

Rules and Regulations

Federal Register

Vol. 57, No. 235

Monday, December 7, 1992

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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the Department to delegate, through the Under Secretary for Small Community and Rural Development, to the Administrator of the Farmers Home Administration (FmHA) the authority under 42 U.S.C. 5177a to make grants, administer a grant program, and determine the types of assistance to be provided to aid low-income migrant and seasonal farmworkers. The authority to determine that a local, State, or national emergency or disaster has caused low-income migrant and seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages is not delegated.

EFFECTIVE DATE: December 7, 1992.

FOR FURTHER INFORMATION CONTACT: John H. Pentecost, Special Authorities Branch, Multi-Family Housing Processing Division, Farmers Home Administration, U.S. Department of Agriculture, Room 5345, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is exempt from the notice and comment procedures of the Administrative Procedure Act, and this rule may be effective less than 30 days after publication in the Federal Register.

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order No. 12291. This action is not a rule as defined by Pub. L. No. 96-354, the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*) and thus is exempt from its provisions. This rule also is exempt from the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*) and the requirements of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

Accordingly, part 2, subtitle A, title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.23 is amended by revising the section heading and by adding a new paragraph (a)(4) to read as follows:

§ 2.23 Delegations of Authority to the Under Secretary for Small Community and Rural Development.

(a) Related to Rural Development.

(4) Make grants, administer a grant program, and determine the types of assistance to be provided to aid low-income migrant and seasonal farmworkers (42 U.S.C. 5177a).

Subpart I—Delegations of Authority by the Under Secretary for Small Community and Rural Development

3. Section 2.70 is amended by revising the section heading and by adding a new paragraph (a)(4) to read as follows:

§ 2.70 Administrator, Farmers Home Administration.

(a) Delegations. * * *

(4) Make grants, administer a grant program, and determine the types of assistance to be provided to aid low-income migrant and seasonal farmworkers (42 U.S.C. 5177a).

For Subpart C.
Dated: November 16, 1992.

Edward Madigan,
Secretary of Agriculture.

For Subpart I.
Dated: November 16, 1992.

Roland K. Vautour,
Under Secretary for Small Community and Rural Development.
[FR Doc. 92-29531 Filed 12-4-92; 8:45 am]
BILLING CODE 3410-10-M

Agricultural Stabilization and Conservation Service

7 CFR Part 736

RIN 0560-AC57

Issuance of Warehouse Receipts Under the U.S. Warehouse Act

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without change the proposed rule published in the Federal Register on June 24, 1992 (57 FR 28133). The final rule amends regulations that pertain to licensed grain warehousemen under the U.S. Warehouse Act (USWA). USWA licensed warehousemen are required to issue warehouse receipts for all storage grain. This final rule permits expanded use of non-negotiable warehouse receipts. The intent of these changes is to maintain the integrity of USWA licenses and warehouse receipts, while permitting warehousemen and depositors the flexibility necessary to follow common industry practices.

EFFECTIVE DATE: January 6, 1993.

FOR FURTHER INFORMATION CONTACT: Lynda Moore, Agricultural Marketing Specialist, USDA, PO Box 2415, Washington, DC 20013, telephone 202-720-2121, FAX 202-690-5014.

SUPPLEMENTARY INFORMATION:

Rulemaking Matters

This final rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major". It has been determined that these program matters will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment investment productivity, innovation, or on the ability of United States enterprises to compete with foreign-based enterprises on domestic or export markets.

Keith D. Bjerke, Administrator, ASCS, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The changes made in this final rule directly affect USWA licensed warehousemen because they are the entities that issue warehouse receipts. Since there will be no change in the content and number of warehouse receipts issued (just the format), the cost associated with ordering and completing receipts should remain the same. Under the current regulations, depositors must purchase surety bonds when any receipts are lost or stolen and replacements are needed. This rule eliminates the requirement to purchase a surety bond when a non-negotiable receipt must be replaced. These actions result in less regulatory control and overall cost to licensed warehousemen and depositors. Consequently, regulatory flexibility analysis is not necessary.

The U.S. Department of Agriculture's Office of General Counsel has certified to the Office of Management and Budget that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

It has been determined by an environmental evaluation that this action would have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consulting with State and local officials. See the notice related to 7 CFR, part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This rule does not impose any new information collection on the public.

Background

The USWA was enacted in 1916 to improve the agricultural warehousing industry. At the time of enactment, storage facilities were inadequate, there were no consistent standards and practices for warehousemen to follow, and warehouse receipts were not uniform and not universally accepted. The USWA's system of licensing, bonding, and examination assures warehouse receipt holders that their products will be properly maintained and delivered when they surrender their receipts.

The USWA is administered primarily through a program of comprehensive warehouse examinations on an unannounced basis. Examiners review the warehouseman's obligations to depositors as represented by the records of the warehouseman. The examiner physically inventories all stocks on hand and compares the measured quantity and quality with these obligations.

Many depositors do not want the warehouseman to issue negotiable warehouse receipts because safe keeping is required.

In most cases, the USWA does not differentiate between negotiable and non-negotiable warehouse receipts. The regulations under the USWA address non-negotiable warehouse receipts and require their return before the last portion of the commodity represented by that receipt is delivered. This rule would allow delivery of the last portion of non-negotiable warehouse receipted commodity without requiring the return of the original receipt if the person lawfully entitled to such delivery, or the authorized agent, provided a written order therefore. Since a non-negotiable receipt, by its terms, cannot be negotiated, a statement of loss of the commodity from the depositor is acceptable in the case of a lost or destroyed non-negotiable receipt.

General Summary of Comments

A proposed rule was published in the *Federal Register* on June 24, 1992. Comments from interested parties were due on or before August 24, 1992.

Three comments that address the issue of USWA warehouse receipts were received. The comments are from entities involved in, or associated with, the grain warehousing business. One respondent's comment addresses an issue other than the one specifically contained in this final rule. Therefore, it will not be considered in connection with this rule. One respondent's

comment is supportive of the proposal providing the definition of the term "warehouse receipt" is changed to be an annual letter or statement. The proposed rule removes the requirement for furnishing bonds for lost non-negotiable warehouse receipts, and does not propose any change to the definition of warehouse receipts. Therefore, this suggestion is not germane to the issues in this rule, but will be taken into consideration for future revisions. The other respondent comments that this proposal is a marked improvement, but still falls short and should be modified in certain areas. The areas addressed concern the form and endorsement of USWA warehouse receipts. These suggestions are beyond the scope of this change. We will take these suggestions into consideration for future changes.

Overall, we do not consider this a negative reaction to the changes outlined in the proposed rule. Therefore, based on our analysis of these comments, the proposed rule is implemented without change.

List of Subjects in 7 CFR Part 736

Administrative practice and procedure, Grains, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Final Rule

Accordingly, 7 CFR part 736 is amended as follows:

PART 736—GRAIN WAREHOUSES

1. The authority citation for 7 CFR part 736 continues to read as follows:

Authority: 7 U.S.C. 268.

2. Section 736.21 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 736.21 Lost or destroyed receipts; bond.

(b) Before issuing such new or duplicate negotiable receipt the warehouseman shall require the depositor or other person applying therefor to make and file with him (1) an affidavit showing that the applicant is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it, how the original receipt was lost or destroyed, and if lost, that diligent effort has been made to find the receipt without success, and (2) a bond in an amount double the value, at the time the bond is given, of the grain represented by the lost or destroyed receipt. Such bond shall be in a form approved for the purpose by the Secretary, or his designated representative, shall be conditioned to indemnify the

warehouseman against any loss sustained by reason of the issuance of such receipt, and shall have a surety thereon a surety company which is authorized to do business, and is subject to service of process in a suit on the bond, in the state in which the warehouse is located or at least two individuals who are residents of such state and each of whom owns real property therein having a value, in excess of all exemptions and encumbrances, equal to the amount of the bond.

