increasing the risk of the spread of tuberculosis from Canada into the United States. We are further amending the regulations by prohibiting the importation of cattle from a herd in which a tuberculosis reactor has been found. This action is necessary to prevent the introduction of tuberculosis from Canada into the United States. Finally, we are deleting the provisions regarding "range cattle". This is necessary because the above-mentioned amendments result in the deletion of all distinctions between the tuberculosis provisions regarding "range cattle" from Canada and all other types of cattle from Canada.

EFFECTIVE DATE: May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 809, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases. Section 92.20 of the regulations contains specific provisions concerning the importation into the United States of cattle from Canada.

A proposed rule was published in the **Federal Register** on October 3, 1986 (51 FR 35368–35370). Our proposal invited the submission of written comments on or before December 2, 1986. No comments were received. Based on the rationale set forth in the proposal, the proposed rule is adopted as a final rule.

Miscellaneous

Two minor nonsubstantive changes have been made for the purpose of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and will not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United-States based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Extending the tuberculin testing period from 30 to 60 days prior to importation will relieve existing restrictions that make compliance with the regulations easier for persons moving cattle from herds in Canada into the United States. Removal of the provisions for cattle from "restricted areas" will have no impact on the importation of cattle into the United States from Canada since there are no longer any "restricted areas" in Canada. Removal of the provisions for the importation of range cattle from reactor herds will have no impact on the importation of cattle from Canada into the United States, since Canadian regulations prohibit the exportation of such cattle.

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 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.1 [Amended]

2. Paragraphs (k) and (l) of § 92.1 are removed.

3. The remaining definitions in § 92.1 are placed in alphabetical order and the paragraph designations are removed.

4. Section 92.1 is amended by adding, in alphabetical order, the following:

Tuberculosis-free herd. A herd which is not known to be infected with bovine tuberculosis (*M. bovis*) and which is certified by the Canadian Government as a tuberculosis-free herd.

United States. All of the States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and all other Territories and Possessions of the United States.

5. Section 92.20(b) is revised to read as follows:

§ 92.20 Cattle from Canada.

* * * * *

(b) *Tuberculin-test certificates.* (1) Cattle from Canada from a herd in which any cattle have been determined to have tuberculosis shall not be imported into the United States.

(2) Except for cattle prohibited from importation under paragraph (b)(1) of this section, cattle from Canada may be imported into the United States if:

(i) The cattle are imported for slaughter in accordance with § 92.23 of this part; or

(ii) The cattle are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing:

(A) That the cattle are from a tuberculosis-free herd; or

(B) The date and place the cattle were last tested for tuberculosis; that the cattle were found negative for tuberculosis on such test; and that such test was performed within 60 days preceding the arrival of the cattle at the port of entry.

* * * * *

6. In § 92.20, paragraph (b), footnote number 10 is removed.

7. In Part 92, footnotes 11, 12, 13, and 13a and the references thereto are redesignated 10, 11, 12, and 13 respectively.

Done in Washington, DC, this 2nd of April 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–7676 Filed 4–6–87; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Parts 102 and 114

[Docket No. 86-117]

Viruses, Serums, Toxins, and Analogous Products; Revision of the Virus-Serum-Toxin Act

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise the regulations governing licenses and production requirements for biological products to conform with the recent amendment of the Virus-Serum-Toxin Act. Additionally, this rule reduces restrictions on producers of autogenous biologics, and makes other conforming changes.

Current regulations limit licensure for the purpose of producing autogenous biologics to manufacturers licensed to prepare at least one nonautogenous product. This revision of the regulations provides for licensure to produce autogenous biologics without the necessity of also obtaining a license for a nonautogenous product. Such licensure will be subject to conditions which assure acceptable product control.

Due to a recent change in the regulations, more than one establishment can be involved in the production of a biologic. This amendment provides that only the license number of the establishment which releases the product to market need appear on the product license.

The amendment to the Virus-Serum-Toxin Act provides for the issuance of special or conditional licenses under expedited procedures for products needed to meet emergency conditions, limited market or local situations, or other special circumtances, including production solely for intrastate use under a State-operated program. This revision of the regulations implements this amendment by shortening and simplifying the procedures for licensure.

EFFECTIVE DATE: May 7, 1987.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Senior Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6332.

SUPPLEMENTARY INFORMATION: .

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirements or any type of information collection requirement subjet to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

This action will not have a significant effect on the economy and will not result in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will also not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic markets.

