

compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

#### List of Subjects in 7 CFR Part 958

Onions, Marketing agreements, Reporting and recordkeeping requirements.

#### PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

■ Accordingly, the interim final rule amending 7 CFR part 958 which was published at 70 FR 32481 on June 3, 2005, is adopted as a final rule without change.

Dated: August 25, 2005.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 05-17269 Filed 8-30-05; 8:45 am]

BILLING CODE 3410-02-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Chapter I

#### Energy Policy Act of 2005 Requirements; Treatment of Accelerator-Produced and Other Radioactive Material as Byproduct Material; Waiver

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Time-limited waiver of Energy Policy Act of 2005 requirements.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is issuing a time-limited waiver of the requirements enacted by section 651(e) of the Energy Policy Act of 2005, titled "Treatment of Accelerator-Produced and Other Radioactive Material as Byproduct Material", as they pertain to byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954, as added by section 651(e). The waiver will allow persons owning, using, and otherwise engaging in activities involving the material to continue with their activities and States to continue to regulate this material during the applicable waiver period.

**DATES:** This waiver is effective August 31, 2005. This waiver is effective through August 7, 2006, for the import and export of materials covered by the waiver, unless terminated sooner if the Commission determines that an earlier termination is warranted. For all other matters, it is effective through August 7, 2009, unless terminated sooner if the Commission determines that an earlier termination is warranted or required.

**FOR FURTHER INFORMATION CONTACT:**

Susan Chidakel, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-1535, e-mail [ssc@nrc.gov](mailto:ssc@nrc.gov) or Merri Horn, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-8126, e-mail, [mlh1@nrc.gov](mailto:mlh1@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The President of the United States signed the Energy Policy Act of 2005 on August 8, 2005. The provisions of the Act became effective immediately, unless another effective date was expressly provided. Since no effective date was stated for the provisions of section 651(e) of the Act, section 651(e) became effective immediately, and brought byproduct material, as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2201 *et seq.*), as added by section 651(e)(1), under the immediate regulatory authority of the Nuclear Regulatory Commission.

Section 11 e.(3) of the Atomic Energy Act of 1954 now includes as byproduct material: (i) any discrete source of radium-226 that is produced, extracted, or converted after extraction (before, on, or after the date of enactment of section 651(e) of the Energy Policy Act of 2005), for use for a commercial, medical, or research activity; and (ii) any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction (before, on, or after the date of enactment of section 651(e) of the Energy Policy Act of 2005), for use for a commercial, medical, or research activity. Section 11 e.(4) expands the definition to include any discrete source of naturally occurring radioactive material, other than source material, if certain conditions are met. Section 11 e.(4) is considered to be a place-holder and NRC staff does not anticipate a need for active regulation of the latter material at this time.

Prior to enactment of the Energy Policy Act of 2005, the NRC did not have authority over the newly covered byproduct material, and it fell under the authority of the States. Therefore, the

NRC does not currently have regulations in place that would specifically apply to the material. With the enactment of the Energy Policy Act of 2005, the States may no longer assert the authority to regulate the newly covered byproduct material, except as authorized to do so by the Act.

The Energy Policy Act of 2005 allows the Commission up to 18 months after the date of enactment to issue final regulations for the newly covered byproduct material. To facilitate an orderly transition of regulatory authority with respect to the newly defined byproduct material, the Act also provides for preparation and publication of a transition plan for States that have not previously entered into an Agreement with the Commission under section 274 b of the Atomic Energy Act and for those States that have entered into such an Agreement. However, neither the regulations nor the transition plan have yet been developed. Until such time as the regulations and transition plan have been completed and are in place, persons that engage in activities involving the material will want to continue with their activities.

To ease the transition period from individualized State programs to a more uniform regulatory program developed under the Atomic Energy Act and its section 274b Agreement State Program, section 651(e) of the Energy Policy Act of 2005 authorizes the Commission to issue waivers of its authority. Waivers of the Commission's jurisdiction will permit existing State authorities to continue. Ultimate transition from NRC to State authority for those States with an existing Agreement State program is expected to proceed easily. For States without such programs currently, that want to enter into an agreement with the NRC, this waiver period will permit them to go through the processes necessary to establish and carry out an Agreement State program to regulate this material after the waiver period expires.

Section 651(e)(5) authorizes the Commission to grant a waiver to any entity of any requirement under section 651(e) with respect to a matter relating to the newly defined byproduct material, except as required by section 651(e)(5)(B)(i)(I). Thus, such a waiver can also be granted to entities that engage in activities involving the material. Without the waiver, States that seek to continue regulation of the material would be, and persons that carry on activities involving the newly defined byproduct material could be, in technical violation of the Atomic Energy Act of 1954, as amended by section 651(e) of the Energy Policy Act of 2005.