(c) Before issuing such new or duplicate non-negotiable receipt, obtain a written statement from the holder that the original non-negotiable receipt is lost and requires the issuance of a duplicate non-negotiable receipt.

3. Section 736.24 is revised to read as follows:

§ 736.24 Return of receipts before delivery of grain.

Except as permitted by law or by the regulations in this part, a warehouseman shall not deliver any grain for which he has issued a negotiable receipt until the receipt has been returned to him and canceled; and shall not deliver grain for which he has issued a non-negotiable receipt until such receipt has been returned, or he has obtained from the depositor or the depositor's agent, a written order therefore and a receipt upon delivery.

Signed at Washington, DC, on December 1, 1992.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 92-29600 Filed 12-4-92; 8:45 am]

BILLING CODE 3410-05-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150-AC14

Disposal of Waste Oil by Incineration

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to permit the onsite incineration of contaminated waste oils generated at licensed nuclear power plants without amending existing operating licenses. This action will help to ensure that the limited capacity of licensed regional low-level waste disposal facilities is used more efficiently while maintaining

releases from operating nuclear power plants at levels which are "as low as is reasonably achievable." Incineration of this class of waste must be in full compliance with the Commission's current regulations which restrict the release of radioactive materials to the environment for each operating nuclear power plant. Any other applicable Federal, State, or local requirements that relate to the toxic or hazardous characteristics of the waste oil would have to be satisfied. This rule constitutes a partial granting of a petition for rulemaking (PRM-20-15) submitted by Edison Electric Institute and Utility Nuclear Waste Management Group. The remaining portions of PRM-20-15 are denied without prejudice.

EFFECTIVE DATE: This regulation becomes effective on January 6, 1993.

FOR FURTHER INFORMATION CONTACT:

Catherine R. Mattsen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-3638.

SUPPLEMENTARY INFORMATION:

Background

The Petition

The Edison Electric Institute and the Utility Nuclear Waste Management Group filed a petition for rulemaking (PRM-20-15) with the Commission on July 31, 1984, to initiate rulemaking to establish a level of radioactivity in power-reactor-generated waste oils which would permit disposal of these oils without regard to their radioactive material content. The Commission requested comment on the petition in the *Federal Register* on September 9, 1984 (49 FR 36653).

The petitioners suggested that an appropriate basis for establishing a cutoff level for determining whether specific waste streams were below regulatory concern would be that the direct release of the specific waste streams to the environment would not result in a dose to an individual member of the general public greater than 1 mrem/yr. The petitioners recommended that using a 1 mrem/yr limit, alternative disposal methods, including—

- (1) On- or offsite incineration;
- (2) On- or offsite burial;
- (3) Road stabilization (spraying); and
- (4) Recycling, could be considered viable alternatives to land burial.

The Commission received fourteen comment letters on the petition. All but one of the commenters supported the idea of exempting slightly contaminated waste oil from the requirements for disposal at a low-level waste disposal site and most commenters supported the petition in its entirety. Consideration of

the comments received on the petition contributed to the Commission decision to provide some relief through an alternative disposal method.

On August 29, 1988, the Commission published a proposed rule in the *Federal Register* (53 FR 32914) that would amend its regulations to allow onsite incineration of contaminated waste oils generated at licensed nuclear power plants without the need to apply for a specific license amendment. As summarized below, that *Federal Register* notice also proposed to deny the remaining features of the petition for rulemaking (PRM-20-15) submitted by Edison Electric Institute and Utility Nuclear Waste Management Group.

The other alternative disposal methods suggested by the petitioners appear to have acceptably low radiological impacts. However, as indicated in the notice of proposed rulemaking, adequate information was not available to evaluate the acceptability of these disposal methods. The NRC has not received information during the interim that would alleviate this deficiency. In addition, the proposed rule indicated a number of other considerations that limit the desirability of the other alternatives in relation to onsite incineration. These considerations, include—

- (1) Some of the toxic or hazardous constituents contained in waste oil would be destroyed through incineration but not through other proposed disposal methods;
- (2) The concentrations of radionuclides in ash or sludge may be too high to exempt an offsite incinerator or recycling center from the requirement for a radioactive materials license;
- (3) An offsite incinerator or recycling center might handle waste oil from multiple reactors which could potentially result in higher impacts that were not fully analyzed by the petitioner; and
- (4) Landfill disposal would require much of the same processing and handling as low-level waste burial and would produce smaller risk and cost savings than incineration.

Therefore, the NRC is granting the petitioners' request only with respect to onsite incineration. The NRC denies the remainder of PRM-20-15 without prejudice for the reasons noted in the proposed rule and summarized in this discussion. This completes NRC action on PRM-20-15.

The Proposed Rule

According to the rule, both as proposed and as now being adopted, incineration of waste oil would be carried out under existing effluent limits

and recordkeeping and reporting requirements. The rule is intended to provide a potentially cost-effective and environmentally sound method for disposal of this waste stream other than burial at a licensed low-level waste disposal site. This approach will preserve the limited capacity of the regional licensed waste disposal sites, reduce the costs of waste disposal at licensed low-level waste burial sites, and eliminate a less desirable waste form at the sites thereby potentially reducing long-term maintenance costs for disposal sites. The rule will reduce fire hazards from storage of oil and risks inherent in transportation. Some recovery of energy may also result and risks from the toxic hazards of waste oil may be reduced.

Note: The proposed rule presented an amendment to § 20.305. Section 20.305 is being replaced by § 20.2004 as part of the final rule establishing the new standards for protection against radiation, published May 21, 1991 (56 FR 23360). Thus, this final rule amends both §§ 20.305 and 20.2004.

A specific feature of this rule (contained in both § 20.305(b)(3) and § 20.2004(b)(3)) is that it supersedes any existing provisions that may be contained in an individual plant license or technical specification that may be inconsistent with this rule. The rule does not exempt licensees from the requirement to comply with other applicable Commission regulations, however. Specifically, licensees must comply with the effluent release limitations of 10 CFR part 20 and part 50, appendix I. The rule, in §§ 20.305(b)(1) and 20.2004(b)(1), has been clarified to reflect the requirement to comply not only with part 50, appendix I based effluent limitations but also to comply with the part 20 based effluent limitations contained in applicable license conditions other than effluent limits specifically related to incineration of waste oil. Restrictions in license conditions or technical specifications on incineration which are not consistent with the provisions of this rule, e.g., provisions which prohibit the onsite incineration of waste oil, will be eliminated from existing licenses. The rule makes the requirements for incineration of waste oil consistent among all licenses, without the need for license amendment on an individual plant basis. In particular, the rule eliminates the need for amendments to identify any new release points or specific sampling methods and removes any license conditions or technical specification restrictions from licensees already authorized to incinerate oil which would not otherwise be

applicable under the rule. For example, restrictions that limit effluents from onsite incineration to a specific fraction of total effluent releases are removed. At the same time, the rule does not alter the requirement to comply with total radiological effluent release limits contained in facility technical specifications since such limits implement the provisions of 10 CFR part 20 and part 50, appendix I.

Analysis of Comments

In response to the proposed rule, the Commission received comments from 25 organizations and individuals, including State regulatory agencies, the Environmental Protection Agency, utilities, industry organizations, public interest groups, and other members of the public. Copies of the comments may be examined and copied for a fee at the Commission's Public Document Room at 2120 L Street, NW. (Lower Level), Washington, DC. Nine of the commenters were opposed to the rule, fourteen either supported or generally supported it with some questions or comment. Two others gave comments without specifically supporting or opposing the rule.

Most of the commenters opposed to the rulemaking expressed concern about the health effects of increased effluents. Some commenters stated that existing effluents are unacceptable. A few commenters were concerned about the environmental effects of the proposed action. A few commenters suggested that the cost savings did not justify increasing the amount of effluents or that cost should not be a consideration at all. One commenter suggested shutting down the nuclear industry or at least not licensing any new plants. One commenter was opposed to the trend of deregulation and increasing allowable exposures. Another specifically warned the Commission not to invite public criticism. One commenter suggested that the Commission would be taking back authority for the disposal of waste from the States. Finally, one commenter was opposed to the concept of "below regulatory concern" (BRC) and opposed this rule as a de facto BRC regulation which should not precede the debate and adoption of a BRC policy.