Certification Under the Regulatory Flexibility Act

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. The regulatory amendments will reduce restrictions, remove obsolete language, and make changes to conform to the recent amendment to the Act.

Background

The Virus-Serum-Toxin Act was amended on December 23, 1985. The amendment requires that, with certain exceptions to be provided by regulation, all manufacturers of veterinary biological products for shipment in or from the United States must be licensed by the Department of Agriculture.

Biologics establishments preparing biological products solely for intrastate shipment or for export are now required by the amendment to be in compliance with the Act and the regulations. However, such establishments often prepare only autogenous biologics. Currently, the regulations in 9 CFR 102.2 provide that establishments preparing autogenous biologics desiring to be licensed under the Act must also be licensed to produce a nonautogenous biological product. One reason for this provision was to assure that licensees preparing autogenous biologics which are not evaluated for potency or efficacy had sufficient expertise to prepare potent, effective products. In amending the Act, the confrees expressed the intent that firms be licensed to produce autogenous biologics without being required to first obtain a license for a nonautogenous product. Since, adequate assurance of expertise may be demonstrated by an establishment through the current system of review of Outlines of Production, frequent inspection of facilities, personnel, and records, and review of reports of production and testing, 9 CFR 102.2 and 102.4(f) are revised to delete the licensing restrictions concerning establishments which produce autogenous biologics. This will have the effect of permitting establishments that produce only autogenous biologics to become licensed.

The current regulations in 9 CFR 102.5(b) provide that the U.S. veterinary biologics establishment number of the establishment in which the product is packaged and labeled and from which the product is released for marketing shall appear on the U.S. veterinary biological product license. A recent revision of 9 CFR 114.3 allowing split manufacture provides for products to be moved to another establishment for further manufacture before being released to market. When more than one establishment is involved in the production of a biological product, no practical purpose is served by requiring the product license to bear the establishment license numbers of all the establishments involved. Therefore, 9 CFR 102.5(b) is amended to require that only the license number of the establishment releasing the product to market needs to appear on the product license.

The Act, as amended, provides that the Secretary may issue special licenses under expedited procedures to ensure availability of biological products to meet emergency conditions, limited market or local situations, or other special circumstances. This revision of the regulations includes provisions for special product licenses to conform to the amendment. Such special licenses shall be referred to as "conditional" licenses.

The regulations in 9 CFR 102.5(e) provide for restrictions to be placed on U.S. veterinary biological product licenses. These restrictions essentially fall into two categories. The first category provides for restriction of the product based on its properties and use. The second category provides for termination of the license at a predetermined time and conditions for reissuance. This revision separates these two categories, placing provisions for licenses with termination dates in a new 9 CFR 102.6. The provisions for issuance of licenses with termination dates provide for conditional licenses issued under shortened procedures to ensure the availability of products needed to meet emergency conditions, limited market or local situations, or other special circumstances.

The shortened procedure may include acceptance of serological response, lowered numbers of host species test animals, or other means of establishing purity and safety, and a reasonable expectation of efficacy without requiring a complete efficacy study and potency test correlated with host animal efficacy. The references in 9 CFR 102.5(b) are revised to reflect the changes in 9 CFR 102.5(e) and the addition of 9 CFR 102.6.

The regulations in 9 CFR 114.1 limit the applicability of Part 114 to products prepared or delivered for shipment interstate. The amendment of the Virus-Serum-Toxin Act removed interstate limitations. Therefore, a conforming change has been made to delete the reference to shipment interstate from 9 CFR 114.1.

Comments Received

On Tuesday, July 29, 1986, a notice of proposed rulemaking was published in the **Federal Register** at 51 FR 27048, discussing these revisions and soliciting comments.

Comments were received from two unlicensed manufacturers, three licensed manufacturers, one consultant to biologics manufacturers, and a national trade association which includes among its members the major manufacturers of veterinary biological products.

Three of the commenters agreed with the rule changes as proposed. Other commenters agreed in part, with specific reservations. Two commenters objected to the changes to § 102.2 which would allow for an establishment license to be issued to establishments producing only autogenous products. There were also objections to the proposed amendments of § 102.5 with respect to the establishment license number which must appear on a product license. Concern was also expressed that §§ 102.2 and 114.1, as proposed, do not accurately reflect the requirements of the Act with regard to which products are subject to its provisions and which establishments are required to be licensed.