The authorization to grant waivers is subject to the Commission's determination that the waiver is in accordance with the protection of the public health and safety and the promotion of the common defense and security. The Commission has determined that there is no basis on which to conclude that these materials will not continue to be used in a manner that ensures that the public health and safety will be protected while this waiver is in effect. The Energy Policy Act of 2005 also specifically requires the Commission to consider, in promulgating regulations, the impact on the availability of radiopharmaceuticals to physicians and to patients the medical treatment of which relies on radiopharmaceuticals. The Commission believes that it is in the best interests of the country to allow continued use of the newly defined byproduct material in radiopharmaceuticals for medical purposes, and to allow the States to continue to regulate the newly defined byproduct material until the Commission can codify new regulations for these materials.

In sum, the Commission currently does not have in place a specific set of regulations to oversee the use of byproduct material as defined in paragraphs (3) and (4) of section 11 e. of the Atomic Energy Act of 1954, as added by section 651(e) of the Energy Policy Act of 2005. Granting of the waiver set forth at the end of this document will allow, for the applicable waiver period, States to continue with their programs, persons engaged in activities involving the newly defined Atomic Energy Act byproduct material to continue their operations in a safe manner, and continued access to medical radiopharmaceuticals. This will also permit the Commission and States that currently do not have § 274i Agreement State regulatory programs, but wish to enter into an agreement with the NRC, to appropriately address the newly defined byproduct material. The Commission has determined that issuance of this waiver is in accordance with the protection of the public health and safety and the promotion of the common defense and security.

#### Waiver

Except as required by section 651(e)(5)(B)(i)(I), the Commission hereby grants a waiver from the requirements of section 651(e) of the Energy Policy Act of 2005, titled, "Treatment of Accelerator-Produced and Other Radioactive Material as Byproduct Material", as follows:

(1) To all persons engaged in export from or import into the United States of

byproduct material as defined in section 11 e.(3) and (4) of the Atomic Energy Act 1954, through August 7, 2006, unless terminated sooner if the Commission determines that an earlier termination is warranted; except that the requirements of the Department of Commerce relating to export of such material will continue to apply to such material during the waiver period;

(2) To all persons that acquire, deliver, receive, possess, own, use, or transfer byproduct material as defined in section 11 e.(3) and (4) of the Atomic Energy Act 1954, through August 7, 2009, unless terminated sooner if the Commission determines that an earlier termination is warranted; and

(3) To all States that have entered into an agreement with the Commission under section 274 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) and to States that have not entered into such an Agreement, through August 7, 2009, unless terminated sooner if the Commission determines that an earlier termination is warranted; except that such a waiver for an Agreement State will be terminated by the Commission, if the Commission makes the determinations required by section 651(e)(5)(B)(ii) of the Energy Policy Act of 2005.

Dated at Rockville, Maryland, this 25th day of August, 2005.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**  
*Secretary of the Commission.*

[FR Doc. 05-17293 Filed 8-30-05; 8:45 am]

**BILLING CODE 7590-01-P**

## DEPARTMENT OF THE TREASURY

### Office of Thrift Supervision

**12 CFR Parts 506, 516, 528, 543, 544, 545, 552, 559, 563, 563b, 567, 574, and 575**

[No. 2005-34]

RIN 1550-AB93

### EGRPRA Regulatory Review— Application and Reporting Requirements

**AGENCY:** Office of Thrift Supervision, Treasury (OTS).

**ACTION:** Final rule.

**SUMMARY:** As a part of its review of regulations under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104-208, Sept. 30, 1996) (EGRPRA), the Office of Thrift Supervision (OTS) is issuing a final rule, which reduces

regulatory burden on savings associations by updating and revising various application and reporting requirements. Specifically, the final rule: modifies the branch office and agency office application and notice requirements, harmonizes publication and public comment procedures for various applications and notices, and revises the meeting procedures. The final rule also eliminates various obsolete rules.

**DATES:** This rule is effective on October 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Josephine Battle, Program Analyst, Thrift Policy, (202) 906-6870; Donald Dwyer, Director, Applications, Examinations and Supervision Operations, (202) 906-6414; Karen Osterloh, Special Counsel, Regulations and Legislation Division, (202) 906-6639; or Gary Jeffers, Senior Attorney, Business Transactions Division, (202) 906-6457, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

In 2003, OTS and the other federal banking agencies began a joint effort to review their rules and identify outdated or otherwise unnecessary regulatory requirements. This review is required by section 2222 of EGRPRA, which directs the banking agencies to jointly or individually categorize their regulations by type, provide notice and solicit public comment on the categories, request commenters to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome, and eliminate unnecessary regulations to the extent that such action is appropriate. 12 U.S.C. 3311. As part of this EGRPRA process, OTS, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency published a notice seeking comment on unnecessary regulatory burden in their rules governing application and reporting requirements.<sup>1</sup>

Based on the comments submitted in response to the notice and additional comments voiced at EGRPRA outreach meetings, OTS issued an interim final

<sup>1</sup> 68 FR 35589 (June 16, 2003). The June 2003 notice also addressed powers and activities and international operations. The agencies have published subsequent notices seeking comment on consumer protection provisions in lending-related rules at 69 FR 2852 (January 21, 2004); consumer protection provisions in other rules at 69 FR 43347 (July 20, 2004); and money laundering and safety and soundness and securities rules at 70 FR 5571 (February 3, 2005).