Many of these comments were outside the scope of the rulemaking and reflected views of the commenters. No technical data or other supporting information was provided. The Commission believes that the impacts of incineration of waste oil are likely to be insignificant. In any case, the rule does not permit the total releases of effluents to exceed existing limits. The rule does not change existing effluent limits

(except those restricting the fraction of total effluents from oil incineration for those licensees already authorized to incinerate waste oil). The regulatory requirements to assure compliance with these limits continue to apply. Thus, the rule does not constitute a BRC exemption. The only direct effect of this rulemaking is to simplify the administrative process associated with the use of one alternative disposal option for one type of waste; namely, the incineration of contaminated waste oil. As to the question concerning the authority to regulate the disposal of radioactive waste, the responsibility of the States under the Low Level Radioactive Waste Policy Amendments Act of 1985 does not diminish the regulatory authority of the NRC nor does this rule diminish State authorities. The recently enacted Energy Policy Act of 1992 amends the Atomic Energy Act to provide the States with authority to regulate the disposal or off-site incineration of low-level radioactive waste exempted from regulation by the NRC in the future. The Energy Policy Act does not change any authorities with respect to on-site incineration.

Some commenters specifically opposed incineration as a disposal alternative, a number of those citing the non-radiological risks from the toxic properties of waste oil. The State of Michigan, although generally supportive, questioned the impact of potential toxic emissions and suggested consideration of the combined risks of radiation and toxic exposures. Another commenter suggested that the possible synergistic effects of chemical and radioactive exposures had not been adequately assessed. This commenter was also concerned that unless adequate temperatures were maintained during incineration, some chemicals would not be destroyed but instead would become volatilized and liberated to the environment.

The amount of oil to be disposed of by all nuclear power reactors collectively represents a very small fraction of all used oils disposed of annually. This rule does not relieve the licensee from complying with other applicable Federal, State, and local regulations governing any other toxic or hazardous property of these materials. However, the Commission recognizes that there is some potential for the release of toxic materials during the incineration process. It is true that in order to achieve complete destruction of the organic constituents of used oil, incineration must be carried out at sufficient temperatures and with appropriate residence times so that all the oil is exposed to sufficient heat and

oxygen for complete combustion. However, a high percentage of destruction of organics would be expected in any case. Even a very small boiler can achieve 99 to 99.99 percent destruction efficiency for hard-to-burn chlorinated compounds.¹ Also, there is considerable incentive for the licensee to maintain high combustion efficiency in order to avoid maintenance problems, particularly if the auxiliary boiler is used.

Although the Environmental Protection Agency (EPA) has decided that used oil should not be listed as a hazardous waste, it has been developing and has made considerable progress in completing regulations which would control the potential hazards of both used oil recycling and disposal. Some controls are applicable; others are being considered. It will be necessary for licensees to analyze their used oil to determine if it exhibits one of the characteristics of hazardous waste and to determine the applicability of EPA or State requirements. The extent of controls will vary by State, because some States list used oil as a hazardous waste and some have specific requirements applicable to any incinerator.

At least some categories of used oil may present a significant potential hazard to public health and the environment. As noted, during the development of this rule, EPA has been in the process of developing regulations pertaining to used oil. Because the EPA regulations had not been completed prior to Commission's consideration of this rule, the Commission analyzed the potential impacts of releases of toxic material from incineration of waste oil assuming no particular controls were in place.

As noted in the environmental assessment for this rule, the potential toxicants from used oil fall into two classes: organic compounds and metals. The potential health effects of the many possible contaminants are varied. Some contaminants are considered carcinogenic; others are threshold toxicants, i.e., substances that produce effects on health only above certain "threshold" concentrations. More information and discussion on toxic constituents of used oil and potential health and environmental effects can be found in EPA Federal Register notices (50 FR 1684; January 11, 1985; 50 FR 49164; 50 FR 49212; and 50 FR 49258; November 29, 1985; 56 FR 48000; September 23, 1991, 57 FR 21524; May 20, 1992, and 57 FR 41566; September

10, 1992). These documents, as well as the documents cited in footnotes 2 and 3, are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

The EPA's original decision against listing used oil as hazardous waste was based on concerns that such a listing would cause used oil to be diverted from industrial burning as fuel to illegal dumping (such as disposal in sewers, directly on the ground, and in landfills) and that illegal dumping would result in greater environmental harm than industrial burning. When this rule was proposed, the Commission assumed that the impacts from toxic constituents would be minimized by burning, because burning is a destructive process that is expected to destroy a very large fraction of the organic constituents. In responding to the environmental concerns raised by the public comments, the Commission has examined analyses performed by the EPA which are relevant to the evaluation of environmental impacts of burning waste oil as contemplated by this rule. The EPA performed analyses in support of what it referred to as its Phase I rule (50 FR 49164; November 29, 1985) because it was a first step in regulating used oil with further regulations being contemplated. Based on these analyses, EPA established specifications for used oil fuel which include concentrations of toxic contaminants (40 CFR 266.40(e)). Used oil fuel which meets these specifications can be burned virtually without restriction because EPA has concluded that such oil when burned does not present a significantly greater risk than virgin fuel oil (50 FR 1693; January 11, 1985). The EPA analyses considered a number of potential toxicants released from burning used oil and found that those that potentially present risks to public health and safety were arsenic, cadmium, chromium, and lead. Thus, EPA established specific concentrations for these elements. Of these, lead was of most concern because high levels were found in some of the samples analyzed. However, lead in used oil was largely attributable to contamination of crank-case oils with leaded gasoline "blow-by" (50 FR 1699; January 11, 1985). Industrial used oil including reactor waste oil would not be expected to exceed the specification for lead except for some segments of metalworking oils which constitute a small percentage of reactor oils. Thus, lead would not contribute a significant impact when this oil is burned. Threshold toxicants other than lead were not considered a

significant hazard, leaving potential cancer risks from arsenic, chromium, and cadmium as the most significant impact of burning industrial used oil. In proposing its Phase I rule, EPA was concerned at the time about the widespread uncontrolled burning of used oil. It was estimated that approximately 600 million gallons of used oil were being burned each year in every conceivable circumstance—in utility, industrial, commercial, institutional, and residential sectors. The EPA's analyses included a worst-case urban scenario where used oil was burned across a large city in various types of boilers. In this scenario, over 25 million gallons of used oil were assumed to be burned in the study area (nationally well over 1 billion gallons of heating oil are burned in multiple family dwellings alone).² The used oil was burned in an array of boilers with significant overlapping of plumes that raised the ambient levels of arsenic, cadmium, and chromium. In the worst case, it was assumed that the oil contained concentrations of these metals at the 90th percentile of the data available at the time of the study and that 75 percent of the metals were released. Based on these assumptions, burning of used oil was estimated to result in exposure of the portion of the population within 5 kilometers of the center of the urban area to ambient concentrations of these metals associated with an increased cancer risk of 1 in 10,000 for chromium, 1 in 50,000 for arsenic, and 1 in 500,000 for cadmium.

All nuclear power plants together produce on the order of 300,000 gallons of used oil per year or about 0.05 percent of the amount of used oil burned annually. The NRC staff estimates that 1,000–15,000 gallons per year would be burned at any one site under this rule. The circumstances of this incineration would differ greatly from the worst-case urban scenario studied by EPA, resulting in far smaller potential risks than those estimated for the urban scenario. Because of the small quantities of oil that could be burned, the greater distances from release points to receptors, and the distance between sites, etc., the concentration of toxicants reaching any member of the public, and thus the resulting risk, would be expected to be a very small fraction of that calculated by EPA for the worst-case urban scenario. Thus these potential risks are not considered a significant impact on the environment.

¹ Environmental Protection Agency (50 FR 49164; November 29, 1985) noted at p. 49180.

