

of the Commonwealth of Puerto Rico, and officials of other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

*William Clinton*

[FR Doc. 94-9041

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# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## NUCLEAR REGULATORY COMMISSION

### 5 CFR Chapter XLVIII

#### 10 CFR Part 0

RINs 3209-AA15 and 3150-AE60

### Supplemental Standards of Ethical Conduct for Employees of the Nuclear Regulatory Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC), with the concurrence of the Office of Government Ethics (OGE), is issuing regulations for employees of the Nuclear Regulatory Commission that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. These supplemental regulations address outside employment by NRC employees and ownership of securities by NRC employees, their spouses, and minor children. The NRC is also repealing its current regulations on those subjects, while adding a cross-reference to the new provisions and preserving certain separable financial interest exemptions.

**EFFECTIVE DATE:** Final rule effective July 12, 1994.

**FOR FURTHER INFORMATION CONTACT:** John Szabo, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301-504-1606.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) for codification at 5 CFR part 2635. See 57 FR 35006-35067, as

corrected at 57 FR 48557 and 57 FR 53583. These Standards, which took effect on February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel.

5 CFR 2635.105 authorizes executive agencies, with concurrence from OGE, to publish agency-specific supplemental regulations that are necessary to implement their ethics programs. The Nuclear Regulatory Commission, with OGE's concurrence, has determined that the following supplemental regulations, being codified in new chapter XLVIII of 5 CFR, consisting of part 5801, are necessary for successful implementation of the NRC's ethics program. By this notice, the Nuclear Regulatory Commission is also repealing the parts of its regulations which were preserved by 5 CFR part 2635 pending issuance of this supplemental regulation (see the additional OGE grace period extension at 59 FR 4779-4780).

## II. Analysis of the Regulations

### Section 5801.101 General

Section 5801.101 explains that the regulations contained in the final rule apply to all NRC employees, including members of the Commission, and are supplemental to the executive branch-wide standards. Members and employees of the Nuclear Regulatory Commission also are subject to the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635, the executive branch financial disclosure regulations at 5 CFR part 2634, and additional regulations regarding their conduct published by the agency in 10 CFR part 0.

### Section 5801.102 Prohibited Securities

5 CFR 2635.403(a) authorizes agencies, by supplemental regulation, to prohibit or restrict the acquisition or holding of a financial interest or a class of financial interests by agency employees based on a determination that the acquisition or holding of such interests would cause reasonable persons to question the impartiality and objectivity with which agency programs are administered. Where it is necessary to the efficiency of the service, such prohibitions or restrictions may be extended to employees' spouses and minor children.

By 10 CFR 0.735-29, the Commission has long prohibited most of its employees, their spouses, minor

children, and other members of their households, from holding stocks, bonds, and other securities issued by major entities in the commercial nuclear field. Section 5801.102 imposes very similar restrictions upon designated employees, their spouses and minor children, based upon the Commission's determination that these restrictions are necessary to maintain public confidence in the impartiality and objectivity with which the NRC executes its regulatory functions. The restrictions also will help to maintain public confidence that sensitive information relating to agency operations is not misused for private gain and will help accomplish the NRC's mission by avoiding widespread disqualification of employees from the performance of their official duties.

Section 5801.102 is narrower in scope than 10 CFR 0.735-29 in that it does not apply to all members of the employee's household. Consistent with 5 CFR 2635.403(a) and 2635.403(c)(1), it restricts only the holdings of designated employees, their spouses, and minor children. The Commission has determined that application of the securities restrictions in § 5801.102 to spouses and minor children is necessary to the efficiency of the service. As evidenced by 10 CFR 0.735-29, the NRC believes it is important to the success of its mission for regulated entities and others affected by agency decisions to have this additional degree of assurance that agency decisions are not influenced by considerations of personal gain on the part of NRC personnel.

In addition to limiting the section's application to employees, their spouses, and minor children, the Commission has made other minor revisions to the restrictions as stated in 10 CFR 0.735-29. The categories of prohibited securities set forth in § 5801.102(b) have been revised to reflect the new types of licenses established in 10 CFR part 52 and to include securities issued by State or local governments to finance low-level waste facilities. Section 5801.102(b)(8) also prohibits employees for the first time from owning securities issued by an energy or utility sector mutual fund that has invested more than 25 percent of the fund's assets in prohibited securities.

The time frames for complying with the security ownership regulations have also been modified. Under 10 CFR 0.735-29, NRC employees have had 30



days to comply after commencing employment or being promoted to a position covered by the security ownership prohibitions; one year to divest any security interest newly added to the agency's prohibited security list; and a "reasonable time" to dispose of securities inherited by gift. Consistent with 5 CFR 2635.403(d), the final rule provides a uniform 90-day period for divestiture, with extension available in cases of undue hardship.

The criteria in § 5801.102(e) for waiving the prohibition on holding a specific security have been modified to provide greater specificity. A criterion has been newly added to cover circumstances in which legal constraints prevent divestiture. One example of such a legal constraint would be the situation in which the prohibited security is held as part of the assets of a trust of which the employee is a beneficiary and where the trustee, who has sole authority to purchase and sell the assets, refuses the employee's request to sell the prohibited security.

The Commission has eliminated the requirement contained in 10 CFR 0.735-29 that employees who are subject to the security ownership restrictions certify each year that they are in compliance. Because the annual certifications have rarely revealed violations of the substantive restrictions, there is inadequate justification for continuing this requirement. However, to monitor compliance, the NRC will continue to require employees holding designated positions to certify compliance upon commencement of employment with the agency or upon promotion for the first time to a position covered by the security ownership restriction. Agency employees will also be required to report to the Office of the General Counsel in writing any prohibited securities obtained after the initial certification. This will permit the Office of the General Counsel to track required divestitures.

On the effective date of this regulation, the NRC will issue Management Directive 7.7 and its accompanying Handbook which lists those agency positions covered by the security ownership restrictions. The Handbook will also describe procedures for obtaining Certificates of Divestiture and waivers from the security ownership restrictions. Both the Management Directive and Handbook will be available at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555-0001. Copies will also be available in each NRC Office.

