

Nonappropriated Fund retirement coverage.

**PART 1631—AVAILABILITY OF RECORDS**

5. The authority citation for part 1631 continues to read as follows:

**Authority:** 5 U.S.C. 552.

6. Add § 1631.34 to read as follows:

**§ 1631.34 Certification and authentication of records.**

(a) Upon request, the records custodian or other qualified individual shall authenticate copies of books, records, papers, writings, and documents by attaching a written declaration that complies with current Federal Rules of Evidence. No seal or notarization shall be required. Copies of any books, records, papers, or other documents in the Federal Retirement Thrift Investment Board shall be admitted in evidence equally with the originals thereof when authenticated in this manner.

(b) Fees for copying and certification are set forth in 5 CFR 1630.16.

**PART 1651—DEATH BENEFITS**

7. The authority citation for part 1651 continues to read as follows:

**Authority:** 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

8. In § 1651.14, redesignate paragraphs (g) and (h) as paragraphs (h) and (i), and add new paragraph (g) to read as follows:

**§ 1651.14 How payment is made.**

\* \* \* \* \*

(g) *Payment to inherited IRA on behalf of a non-spouse beneficiary.* If payment is to an inherited IRA on behalf of a non-spouse beneficiary, the check will be made payable to the account. Information pertaining to the inherited IRA must be submitted by the IRA trustee.

\* \* \* \* \*

**PART 1655—LOAN PROGRAM**

9. The authority citation for part 1655 continues to read as follows:

**Authority:** 5 U.S.C. 8433(g), 8439(a)(3) and 8474.

**§ 1655.14 [Amended]**

10. In § 1655.14, the third sentence of paragraph (a) is removed.

**§ 1655.15 [Amended]**

11. In § 1655.15 “or” is added to the end of paragraph (a)(5), a period replaces the semicolon at the end of paragraph (a)(6), “or” is removed from

the end of paragraph (a)(6), and paragraph (a)(7) is removed.

**PART 1690—THRIFT SAVINGS PLANS**

12. The authority citation for part 1690 continues to read as follows:

**Authority:** 5 U.S.C. 8474.

13. Amend § 1690.12 by revising the second sentence in paragraph (b) and the third sentence in paragraph (c) to read as follows:

**§ 1690.12 Power of attorney.**

\* \* \* \* \*

(b) \* \* \* Additional information regarding general powers of attorney can be accessed at <http://www.tsp.gov>.

(c) \* \* \* Additional information regarding special powers of attorney, as well as a sample form, can be accessed at <http://www.tsp.gov>.

[FR Doc. E7-15635 Filed 8-9-07; 8:45 am]

**BILLING CODE 6760-01-P**

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 959**

[Docket Nos. AO-322-A4; AMS-2006-0079; FV06-959-1]

**Onions Grown in South Texas; Secretary’s Decision and Referendum Order on Proposed Amendments to Marketing Agreement No. 143 and Order No. 959**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule and referendum order.

**SUMMARY:** This decision proposes amending the marketing agreement and order (order) for onions grown in South Texas, and provides growers with the opportunity to vote in a referendum to determine if they favor the changes. The amendments are based on those proposed by the South Texas Onion Committee (committee), which is responsible for local administration of the order. The amendments include: Adding authority to the order to establish supplemental assessment rates on specified containers of onions; authorizing interest and late payment charges on assessments not paid within a prescribed time period; and authorizing the committee to engage in marketing promotion and paid advertising activities. Two additional amendments were proposed by the Department of Agriculture (USDA): Requiring that a continuance

referendum be conducted every six years to determine grower support for the order; and, limiting the number of consecutive terms of office a member can serve on the committee. The proposed amendments are intended to improve the operation and functioning of the South Texas onion marketing order program.

**DATES:** The referendum will be conducted from September 10 through September 28, 2007. The representative period for the purpose of the referendum is August 1, 2006 through July 31, 2007.

**FOR FURTHER INFORMATION CONTACT:** Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 2202 Monterey Street, #102-B, Fresno, CA 93721; telephone: (559) 487-5110, Fax: (559) 487-5906, E-mail: [Martin.Engeler@usda.gov](mailto:Martin.Engeler@usda.gov); or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, E-mail: [Kathy.Finn@usda.gov](mailto:Kathy.Finn@usda.gov).

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250-0237; telephone: (202) 720-2491, Fax: (202) 720-8938, E-mail: [Jay.Guerber@usda.gov](mailto:Jay.Guerber@usda.gov).