² PEDCo Environmental, Inc., Risk Assessment of Waste Oil Burning in Boilers and Space Heaters, EPA/530-SW-84-011, August 1984.

In addition to the metals discussed above, the used oil specification includes a limit of 4000 ppm of total halogens primarily designed to limit the halogenated solvent concentration of oil burned in non-industrial boilers. The EPA regulations also include a rebuttable presumption that used oil containing more than 1000 ppm total halogens is a hazardous waste because it has been mixed with halogenated hazardous waste (§ 266.40(c)). In any case, although used oil may be incidentally contaminated with small amounts of solvents, used oil as generated would generally not be expected to exceed the used oil specification for total halogens in the absence of deliberate mixing with hazardous waste.

The burning of virgin oil (i.e., oil which has not been previously used and thus not contaminated by use) results in some release of toxicants. Because the EPA was evaluating the impacts of burning oil in which a fraction of virgin oil was replaced with used oil, the impacts from those toxicants contained in used oil prior to use were considered inapplicable to setting the used oil fuel specification. Because in burning used oil in an auxiliary boiler or co-located fossil fuel plant under this rule, the licensee would also be replacing a fraction of virgin fuel oil, only the incremental impacts of contaminants resulting from use would be applicable. However, in the case of an incinerator, all emissions resulting from the burning of used oil, would be an addition to existing emissions. The risks associated with toxicants contained in oil prior to use, while difficult to characterize, have been estimated, and found to be generally less than the risks from contaminants resulting from use, and thus would also not be significant under these circumstances.

Since the proposed rule was published and this analysis was first developed, EPA has developed new information on contamination levels by major category of used oil. A summary of this data base was published in the *Federal Register* on September 23, 1991 (56 FR 48000), together with a supplemental notice of proposed rulemaking concerning used oil management standards. Based on this recently developed information, EPA has also completed its reconsideration of listing used oil as hazardous waste. EPA found that all used oils do not typically and frequently meet the technical criteria for listing a waste as hazardous waste and has decided not to list used oils destined for disposal as hazardous waste (57 FR 21524; May 20, 1992). The EPA has also just

promulgated a final listing decision for used oils that are recycled and a final rule on used oil management standards (57 FR 41566; September 10, 1992), and has concluded that the regulations in place including those just issued adequately protect human health and the environment and that recycled used oil need not be listed as a hazardous waste. The Commission has reviewed the newer data and concluded that it does not change the major conclusions related to the environmental impacts of burning reactor waste oil. In fact, the data suggests that the level of toxic constituents in industrial used oils are generally lower than previously assumed from the generic data. Industrial used oils include reactor waste oils.

In response to the question of synergism in the combined effects of chemical and radiation exposure, little is presently known about the extent of synergism of various risk factors. For the most part, regulatory controls are based on overall risks from individual specific toxicants; although, in the case of radiation, doses from various radionuclides are considered together. It has not been possible to fully account for any hypothesized potential synergism of various sources of risk. However, releases of both radiological constituents and other toxics associated with the incineration of waste oil from nuclear power plants are extremely low and, therefore, could be responsible for only an extremely small part of any potential synergistic effects.

Two commenters raised questions about other potential impacts which had not been discussed in the proposed rule; specifically, worker exposures. One of these commenters was also concerned with the potential contamination of the auxiliary boiler and the resultant increased wastes to be disposed of at decommissioning as well as the potential cost of establishing the area as a radiation zone.

Occupational exposures would be expected to be very small and no greater than those associated with solidification, transport, and burial of the waste oil at a low-level waste disposal site. As suggested by the commenter, there is some potential for contaminating the auxiliary boiler if it is used to incinerate contaminated oils. Licensees should consider the potential for contamination of any equipment that is used for incineration. Factors such as concentration of the radionuclides in the oil, combustion efficiency, and maintaining minimum off-gas temperatures will affect the degree of contamination. Although contamination of equipment can be minimized, the

impact of this contamination could partially offset the savings in waste disposal space and cost achieved through incineration. As to the question of establishing an area as a radiation zone, the auxiliary boiler, or other equipment used for incineration of waste oil, would be within an area controlled by the licensee. In no case would incineration be expected to result in radiation levels requiring additional controls; that is, no new areas would be established as "radiation areas."

One commenter argued that a license amendment should continue to be required because of the public's right to a hearing on an amendment and because the public scrutiny and case-by-case staff evaluation would ensure that applicable requirements are complied with. This commenter also argued that the license amendment process should continue until more specific information is available such as a complete characterization of wastes. Another commenter was also concerned that there would be no assurance that technical specifications will be complied with, particularly because normal emissions would be expected to increase as plants age.

The potentially affected public has an opportunity for a hearing on a license amendment for a nuclear power reactor. However, the rule, both as proposed and as now promulgated in final form, only permits the incineration of waste oil onsite, if performed in compliance with existing regulatory requirements including, in particular, existing effluent limits. Amendment of licenses to authorize this activity is considered unnecessary. The Commission will use its authority to inspect and take enforcement action to ensure compliance with effluent limits as it does its other requirements. Given this approach, the Commission was of the opinion that the issues presented by the proposed rule would be more appropriately resolved in a rulemaking proceeding. In accordance with customary NRC procedure, the proposed rule was published for comment for the express purpose of giving interested members of the public an opportunity to present their concerns and comments on these issues to the Commission.

One commenter suggested that a more comprehensive environmental analysis may indicate that incineration is not the best alternative but; possibly, onsite reprocessing would be because it would conserve petroleum resources and eliminate the release of combustion products to the atmosphere. This commenter also suggested that this rule would discourage storage for recycling which the commenter viewed as

contrary to NEPA (National Environmental Policy Act).

Because most oil which is recycled is used as industrial fuel,³ recycling would not eliminate the potential for atmospheric emissions. Onsite reprocessing would involve the removal of small amounts of radioactive contamination so that the oil could be reused offsite. This option constitutes treatment and recycle rather than disposal. Unless the Commission develops specific exemptions for low concentration oils, decontamination must be completed to the extent that no radioactivity is detectable using measurement techniques approved for environmental monitoring. Because some oils cannot be sent to low-level waste disposal facilities and the cost of disposing of the other oil that can be sent has been escalating, recycling of used oil is getting more attention by the industry. Some means of incineration (i.e., use in the auxiliary boiler) may also result in a small increase in energy recovery over the practice of solidification and burial at a LLW disposal facility, which never involves eventual energy recovery. The environmental impacts of either onsite incineration or decontamination for recycle are very low. There appears to be no reason to restrict either alternative beyond whatever EPA regulations will be applicable in either case. Excessive storage onsite for potential future recycling, however, involves some risk from fire or leakage. Storage may also require the facility to obtain the necessary permits under RCRA.

One commenter was concerned with the possibility that the ash from incineration would be mixed waste which would add to the problem of waste disposal. The EPA recommended that the rule clarify that the ash needs to be monitored for heavy metals to determine whether RCRA (Resource Conservation and Recovery Act) requirements apply.

Although the ash may be mixed waste, only a small quantity of ash is produced when compared to the volume of contaminated oil incinerated. Therefore, the ash does not contribute significantly to the overall problem of mixed wastes. Because the ash is being produced at the licensee's site, adequate control can be assured. In addition, the rule makes clear that licensees are not relieved from complying with other Federal, State and local regulations which may be applicable to other toxic or hazardous properties of these materials.

Some of the commenters supporting the proposed rule expressed the rationale for their support. Some, including the State of Indiana, noted the small public health and safety and environmental impacts. Some, including the State of Indiana and the Texas Low-Level Radioactive Waste Disposal Authority, cited the benefits in cost savings or savings in low-level waste bureau space, and one, the added flexibility. One commenter provided information concerning the practicality of incineration in general and of using used oil in the startup boiler in particular. Many of the commenters that supported the rule made suggestions for changes or clarifications.

