

Employee	Equivalent normal allocation rates for the 1% accrual under plan O (defined benefit plan) (in percent)	Equivalent normal accrual rates for the 15%/3% allocation under plan P (defined contribution plan) (in percent)
HCE A (age 55)	3.93	3.82
HCE B (age 50)	2.61	5.74
C (age 60)	5.91	.51
D (age 45)	1.74	1.73
E (age 35)77	3.90
F (age 25)34	8.82

(ii) Although all of the NHCEs benefit under Plan O (the defined benefit plan), the aggregated DB/DC plan is not primarily defined benefit in character because the normal accrual rate attributable to defined benefit plans (which is 1% for each of the NHCEs) is greater than the equivalent accrual rate under defined contribution plans only for Employee C. In addition, because the 15% allocation rate is available only to HCEs, the defined contribution plan cannot satisfy the requirements of § 1.401(a)(4)-2 and does not have broadly available allocation rates within the meaning of § 1.401(a)(4)-8(b)(1)(iii). Further, the defined contribution plan does not satisfy the minimum allocation gateway of § 1.401(a)(4)-8(b)(1)(vi) (3% is less than 1/3 of the 15% HCE rate). Therefore, the defined contribution plan within the DB/DC plan cannot separately satisfy § 1.401(a)(4)-1(b)(2) and does not constitute a broadly available separate plan within the meaning of paragraph (b)(2)(v)(C) of this section. Accordingly, the aggregated plans are permitted to demonstrate satisfaction of the nondiscrimination in amounts requirement of § 1.401(a)(4)-1(b)(2) on the basis of benefits only if the aggregated plans satisfy the minimum aggregate allocation gateway of paragraph (b)(2)(v)(D) of this section.

(iii) Employee A has an aggregate normal allocation rate of 18.93% under the aggregated plans (3.93% from Plan O plus 15% from Plan P), which is the highest aggregate normal allocation rate for any HCE under the plans. Employee F has an aggregate normal allocation rate of 3.34% under the aggregated plans (.34% from Plan O plus 3% from Plan P) which is less than the 5% aggregate normal allocation rate that Employee F would be required to have to satisfy the minimum aggregate allocation gateway of paragraph (b)(2)(v)(D) of this section.

(iv) However, for purposes of satisfying the minimum aggregate allocation gateway of paragraph (b)(2)(v)(D) of this section, Employer B is permitted to treat each NHCE who benefits under Plan O (the defined benefit plan) as having an equivalent allocation rate equal to the average of the equivalent allocation rates under Plan O for all NHCEs benefitting under that plan. The average of the equivalent allocation rates for all of the NHCEs under Plan O is 2.19% (the sum of 5.91%, 1.74%, .77%, and .34%, divided by 4). Accordingly, Employer B is permitted to treat all of the NHCEs as having

an equivalent allocation rate attributable to Plan O equal to 2.19%. Thus, all of the NHCEs can be treated as having an aggregate normal allocation rate of 5.19% for this purpose (3% from the defined contribution plan and 2.19% from the defined benefit plan) and the aggregated DB/DC plan satisfies the minimum aggregate allocation gateway of paragraph (b)(2)(v)(D) of this section.

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(c) * * *

(3) * * *

(ii) *Restructuring not available for certain testing purposes.* The safe harbor in § 1.401(a)(4)-2(b)(3) for plans with uniform points allocation formulas is not available in testing (and thus cannot be satisfied by) contributions under a component plan. Similarly, component plans cannot be used for purposes of determining whether a plan provides broadly available allocation rates (as defined in § 1.401(a)(4)-8(b)(1)(iii)), determining whether a plan has a gradual age or service schedule (as defined in § 1.401(a)(4)-8(b)(1)(iv)), determining whether a plan has allocation rates that are based on a uniform target benefit allocation (as defined in § 1.401(a)(4)-8(b)(1)(v)), or determining whether a plan is primarily defined benefit in character or consists of broadly available separate plans (as defined in paragraphs (b)(2)(v)(B) and (C) of this section). In addition, the minimum allocation gateway of § 1.401(a)(4)-8(b)(1)(vi) and the minimum aggregate allocation gateway of paragraph (b)(2)(v)(D) of this section cannot be satisfied on the basis of component plans. See §§ 1.401(k)-1(b)(3)(iii) and 1.401(m)-1(b)(3)(iii) for rules regarding the inapplicability of restructuring to section 401(k) plans and section 401(m) plans.

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Par. 5. Section 1.401(a)(4)-12 is amended by adding a sentence to the end of the definition of *Standard mortality table* to read as follows:

§ 1.401(a)(4)-12 Definitions.

* * * * *

Standard mortality table. * * * The applicable mortality table under section 417(e)(3)(A)(ii)(I) is also a standard mortality table.

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Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Approved: June 21, 2001.

Mark A. Weinberger,
Assistant Secretary of the Treasury.

[FR Doc. 01-16326 Filed 6-28-01; 8:45 am]

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DEPARTMENT OF COMMERCE

Technology Administration

37 CFR Part 404

[Docket No. 010111012-1012-01]

RIN 0692-AA17

Licensing of Government Owned Inventions

AGENCY: Technology Administration, Commerce.