#### *Section 5801.103 Prior Approval for Outside Employment*

5 CFR 2635.803 authorizes individual agencies, by supplemental regulation, to require agency employees to obtain approval before engaging in outside employment or other outside activities. The NRC has long had the prior approval requirement, set forth in 10 CFR 0.735-40. Section 5801.103 of the final rule retains the requirement that NRC employees obtain prior written approval before engaging in outside employment with entities that are regulated by or have business with the Commission. The NRC policy has been, and will continue to be, to encourage teaching, lecturing, or writing not prohibited by 5 CFR part 2635 or other applicable law.

The agency designees for approval of outside employment and internal agency procedures for obtaining the necessary approvals will be set forth in NRC Management Directive 7.8 and the accompanying Handbook. This Directive and Handbook will be issued on the effective date of this regulation and will be available in the NRC Public Document Room and in each NRC Office.

#### **III. Repeal of Superseded Portions of the NRC Conduct Regulations and Related Modifications**

The final rule repeals the NRC conduct regulations 10 CFR 0.735-8, 0.735-29, and 0.735-40, effective on the same day that this rule takes effect. The information collection requirements of § 0.735-8 are no longer necessary. Section 0.735-29 will be superseded by the prohibitions on securities contained in 5 CFR 5801.102 and § 0.735-40 will be superseded by the requirements for prior approval of outside employment contained in 5 CFR 5801.103. These repeals, together with those effected by 58 FR 3825 and 29951, leave in 10 CFR part 0 only the waiver provisions of §§ 735-21 (a) and (b) which are preserved by 5 CFR 2635.402(d)(1). These paragraphs are redesignated § 0.735-2 (a) and (b) to follow a new § 0.735-1 which provides a cross-reference to the NRC's supplemental regulation and to the executive branch-wide financial disclosure and standards of ethical conduct regulations at 5 CFR parts 2634 and 2635.

#### **IV. Matters of Regulatory Procedure**

##### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b), the NRC finds good cause not to seek public comment on this rule. Such comment is unnecessary because the NRC is essentially repromulgating existing

regulations in a different form, and the regulations pertain wholly to internal agency personnel matters that affect only NRC employees, their spouses, and minor children. To increase the likelihood of a smooth transition from the NRC's prior ethics rules to the new Government-wide standards of ethical conduct regulations, these rulemaking actions should take place as soon as possible. The rule and accompanying repeals will become effective 90 days after the date of publication in the Federal Register.

##### *Environmental Impact: Categorical Exclusion*

The NRC has determined that this final rule is the type of action described in categorical exclusions 10 CFR 51.22(c) (1) and (2). Therefore, neither an environmental assessment nor an environmental impact statement has been prepared for this final regulation.

##### *Paperwork Reduction Act Statement*

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

##### *Regulatory Analysis*

The NRC is promulgating a supplemental regulation to OGE's Government-wide standards of conduct regulations in order to implement effectively the NRC's ethics program. This rule has no significant impact on health, safety or the environment. There is no substantial cost to licensees, the NRC, OGE, or other Federal agencies.

##### *Regulatory Flexibility Act*

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects only NRC employees.

##### *Backfit Analysis*

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

##### **List of Subjects**

##### *5 CFR Part 5801*

Conflict of interests, Government employees.



## 10 CFR Part 0

Conflict of interests, Criminal penalties.

Dated at Rockville, Maryland, this 23rd day of March, 1994.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Approved: March 31, 1994.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Nuclear Regulatory Commission, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations and title 10, chapter I, of the Code of Federal Regulations as follows:

## TITLE 5—[AMENDED]

1. A new chapter XLVIII, consisting of part 5801, is added to title 5 of the Code of Federal Regulations to read as follows:

## 5 CFR CHAPTER XLVIII—NUCLEAR REGULATORY COMMISSION

## PART 5801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE NUCLEAR REGULATORY COMMISSION

Sec.

5801.101 General.

5801.102 Prohibited securities.

5801.103 Prior approval for outside employment.

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 42 U.S.C. 2201, 5841; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306, 5 CFR 2635.105, 2635.403, 2635.803.

## § 5801.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to members and other employees of the Nuclear Regulatory Commission and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the standards in 5 CFR part 2635 and this part, members and other employees are subject to the executive branch financial disclosure regulations contained in 5 CFR part 2634 and to additional regulations regarding their conduct contained in 10 CFR part 0.

## § 5801.102 Prohibited securities.

(a) *General prohibition.* No covered employee, and no spouse or minor child of a covered employee, shall own securities issued by an entity on the list described in paragraph (b) of this section.

(b) *Prohibited securities list.* Once a year, or on a more frequent basis, the

Commission will publish and distribute to employees a list of entities whose securities a covered employee or the spouse or minor child of a covered employee may not own. The list shall consist of entities which are:

(1) Applicants for or holders of early site permits, construction permits, operating licenses, or combined construction permits and operating licenses for facilities which generate electric energy by means of a nuclear reactor;

(2) State or local governments, if the primary purpose of the security is to finance the construction or operation of a nuclear reactor or a low-level waste facility;

(3) Entities manufacturing or selling nuclear power or test reactors;

(4) Architectural-engineering companies providing services relating to a nuclear power reactor;

(5) Applicants for, or holders of, a certified standard design;

(6) Entities licensed or regulated by the Commission to mill, convert, enrich, fabricate, store, or dispose of source, byproduct, or special nuclear material, or applicants for such licenses that are designated by the Commission because they are or will be substantially engaged in such nuclear fuel cycle or disposal activities;

(7) The parent corporation of any subsidiary described in paragraphs (b)(1)–(b)(6) of this section; and

(8) An energy or utility sector investment fund which has more than 25% of its assets invested in securities issued by entities described in paragraphs (b)(1)–(b)(7) of this section.