Two commenters suggested a broader definition of waste oil such that synthetic oils and cutting, penetrating, and some other classes of oils could be incinerated. The commenters also suggested that non-waste oils (such as solvents, degreasers, grease, diesel fuels, etc.) need not be segregated from radiologically contaminated waste oils. They also proposed that waste oils used in maintenance be included.

Synthetic oils were inadvertently rather than purposefully left out of the definition of waste oil in the proposed rule and are included in the definition in the final rule. It would serve no useful purpose to treat synthetic and petroleum derived used oils differently and require identification and segregation of these oils. Cutting and penetrating oils, metalworking oils, etc., were not specifically identified in the information supplied with the petition or the Brookhaven report, "Evaluation of Potential Mixed Wastes Containing Lead, Chromium, Used Oil, or Organic Liquids" (NUREG/CR-4730)* which was referenced in the proposed rule and the regulatory analysis with regard to quantities and concentrations of waste oil. Thus, these types of oil were not specifically considered. Based on the survey information in these reports, however, these other oils would be expected to be a small percentage of the radioactively contaminated used oil needing disposal. From the perspective of radiological impacts, there is no need to limit the type of used oil which can be incinerated. (The above discussion on toxic constituents considered all types of used oils.) The licensee will be

required to demonstrate that effluents meet existing radiological limits established under 10 CFR part 20 and part 50, appendix I and will be responsible for ensuring that the techniques used for determining the radiological contents are adequate. Accordingly, the rule has been changed to include a broader range of oil types. The licensee, however, will have to exercise care in determining which oils should be incinerated in the equipment to be used considering both technical constraints and compliance with other applicable Federal, State, and local regulations.

Uncontaminated "non-waste" oils are not subject to the Commission's disposal requirements, but, if the uncontaminated oils are mixed with radioactively contaminated oil, they become part of a mixture which is radioactively contaminated and, therefore, subject to NRC requirements. Care should be taken prior to any mixing to ensure that oils have been sufficiently characterized to determine:

- (1) The applicability of any requirements such as EPA or State requirements;
- (2) The radioactive content (if there could be problems getting representative samples from a resultant mixture); and
- (3) The technical suitability of the potential mixture for incineration, i.e., compatibility with equipment used, water content, etc.

Within the context of the proposed rule, the word "operation" in the definition of waste oil was intended to include associated maintenance activities. For clarification, the words "and maintenance" have been added to the final rule.

Two commenters suggested that the rationale for allowing incineration of waste oil generated onsite would also apply to the incineration of oil from other plants if the same controls and limits were applied, so that a utility would only need one incinerator to dispose of oil from its several plants.

While this may be the case, the focus of this rulemaking proceeding has been limited to the onsite incineration of waste oil generated on, not off, the reactor site. At the present time, the Commission believes that questions relating to the onsite disposal at the site of a particular reactor of waste oil generated by reactors located at other sites are better handled on a case-by-case basis.

Another commenter suggested that offsite incineration be allowed with the condition of proper ash disposal. Two others, including the petitioners, suggested the Commission reconsider the other options originally raised in the

* Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection and/or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

³ EPA (51 FR 41900; November 19, 1986) noted at p. 41902.

petition. Another commenter, the State of Texas, simply noted support for other methods of volume reduction. The petitioners also criticized the Commission for vagueness in the reasons given for not granting the petition in its entirety, suggesting that their analysis, provided as a comment to the notice of receipt of petition, was ignored.

The August 29, 1988 (53 FR 32914), Federal Register notice presenting the proposed rule, also included an indication of the NRC's intent to deny without prejudice the other alternatives proposed by the petitioners. The primary reason for that denial, as stated in the notice of proposed rulemaking and reiterated in the discussion of the petition in this document, was that more complete information would be needed for a rulemaking to allow any of the other alternatives raised by the petitioners. Reconsideration of these alternatives is outside the scope of this rulemaking. As to the petitioners' contention that their analysis of comments was ignored, this analysis was considered along with the original petition, the other public comments, and the referenced report (NUREG/CR-4730). The specific deficiencies of the petitioners' comment analysis were not discussed separately.

One commenter suggested the Commission make a trial run, using contaminated oil, of a new technology, a plasma arc designed to break down toxic chemicals. Although this technology may present an environmentally sound alternative, these matters are outside the scope of the proposed rule.

One commenter suggested that only one generic § 50.59 review should be required rather than individual site specific reviews for each plant. Two other commenters suggested that the Commission clarify that the purpose of the § 50.59 review was not to determine if burning of waste oil, in and of itself, constitutes an unreviewed safety question but to review the plant specific equipment and procedural alterations attendant to this process.

The safety of burning waste oil at a reactor site cannot be determined generically. There may be some effect on the safety of reactor operation if incineration is not properly planned. Therefore, it is necessary that a plant specific determination be made, in accordance with § 50.59, to ensure that the specific equipment and procedural changes involved with the incineration will not adversely affect reactor safety.

The State of Michigan suggested a separate additional effluent limit of 1 mrem/year for waste oil incineration.

Another commenter questioned whether the maximum quantity reported (5000 gal/yr) would conform to the "proposed dose limit" of 1 mrem/yr to the general public. The State of Texas suggested that the NRC use available dose assessment computer codes to verify that this "reference dose" (1 mrem/year) will not be exceeded.

As indicated in the proposed rule, there is not enough information to select a specific radioactivity concentration or dose limit for waste oil incineration. It is projected that in most, if not all cases, effluents from contaminated waste oil incineration will constitute only a small fraction of total effluents. However, it is not considered necessary to establish a separate effluent limit for waste oil incineration, as long as the total amount of radioactivity in the effluents released from the plant, including releases from incineration of waste oil, continues to conform to existing effluent limits established under 10 CFR part 50, appendix I and 10 CFR part 20.

A number of commenters suggested changes that, in fact, are not needed to satisfy the intent of the commenter. Two commenters suggested that the rule be revised to allow transfer to an offsite licensed vendor.

Nothing in this rule or in other regulations restricts the licensee from transferring waste oil to an offsite licensed "vendor," i.e., persons authorized to receive these materials. This alternative was not mentioned in the preamble of the proposed rule because at the time there was no facility licensed to accept radioactively contaminated waste oil for disposal other than LLW disposal facilities. Two commenters suggested that "site" be defined as the region "within the site boundary," and one of these suggested that the site boundary be further defined in order to provide consistency in the interpretation of "onsite" disposals.

"Onsite" in normal usage means "within the site boundary." A formal definition is considered unnecessary. Presently, the site or site boundary is defined in the individual technical specifications for each license. However, the rule has limited the incineration to the site where the waste oil is generated, in part so that any releases of radioactive material would be covered by the effluent limits in the technical specifications established under part 20 and appendix I to part 50. The licensee's decision on the specific location for incineration will depend on its ability to demonstrate compliance with those limits applicable to releases of effluents to unrestricted areas. The provision in § 20.305(b)(3) (or § 20.2004(b)(3)), which states that

§ 20.305 (or § 20.2004) supersedes inconsistent license conditions or technical specifications, is primarily intended to eliminate the need for amendment of license conditions or technical specifications to identify any new release points or specific sampling methods and to remove any restrictions from licensees already authorized to incinerate oil which would not otherwise be applicable under this rule.

Three commenters suggested the alternative of using mobile incinerators. One commenter thought it should be clarified that options other than those mentioned in the proposed rule would be acceptable including also central station power plant boilers.

The preamble to the proposed rule mentioned the options of use of an existing auxiliary boiler or incinerator or an incinerator constructed specifically for the purpose of burning waste oil. This was merely to illustrate the range of options which may be involved, not to limit the options. Nothing in the rule would restrict the use of central station power plant boilers or mobile incinerators if they are onsite. The use of this type of equipment at the site of a licensed nuclear reactor would be governed by the reactor license issued under 10 CFR part 50.

The State of New Jersey wanted the effluents from incineration to be reported in the semiannual effluent report. Effluents from incineration are not exempted from effluent reporting requirements contained in 10 CFR 50.36a(a)(2) and therefore will be reported.