ACTION: Final rule.

SUMMARY: This final rule incorporates a recently enacted change to 35 U.S.C. 209 with respect to the granting of exclusive patent licenses by Federal agencies. Federal agencies are now authorized to provide the public no less than 15 days to file an objection to the proposed license. Under the present regulation in 37 CFR part 404, the notice period is 60 days although no specific time period was required by statute. This statutory change is being implemented to address the concern that the granting of exclusive licenses was being unnecessarily delayed by the 60-day notice period.

DATES: This rule is effective June 29, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. John Raubitschek, Patent Counsel, at telephone: (202) 482-8010.

SUPPLEMENTARY INFORMATION: In section 4(e) of Public Law 106-404, the Technology Transfer Commercialization Act of 2000, signed by the President on November 1, 2000, agencies are now required to give the public notice of at least 15 days before granting an exclusive or partially exclusive license on a federally owned invention. This is reflected in revisions to 37 CFR 404.7(a)(1)(i) and (b)(1)(i). One of the reasons for the minimum notice was a concern that the granting of exclusive licenses was being unnecessarily delayed by the 60 day notice period prescribed by the current regulations. Although agencies may now issue shorter notices, they are expected to balance the need for promptness against the statutory purpose of ensuring that Government inventions are used to benefit the public.

Public Law 106-404 makes other changes to 35 U.S.C. 209 which will be separately addressed in a proposed rule.

In addition, the rule now cites 35 U.S.C. 208, instead of 35 U.S.C. 206, as the correct authority for the Department of Commerce over the patent licensing regulation. The rule also cites section 3(d)(3) of DOO 10-18, instead of section

3(g), for the specific delegation to the Assistant Secretary of Commerce for Technology Policy. Under the authority of 35 U.S.C. 208 and the delegation by the Secretary of Commerce in section 3(d)(3) of DOO 10-18, the Assistant Secretary of Commerce for Technology Policy may issue revisions to 37 CFR Part 404.

Classification

Administrative Procedure Act:
Pursuant to 5 U.S.C. 553(b)(B), the Assistant Secretary of Commerce for Technology Policy finds good cause to waive the requirement to provide prior notice and an opportunity for public comment as being unnecessary. This regulation incorporates the language of the statute, verbatim. The Technology Administration is exercising no discretion for which public comment would serve a useful purpose and has no authority to change the statutory requirement.

Executive Order 12866

This rule has been determined not to be significant for purposes of Executive Order 12866 (58 FR 51735, October 4, 1993).

Executive Order 13132

This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, this rule not subject to the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

This rule does not impose any collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). However, OMB approval was recently obtained for the application for a license and the utilization reports. The number is 0692-0006 and expires on June 30, 2003.

List of Subjects in 37 CFR Part 404

Inventions, Patents, Licenses.

For the reasons set forth in the preamble, 37 CFR Part 404 is amended as follows:

PART 404—LICENSING OF GOVERNMENT OWNED INVENTIONS

1. The authority citation for 37 CFR Part 404 is revised to read as follows:

Authority: 35 U.S.C. 208 and the delegation of authority by the Secretary of Commerce to the Assistant Secretary of Commerce for Technology Policy at sec. 3(d)(3) of DOO 10-18.

2. Section 404.7 is amended by revising paragraphs (a)(1)(i) and (b)(1)(i)

§ 404.7 Exclusive and partially exclusive licenses.

* * * * *

(a)(1) * * *

(i) Notice of a prospective license, identifying the invention and the prospective licensee, has been published in the **Federal Register**, providing opportunity for written objections within at least a 15-day period;

* * * * *

(b)(1) * * *

(i) Notice of a prospective license, identifying the invention and the prospective licensee, has been published in the **Federal Register**, providing opportunity for written objections within at least a 15-day period and following consideration of such written objections received during the period.

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Dated: June 21, 2001.

Bruce P. Mehlman,

Assistant Secretary of Commerce for Technology Policy.

[FR Doc. 01-16137 Filed 6-28-01; 8:45 am]

BILLING CODE 3510-18-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[OPPTS-00310; FRL-6771-7]

OMB Approvals Under the Paperwork Reduction Act; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document updates EPA's table of OMB control numbers. These OMB control numbers are issued by the Office of Management Budget (OMB) under the Paperwork Reduction Act (PRA) for regulations containing information collection requirements. This technical amendment adds new approvals published in the **Federal Register** since July 1, 2000, removes expired and terminated approvals.

DATES: This rule is effective June 29, 2001.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara

Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Patricia Johnson, Regulatory Coordination Staff (7101), Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260-2893; e-mail address: johnson.patriciaa@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about OMB approval for information collections required by EPA regulations. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 9 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr9_00.html, a beta site currently under development.

II. Background

A. Why is this Technical Amendment Being Issued?

This document updates the OMB control numbers listed in 40 CFR part 9 for various actions published in the **Federal Register** since July 1, 2000, and issued under the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601)