignificant. The application of the categorical exclusion to any exemption request, however, is separate and distinct from the safety analysis of the exemption request that will be conducted by the NRC staff. Absent the EA, the staff will still review the plant's procedures and technical specifications as well as evaluate the exemption request against the significance criteria in 10 CFR 51.22(c)(9)(i)–(iii).

5. *Comment:* The commenter, a State Department of Environmental Conservation, raised a concern about

one of the new categorical exclusions, 10 CFR 51.22(c)(25), which covers exemption requests from administrative, managerial, or organizational requirements. Specifically, the commenter stated that the activities addressed in subparagraphs (C), (D), and (F) of 10 CFR 51.22(c)(vi)(25)⁷ appear to be more safety-related than administrative, or that the requirements were more than administrative. Subparagraph (C) covered exemption requests from inspection or surveillance requirements; subparagraph (D) covered exemption requests from equipment servicing or maintenance requirements; and subparagraph (F) covered exemption requests from safeguards plans, including materials control, accounting, or other inventory requirements. The commenter urged the NRC to remove these exemption requests from the list of activities eligible for listing as a categorical exclusion.

Response: The NRC makes a distinction between conducting a safety analysis and conducting an environmental analysis. The NRC has determined that granting exemption requests from the types of requirements described in subparagraphs (C), (D), and (F) will not have a significant effect on the human environment. The commenter asserts that these requirements are more safety-related than administrative. The NRC will conduct a safety review and must make findings similar to those required by 10 CFR 51.22(c)(9). The proposed rule listed four findings, namely, that granting the exemption request would not result in a: (i) Significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (ii) significant increase in individual or cumulative public or occupational radiation exposure; (iii) significant construction impact; or (iv) there is no significant increase the potential for or consequences from radiological accidents.

In response to this comment, the final rule adds a fifth required finding that there will be no significant hazards consideration, set forth in this final rule as 10 CFR 51.22(c)(25)(i). In addition, the term "procedural" will be deleted from 10 CFR 51.22(c)(25)(vi)(I) (formerly subparagraph (c)(25)(v)(J) in the proposed rule) as the term "procedural" could be misconstrued in this context to include the requirement for licensees to implement procedures for substantive requirements. Thus, with these changes, the NRC concludes that the requirement

to make these findings as part of its safety analysis provides adequate protection of public health and safety and as such, the revised categorical exclusion is appropriate.

IV. Discussion of Amendments by Section

A. *Why Revise the Description of Categorical Exclusions in 10 CFR 51.22(a)?*

This rule amends § 51.22(a) to clarify that the types of actions eligible for a categorical exclusion include "administrative" actions in addition to "licensing" and "regulatory" actions.

B. *Why Revise the Categorical Exclusion in 10 CFR 51.22(c)(1) Which Addresses Amendments to 10 CFR Parts That Pertain Solely to Organizational, Administrative or Procedural Matters?*

This rule amends § 51.22(c)(1) to include references to 10 CFR Parts that were inadvertently omitted. The 10 CFR Parts referenced in this section relate to matters regarding Commission organization, administration, or procedure. They serve the dual purpose of making information readily available to the public and of establishing administrative procedures for the orderly conduct of Commission business. The NRC has established that these types of regulatory actions do not individually or cumulatively have a significant effect on the human environment.

This amendment updates 10 CFR 51.22(c)(1) to include references to the following Commission organizational, administrative, or procedural requirements in the following 10 CFR Parts:

Part 5—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. This part is designed to eliminate (with certain exceptions) sex discrimination in any education program or activity receiving Federal financial assistance.

Part 12—Implementation of the Equal Access to Justice Act in Agency Proceedings. This part establishes regulatory requirements for awarding of attorney fees to eligible individuals and entities in certain administrative proceedings before the Commission.

Part 13—Program Fraud Civil Remedies. This part establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, false, fictitious, or fraudulent claims. It also specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties.

⁷ The paragraph in question was designated as 10 CFR 51.22(c)(25)(v) in the proposed rule.