The State of Michigan suggested the Commission mention that other Federal, State, and/or local regulations must be complied with. This provision was in the proposed rule and remains in the final rule as an amendment to § 20.305(c). This provision is also contained in the existing § 20.2007.

Several other clarifications were suggested by commenters. One commenter suggested clarifying that appendix I limits be met on an annual average basis only.

Radiological release limits contained in facility technical specifications which implement 10 CFR part 20 and part 50, appendix I contain a range of limits including quarterly limits and instantaneous limits. The rule does not relieve licensees from the obligation to comply with the requirements of the Commission's regulations and §§ 20.305(b)(3) and 20.2004(b)(3) do not supersede the existing limits governing total effluent releases. Accordingly, licensees continue to be required to satisfy the total radiological effluent

release limitations set forth in the facility technical specifications.

Another commenter suggested clarification that the rule is not intended to require a cost-benefit analysis pursuant to § 50.34a.

As noted in the proposed rule, licensees are required under § 50.71(e) to periodically update their FSAR, and in so doing, submit descriptions of equipment and procedures to the extent that there have been changes to the information previously submitted under § 50.34(b)(2)(i) and (b)(3) and § 50.34a. No cost-benefit analysis is required.

Some commenters, including EPA and the State of Michigan, suggested clarifying other applicable requirements such as:

(1) A RCRA permit may be required for some oils if they exhibit hazardous characteristics even though, at the present time, used oil as a class is not a listed hazardous substance;

(2) Some States do classify used oil as hazardous;

(3) State requirements governing any incineration may apply requiring case-by-case review by the State; and

(4) EPA may require a permit for radioactive releases under the Clean Air Act.

Obviously the situation in each State may vary. Also, a number of actions have been recently completed or are under consideration by EPA and the States. Thus, requirements are in a state of flux. The Commission cannot identify all other requirements which may be applicable but can only note that these types of requirements exist and must be carefully considered. As clearly stated in § 20.305(c) and in § 20.2007, this rule in no way affects their applicability.

Two commenters were concerned that the potential applicability of RCRA or State requirements would limit the usefulness of the rule.

If waste oil is classified as mixed waste, it presently may not be disposed of at a LLW burial site. This presents licensees with even more of a problem, particularly if the quantity of oil stored onsite approaches the quantity limits imposed for fire safety. On May 20, 1992 (57 FR 21524), EPA published a notice of a decision not to list used oil destined for disposal as hazardous waste. However, based on EPA's data published in the Federal Register on September 23, 1991 (56 FR 48000), it appears that although a significant portion of industrial waste oil, like that generated by nuclear power plants, will be identified as hazardous waste through testing for the characteristic of toxicity, more than half of this industrial waste oil will not be identified as hazardous. Thus, a portion,

but not all, of the radioactively contaminated waste oil from reactors will be mixed waste. In any given State, it will depend on individual State regulations. Although the burden of meeting RCRA or State requirements may increase the cost of incineration, this alternative would still be expected to be of value.

One commenter objected to the term "limited" in reference to the required changes in the ODCM (Offsite Dose Calculation Manual) which the commenter contends are always extensive.

The Commission recognizes that making any change to the ODCM may involve significant administrative effort. However, the changes required to order to account for the effluents from waste oil incineration are relatively limited—primarily related to the fact that a new point of release may be involved.

Conclusion

As indicated in the responses to the comments, the Commission has decided to adopt the rule as proposed with minor modifications. Because the rule will allow a licensee to adopt a potentially more cost- and risk-effective means of disposing of waste oil while maintaining existing limits on plant effluents, the net impact of this action should be positive. For licensees who elect to process waste oils in this fashion, monitoring and maintaining records on waste oil disposal activities will be covered by other existing regulatory requirements set forth in Part 20 and Part 50, Appendix I. These requirements are implemented primarily through technical specifications established under § 50.36a. In addition, risks associated with transportation to the LLW disposal facility or other treatment or disposal facility are eliminated and toxic and fire hazards associated with storage would likely be reduced. It should be noted that any solid radioactive residues produced in burning the waste oil would, for purposes of regulation, be treated as any other radioactive solid waste.

Finding of No Significant Environmental Impact: Availability

The Commission has reviewed the environmental assessment and finding of no significant environmental impact published in the Federal Register on August 29, 1988 (53 FR 32917-32919) in connection with the proposed rule. The Commission has also considered the public comments and the changes in the text of the final rule, in particular, the public comments relating to environmental matters and the

additional discussion of the environmental impacts prepared in response to those comments. The environmental assessment has been modified to be consistent with the discussion in this preamble concerning the environmental impacts of toxic emissions from burning used oil. The Commission has determined that the public comments, the additional consideration of toxic impacts, and the changes made to the text do not affect the conclusion reached in the earlier finding of no significant impact. The Commission has concluded that this amendment to 10 CFR 20.305 and 20.2004 does not constitute a major Federal action significantly affecting the quality of the human environment, and, therefore, an environmental impact statement is not required.

The revised environmental assessment and finding of no significant impact on which this determination is based are available for inspection and copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements have been approved by the Office of Management and Budget approval numbers 3150-0011 and 3150-0014.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final rule. That analysis examines the costs and benefits of the alternative courses of action considered by the Commission. The analysis is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Catherine R. Mattsen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555 Telephone (301) 492-3638.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule only affects nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small

Business Administration at 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule, because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalty, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

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 is adopting the following amendments to 10 CFR part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for part 20 is revised to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5546).

Section 20.408 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For the purposes of sec. 233, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 20.101, 20.102, 20.103 (a), (b), and (f), 20.104 (a) and (b), 20.105(b), 20.106(a), 20.201, 20.202(a), 20.205, 20.207, 20.301, 20.303, 20.304, 20.305, 20.1102, 20.1201-20.1204, 20.1206, 20.1207, 20.1208, 20.1301, 20.1302, 20.1501, 20.1502, 20.1601 (a) and (d), 20.1602, 20.1603, 20.1701, 20.1704, 20.1801, 20.1802, 20.1901(a), 20.1902, 20.1904, 20.1906, 20.2001, 20.2002, 20.2003, 20.2004, 20.2005 (b) and (c), 20.2006, 20.2101-20.2110, 20.2201-20.2206, and 20.2301 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)) and § 20.2106(d) is issued under the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a; and §§ 20.102, 20.103(e), 20.401-20.407, 20.408(b), 20.409, 20.1102(a) (2) and (4), 20.1204(c), 20.1206 (g) and (h), 20.1904(c)(4), 20.1905 (c) and (d), 20.2004(b), 20.2005(c), 20.2006 (b)-(d), 20.2101-20.2103, 20.2104 (b)-(d), 20.2105-20.2108, and 20.2201-20.2207 are issued under sec. 1610, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 20.305 is revised to read as follows:

§ 20.305 Treatment or disposal by incineration.

(a) A licensee may treat or dispose of licensed material by incineration only:

- (1) As authorized by paragraph (b) of this section; or
- (2) If the material is in a form and concentration specified in § 20.306; or
- (3) As specifically approved by the Commission pursuant to § 20.106(b) or § 20.302.

(b) (1) Waste oils (petroleum derived or synthetic oils used principally as lubricants, coolants, hydraulic or insulating fluids, or metalworking oils) that have been radioactively contaminated in the course of the operation or maintenance of a nuclear power reactor licensed under part 50 of this chapter may be incinerated on the site where generated provided that the total radioactive effluents from the facility, including the effluents from such incineration, conform to the requirements of Appendix I to part 50 of this chapter and the effluent release limits contained in applicable license conditions other than effluent limits specifically related to incineration of waste oil. The licensee shall report any changes or additions to the information supplied under §§ 50.34 and 50.34a of this chapter associated with this incineration pursuant to § 50.71 of this chapter, as appropriate.

The licensee shall also follow the procedures of § 50.59 of this chapter with respect to such changes to the facility or procedures.