(c) *Definitions.* For purposes of this section:

(1) A covered employee means:

(i) A member of the Commission;

(ii) The Inspector General of the NRC;

(iii) A member of the Senior Executive Service (SES);

(iv) An employee who holds a non-SES position above GS-15; and

(v) Any other employee, including a special Government employee, whose duties and responsibilities, as determined by the Commission or its designees, require application of the securities ownership prohibition contained in this section to ensure public confidence that NRC programs are conducted impartially and objectively. The positions of these employees are specified in NRC Management Handbook 7.7, which is available in the NRC Public Document Room; and

(2) The term "securities" includes all interests in debts or equity instruments. The term includes, without limitation, secured and unsecured bonds,

debentures, notes, securitized assets and commercial paper, as well as all types of preferred and common stock. The term encompasses both current and contingent ownership interests, including any beneficial or legal interest derived from a trust. It extends to any right to acquire or dispose of any long or short position in such securities and includes, without limitation, interests convertible into such securities, as well as options, rights, warrants, puts, calls, and straddles with respect thereto.

(d) *Divestiture and reporting of prohibited securities.*—(1) *Newly covered employees.* Upon promotion or other appointment to a position subject to the securities prohibition of this section, a covered employee shall sign a certification:

(i) Identifying securities of an entity on the prohibited securities list which the employee, or the spouse or minor child of the employee, owns; or

(ii) Stating that the employee, or the spouse or minor child of the employee, does not own any prohibited securities. Except as provided in paragraph (d)(4) of this section, the newly covered employee, or the spouse or minor child of the employee, shall divest prohibited securities within 90 days after appointment to the covered position.

(2) *Newly prohibited securities.* Within 30 days after publication of the prohibited securities list to which an entity's name has been added, a covered employee who owns, or whose spouse or minor child owns, prohibited securities shall make a written report of that ownership to the Office of the General Counsel. Except as provided in paragraph (d)(4) of this section, the covered employee, or the spouse or minor child of the covered employee, shall divest prohibited securities within 90 days after publication of the prohibited securities list.

(3) *Securities acquired without specific intent.* Within 30 days after a covered employee, or the spouse or minor child of a covered employee, acquires securities of an entity on the prohibited securities list as a result of marriage, inheritance, gift or otherwise without specific intent to acquire the securities, the covered employee shall make a written report of the acquisition to the Office of the General Counsel. Except as provided in paragraph (d)(4) of this section, a covered employee, or the spouse or minor child of a covered employee, shall divest prohibited securities within 90 days after the date of acquisition.

(4) *Extension of period to divest.* Upon a showing of undue hardship, the Chairman of the Nuclear Regulatory



Commission may extend the 90 day period for divestiture specified in paragraphs (d)(1) through (d)(3) of this section.

(5) *Disqualification pending divestiture.* Pending divestiture of prohibited securities, a covered employee must disqualify himself or herself, in accordance with 5 CFR 2635.402, from participation in particular matters which, as a result of continued ownership of the prohibited securities, would affect the financial interests of the employee, or those of the spouse or minor child of the employee. Disqualification is not required where a waiver described in 5 CFR 2635.402(d) applies. Procedures for obtaining individual waivers are contained in NRC Handbook 7.7, which is available in the NRC Public Document Room.

(6) *Tax treatment of gain on divested securities.* Where divestiture is required by this section, the covered employee (except a special Government employee) may be eligible to defer the tax consequences of divestiture under subpart J of 5 CFR part 2634, pursuant to procedures in NRC Handbook 7.7, which is available in the NRC Public Document Room.

(e) *Waivers.* (1) The Chairman may grant a waiver to permit a covered employee, or the spouse or minor child of a covered employee, to retain ownership of a security of an entity on the prohibited securities list upon a determination that the holding of the security is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that:

(i) Under the circumstances, application of the prohibition is not necessary to ensure confidence in the impartiality and objectivity with which NRC programs are administered;

(ii) Legal constraints prevent divestiture; or

(iii) For a special Government employee, divestiture would result in substantial financial hardship.

(2) Where a waiver has been granted under paragraph (e)(1) of this section, the covered employee must disqualify himself or herself, in accordance with 5 CFR 2635.402, from participation in particular matters which, as a result of continued ownership of the prohibited security, would affect the financial interests of the employee, or those of the spouse or minor child of the employee unless the employee has received a waiver described in 5 CFR 2635.402(d), pursuant to procedures in NRC Handbook 7.9, which is available in the NRC Public Document Room.

#### § 5801.103 Prior approval for outside employment.

(a) An employee, other than a special Government employee, shall obtain written authorization before engaging in compensated outside employment with:

- (1) A Commission licensee;
- (2) An applicant for a Commission license;
- (3) An organization directly engaged in activities in the commercial nuclear field;
- (4) A Commission contractor;
- (5) A Commission supplier;
- (6) An applicant for or holder of a license issued by a State pursuant to an agreement between the Commission and the State;
- (7) A trade association which represents clients concerning nuclear matters; or
- (8) A law firm or other organization which is participating in an NRC proceeding or which regularly represents itself or clients before the NRC.

(b) Requests for approval shall be submitted in writing to the agency designee specified in NRC Management Directive 7.8, which is available in the NRC Public Document Room, in accordance with procedures set forth in the accompanying NRC Handbook.

(c) Approval of outside employment shall be granted in writing only upon a determination by the agency designee that the proposed outside employment would not violate a Federal statute or regulation, including 5 CFR 2635.

(d) For purposes of this section, "outside employment" means any form of non-Federal employment, business relationship or activity, involving the provision of personal services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher or speaker.

#### 10 CFR CHAPTER I—NUCLEAR REGULATORY COMMISSION

#### PART 0—CONDUCT OF EMPLOYEES

2. The authority citation for part 0 is revised to read as follows:

**Authority:** Secs. 25, 161, 68 Stat. 9925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306, 5 CFR 2635.105 and 2635.402(d)(1). Section 0.735-2, also issued under 5 U.S.C. 552, 553.

3. A new § 0.735-1 is added to read as follows:

#### § 0.735-1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Nuclear Regulatory Commission (NRC) are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the NRC regulation at 5 CFR part 5801 which supplements the executive branch-wide standards, and the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

4. Section 0.735-21 is redesignated as § 0.735-2 and the heading is revised to read thereof, "Exemptions for financial interests."