Part 15—Debt Collection Procedures. This part establishes administrative procedures for the Commission to collect the payment of debts owed to the United States Government in the form of money or property, unless a different procedure is specified in a statute, regulation, or contract.

Part 16—Salary Offset Procedures for Collecting Debts Owed by Federal Employees to the Federal Government. This part establishes procedures for the collection by administrative offset of a Federal employee's salary without his or her consent to satisfy certain debts owed to the Federal Government.

Part 26—Fitness for Duty Programs. This part prescribes requirements and standards for the establishment and maintenance of certain aspects of fitness-for-duty programs and procedures.

Part 160—Trespassing on Commission Property. This part provides for the protection and security of NRC facilities, installations, and properties from unauthorized entry and from unauthorized weapons or dangerous materials.

C. Why the Commission Has Chosen Not To Revise the Categorical Exclusion in 10 CFR 51.22(c)(2)

The proposed rule proposed broadening the scope of 10 CFR 51.22(c)(2) to include regulatory amendments that updated references, and to make other modifications to the language. Subsequent to the publication of the proposed rule, the NRC staff re-evaluated this proposed amendment and determined the proposed changes were overly broad, particularly regarding those amendments to the NRC regulations that incorporated by reference updates to American Society of Mechanical Engineers (ASME) or similar codes. For example, it was determined that certain code cases for Section II of the ASME Boiler and Pressure Vessel code, "Materials," could result in an alloy being altered to include a new material. Such new material, if in contact with the reactor coolant system, could become radioactively activated and could ultimately be released to the environment. Thus, the NRC staff concluded that such reference updates should be subject to an environmental review. The final rule will not amend 10 CFR 51.22(c)(2).

D. Why Revise the Categorical Exclusion in 10 CFR 51.22(c)(3) Which Addresses Amendments to Administrative, Organizational or Procedural Requirements Within Other 10 CFR Parts?

The final rule amends 10 CFR 51.22(c)(3) to delete the specific listing of 10 CFR Parts and to add a generic reference to reflect any part of CFR Chapter 10. This revision eliminates the need for changes due to new parts being added or deleted. As a result, efficiencies will be gained in the rulemaking process.

This amendment redesignates the existing subparagraph (iv) as subparagraph (v) and adds a new subparagraph (iv) to 10 CFR 51.22(c)(3) to expand the categorical exclusion to include amendments concerning education, training, experience, qualification, or other employment suitability requirements established in the regulations.

E. Why Revise Categorical Exclusion in 10 CFR 51.22(c)(9) Which Addresses Amendments to a Permit or License for a Reactor Under Parts 50 or 52?

The final rule amends 10 CFR 51.22(c)(9) to broaden the scope of the categorical exclusion to include the granting of a power reactor licensee exemption request from a requirement pertaining to the installation or use of a facility component located within the restricted area, as defined in 10 CFR Part 20. Under the previous provision, the granting of such an exemption request would not be covered by this categorical exclusion and therefore, would have required the preparation of an EA. The Commission has now determined that there is ample data in the form of EA and FONSIs to justify the categorical exclusion of the granting of these exemptions, provided that for each exemption request, the NRC first finds that the safety criteria set forth in 10 CFR 51.22(c)(9) are met (i.e., the exemption involves no significant hazards consideration, there is no significant change in the types of, or significant increase in the amounts of any effluents that may be released offsite, and there is no significant increase in individual or cumulative occupational radiation exposure). During the period 2003 through 2007, at least 50 EA/FONSIs resulted from licensee requests for such exemptions.

F. Why Revise the Categorical Exclusion in 10 CFR 51.22(c)(10) Which Addresses Administrative, Procedural, Organizational, or Editorial Changes to a Permit or License?

The final rule amends 10 CFR 51.22(c)(10) to delete the specific listing of 10 CFR Parts and to add a generic reference to cover any part of 10 CFR, Chapter 1. This revision eliminates the need for changes due to new parts being added or deleted. As a result, efficiencies are gained in the rulemaking process.