(2) Solid residues produced in the process of incinerating waste oils must be disposed of as provided by § 20.301.

(3) The provisions of this section authorize onsite waste incineration under the terms of this section and supersede any provision in an individual plant license or technical specification that may be inconsistent.

(c) Nothing in paragraph (b) of this section relieves the licensee from complying with other applicable Federal, State, and local regulations governing any other toxic or hazardous property of these materials.

3. Section 20.2004 is revised to read as follows:

§ 20.2004 Treatment or disposal by incineration.

(a) A licensee may treat or dispose of licensed material by incineration only:

- (1) As authorized by paragraph (b) of this section; or
- (2) If the material is in a form and concentration specified in § 20.2005; or
- (3) As specifically approved by the Commission pursuant to § 20.2002.

(b) (1) Waste oils (petroleum derived or synthetic oils used principally as

lubricants, coolants, hydraulic or insulating fluids, or metalworking oils) that have been radioactively contaminated in the course of the operation or maintenance of a nuclear power reactor licensed under part 50 of this chapter may be incinerated on the site where generated provided that the total radioactive effluents from the facility, including the effluents from such incineration, conform to the requirements of Appendix I to Part 50 of this chapter and the effluent release limits contained in applicable license conditions other than effluent limits specifically related to incineration of waste oil. The licensee shall report any changes or additions to the information supplied under §§ 50.34 and 50.34a of this chapter associated with this incineration pursuant to § 50.71 of this chapter, as appropriate. The licensee shall also follow the procedures of § 50.59 of this chapter with respect to such changes to the facility or procedures.

(2) Solid residues produced in the process of incinerating waste oils must be disposed of as provided by § 20.2001.

(3) The provisions of this section authorize onsite waste oil incineration under the terms of this section and supersede any provision in an individual plant license or technical specification that may be inconsistent.

Dated at Rockville, Maryland, this 1st day of December 1992.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 92-29549 Filed 12-4-92; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-76; Special Conditions No. 25-ANM-65]

Special Conditions: Modified Dassault Mystere Falcon 20-F5, S/N 463 Airplane; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dassault Mystere Falcon 20-F5, S/N 463 airplane modified by Allied-Signal Aerospace, Springfield, Illinois. This airplane is equipped with high-technology digital avionics systems

which perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards which the Administrator considers necessary to ensure that the critical functions performed by this system are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is November 23, 1992. Comments must be received on or before January 21, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, ATTN: Rules Docket (ANM-7), Docket No. NM-76, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked; Docket No. NM-76. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gary Lium, FAA, Standardization Branch, ANM-113, Transport Standards Staff, Transport Airplane Directorate Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056, telephone: (206) 227-2145.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

"Comments to Docket No. NM-76." The postcard will be date/time stamped, and returned to the commenter.

Background

On October 29, 1992, Allied-Signal Aerospace, applied for a one-only Supplemental Type Certificate to modify the Dassault Mystere Falcon 20-F5, S/N 463, airplane. The proposed modification incorporates a number of novel or unusual design features, such as digital avionics consisting of a dual electronic flight instrument system (EFIS) which is vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.115, subpart C of the FAR, Allied Signal Aerospace must show that the altered Dassault Mystere Falcon 20-F5, S/N 463 airplane meets the applicable requirements as specified in § 21.101(a) and (b); unless (1) Otherwise specified by the Administrator; or (2) Compliance with later effective amendments is elected or required under § 21.101(a) and (b); and (3) Special conditions are prescribed by the Administrator.

The requirements specified in § 21.101(a) are the regulations incorporated by reference in Type Certificate No. A7EU for the Dassault Mystere Falcon 20-F5 airplane. Those are: CAR 4b effective December 1953, as amended by Amendments 4b-12 and SR422B. In addition: §§ 25.571(d), 25.1019, 25.1093(b) and 25.1141(e) of Amendments 25-1 through 25-35; §§ 25.581, 25.863 (in lieu of 4b.385), 25.865, 25.901(c), 25.903(b), 25.903(d)(1), 25.903(e)(2), 25.939(c), 25.943, 25.954, 25.1011, 25.1013, 25.1015, 25.1017, 25.1021, 25.1023, 25.1025, 25.1041 (in lieu of 4b.450), 25.1091(d)(2) (in lieu of 4b.460(g)), 25.1103(d), 25.1142 (in lieu of 4b.480(c)), 25.1183 (in lieu of 4b.483), 25.1189 (in lieu of 4b.482), 25.1309 (in lieu of 4b.606 for modified power supply systems and of Amendments 25-1 through 25-56); § 25.904 and Appendix I of Amendment 25-62 for automatic takeoff thrust control system. Part 36 effective December 1, 1969, as amended through Amendment 36-15; Special Federal Aviation Regulation (SFAR) 27 effective February 1, 1974, as amended through Amendment SFAR 27-6. Compliance with structural provisions of § 25.801(b) through (e) and 25.807(d) has not been shown.

Ice Protection: § 4b.640, when ice protection system is installed. These adopted special conditions are an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., Part 25 requirements) do not contain adequate or appropriate safety standards for the modified Dassault Mystere Falcon 20-F5, S/N 463 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.101(b)(2) to establish a level of safety equivalent to that established by the regulations. (In this context, "novel or unusual design feature" means novel or unusual with respect to the applicable standards of part 25. Such features may or may not be unusual as far as industry "state-of-the-art" is concerned.)

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certificate basis in accordance with § 21.115(a).

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from high-intensity radiated fields (HIRF). Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, these special conditions require that the new technology electrical and electronic systems, such as the Electronic Flight Instrument System (EFIS), be designed and installed to preclude component damage and interruption of function due to HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpits window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with HIRF protection

special conditions is shown with either paragraphs 1 or 2 below.

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz-100 KHz	50	50
100 KHz-500 KHz	60	60
500 KHz-2000 KHz	70	70
2 MHz-30 MHz	200	200
30 MHz-70 MHz	30	30
70 MHz-100 MHz	30	30
100 MHz-200 MHz	150	33
200 MHz-400 MHz	70	70
400 MHz-700 MHz	4,020	935
700 MHz-1000 MHz	1,700	170
1 GHz-2 GHz	5,000	990
2 GHz-4 GHz	6,880	840
4 GHz-6 GHz	8,850	310
6 GHz-8 GHz	3,600	670
8 GHz-12 GHz	3,500	1,270
12 GHz-18 GHz	3,500	360
18 GHz-40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the United States.

Conclusion

This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The

FAA is requesting comments to allow interested persons to submit views that may have not been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Final Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the modified Dassault Mystere Falcon 20-F5, S/N 463 airplane:

1. Protection from unwanted effects of High-Intensity Radiated Fields (HIRF). Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition:

Critical function. Function whose failure would contribute to or cause a failure condition which would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on November 23, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

[FR Doc. 92-29579 Filed 12-4-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-58-AD; Amendment 39-8431; AD 92-26-04]

Airworthiness Directives; Cessna 210 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Cessna 210 series airplanes equipped with cantilever wings. This action requires operational checks of the fuel gauges, modification of the fuel caps and adapters, and the incorporation of pilot operating procedures that relate to preflight fuel

system quantity checks into the airplane flight manual or airplane records. The Federal Aviation Administration (FAA) has received over 100 reports of fuel exhaustion accidents or incidents on the affected airplanes. The actions specified by this AD are intended to prevent loss of engine power caused by inadvertent fuel loss or inadequate fuel servicing.