Those concerned with granting a license to prepare only autogenous products commented about the Agency's ability to exercise sufficient supervision of "autogenous only" licensees, and indicated that the regulations for the production of autogenous products were not restrictive enough (9 CFR 113.98).

In the joint explanatory statement of the conference committee regarding the amendment to the Virus-Serum-Toxin Act, it is stated that "the Conferees expect the Department of Agriculture to establish a program under which companies can be licensed as an establishment and to produce autogenous bacterins without the necessity of previously obtaining a license for some other product." Congress intended that the Department assist intrastate producers in making the transition to Federal licensing and to offer new firms ready opportunities for such licensing. In the absence of this amendment to the regulations, many existing intrastate producers of autogenous products could be forced out of business unless they become licensed to produce nonautogenous products. Further, it is the Agency's view that existing regulations for autogenous biologics, which have been used extensively, have provided adequate regulatory control over these products.

One comment suggested limiting the use of autogenous products in herds or flocks from which the isolates were drawn. The current standards do not automatically allow a product to be used in adjacent herds. Permission for such use must first be obtained from the Deputy Administrator. If it is found that additional restrictions are needed in this area, they will be imposed.

There was some confusion concerning the intent of the proposed amendment of § 102.5 regarding the establishment license number that is required to appear on the final product license. It was proposed that the regulations be amended by changing the requirement that the license number of the establishment at which the product is packaged and labeled and the establishment from which the product is released for marketing appear on the product license. Under this amendment to the regulations only the license number of the establishment from which the final product is released for marketing is required to appear on the product license. Prior to amending § 114.3 in 1984 (49 FR 45846), an establishment releasing a product for marketing was required to perform all the steps in the manufacture of the product, including packaging and labeling. Currently, more than one manufacturer can participate in the production of a biological product. A final product license is issued to the establishment releasing the product to market. The Department considers that it is adequate to require only the establishment number of the establishment releasing the product to market on a product license for a product being released for final use.

The two final comments concerned §§ 102.2 and 114.1, and how these sections reflect the scope of coverage under the amended Act. Amendments to § 102.2 were proposed to permit the issuance of establishment licenses to firms producing only autogenous biologics. The proviso regarding autogenous biologics in § 102.5 was deleted in the proposal. Commenters stated that § 114.1 should be reworded to reflect that all biologics are now subject to the Act, whether moved interstate, intrastate, or exported. However, § 114.1 requires that, with certain exceptions, all biological products falling within the jurisdiction of the Department under the Act, must be prepared in accordance with the regulations in Part 114. The Secretary of Agriculture is authorized to make and promulgate regulations "to carry out the Virus-Serum-Toxin Act" (21 U.S.C. 154). The Department has published additional proposed rulemakings to implement the requirements of the Act. The Agency believes this section as proposed is completely adequate. Accordingly, the opening sentence of § 114.1 shall remain as proposed.

One comment questioned whether the granting of conditional licenses would be to licensed establishments only, and whether conditional licenses would be subject to the criteria in § 102.5. Licenses are issued in accordance with § 102.2 which requires each establishment producing veterinary biological products to hold an unexpired, unsuspended, and unrevoked U.S. veterinary biological establishment license and product license. In the case of a first application for a product license, the licensee must also apply for and meet all the requirements for an establishment license. Upon satisfactory completion of all requirements, an establishment license and product license are issued simultaneously. The product license may be a regular product license, a conditional product license, or a license for an autogenous product, and as the commenter suggested, licensing and production of biologics under a conditional license is subject to all applicable regulations and standards including § 102.5. Therefore, proposed § 102.6 is modified to reflect this more clearly.

After consideration of all relevant matters, including the comments on the proposed rulemaking, and under the authority of the Virus-Serum-Toxin Act of March 4, 1913, as amended by the Food Security Act of 1985 (21 U.S.C. 151–159), the amendment of Parts 102 and 114, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as modified from the above notice, is adopted as follows:

List of Subjects in 9 CFR Parts 102 and 114

Animal biologics.

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

Accordingly, 9 CFR Part 102 is amended as follows:

1. The authority citation for Part 102 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 102.2 is revised to read:

§ 102.2 Licenses required.

Every person who prepares biological products subject to the Virus-Serum-Toxin Act shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biologics Establishment License and at least one unexpired, unsuspended, and unrevoked U.S. Veterinary Biologial Product License issued by the Deputy Administrator to prepare a biological product.

3. Section 102.4(f) is revised to read:

§ 102.4 U.S. Veterinary Biologics Establishment License.