In addition, 10 CFR 51.22(c)(10) is revised to add new subparagraphs (iii), (iv), and (v) to clarify that changes to a license or permit that are administrative, organizational, or editorial in nature are not subject to environmental review. The NRC has conducted several EAs, each resulting in a FONSI, for minor administrative changes to licenses and permits because these actions were not specifically identified in 10 CFR 51.22(c). These types of amendments to a license or permit facilitate the orderly conduct of the licensee's business and ensure that information needed by the Commission to perform its regulatory functions is readily available. These amendments would also include the changing of references on licenses and other licensee documents (e.g., licensee's operational procedures) to reflect amendments to NRC regulations and updated NRC-approved guidance (e.g., NUREG documents). Under the previous provision, the NRC was required to prepare EA and FONSIs for the following administrative actions:

- (1) Amendments to reflect changes in ownership;
- (2) Amendments to reflect organization name changes;
- (3) Amendments to reflect corporate restructuring, including mergers;
- (4) Amendments to licenses to reflect changes in references; and
- (5) Amendments correcting typographical and editorial errors on licenses, permits, and associated technical specification documents.

The Commission has consistently determined that these types of amendments have no significant effect on the human environment.

G. Why Revise the Categorical Exclusion in 10 CFR 51.22(c)(20) Which Addresses Decommissioning of Sites?

The final rule adds a new subparagraph (iii) to 10 CFR 51.22(c)(20) to broaden the scope of the 10 CFR 51.22(c)(20) categorical exclusion to include Group 2 decommissioning activities. Decommissioning activities

are described in NRC's guidance, NUREG-1757, Vol. 1, Rev. 2, "Consolidated NMSS Decommissioning." NUREG-1757 divides decommissioning activities into seven decommissioning groups, Groups 1-7. Prior to this amendment, the 10 CFR 51.22(c)(20) categorical exclusion covered Group 1 decommissioning activities only. Group 2 decommissioning activities are those activities that involve the decommissioning of sites where licensed operations have been limited to the use of radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1) or 70.38(g)(1), and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402, without further remediation or analysis.

Group 2 decommissioning activities cover:

(1) Facilities where the licensee possessed and used only sealed sources, but the most recent leak tests indicate that the sources leaked or leak tests are not available; or

(2) Facilities where the licensee used unsealed radioactive material and the licensee's survey demonstrated that levels of radiological contamination on building surfaces or surface soils meet the provisions for unrestricted use in 10 CFR 20.1402 by applying NRC-approved decommissioning screening criteria, and the licensee is not required to submit a decommissioning plan.

Group 2 decommissioning requests received by the NRC involve licensees who are authorized to possess and use sealed and/or unsealed radioactive materials with half-lives greater than 120 days. For example, the most common unsealed radioactive materials used by Group 2 licensees are tritium (H-3) and Carbon-14.

Normally, Group 2 licensees in the decommissioning process remediate their sites, as necessary, using their operating procedures. These licensees are required to keep records of material receipt, use, and disposal, enabling them to quantify past radiological material possession and use with a high degree of confidence. In order for the decommissioning action to meet Group 2 criteria, the licensee must maintain radiological survey records that characterize the residual radiological contamination levels present within the facilities and at their sites. In addition, Group 2 licensees must be able to demonstrate residual radiological contamination levels without more sophisticated survey procedures or dose modeling. These licensees are not required to have a decommissioning

plan, but must demonstrate that their site meets the screening criteria of 10 CFR 20.1402.

In many cases, the NRC conducts confirmatory surveys during the licensee's decommissioning activities to verify the accuracy of the measuring techniques used to satisfy the requirements of 10 CFR 20.1402. The NRC uses a risk-informed process that assigns higher priority for conducting confirmatory surveys at sites that may pose a greater threat to the public health and safety. The results of this survey are used by the NRC to support a decision on whether to approve a licensee's request to terminate a license and release the site for unrestricted use.