#### § 0.735-8, 0.735-29 and 0.735-40 [Removed]

5. Sections 0.735-8, 0.735-29 and 0.735-40 are removed.

[FR Doc. 94-8691 Filed 4-12-94; 8:45 am]

BILLING CODE 7590-10-P

#### DEPARTMENT OF AGRICULTURE

#### Rural Telephone Bank

#### 7 CFR Part 1610

#### Rural Electrification Administration

#### 7 CFR Parts 1735, 1737, 1744, 1753

#### Rural Telephone Bank and Telephone Program Loan Policies, Procedures, and Requirements; and Telecommunications System Construction Policies and Procedures

**AGENCY:** Rural Electrification Administration and Rural Telephone Bank, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Rural Electrification Administration (REA) adopts, except for the State Telecommunications Modernization Plan, its interim rule published December 20, 1993, as a final rule with minor technical changes. This action makes changes to the telephone program required by the Rural Electrification Loan Restructuring Act of 1993 (RELRA or legislation).

**EFFECTIVE DATE:** May 13, 1994.

#### FOR FURTHER INFORMATION CONTACT:

Matthew P. Link, Director, Rural Telephone Bank Management Staff, Rural Electrification Administration, U.S. Department of Agriculture, 14th & Independence Avenue, SW., room 2832-S, Washington, DC 20250-1500, telephone number (202) 720-0530.



**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This final rule has been determined to be not-significant for purposes of Executive Order 12866, Regulatory Planning and Review, and therefore has not been reviewed by the Office of Management and Budget (OMB). However the interim rule was reviewed by the OMB in conformance with Executive Order 12291 and Departmental Regulation 1512-1, and was subsequently exempted from the OMB review under 12866.

**Information Collection and Recordkeeping Requirements**

The reporting and recordkeeping requirements contained in the final rule have been approved by the OMB in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These requirements are approved under OMB control number 0572-0079.

Send comments regarding this collection of information to: Department of Agriculture, Clearance Office, Office of Information Resources Management, Room 404-W, Washington, DC 20250, and to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, New Executive Office Building, Washington, DC 20503.

The information set forth in the interim rule regarding Executive Orders 12778 and 12372, the Regulatory Flexibility Act Certification, the National Environmental Policy Act Certification, and the Catalog of Federal Domestic Assistance, applies to this final rule without change.

**Background**

On December 20, 1993, REA published an interim rule (58 FR 66250) to incorporate changes to telephone loan policies required by RELRA (107 Stat. 1356). RELRA amended several provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act), and mandated a restructuring of the telephone loan program.

REA received 81 comments regarding the interim rule. Overall, the greatest concern on the part of the responding organizations was 7 CFR part 1751, subpart B, the State Telecommunications Modernization Plan (modernization plan). Because of the overwhelming response regarding the modernization plan, related concerns and possible modifications will be resolved in a separate notification.

This notice addresses comments on parts of the interim rule other than 7 CFR part 1751, subpart B. All comments were taken into consideration in preparing the final rule. Comments were received from the following:

- (1) Hills Telephone Company, Inc.
- (2) Interstate Telecommunications Cooperative, Inc.
- (3) Martin and Associates, Inc., submitted comments on behalf of 16 local exchange carriers located in South Dakota.
- (4) Joint comments from the National Rural Telecom Association and the Western Rural Telephone Association.
- (5) National Telephone Cooperative Association.
- (6) Joint comments from the Oklahoma Rural Telephone Coalition, Rural Arkansas Telephone Systems, and Texas Statewide Telephone Cooperative, Inc.
- (7) Organization for the Protection and Advancement of Small Telephone Companies.
- (8) United States Telephone Association.

The comments will be discussed in the order in which they appear in the final rule. This *Federal Register* notice serves to notify the public that the interim rule, with the exception of 7 CFR part 1751, subpart B (modernization plan regulations), is final.

**Section 1610.1 General**

**Comment Summary:** Two organizations objected to REA distinguishing between authorized loan purposes for Rural Telephone Bank (RTB) loans by establishing a preference for one classification of authorized statutory loan purposes over another. Further, it was stated that RTB is without authority to impose such a preference, and this provision should be deleted from the final rule.

**Response:** While RELRA amended section 408(a)(2) of the RE Act to revise certain purposes for RTB financing, section 408(a)(1) was not amended and it references section 201 where such purposes are still eligible for RTB financing. REA believes that RELRA, by amending 408(a)(2), indicated preference to loans for section 408(a)(2) purposes over 408(a)(1) purposes to the extent that REA has completed applications for loans for purposes set forth in 408(a)(2). This policy is consistent with the RELRA provisions which provide (1) the same purposes for REA cost-of-money loans as for 408(b)(2) loans, and (2) that RTB and cost-of-money loans are to be concurrent.

**Section 1610.6 Concurrent Bank and REA Cost-of-Money Loans**

**Comment Summary:** Several organizations objected to REA requiring that REA cost-of-money loans and RTB loans be made concurrently, and stated that concurrence should remain an option of the borrower. Also, there was concern that mandating RTB to make loans concurrently with the REA cost-of-money program would compromise the independence of a future, privatized RTB. Commenters requested that REA revise the interim rule to provide borrowers with an option of selecting concurrent RTB and REA cost-of-money loans.

**Response:** Concurrent loans are required by RELRA. This is also consistent with RELRA's other amendments that only allow REA cost-of-money and RTB loans to be made for the same purposes and that subject those loans to the same eligibility requirements. This approach facilitates the most effective administration of this policy.

**Section 1610.10 Determination of Interest Rate on Bank Loans**

**Comment Summary:** REA should acknowledge that future RTB interest rates will be calculated taking into consideration RELRA's interest rate amendment.

**Response:** The methodology for calculating interest rates charged on RTB loans is provided in § 1610.10. While the interest rate amendment requires calculating a single RTB interest rate that applies to all advances made within a given fiscal year, this amendment only takes effect when funds have been appropriated by Congress to offset any subsidy associated with charging a single rate. When such an appropriation is made, RTB will calculate an interest rate in accordance with the RELRA amendment. However, no revisions will be made to § 1610.10 because the methodology for calculating interest rates remains unchanged.