* * * * *

(f) When a licensee no longer holds an unexpired, unsuspended, or unrevoked product license authorizing the preparation of a biological product, the establishment license shall be submitted to the Deputy Administrator for termination.

* * * * *

4. Section 102.5 (b) and (e) are revised as follows:

§ 102.5 U.S. Veterinary Biological Product License.

* * * * *

(b) The following shall appear on the U.S. Veterinary Biological Product License:

(1) The U.S. Veterinary Biologics Establishment License Number for the establishment from which the product is released for marketing.

(2) The true name of the product.

(3) The product code number for the product.

(4) The date of issuance.

(5) Any restrictions designated by the Deputy Administrator under paragraph (e) of this section.

(6) When necessary to comply with § 102.6 of this part, a termination date and a brief description of requirements to be met for reissuance.

* * * * *

(e) Where the Deputy Administrator determines that the protection of domestic animals or the public health, interest, or safety, or both, necessitates restrictions on the use of a product, the product shall be subject to such additional restrictions as are prescribed on the license. Such restrictions may include, but are not limited to, limits on distribution of the product or provisions that the biological product is restricted to use by veterinarians, or under the supervision of veterinarians, or both.

5. Section 102.6 is added as follows:

§ 102.6 Conditional licenses.

In order to meet an emergency condition, limited market, local situation, or other special circumstance, including production solely for intrastate use under a State-operated program, the Deputy Administrator may, in response to an application submitted as specified in § 102.3(b) of this part, issue a conditional U.S. Veterinary Biological Product License to an establishment under an expedited procedure which assures purity and safety, and a reasonable expectation of efficacy. Preparation of products under a conditional license shall be in compliance with all applicable regulations and standards and may be restricted as follows:

(a) The preparation may be limited to a predetermined time period which shall be established at the time of issuance and specified on the license. Prior to termination of the license, the licensee may request reissuance. Such requests shall be substantiated with data and information obtained since the license was issued. After considering all data and information available, the Deputy Administrator shall either reissue the U.S. Veterinary Biological Product License or allow it to terminate.

(b) Distribution may be limited to the extent necessary to assure that the product will meet the basic criteria for issuance of the conditional license.

(c) Labeling for the product may be required to contain information on the conditional status of the license.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Accordingly, 9 CFR Part 114 is amended as follows:

1. The authority citation for Part 114 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 114.1 is revised to read:

§ 114.1 Applicability.

Unless exempted by regulation or otherwise authorized by the Deputy Administrator, all biological products prepared, sold, bartered or exchanged, shipped or delivered for shipment in or from the United States, the District of Columbia, any Territory of the United States, or any place under the jurisdiction of the United States shall be prepared in accordance with the regulations in this part. The licensee or permittee shall adopt and enforce all necessary measures and shall comply with all directions the Deputy Administrator prescribes for carrying out such regulations.

Done in Washington, DC, this 2nd day of April, 1987.

J. K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–7677 Filed 4–6–87; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 0

Restriction Against Ownership of Certain Security Interests by Commissioners, Certain Staff Members, and Other Related Personnel; Vested Pension Interests

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations governing the ownership by NRC employees of stocks, bonds, and other security interests in companies engaged in activities relating to the nuclear fuel cycle so that only the major companies engaged in nuclear fuel cycle activities would be placed on the agency's prohibited stock list. The Commission also is amending its regulations to address the treatment of vested pension interests held by NRC employees.

EFFECTIVE DATE: April 7, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Bollwerk, Senior Attorney, Office of the General Counsel, U.S Nuclear Regulatory Commission, Washington, DC 20555, telephone (202) 634–3224.

SUPPLEMENTARY INFORMATION: In July 1979 (44 FR 41422), the NRC promulgated regulations that barred most NRC employees from owning stocks, bonds, or other security interests in "companies licensed by the Commission to mill, convert, enrich, fabricate, store, or dispose of source of special nuclear material, or applicants for such licenses." 10 CFR 0.735–29(b)(1)(v). Subsequently, as a result of corporate mergers, several large corporations with minimal financial interests in the commercial nuclear industry fell within the purview of the regulation. Some

agency employees were required to divest themselves of these securities because the existing regulations required designation of the companies without regard to whether the corporation derived significant gross revenues or a significant percentage of its revenues from these fuel cycle activities.