Prior to this amendment, 10 CFR 51.22(c)(20) categorically excluded from further NRC environmental review those activities which are defined in NUREG-1757 as Group 1 decommissioning activities, namely, the decommissioning of sites where licensed operations had been limited to the use of small quantities of unsealed short-lived radioactive materials or radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources. The 10 CFR 51.22(c)(20) decommissioning categorical exclusion was added with the promulgation of the license termination rule, "Radiological Criteria for License Termination" (July 21, 1997; 62 FR 39058). The license termination rule, codified at 10 CFR Part 20, Subpart E, established a dose-based radiological criterion of 25 mrem/yr in 10 CFR 20.1402 for the release of a decommissioned site for unrestricted use.

In establishing the decommissioning categorical exclusion, the Commission relied on the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination on NRC-Licensed Nuclear Facilities" (GEIS; NUREG-1496, Vol. 1). The GEIS concluded that with the use of "decay in storage" for the short-lived nuclides (those with a half-life of less than or equal to 120 days) and the time involved in submitting the information necessary to terminate a license, the activity of licensed material would reach sufficiently low levels such that decontamination of the building or of soils would not be needed.

However, the GEIS did not enable the Commission to determine that there would be no significant effect on the human environment from the use of unsealed radioactive materials with half-lives of more than 120 days. Specifically, the Commission determined that the unique conditions of each licensee facility and the specific

uses of unsealed radioactive materials at each site prevented the environmental impacts from being analyzed on a generic basis. Accordingly, the Commission relied on the GEIS to satisfy its obligations under NEPA regarding decommissioning decisions on sites that meet the 25 mrem/y (0.25 mSv/yr) criterion for unrestricted use, but continued to require an EA for the decommissioning of any site on which unsealed radioactive materials with half-lives of more than 120 days are located. As such, based upon the 1997 Commission decision, EAs were performed for Group 2 decommissioning activities.

The Commission has now determined that there is ample data in the form of EA and FONSI to justify the categorical exclusion of Group 2 decommissioning activities. The data shows that, during the period 2003 through 2007, each of the 73 EAs performed for a Group 2 decommissioning action resulted in a FONSI. Thus, subparagraph (iii) is added to 10 CFR 51.22(c)(20) to categorically exclude from further environmental review the decommissioning of sites where radioactive material has been used in such a manner that a decommissioning plan is not required based on 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1) and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis. If further remediation or analysis is needed to meet 10 CFR 20.1402, the decommissioning activity would be considered a Group 3 or higher decommissioning activity in accordance with NUREG-1757, and would not be covered by this categorical exclusion.

H. Why Add a Categorical Exclusion in 10 CFR 51.22(c)(24) Which Addresses the Awarding of Education Grants?

The final rule adds a new categorical exclusion, 10 CFR 51.22(c)(24), which categorically excludes the issuance of grants, by the NRC, to institutions of higher education in the United States, for scholarships, fellowships, and stipends in science, engineering, or another field of study that the NRC determines is in a critical skill area related to its regulatory mission. These grants may also support faculty or curriculum development as well as other domestic educational, technical assistance, or training programs (including those of trade schools) in such fields. This categorical exclusion covers those actions that are specifically geared toward the development of teaching and educational programs in the nuclear field. The purpose of the

grant program is to foster a work force capable of supporting the safe design, construction, operation, and regulation of nuclear facilities, and the safe handling of nuclear materials.

Sections 31.b.(2) and 243 of the Atomic Energy Act of 1954, as amended, constitute the statutory basis of this grants program. Section 243 authorizes the creation of a scholarship and fellowship program to fund scholarships, fellowships, and stipends for the study of science, engineering, or another field of study that the NRC determines is a critical skill area related to its regulatory mission, to support faculty and curricular development in such fields, and to support other domestic educational, technical assistance, or training programs (including those of trade schools) in such fields. Section 31.b.(2) authorizes the NRC to provide grants, loans, cooperative agreements, contracts, and equipment to institutions of higher education to support courses, studies, training, curricula, and disciplines pertaining to nuclear safety, security, or environmental protection, or any other field that the NRC determines to be critical to its regulatory mission.