**Section 1610.11 Prepayments**

**Comment Summary:** One commenter suggested that paragraph (b) be changed to conform with the language of the RE Act. Others commented that the elimination of prepayment premiums should apply to all outstanding RTB loans, not just those approved after November 1, 1993.

**Response:** REA believes the language in this provision of the interim rule correctly interprets RELRA's amendment to section 408(b)(8) of the RE Act. All RTB loan agreements



entered into before November 1, 1993, contain a prepayment premium provision. That prepayment premium policy was determined by the RTB Board of Directors. The original prepayment policy was established by the RTB Board of Directors on February 10, 1972, and later revised on May 3, 1984. RELRA eliminated the premiums only on loans approved after November 1, 1993. Further, a provision to eliminate the prepayment premium for RTB loans approved before November 1, 1993, was initially included in an early draft of the legislation but was eventually removed.

#### Section 1735.10 General

**Comment Summary:** With regard to REA's use of borrower-funded consultants (paragraph (e)), one organization commented that while the interim rule follows the legislation, many question the intent, usage and unfair advantages such activity could bring to small companies with little or no capital resources.

**Response:** REA recognizes these concerns; however, the option of hiring a consultant is necessary in order to adhere to the provision of the legislation. In accordance with the legislation, the Administrator is authorized to accept funds voluntarily provided by a borrower to be used to obtain assistance from third party experts in the review of a loan application. The purpose of this provision is to assist in the expeditious review of numerous loan applications given limited REA manpower and resources. The Administrator intends that the telephone loan programs be administered in a fair and impartial manner.

**Comment Summary:** With regard to paragraph (b), one organization commented that the language "in REA's opinion" should be deleted from the final rule because REA does not possess the authority which this reference implies to deny loans without a factual basis.

**Response:** This language was included to insure that (1) the main objectives of the RE Act (i.e., provide service to the widest practical number of rural subscribers), and (2) the provisions of the borrower's modernization plan will be carried out by borrowers of REA telephone loans. REA will not deny a loan without a factual basis. If the purposes of a loan are not consistent with the goals of the modernization plan for the borrower's State, then REA will deny the loan. This determination will be based on the modernization plan requirements and objectives provided in § 1751.106.

However, REA has considered that strict conformity to the requirements of a borrower's modernization plan could result in loans that would not be economically or technically feasible. REA has expanded § 1735.10(b) to take into consideration these situations when making loans.

#### Section 1735.17 Facilities Financed

**Comment Summary:** One organization commented that the interim rule correctly recognizes that under the legislation certain facilities and purposes will not be financed depending on the type of loan. The commenter further stated that the background statement fails to acknowledge that RTB loans will still be made for section 201 loan purposes and that loans that fall into the restricted purpose category are the new cost-of-money loans.

**Response:** See the response to the comment on § 1610.1.

#### Section 1735.22 Loan Security

**Comment Summary:** One commenter objected to the Times Interest Earned Ratio (TIER) maintenance requirement stating that REA is without authority to impose such requirement, and that the TIER range established in the legislation as eligibility criteria is adequate to protect loan security. Also, that the 1.75 TIER level is arbitrary.

**Response:** The TIER criteria put forth in the legislation determines the borrower's loan eligibility, it does not imply that risks to loan security are nonexistent if the borrower meets the eligibility criteria. Using the TIER eligibility range for maintenance purposes would require the borrower to maintain a minimum TIER of only 1.0. Allowing the borrower to maintain net margins at a level sufficient only to cover interest expenses does not offer much financial security nor assure credit quality. However, during the forecast period (i.e., construction period) when interest expenses are higher and associated revenues are not yet realized the borrower can maintain a TIER of 1.0. Afterwards, the TIER maintenance requirement merely requires the borrowers to maintain the TIER predicted by the projections given to REA by the borrower and on which REA relied on making the loan, but not to exceed 1.75. The TIER maintenance requirement provides some assurance of adequate loan security without placing an additional burden on the borrower. In fact, more than 93 percent of REA borrowers have existing TIERS of 1.75 or greater. This standardized maintenance requirement is needed because the new eligibility requirements

rendered the previous maintenance requirement inequitable and obsolete. As a Federal lending institution, REA has the responsibility to protect the Government's security interest.

#### Section 1735.30 Hardship Loans

**Comment summary:** Several commenters suggested that the priority system established for approving REA hardship loans was unnecessary, too complex, and non-statutory. While recognizing that one of the objectives of the priority system is to ensure financing to the neediest borrowers, the commenters stated that, overall, the system would be burdensome on REA and its borrowers and would treat some borrowers unfairly. One commenter stated that the current "first come first served" policy for loan approval would be adequate for approving loans in addition to assessing the urgency of each financing request. Further, one commenter, stating that loan approval should be based only on the eligibility criteria in the RELRA and not on specific plant modifications (such as distance learning or medical link facilities), commented that the method and criteria used in assigning points were unfair to some borrowers. The commenters also stated borrowers may be denied financing (within a reasonable time frame or perhaps altogether) due to the nature of the point assignment and ranking system.

**Response:** The hardship loan program created by the RELRA is intended to ensure that lower cost capital financing will be available to those applicants most in need due to extreme operating conditions. Since REA believes that the amount of financing available to fund the hardship program will generally be more limited than the eligible loan applications, it is necessary to implement a system that allows the widest practical nationwide use of those limited funds.

The ranking criteria REA has established does not conflict with a borrowers' eligibility to receive hardship financing. All borrowers that meet the hardship eligibility requirements (TIER, density, and modernization plan) will receive financing, subject to the availability of funds. The ranking criteria does, however, provide REA with a methodology of fairly assessing all eligible applications and provides an equitable manner in which to disburse the limited amount of funds available.

In addition, the ranking and subsequent prioritizing of a loan application does not require any additional information on the part of the borrower. All of the information needed



is readily available in the loan application and the loan study prepared by REA. Any additional burden placed on REA is minimal and will not result in a delay in the processing of an application.