**SUPPLEMENTARY INFORMATION:** Prior documents in this proceeding include a Notice of Hearing issued on May 23, 2006, and published in the May 30, 2006, issue of the **Federal Register** (71 FR 30629), and a Recommended Decision issued on March 29, 2007 and published in the April 6, 2007 issue of the **Federal Register** (72 FR 17037).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

**Preliminary Statement**

The proposed amendments are based on the record of a public hearing held on June 15, 2006, in Mission, Texas. The hearing was held to consider the proposed amendment of Marketing Agreement No. 143 and Order No. 959 regulating the handling of onions grown in South Texas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et

*seq.*), hereinafter referred to as the "Act," and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900). The Notice of Hearing contained proposals submitted by the committee and by USDA.

Four proposed amendments to the order were initially submitted by the committee to USDA and were included in the Notice of Hearing. Proposal number four in the Notice of Hearing pertaining to container marking requirements was withdrawn at the hearing. The committee's remaining three proposed amendments to the order would: (1) Provide authority to establish supplemental assessment rates on specified containers of onions; (2) authorize interest and late payment charges on assessments not paid within a prescribed time period; and (3) add authority for marketing promotion, including paid advertising.

The USDA proposed two additional amendments that would: Require a continuance referendum to be conducted every six years to determine grower support for the order; and limit the number of consecutive years a member may serve on the committee. USDA also proposed to make such changes to the order as may be necessary, if any of the proposed changes are adopted, so that all of the order's provisions conform to the effectuated amendments.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on March 29, 2007, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by May 7, 2007. None were filed.

### Small Business Considerations

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Small agricultural growers have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than \$750,000. Small agricultural service firms are defined as those with annual receipts of less than \$6,500,000.

There are approximately 114 growers of onions in the production area and

approximately 38 handlers subject to regulation under the order. For the 2005–06 marketing year, the industry's 38 handlers shipped onions produced on 17,694 acres with the average and median volume handled being 182,148 and 174,437 fifty-pound equivalents, respectively. In terms of production value, total revenues for the 38 handlers were estimated to be \$44.2 million, with average and median revenues being \$1.16 million and \$1.12 million, respectively.

The South Texas onion industry is characterized by producers and handlers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of onions. Alternative crops provide an opportunity to utilize many of the same facilities and equipment not in use when the onion production season is complete. For this reason, typical onion producers and handlers either produce multiple crops or alternate crops within a single year.

Based on the SBA's definition of small entities, the Committee estimates that all of the 38 handlers regulated by the order would be considered small entities if only their onion revenues are considered. However, revenues from other productive enterprises would likely push a number of these handlers above the \$6,500,000 annual receipt threshold. Likewise, all of the 114 producers may be classified as small entities based on the SBA definition if only their revenue from onions is considered.

The committee is comprised of 10 growers and 7 handlers, representing both large and small entities. Committee meetings are open to the public. All members are able to participate in committee deliberations and each has an equal vote in committee decisions. When the committee met on October 28, 2004, and recommended the proposed amendments, all views expressed by the members and others in attendance were considered.

In addition, the hearing to receive evidence on the proposed changes was open to the public and all interested parties were invited and encouraged to participate and provide their views.

The proposed amendments are intended to provide the committee and industry with additional tools to aid in the marketing of South Texas onions, and to improve the operation and administration of the order. Record evidence indicates that the proposed changes are intended to benefit all onion producers and handlers under the order, regardless of size. Witnesses

testified that the impact of any of the proposals, if implemented, would be proportionate to individual grower's and handler's size, and that both small and large entities would benefit.

The record shows that the proposal to include authority for supplemental rates of assessments on specified containers would not have a differential impact on small versus large growers and handlers. Any increased assessment costs would be based on the type and volume of containers shipped rather than the size of a grower or handler's operation. Any supplemental assessment rate would thus be applied proportionately to handlers.

Onions that are packed and sold in cartons receive a higher return than onions packed and sold in bags or sacks. There is no known relationship between small versus large growers and handlers and the types of containers in which they pack their product. If onions packed in the higher value cartons were assessed at a higher rate, the assessment burden on the industry would be more proportionate to the revenues generated by the sales of product in the different types of containers.

In absolute dollar terms, a handler packing and selling only carton onions would pay more in assessments than a handler packing and selling a comparable volume of bagged onions. However, witnesses testified that additional funds generated from the supplemental assessment rate on specified containers would be used to promote sales of the product packed and sold in those containers. Therefore, the benefits of promotion would more directly benefit those paying the supplemental assessment. As discussed later in this document, the benefits of such promotions would be expected to outweigh the additional costs. Assessment revenues generated from supplemental assessment rates on specified containers would not be used to subsidize the lower assessment revenues generated from sales of the lower value product, thereby ensuring equitability between handlers.