This new categorical exclusion covers actions that the NRC has determined to be administrative in nature. The categorical exclusion contains prescriptive language (10 CFR 51.22(c)(24)(i)–(iv)) that limits its application to only those grants that will not have a significant effect on the human environment. In this regard, the categorical exclusion does not apply to those grants that may be used to directly support the construction of facilities, field work (except field work which only involves noninvasive or non-harmful techniques), or the testing and release of radioactive material. Furthermore, the categorical exclusion would not apply to those grants that would directly support any action that would lead to a major disturbance of the environment brought about by blasting, drilling, excavating, or other means.

I. Why Add a Categorical Exclusion in 10 CFR 51.22(c)(25) Which Addresses the Granting of Exemptions From Regulatory Requirements?

The final rule adds a new categorical exclusion, 10 CFR 51.22(c)(25), which addresses the granting of licensee exemption requests from certain regulatory requirements. Various NRC regulations allow for the granting of specific exemptions from NRC regulations.⁸ Before an exemption may

be granted, the NRC must satisfy certain criteria, namely, it must make findings that the exemption is “authorized by law,” “will not endanger life or property or the common defense and security,” and is “otherwise in the public interest.” In the case of Part 50 and 52 exemptions, the exemption request must meet additional criteria.⁹ The NRC thoroughly evaluates each exemption request under these provisions, and only those exemption requests that meet these provisional criteria are granted.

Prior to this final rule, 10 CFR 51.22 did not provide a categorical exclusion for the granting of exemption requests from administrative, managerial, or organizational regulatory requirements that will not have a significant effect on the human environment. The NRC has found that the majority of the exemptions it grants are administrative or otherwise minor in nature and do not trigger any of the significance criteria that are required findings under other categorical exclusions, such as 10 CFR 51.22(c)(9)(i)–(iii). The NRC has prepared numerous EAs, each resulting in a FONSI, to support the granting of such exemption requests.

This categorical exclusion contains prescriptive criteria that limit its application to only those exemptions that will not have a significant effect on the human environment. The categorical exclusion only applies to those exemption requests that meet all of the criteria enumerated in 10 CFR 51.22(c)(25)(i)–(vi). Thus, the requirements from which the exemption is sought must be one of those listed in 10 CFR 51.22(c)(25)(vi). In addition, the granting of the exemption request cannot result in any:

- (1) Significant hazards consideration;
- (2) Significant change in the types or significant increase in the amounts of any effluents that may be released offsite;
- (3) Significant increase in individual or cumulative public or occupational radiation exposure;
- (4) Significant construction impact; or
- (5) Significant increase in the potential for or consequences from radiological accidents.

The NRC has found that granting exemptions for the types of requirements listed in subparagraphs 51.22(c)(25)(vi)(A)–(I) are categories of actions that normally do not result in any significant effect, either individually or cumulatively, on the human environment. Thus, in order for the categorical exclusion to be applicable to a specific exemption request, the NRC staff must first make

the safety findings described in 10 CFR 51.22(c)(25)(i)–(v) and then determine that the requirement is of a type listed in 10 CFR 51.22(c)(25)(vi).

V. Agreement State Compatibility

Under the “Policy Statement on Adequacy and Compatibility of Agreement State Programs” approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as a Compatibility Category “NRC.” The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA), or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State’s administrative procedure laws but does not confer regulatory authority on the State. NEPA applies only to Federal agencies. This final rule will not have any impact on Agreement States’ regulations. Therefore, Agreement States will not need to make conforming changes to their regulations.

VI. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. The NRC is amending 10 CFR 51.22, the NRC’s list of categories of actions that the NRC has determined to have no significant effect on the human environment. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

VII. Finding of No Significant Environmental Impact: Availability

Under NEPA and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an EIS is not required. The NRC prepared an EA and, on the basis of this EA, has made a FONSI. These amendments are based upon NRC review of environmental assessments conducted during the period 2003–2007 that have consistently resulted in FONSIs. The amendments to the categorical exclusions are administrative, procedural, or otherwise

⁸ E.g., 10 CFR 20.2301, 30.11, 40.14, 50.12, 52.7, 70.17, 72.7, and 76.23.

⁹ 10 CFR 50.12(a)(2); 10 CFR 52.7.

minor in nature (e.g., no significant increases in the amounts of any effluents that may be released offsite).