**Comment summary:** Concerning paragraph (b), one commenter stated that the size of an exchange within a borrower's service territory is not relevant to the density provision which precludes borrowers from receiving hardship financing for facilities in an exchange where the average number of subscribers per mile of line is greater than 17.

**Response:** The RELRA clearly intended to avoid the use of lower-cost hardship financing in densely populated "semi-urban" areas. RELRA precluded borrowers from receiving hardship financing to be used in any "area" where the average number of subscribers per mile of line is greater than 17. REA has defined "area" to mean an exchange of the borrower. In addition, to further clarify the measure of a semi-urban area, 1,000 existing subscribers is also used so that high density exchanges with large populations can be distinguished from those remote pockets of populations that have a high exchange density, but are clearly rural areas.

**Comment summary:** With regard to the optimal use of loan funds (§ 1735.30(e)), several commenters stated that there is no need for REA to limit the amount of a hardship loan to any borrower. One respondent commented that by "splitting" loan applications and identifying the most urgent financing needs while seeking agreement from all parties involved in a financing request, REA could effectively ensure hardship financing in the neediest situations, without limiting loan size.

**Response:** REA has limited the size of hardship loans for the borrowers' (and its subscribers) benefit. Since eligible borrowers will be competing for a limited amount of available financing, limiting the loan size helps to ensure that (1) hardship funds will be provided for the most urgent loan purposes and (2) the widest number of borrowers, and consequently rural subscribers, will benefit from the hardship program.

#### **Section 1735.31 REA Cost-of-Money and RTB Loans**

**Comment Summary:** With regard to § 1735.31(e), one organization commented that the TIER ratio contained in the REA cost-of-money and RTB eligibility criteria seems to be at variance with the statutory definition, and suggested that the final rule

conform to the precise language of the legislation.

**Response:** REA believes the language in the interim rule is consistent with the language of the legislation.

**Comment Summary:** One organization commented that REA is without authority to establish the requirement that interest rates on cost-of-money loans be fixed at the time of advance rather than at the time of loan approval. The commenter suggested that in the absence of statutory direction to the contrary, interest rates on cost-of-money loans should be fixed at the time of loan approval.

**Response:** The requirements of the interim rule reflect REA's interpretation of the legislation, that is, interest rates based on the cost of capital to the Government at the time of each advance of funds. REA adopted this approach to ensure against rate disparity between the time of loan approval and advance of funds. REA must borrow matching funds from the U.S. Treasury when the borrower requests an advance. The interest rate charged to the borrower is effectively the same interest rate to be paid to Treasury on this borrowing by REA. REA believes that such approach is true to Congress' intent that loans be made at the then current cost of money to the Government. This is evident in the amount of subsidy appropriated by Congress for cost-of-money loans.

**Comment Summary:** One organization commented that the procedure outlined in paragraph (c)(2) for determination of the cost-of-money interest rate is unnecessarily cumbersome and should be simplified in the final rule. The commenter also suggested that paragraph (d) be revised to make it clear that the borrower's request is a specific one to conform to the language of the RE Act and § 1735.32(a).

**Response:** With regard to paragraph (c)(2), the procedure as written is necessary to ensure a clear and definitive method for all parties when setting the interest rate on cost-of-money loans. Concerning paragraph (d), REA believes the language in the interim rule is consistent with the language of the legislation, and that it is evident that REA will only make loan guarantees to those borrowers specifically requesting a guarantee.

#### **Section 1735.32 Guaranteed Loans**

**Comment Summary:** With regard to paragraph (b), one organization commented that the requirement to participate in a modernization plan should be the same for all loan programs, and the rule as currently written appears discriminatory.

**Response:** The legislation clearly states that the modernization plan shall apply only to REA hardship, REA cost-of-money, and RTB loans. The interim rule as written adheres to the legislation.

#### **Sections 1735.74 Submission of data, and 1737.22 Supplementary information**

**Comment Summary:** One organization commented that the language relating to the certification of participation in a modernization plan should be revised to eliminate the restrictive reference to the borrower's president by substituting chief executive officer or preferably authorized corporate officer.

**Response:** Participating in a modernization plan and fulfilling its goals may require a significant effort from the borrower, and may effect whether a borrower receives a loan. Due to the critical nature of these factors, REA believes it is in the interests of both the borrower and REA to have the certification signed by the borrower's president.

#### **Simultaneous Loans**

**Comment Summary:** One organization commented on REA's reference to simultaneous loans, stating that it is not a defined term in the interim rule nor is it a term utilized in either the legislation or the existing RE Act. The commenter suggested this provision be deleted in the final rule.

**Response:** Since certain purposes will not be financed depending on the type of loan, REA has used the term "simultaneously" to clarify that these types of loans may be made to the borrower at the same time or in the same set of documents. The term "simultaneously" was used so as not to confuse the reader since, historically, "concurrent loans" has referred only to the combination of REA and RTB loans.

#### **List of Subjects**

##### **7 CFR Part 1610**

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

##### **7 CFR Part 1735**

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

##### **7 CFR Part 1737**

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.



**7 CFR Part 1744**

Accounting, Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

**7 CFR Part 1753**

Loan programs-communications, Telecommunications, Telephone.

**7 CFR CHAPTER XVI****PART 1610—LOAN POLICIES**

Accordingly, the interim rule amending 7 CFR part 1610 which was published at 58 FR 66252 on December 20, 1993, is adopted as a final rule without change.

**7 CFR CHAPTER XVII****PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELEPHONE PROGRAM**

Accordingly, the interim rule amending 7 CFR part 1735 which was published at 58 FR 66253 on December 20, 1993, is adopted as a final rule with the following change:

1. The authority citation for part 1735 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*

2. Section 1735.10(b) is revised to read as follows:

**§ 1735.10 General.**

(b) REA will not make hardship loans, REA cost-of-money loans, or RTB loans for any purposes that, in REA's opinion, are inconsistent with the borrower achieving the requirements stated in the State's telecommunications modernization plan within the time frame stated in the plan (see 7 CFR part 1751, subpart B), unless REA has determined that achieving the requirements as stated in such plan is not technically or economically feasible.