The proposed amendment to authorize the committee to charge interest and/or late payment fees on assessments not paid within a prescribed time period would not have a differential impact on small and large entities. According to the record, late fees and interest charges, if implemented, would be based on handlers' timeliness of payments, regardless of size. A hearing witness familiar with the assessment collection operations under the order stated that there is no relationship between a handler's performance with regard to

timely assessment payment and the size of the handler's business operation. Any increased costs would be borne only by those handlers that fail to pay their assessments in a timely manner. These potential costs would offset any potential advantage handlers could gain by not paying their assessments when due and would thus promote equity for all handlers. It would provide an incentive to pay on time. This proposed amendment is strictly a performance-based measure and would thus be applied based on handlers' performance with respect to their payment of assessments.

Adding authority for paid advertising to the order would not disproportionately impact small business if such authority is implemented. Paid advertising activities would provide another tool the committee could use to promote its product. Paid advertising activities would be funded from handler assessments, which, as previously mentioned, are proportional to the volume of product shipped and thus proportional to the handler's relative size. Likewise, funding of the activities would be proportional.

Promotional activities authorized under the order are generic in nature. Generic advertising and promotion attempts to influence consumer's preferences and perceptions about a product, and if successful, ultimately expands the demand for the product. Because generic promotion promotes a product category, it benefits all entities in the category, especially growers and handlers. As witnesses testified, specific benefits of promotion and advertising programs are difficult to quantify, and are especially difficult to estimate prior to engaging in the activities. However, if more product is ultimately sold, both large and small growers and handlers benefit.

The proposed amendment to limit the number of consecutive terms of office that committee members may serve would increase industry participation on the committee by allowing more persons the opportunity to serve as members of the committee. It would also provide for more diverse membership, provide the committee with new perspectives and ideas, and increase the number of individuals in the industry with committee experience. There would be no additional cost as a result of this amendment.

The proposal to require continuance referenda on a periodic basis to ascertain grower support for the order would allow growers to vote on whether to continue the operation of the program. This provides a means for

those whom the order was intended to benefit with an opportunity to express their views regarding continuation of the marketing order. USDA would conduct the referenda, and thus USDA would bear the majority of any associated costs.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impacts of the proposed amendments to the order on small entities. The record evidence is that while some minimal costs may occur, those costs would be outweighed by the benefits expected to accrue to the South Texas onion industry. In addition, any additional costs would be proportional to a handler's size and would not unduly or disproportionately impact small entities.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. The amendments are designed to improve the administration and operation of the order and to provide additional tools to assist in the marketing of South Texas onions.

#### **Paperwork Reduction Act**

Current information collection requirements for Part 959 are currently approved by the Office of Management and Budget (OMB) under OMB number 0581-0178, "Vegetable and Specialty Crops." No changes in those requirements as a result of this proceeding are anticipated. Should any changes become necessary, they would be submitted to OMB for approval.

As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

#### **Civil Justice Reform**

The amendments to Marketing Order 959 proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under

section 608c(15)(A) of the Act (7 U.S.C. 608c(15)(A)), any handler subject to an order may file with the Department a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Department's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

#### **Findings and Conclusions**

The material issues, findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the April 6, 2007, issue of the **Federal Register** are hereby approved and adopted.

#### **Marketing Agreement and Order**

Annexed hereto and made a part hereof is the document entitled "Order Amending the Order Regulating the Handling of Onions Grown in South Texas." This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

*It is hereby ordered,* That this entire decision be published in the **Federal Register**.

#### **Referendum Order**

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*) to determine whether the annexed order amending the order regulating the handling of onions grown in South Texas is approved or favored by growers, as defined under the terms of the order, who during the representative period were engaged in the production of onions in the production area.

The representative period for the conduct of such referendum is hereby determined to be August 1, 2006, through July 31, 2007.

The agent of the Secretary to conduct such referendum is hereby designated to be Belinda G. Garza, Regional Manager, Texas Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (956) 682-2833, Fax: (956)

682-5942, or E-mail:  
Belinda.Garza@usda.gov.

### List of Subjects in 7 CFR Part 959

Marketing agreements, Onions,  
Reporting and recordkeeping  
requirements.

Dated: August 2, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing  
Service.