The NRC sent a copy of the EA and the proposed rule to every State Liaison Officer and requested their comments on the EA. Two State comment submissions were received. The States' comments and the NRC responses thereto are described in the Analysis of Public Comments section of this final rule. The EA may be examined at the NRC Public Document Room, 11555 Rockville Pike, Room O-1F23, Rockville, MD 20852.

VIII. Paperwork Reduction Act Statement

This rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

IX. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

X. Regulatory Analysis

This rule is anticipated to be cost-effective. It would eliminate the need to prepare EAs for actions that have no significant effect on the human environment, and would eliminate the delays associated with the preparation of these documents. A regulatory analysis is not required because this rulemaking does not impose any new requirements on NRC licensees.

XI. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

XII. Backfit Analysis

The NRC has determined that the backfit rule (§§ 50.109, 70.76, 72.62, or 76.76) does not apply to this rule because this amendment would not involve any provisions that would impose backfits as defined in 10 CFR Chapter I. Therefore, a backfit analysis is not required.

XIII. Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this

determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

List of Subjects in Part 51

Administrative practice and procedure, Environmental impact statement, Hazardous waste, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; the NRC proposes to adopt the following amendments to 10 CFR Part 51:

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

■ 1. The authority citation for Part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80, and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

■ 2. Amend § 51.22 by revising paragraphs (a), (c)(1), (c)(3), (c)(9), (c)(10), and (c)(20) and adding paragraphs (c)(24) and (c)(25) to read as follows:

§ 51.22 Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review.

(a) Licensing, regulatory, and administrative actions eligible for categorical exclusion shall meet the following criterion: The action belongs to a category of actions which the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the category of actions does not individually or

cumulatively have a significant effect on the human environment.

* * * * *

(c) * * *

(1) Amendments to Parts 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter, and actions on petitions for rulemaking relating to Parts 1, 2, 4, 5, 7, 9, 10, 11, 12, 13, 14, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter.

* * * * *

(3) Amendments to any part in this chapter which relate to—

(i) Procedures for filing and reviewing applications for licenses or construction permits or early site permits or other forms of permission or for amendments to or renewals of licenses or construction permits or early site permits or other forms of permission;

(ii) Recordkeeping requirements;

(iii) Reporting requirements;

(iv) Education, training, experience, qualification or other employment suitability requirements or

(v) Actions on petitions for rulemaking relating to these amendments.

* * * * *

(9) Issuance of an amendment to a permit or license for a reactor under part 50 or part 52 of this chapter, which changes a requirement, or grants an exemption from any such requirement, with respect to installation or use of a facility component located within the restricted area, as defined in part 20 of this chapter, or which changes an inspection or a surveillance requirement, provided that:

(i) The amendment or exemption involves no significant hazards consideration;

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; and

(iii) There is no significant increase in individual or cumulative occupational radiation exposure.

(10) Issuance of an amendment to a permit or license issued under this chapter which—

(i) Changes surety, insurance and/or indemnity requirements;

(ii) Changes recordkeeping, reporting, or administrative procedures or requirements;

(iii) Changes the licensee's or permit holder's name, phone number, business or e-mail address;

(iv) Changes the name, position, or title of an officer of the licensee or permit holder, including but not limited to, the radiation safety officer or quality assurance manager; or

(v) Changes the format of the license or permit or otherwise makes editorial, corrective or other minor revisions, including the updating of NRC approved references.

* * * * *

(20) Decommissioning of sites where licensed operations have been limited to the use of—

(i) Small quantities of short-lived radioactive materials;

(ii) Radioactive materials in sealed sources, provided there is no evidence of leakage of radioactive material from these sealed sources; or

(iii) Radioactive materials in such a manner that a decommissioning plan is not required by 10 CFR 30.36(g)(1), 40.42(g)(1), or 70.38(g)(1), and the NRC has determined that the facility meets the radiological criteria for unrestricted use in 10 CFR 20.1402 without further remediation or analysis.