Based upon its experience with the regulation, the Commission has determined that the scope of the regulation is too broad and that it should be narrowed so that only the major companies engaged in nuclear fuel cycle activities should be placed on the agency's prohibited stock list. Accordingly, the Commission is revising its regulations to narrow the scope of the fuel cycle security prohibition.

Under the revised regulation, the Commission's Executive Director for Operations (EDO), after consultation with the Office of the General Counsel, will designate the major fuel cycle applicants and licensees whose security interests are subject to the agency's stock ownership restrictions and thus may not be owned by NRC employees. Because there is a dearth of publicly available information regarding how much income a given company derives from NRC-licensed fuel cycle activities and what percentage of the company's total income fuel cycle activities account for, the EDO's determination regarding what companies are to be included within the stock ownership prohibition necessarily must be subjective. However, the Commission expects that those companies with large income from fuel cycle activities or those companies whose fuel cycle activities constitute a significant portion of corporate business will be included within the proscription by the EDO.

The Commission is also amending its regulations to provide explicitly that no employee is to provide advice to the NRC on matters affecting a company in which he or she has a vested pension interest from prior employment, unless an exemption has been granted permitting the employee to work on such matters. Exemptions are granted by the employee's office director only after a determination has been made by the Office of General Counsel, after a review of the pension plan, that as an NRC employee the individual cannot influence, in any fashion, the amount received from the pension. This rule codifies existing agency practice.

Because these are amendments dealing with agency organization, practice, and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a matter of agency, conduct, employee ownership of certain security interests.

Environmental Impact: Categorical Exclusion

The action required under this final rule is administrative and would not impact the environment. The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

Regulatory Analysis

Under existing Commission regulations, certain specified NRC employees are prohibited from owning security interests in firms having substantial interests in the commercial nuclear field, including the owner/operators of nuclear fuel cycle facilities. The present regulation includes all fuel cycle facility owner/operators without regard to whether the facility provides substantial gross revenues to the company or a substantial percentage of the company's gross revenues. The all-inclusive nature of this regulation has caused substantial hardship to some NRC employees. The increased number of corporate mergers has resulted in, and may continue to result in, large conglomerates acquiring companies that own and operate fuel cycle facilities. This, in turn, has required that NRC employees divest themselves of the parent conglomerate's securities. The alternative adopted in this rule, which will require designation only for companies that derive substantial gross revenues from fuel cycle activities or a substantial percentage of gross revenues from such activities, will minimize the likelihood of further forced divestitures caused by mergers while at the same time preserving the regulatory policy underlying the prohibited securities restriction. It thus is the preferred alternative and the cost entailed in its promulgation and application is necessary and appropriate.

As to that portion of the final rule relating to vested pension interests, this change is designed to codify existing agency practice in relation to its consideration of such interests. Although such codification is not legally required, in this instance the Commission believes it is the preferred alternative.

Backfit Analysis

This final rule does not modify or add to systems, structures, components, or design of a facility; the design approval or manufacturing license for a facility; or the procedures or organization required to design, construct, or operate a facility. Accordingly, no backfit analysis pursuant to 10 CFR 50.109(c) is required for this final rule.

List of Subjects in 10 CFR Part 0

Conflict of interest, Penalty.

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, E.O. 11222 of May 8, 1965, 5 CFR 735.104, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 0.

Part 0—Conduct of Employees

1. The authority citation for Part 0 is revised to read as follows:

Authority: Secs. 25, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 COMP., p. 306; 5 CFR 735.104.

Sections 0.735–21 and 0.735–29 also issued under 5 U.S.C. 552, 553. Section 0.735–26 also issued under secs. 501, 502, Pub. L. 95–521, 92 Stat. 1864, 1867, as amended by secs. 1, 2, Pub. L. 96–28, 93 Stat. 76, 77 (18 U.S.C. 207).

2. In § 0.735–21, paragraph (b)(1) is revised and new paragraph (e) is added to read as follows:

§ 0.735–21 Acts affecting a personal financial interest (based on 18 U.S.C. 208)

* * * * *

(b) *Granting of ad hoc exemptions.* (1) If an employee desires to request an exemption from the prohibitions of paragraphs (a) and (e) of this section, he shall fully inform the head of his division or office, as appropriate, in writing of the nature and circumstances of the particular matter and of the financial interests involved and shall request a written determination in advance as to the propriety of his participation in such matter.