DATES: Effective January 22, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 22, 1993.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201; or Monarch Air & Development, Inc. (Monarch), P.O. Box 419, Oakland, Oregon 97462. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Wichita, Kansas 67209; Telephone (316) 946-4143; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Cessna 210 series airplanes was published in the Federal Register on April 16, 1992 (57 FR 13325). The action proposed (1) operational checks of the fuel gauges and fuel vent system; (2) modification of the fuel caps and adapters in accordance with the instructions to Cessna Service Kit SK210-136, which is referenced by Cessna Service Bulletin SEB91-10, dated October 25, 1991; (3) fabrication and installation of a placard that cautions about the use of fuel gauges for long-range flight planning; and (4) the incorporation of pilot operating procedures that relate to preflight fuel system capacity checks into the airplane flight manual or airplane records.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters request exclusion of the Cessna Model 210 airplanes manufactured in 1967 and 1968. They state that these models have a higher dihedral (intersecting angle at the wing) than later cantilever wing Model 210 airplanes, and therefore, should be

easier to fill to capacity. While the FAA concurs that these 1967 and 1968 model airplanes have a higher dihedral, a problem still exists with these models since two of the over 100 accidents or incidents involved Cessna Model 210 airplanes manufactured in 1967 and 1968. Consequently, these model airplanes are not excluded from the AD. The proposed AD is unchanged as a result of these comments.

Five commenters feel that the fuel gauge accuracy checks are unnecessary because (1) the gauges are inaccurate; and (2) the pilot operating procedures manual addresses the same issue. The FAA concurs that some gauges may not be accurate, but that this inaccuracy only exists at the high end of the scale on a properly calibrated gauge; that is the gauge will normally indicate full when there is as much as seven to eight gallons less than the certificated capacity of fuel in the tank. Tests on several of the affected airplanes show accurate indications of lower fuel quantities. Based on this, the FAA has determined that the fuel quantity indicating system calibration procedures specified in applicable Cessna Model 210 series airplane maintenance manuals are adequate to assure system accuracy. The proposed AD is changed to reflect elimination of the accuracy checks at lower fuel quantities.

Eight commenters state that there is insufficient justification for the proposed placard requirement. After further analysis, the FAA has determined that, when the fuel gauge accuracy checks and pilot operating procedures are accomplished, the placard requirement originally proposed is not necessary. The proposed AD has been changed to reflect the elimination of the placard requirement.

Two commenters disagree with the proposed requirement of incorporating pilot operating procedures that relate to preflight fuel system quantity checks into the airplane flight manual or airplane records. The FAA does not concur and maintains the position that these procedures are a constant reminder to verify fuel quantity, especially on maximum range flights. The proposed AD is unchanged as a result of these comments.

Eight commenters oppose the modification of the fuel caps and adapters. After extensive analysis of all available information, the FAA has determined that this fuel cap and adapter modification is the best way to provide assurance of adequate fuel filling provisions. The proposed AD is unchanged as a result of these comments.

Two commenters propose the utilization of Monarch fuel caps as an alternative to the installation of Cessna raised fuel caps. The FAA concurs that utilization of certain Monarch fuel caps should be an option provided they are installed in accordance with Supplemental Type Certificate SA2456CE, Assembly No. WW-100-2. The proposed AD has been revised to reflect this option.

Two commenters state that the fuel vent system check is unnecessary since these checks should be included in current preflight and annual inspections. The FAA has re-examined the need for these checks through AD action, and has determined that the intent is to accomplish these checks during normal inspections and then, as part of the pilot operating procedures, verify that fuel syphoning has not occurred while the airplane is in flight. The proposed AD has been changed to reflect the deletion of the fuel vent system check and addition of a recommendation in the pilot operating procedures to accomplish in-flight checks of the fuel vent system.

No comments were received on the FAA's determination of the cost to the public. However, because of the elimination of certain fuel gauge calibration checks, the cost impact of this AD has been reduced by over \$500,000.

After careful review of all available information including the comments discussed above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above and minor editorial corrections. The FAA has determined that these minor changes and corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA has determined that calendar time is the most desirable method of compliance for this AD because yearly operational times vary throughout the fleet. For example, one operator might utilize the airplane 100 hours time-in-service (TIS) or more in one month, while another may not utilize the airplane 100 hours TIS in one year. Therefore, to maintain continuity and avoid inadvertent grounding of the affected airplanes, compliance time for this AD is based upon calendar time.

The FAA estimates that 5,000 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish the required action, and that the average labor rate is approximately \$55 an hour. Parts cost

approximately \$150 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$2,125,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR Part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

92-26-04 Cessna: Amendment 39-8431; Docket No. 90-CE-58-AD.

Applicability: Models 210 and T210 series airplanes (serial numbers (S/N) 21058819 through 21065009), Model T210 series airplanes (S/N T210-0198 through T210-0454), and Model P210 series airplanes (S/N P21000001 through P21000874), certificated in any category.

Compliance: Required within the next 12 calendar months after the effective date of this AD, unless already accomplished.

To prevent loss of engine power caused by inadvertent fuel loss or inadequate fuel servicing, accomplish the following:

(a) Incorporate the Pilot Operating Procedures—Preflight Fuel System Quantity Check that is Figure 1 of this AD into the airplane flight manual or airplane records.

Figure 1—Pilot Operating Procedures—Preflight Fuel System Quantity Check

The following procedures are to be used on certain Cessna 210 Series airplanes whenever more than 75 gallons of fuel are needed for range and reserve.

1. Verify that the airplane is level laterally and is approximately 4.5 degrees nose up (normal nose strut on a level surface).

Note: The airplane turn and bank instrument may be used to check lateral leveling.

2. Visually inspect each fuel tank for fuel level with the upper wing surface when full fuel capacity is intended to be in each tank.

3. Check each fuel cap and seal for security and wing surface for a lack of fuel stains aft of each fuel cap.

Note: It is highly recommended that the tips and flap trailing edges are checked during flight for evidence of fuel siphoning.

(b) The incorporation of Figure 1 of this AD into the airplane flight manual or airplane records as required by paragraph (a) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by FAR 43.7, and must be entered into the aircraft records showing compliance with this AD in accordance with FAR 43.11.

(c) Calibrate the fuel quantity indicating system by accomplishing the calibration procedures that are outlined in the applicable maintenance manual. Prior to further flight, correct any deficiencies detected as a result of these procedures.

(d) If either of the criteria specified in paragraph (d)(1) or (d)(2) are applicable, install raised fuel caps in accordance with the instructions to Cessna Service Kit SK210-136, which is referenced by Cessna SB SEB91-10, dated October 25, 1991; or Supplemental Type Certificate SA2456CE (owned by Mr. William J. Barton) for Monarch Air & Development, Inc., Assembly No. WW-100-2 fuel caps (only).

(1) All airplanes with S/N 21058819 through 21064897, S/N T210-0198 through T210-0454, or S/N P21000001 through P21000834.

(2) All airplanes with S/N 21064898 through 21065009 or P21000835 through P21000874 that are equipped with standard-range 45-gallon fuel tanks.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add

comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(g) The installation required by this AD shall be done in accordance with Cessna Service Kit SK210-136, which is referenced by Cessna Service Bulletin SEB91-10, dated October 25, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39-8431) becomes effective on January 22, 1993.

Issued in Kansas City, Missouri, on December 1, 1992.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-29562 Filed 12-4-92; 8:45 am]

BILLING CODE 4810-13-M

14 CFR Part 71

[Airspace Docket No. 92-AGL-14]

Transition Area Alteration; Phillips, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the existing transition area to accommodate a new nondirectional beacon (NDB) runway 06 Standard Instrument Approach Procedure (SIAP) to Price County Airport, Phillips, WI. The intended effect of this action is to provide segregation of the aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

EFFECTIVE DATE: 0901 U.T.C., February 4, 1993.

FOR FURTHER INFORMATION CONTACT: Douglas F. Powers, Air Traffic Division, System Management Branch, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, September 10, 1992, the Federal Aviation Administration proposed to amend part 71 of the Federal Aviation Regulations (14 CFR

part 71) to alter the existing transition area near Phillips, WI (57 FR 41445).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North American Datum 83. Transition areas are published in Section 71.181 of FAA order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document will be published subsequently in the order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the existing transition area near Phillips, WI, to accommodate a new NDB runway 06 SIAP to Price County Airport, Phillips, WI.

The development of a new SIAP requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area that will enable pilots to circumnavigate the area in order to comply with applicable visual flight rule requirements.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Transition areas.