* * * * *

(24) Grants to institutions of higher education in the United States, to fund scholarships, fellowships, and stipends for the study of science, engineering, or another field of study that the NRC determines is in a critical skill area related to its regulatory mission, to support faculty and curricular development in such fields, and to support other domestic educational, technical assistance, or training programs (including those of trade schools) in such fields, except to the extent that such grants or programs include activities directly affecting the environment, such as:

(i) The construction of facilities;

(ii) A major disturbance brought about by blasting, drilling, excavating or other means;

(iii) Field work, except that which only involves noninvasive or non-harmful techniques such as taking water or soil samples or collecting non-protected species of flora and fauna; or

(iv) The release of radioactive material.

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

(iv) There is no significant construction impact;

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

(vi) The requirements from which an exemption is sought involve:

(A) Recordkeeping requirements;

(B) Reporting requirements;

(C) Inspection or surveillance requirements;

(D) Equipment servicing or maintenance scheduling requirements;

(E) Education, training, experience, qualification, requalification or other employment suitability requirements;

(F) Safeguard plans, and materials control and accounting inventory scheduling requirements;

(G) Scheduling requirements;

(H) Surety, insurance or indemnity requirements; or

(I) Other requirements of an administrative, managerial, or organizational nature.

Dated at Rockville, Maryland, this 13th day of April 2010.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2010-8921 Filed 4-16-10; 8:45 am]

BILLING CODE 7590-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064-AD37

Amendment of the Temporary Liquidity Guarantee Program To Extend the Transaction Account Guarantee Program With Opportunity To Opt Out

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Interim Rule with request for comments.

SUMMARY: The FDIC is issuing this Interim Rule to amend the Transaction Account Guarantee (TAG) component of the Temporary Liquidity Guarantee Program (TLGP) by providing an 6-month extension of the TAG program for insured depository institutions (IDIs) currently participating in the TAG program, with the possibility of an additional 12-month extension of the program without further rulemaking, upon a determination by the FDIC's Board of Directors (Board) that continuing economic difficulties warrant a continued extension. By virtue of this Interim Rule, the TAG program will be extended through December 31, 2010, with the possibility of an additional 12-month extension through December 31, 2011. In addition, while the Interim Rule presents no changes in the amount of the assessment for an IDI's continued participation in

the TAG, it modifies the assessment basis for calculating the current risk-based assessments to one based on average daily balances in the TAG-related accounts. Further, the Interim Rule requires IDIs participating in the TAG program that offer NOW accounts covered by the program to reduce the interest rate on such accounts to a rate no higher than 0.25 percent and to commit to maintain that rate for the duration of the TAG extension in order for those NOW accounts to remain eligible for the FDIC's continued guarantee.

DATES: The Interim Rule becomes effective on April 19, 2010. Comments on the Interim Rule must be received by the FDIC no later than May 19, 2010.

ADDRESSES: You may submit comments on the Interim Rule, by any of the following methods:

• **Agency Web Site:** <http://www.FDIC.gov/regulations/laws/federal/notices.html>. Follow instructions for submitting comments on the Agency Web Site.

• **E-mail:** Comments@FDIC.gov.

Include RIN # 3064-AD37 on the subject line of the message.

• **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• **Hand Delivery:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Instructions: All comments received will be posted generally without change to <http://www.fdic.gov/regulations/laws/federal/final.html>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: A. Ann Johnson, Counsel, Legal Division, (202) 898-3573 or aajohnson@fdic.gov; Robert C. Fick, Counsel, Legal Division, (202) 898-8962 or rfick@fdic.gov; Julia E. Paris, Senior Attorney, Legal Division, (202) 898-3821 or jparis@fdic.gov; Lisa D Arquette, Associate Director, Division of Supervision and Consumer Protection, (202) 898-8633 or larquette@fdic.gov; Donna Saulnier, Manager, Assessment Policy Section, Division of Finance, (703) 562-6167 or dsaulnier@fdic.gov; or Rose Kushmeider, Acting Chief, Banking and Regulatory Policy Section, Division of Insurance and Research, (202) 898-3861 or rkushmeider@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In October 2008, the FDIC adopted the TLGP following a determination of