**PART 1737—PRE-LOAN POLICIES AND PROCEDURES COMMON TO GUARANTEED AND INSURED TELEPHONE LOANS**

Accordingly, the interim rule amending 7 CFR part 1737 which was published at 58 FR 66256 on December 20, 1993, is adopted as a final rule without change.

**PART 1744—POST-LOAN POLICIES AND PROCEDURES COMMON TO GUARANTEED AND INSURED TELEPHONE LOANS**

Accordingly, the interim rule amending 7 CFR part 1744 which was

published at 58 FR 66257 on December 20, 1993, is adopted as a final rule without change.

**PART 1753—TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES**

Accordingly, the interim rule amending 7 CFR part 1753 which was published at 58 FR 66259 on December 20, 1993, is adopted as a final rule with the following technical changes:

1. The authority citation for part 1753 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*

2. In § 1753.2, remove the definition "STMP (State Telecommunications Modernization Plan)" and add a new definition in alphabetical order as follows:

**§ 1753.2 Definitions.**

*Modernization plan.* A plan, which has been approved by REA, for improving the public switched network of a state. The modernization plan must conform to the provisions of 7 CFR part 1751, subpart B, and applies to all telecommunications providers in the state.

**§§ 1753.3, 1753.15, 1753.66 [Amended]**

3. Sections 1753.3(a) introductory text and (a)(4), 1753.15(b)(4), and 1753.66(d) are amended by adding the words "modernization plan" in place of the acronym "STMP" each place it appears.

Dated: April 6, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94-8861 Filed 4-12-94; 8:45 am]

BILLING CODE 3410-15-P

**NUCLEAR REGULATORY COMMISSION****10 CFR Parts 1, 20, 30, 40, 55, 70, and 73**

RIN 3150-AE98

**Consolidation of the NRC Region V Office With the Region IV Office**

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations as a result of the consolidation of the Region V office in Walnut Creek, California, with the Region IV office in Arlington, Texas.

These amendments are necessary to inform the public of the administrative changes to the NRC's regulations.

EFFECTIVE DATE: April 4, 1994.

FOR FURTHER INFORMATION CONTACT: John M. Montgomery, USNRC Region IV, 611 Ryan Plaza Drive, suite 400, Arlington, TX 76011-8064; telephone (817) 860-8226.

SUPPLEMENTARY INFORMATION: On April 4, 1994, the NRC will consolidate its Region V office in Walnut Creek, California, with the Region IV office in Arlington, Texas. An NRC field office will be established in Walnut Creek, California.

Previously, the NRC published a general notice in the Federal Register (59 FR 8667; March 1, 1994) stating that effective March 1, 1994, the emergency response functions and responsibilities of the current Region V office would be transferred to the Region IV office.

Because this amendment deals with agency procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a change in address and telephone number. The amendment is effective April 4, 1994.

**Environmental Impact: Categorical Exclusion**

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

**Paperwork Reduction Act Statement**

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

**Regulatory Analysis**

A regulatory analysis has not been prepared for this final rule because it is an administrative action that changes the address and telephone number of an NRC region.

**Backfit Analysis**

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



## List of Subjects

## 10 CFR Part 1

Organization and functions  
(Government Agencies).

## 10 CFR Part 20

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

## 10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

## 10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

## 10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants

and reactors, Reporting and recordkeeping requirements.

## 10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

## 10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Incorporation by reference, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

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 parts 1, 20, 30, 40, 55, 70, and 73.

# PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

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

## APPENDIX D TO §§ 20.1001–20.2402.—U.S. NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

|   | Address  | Telephone (24 hour)              |
|---|--|----------------------------------|
| Region IV: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the U.S. territories and possessions in the Pacific. | USNRC, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011.  | (817) 860-8100<br>(FTS) 728-8100 |
| Region IV: Field Office .....   | USNRC, Region IV, Uranium Recovery Field Office, 730 Simms Street, Suite 100a, Golden, CO 80401; Mail: P.O. Box 25325, Denver, CO 80225. | (303) 231-2805<br>(FTS) 554-2805 |
| Region IV: Field Office .....   | USNRC, Region IV, Walnut Creek Field Office, 1450 Maria Lane, Suite 300, Walnut Creek, CA 94596.   | (510) 975-0200                   |

## PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

5. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851).  
Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234).  
Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. In § 30.6, paragraph (b)(2)(v) is removed and paragraph (b)(2)(iv) is revised to read as follows:

### § 30.6 Communications.

- \* \* \* \* \*
- (b) \* \* \*
- (2) \* \* \*

Authority: Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85-256, 71 Stat. 579, Pub. L. 95-209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

### § 1.5 [Amended]

2. In § 1.5, paragraph (b), in the NRC Region IV address "Suite 1000" is revised to read "Suite 400" and the NRC Region V address is revised to read "USNRC, Region IV Walnut Creek Field Office, 1450 Maria Lane, Suite 300, Walnut Creek, CA 94596."

## PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

3. The authority citation for part 20 continues 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, 5846).

4. Appendix D to §§ 20.1001–20.2402 is amended by removing the Region V entry and by revising the Region IV entry to read as follows:

| Address  | Telephone (24 hour)              |
|--|----------------------------------|
| USNRC, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011.  | (817) 860-8100<br>(FTS) 728-8100 |
| USNRC, Region IV, Uranium Recovery Field Office, 730 Simms Street, Suite 100a, Golden, CO 80401; Mail: P.O. Box 25325, Denver, CO 80225. | (303) 231-2805<br>(FTS) 554-2805 |
| USNRC, Region IV, Walnut Creek Field Office, 1450 Maria Lane, Suite 300, Walnut Creek, CA 94596.   | (510) 975-0200                   |

(iv) *Region IV.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region IV non-Agreement States and a territory: Alaska, Hawaii, Montana, Oklahoma, South Dakota, Wyoming, and Guam. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan



Plaza Drive, Suite 400, Arlington, Texas 76011.

#### PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

7. The authority citation for part 40 continues to read as follows:

**Authority:** Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

8. In § 40.5, paragraph (b)(2)(v) is removed and paragraph (b)(2)(iv) is revised to read as follows:

#### § 40.5 Communications.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) *Region IV.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region IV non-Agreement States and a territory: Alaska, Hawaii, Montana, Oklahoma, South Dakota, Wyoming, and Guam. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, suite 400, Arlington, Texas 76011.

#### PART 55—OPERATORS' LICENSES

9. The authority citation for part 55 continues to read as follows:

**Authority:** Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97-425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

10. In § 55.5, paragraph (b)(2)(v) is removed and paragraphs (b)(1) and (b)(3)(ii) are revised to read as follows:

#### § 55.5 Communications.

\* \* \* \* \*

(b)(1) Except for test and research reactor facilities, the Director of Nuclear Reactor Regulation has delegated to the Regional Administrators of Regions I, II, III, and IV authority and responsibility pursuant to the regulations in this part for the issuance and renewal of licenses for operators and senior operators of nuclear power reactors licensed under 10 CFR part 50 and located in these regions.

\* \* \* \* \*

(3) \* \* \*

(ii) For all test and research reactor facilities located in Regions I, II, III, and IV, submissions must be made to the Director, Division of Licensee Performance and Quality Evaluation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Operator Licensing Branch.

#### PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

11. The authority citation for part 70 continues to read as follows:

**Authority:** Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also

issued under sec. 57d, Pub. L. 93-3772, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

12. In § 70.5, paragraph (b)(2)(v) is removed and paragraph (b)(2)(iv) is revised to read as follows:

#### § 70.5 Communications.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) *Region IV.* The regional licensing program involves all Federal facilities in the region and non-Federal licensees in the following Region IV non-Agreement States and a territory: Alaska, Hawaii, Montana, Oklahoma, South Dakota, Wyoming, and Guam. All inquiries, communications, and applications for a new license or an amendment or renewal of an existing license specified in paragraph (b)(1) of this section must be sent to: U.S. Nuclear Regulatory Commission, Region IV, Material Radiation Protection Section, 611 Ryan Plaza Drive, suite 400, Arlington, Texas 76011.

#### PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

13. The authority citation for part 73 continues to read as follows:

**Authority:** Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

14. Appendix A to part 73 is amended by removing the Region V entry and revising the Region IV entry to read as follows:

#### APPENDIX A TO PART 73.—U.S. NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES

|   | Address  | Telephone (24 hour)              |
|---|--|----------------------------------|
| Region IV: Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Kansas, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the U.S. territories and possessions in the Pacific. | USNRC, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011. | (817) 860-8100<br>(FTS) 728-8100 |



## APPENDIX A TO PART 73.—U.S. NUCLEAR REGULATORY COMMISSION REGIONAL OFFICES—Continued

|                               | Address  | Telephone (24 hour)              |
|-------------------------------|--|----------------------------------|
| Region IV: Field Office ..... | USNRC, Region IV Uranium Recovery<br>Field Office, 730 Simms Street,<br>Suite 100a, Golden, CO 80401; Mail:<br>P.O. Box 25325, Denver, CO 80225. | (303) 231-2805<br>(FTS) 554-2805 |
| Region IV: Field Office ..... | USNRC, Region IV, Walnut Creek<br>Field Office, 1450 Maria Lane, Suite<br>300, Walnut Creek, CA 94596.   | (510) 975-0200                   |

Dated at Rockville, Maryland, this 31st day of March, 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94-8845 Filed 4-12-94; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 94-NM-29-AD; Amendment 39-8879; AD 94-08-07]

**Airworthiness Directives; McDonnell Douglas Model MD-11 and MD-11F Series Airplanes Equipped With Honeywell Flight Management Computers**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD-11 and MD-11F series airplanes. This action requires revising the FAA-approved Airplane Flight Manual (AFM) to ensure that the flight crews verify the accuracy of data provided by the Flight Management Computer (FMC) under certain conditions. This amendment is prompted by a report that certain FMC's may provide erroneous V speed data under certain conditions. The actions specified in this AD are intended to prevent the airplane from failing to achieve sufficient climb gradient, which may result in the airplane failing to achieve obstacle clearance.

**DATES:** Effective April 28, 1994.

Comments for inclusion in the Rules Docket must be received on or before June 13, 1994.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-

29-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

**FOR FURTHER INFORMATION CONTACT:**

Thomas A. Enyart, Aerospace Engineer, Flight Test Branch, ANM-162L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5372; fax (310) 988-5210.

**SUPPLEMENTARY INFORMATION:** Recently, an operator of McDonnell Douglas Model MD-11 series airplanes reported that certain Honeywell Flight Management Computers (FMC) provided erroneous V speed data when the anti-ice system was turned ON during flex (assumed) temperature takeoffs. Investigation into this problem revealed that the takeoff decision speed ( $V_1$ ) could be as low as 12 knots below the  $V_1$  speed data published in the FAA-approved Airplane Flight Manual (AFM), and the rotation speed ( $V_R$ ) could be as low as 4 knots below the  $V_R$  speed data published in the FAA-approved AFM. An airplane rotating at low  $V_R$  speeds could reach 35 feet at a speed less than the published minimum safety speed ( $V_2$ ). This condition, if not corrected, could result in these airplanes failing to achieve sufficient climb gradient, which may lead to these airplanes failing to achieve obstacle clearance.

The FMC's installed on Model MD-11 series airplanes are identical to those installed Model MD-11F series airplanes.

Since an unsafe condition has been identified that is likely to exist or develop on other McDonnell Douglas Model MD-11 and MD-11F series airplanes of the same type design equipped with certain Honeywell FMC's, this AD is being issued to prevent these airplanes from failing to

achieve sufficient climb gradient, which may result in these airplanes failing to achieve obstacle clearance. This AD requires revising the FAA-approved AFM to ensure that the flight crews verify the accuracy of data provided by the FMC when the anti-ice system is turned ON during flex temperature takeoffs.

This is considered to be interim action. The manufacturer of these airplanes is currently developing new software, in concert with the manufacturer of the FMC, that will address the unsafe condition addressed by this AD. Once this software is developed, approved, and available, the FAA may consider additional rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

**Comments Invited**

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to