* * * * *

(e) *Vested pension interests.* Except as permitted by paragraph (b) of this section, no employee shall participate

personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter affecting the financial interest of a company in which the employee holds a vested pension interest. The head of the employee's division or office is not to grant an exemption pursuant to paragraph (b) unless the Office of the General Counsel has reviewed the pension plan and made a determination that the pension interest is not so substantial as to be deemed likely to affect the integrity of the employee's services to the government, in that as an NRC employee the individual cannot in any fashion influence the amount of the pension.

3. In §0.735–29, paragraph (b)(1)(v) is revised to read as follows:

§ 0.735–29 Restriction against ownership of certain security interests by Commissioners, certain staff members and other related personnel.

* * * * *

(b) * * *

(1) * * *

(v) Companies licensed by the Commission to mill, convert, enrich, fabricate, store, or dispose of source or special nuclear material, or applicants for such licenses, that are designated by the Executive Director for Operations, after consultation with the Office of the General Counsel, because they are or will be substantially engaged in such nuclear fuel cycle or disposal activities.

* * * * *

Dated at Washington, DC, this 2d day of April, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 87–7687 Filed 4–6–87; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–9]

Alteration of the Honolulu, HI, Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Honolulu, HI, Terminal Control Area (TCA) to eliminate portions of the existing TCA where it has been determined that traffic conditions have become less complex; and to expand areas of the existing TCA where the potential for midair collision has increased. This action will result in a more efficient use of airspace in the vicinity of the Honolulu, HI, International Airport.

EFFECTIVE DATE: 0901 U.T.C., June 4, 1987.

FOR FURTHER INFORMATION CONTACT: Bob Laser, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

History

On December 9, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the Honolulu TCA (50 FR 50174). A new very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) has been installed on the Honolulu, HI, Airport approximately 5 miles east of the previous VORTAC's location. In anticipation of the commissioning of the new VORTAC, a review of the Honolulu TCA was conducted to determine whether its volume of airspace could be reduced in size, whether its description and chart depiction could be made less complex, and whether air traffic conditions in the airspace of the TCA continued to be complex. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Additionally, an informal airspace meeting was held on January 22, 1986, in Honolulu, HI, at which participants were invited to express their views and make comments. The following is the FAA's analysis of the substantive comments received:

Discussion of Comments

Several commenters expressed general support for the proposed reduced lateral limits and the proposed lowered ceiling of the TCA. However, an aviation organization representative, while concurring in general with the proposal, objected to the aspect of the proposal which would lower the TCA ceiling from 9,000 feet MSL to 7,000 feet MSL. The commenter stated that such an action would degrade air safety by increasing the collision potential due to a perceived resulting increase in the mix of uncontrolled visual flight rules (VFR) operations and controlled instrument flight rules (IFR) operations. An airline representative also expressed similar concerns.

Actual observations of the traffic within 40 miles of the Honolulu Airport revealed that the majority of operations at and above 7,000 feet MSL are conducted under IFR. However, the FAA has determined that the "mix" of uncontrolled and controlled traffic could increase relative to the present nonexistant "mix". Further, the increase could be significant if the presently controlled VFR flights that operate between 7,000 and 9,000 feet (in the present TCA), were to choose to operate as uncontrolled flights in that same airspace (with the TCA ceiling lowered to 7,000 feet MSL). Accordingly, the FAA is not adopting the lowered TCA ceiling proposed in the notice.

One commenter objected to the proposed northward expansion of Area H. This expansion, the commenter said, would affect the airspace over the Kahe Power Plant where pilots practice stalls and other maneuvers. The commenter stated further that these pilots would prefer that the northern TCA boundary, west of Honolulu Airport, be aligned with the northern boundary of present Area H. Such a configuration, the commenter said, would make more airspace available for practice operations. Other commenters expressed the opinion that the proposed expansions of Areas H, I, and J would eliminate much of the VFR "east-west route system" used by aircraft avoiding the present TCA and force aircraft into turbulence which exists at altitudes beneath the proposed lowered floor. These commenters also stated that the proposed Area H would take away much of the offshore airspace in the vicinity of the Kahe Power Plant which is used as a flight manuever practice area.

One commenter expressed an opinion that the surface area underlying the proposed expansion of Area H is too densely populated and residences would be impacted by a lowered TCA floor (3,000 to 2,000 feet MSL). This commenter, as well as others, stated that the proposed northern expansions of Areas H, I, and J were only necessary because ATC was not controlling traffic on approach to Runways 8L and 8R with sufficient precision to confine that traffic in existing TCA airspace.

The density of a populated area has no bearing on the establishment of a TCA floor because the rules pertaining