### Order Amending the Order Regulating the Handling of Onions Grown in South Texas<sup>1</sup>

#### Findings and Determinations

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing agreement and order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.*

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to Marketing Agreement No. 143 and Order No. 959 (7 CFR part 959), regulating the handling of onions grown in South Texas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of onions grown in the production area (designated counties in South Texas) in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as amended, and as hereby

proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of onions grown in the production area; and

(5) All handling of onions grown in the production area as defined in the marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

#### Order Relative to Handling

*It is therefore ordered,* That on and after the effective date hereof, all handling of onions grown in South Texas shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the Recommended Decision issued by the Administrator on March 29, 2007, and published in the **Federal Register** on April 6, 2007, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

#### PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 959 continues to read as follows:

**Authority:** 7 U.S.C. 601-674.

2. In Section 959.23, paragraph (a) is revised to read as follows:

#### § 959.23 Term of office.

(a) The term of office of committee members and their respective alternates shall be for two years and shall begin as of August 1 and end as of July 31. The terms shall be so determined that about one-half of the total committee membership shall terminate each year. Committee members shall not serve more than three consecutive terms. Members who have served for three consecutive terms may not serve as members for at least one year before becoming eligible to serve again. A person who has served less than six consecutive years on the committee may

not be nominated to a new two-year term if his or her total consecutive years on the committee at the end of that new term would exceed six years. This limitation on the number of consecutive terms and years does not apply to service on the committee prior to the enactment of this provision and does not apply to alternates.

\* \* \* \* \*

3. Revise paragraph (b) of § 959.42 to read as follows:

#### § 959.42 Assessments.

\* \* \* \* \*

(b) Based upon the recommendation of the committee or other available data, the Secretary shall fix a base rate of assessment that handlers shall pay on all onions handled during each fiscal period. Upon recommendation of the committee, the Secretary may also fix supplemental rates on specified containers, including premium containers, identified by the committee and used in the production area: Provided, That any such supplemental assessment funds shall be used, to the extent practicable, for projects and activities related to the product upon which such assessments are collected.

\* \* \* \* \*

4. Add a new paragraph (e) to § 959.42 to read as follows:

#### § 959.42 Assessments.

\* \* \* \* \*

(e) If a handler does not pay assessments within the time prescribed by the committee, the assessment may be increased by a late payment charge and/or an interest rate charge at amounts prescribed by the committee with approval of the Secretary.

5. Revise § 959.48 to read as follows:

#### § 959.48 Research and development.

The committee, with approval of the Secretary, may establish or provide for the establishment of production research, marketing research, development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of onions. The expenses of such projects shall be paid from funds collected pursuant to § 959.42.

6. In § 959.84, redesignate paragraph (d) as paragraph (e) and add a new paragraph (d) to read as follows:

#### § 959.84 Termination.

\* \* \* \* \*

(d) The Secretary shall conduct a referendum within six years after the effective date of this paragraph and every sixth year thereafter to ascertain

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

whether continuance is favored by producers. The Secretary would consider termination of this part if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of onions represented in the referendum favor continuance.

\* \* \* \* \*

[FR Doc. E7-15391 Filed 8-9-07; 8:45 am]

BILLING CODE 3410-02-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 2 and 171

RIN 3150-A115

### NRC Size Standards; Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend the size standards it uses to qualify an NRC licensee as a small entity under the Regulatory Flexibility Act and making the same change to its annual fee rule. NRC proposes to increase the receipts-based small business size standard from \$5 million to \$6.5 million to conform to the standard set by the Small Business Administration (SBA). This size standard reflects the most commonly used SBA size standard for the nonmanufacturing industries. SBA adjusted this standard on January 23, 2002 (67 FR 3041) and on December 6, 2005 (70 FR 72577) to account for inflation.

**DATES:** The direct final rule will become effective on October 24, 2007, unless significant adverse comments on the amendment are received by September 10, 2007. If the rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after September 10, 2007 will be considered if it is practical to do so, but the NRC is able to ensure only that comments received on or before this date will be considered.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150-A115) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including

personal information such as social security numbers and birth dates in your submission.

**Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

**E-mail comments to:** [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [CAG@nrc.gov](mailto:CAG@nrc.gov).

**Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

**Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [PDR@nrc.gov](mailto:PDR@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Michael Lesar, Chief, Rulemaking, Directives and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-7163, e-mail [mtl@nrc.gov](mailto:mtl@nrc.gov).

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

### Procedural Background

This rulemaking has the simple aim of updating NRC's size standards to reflect those of the SBA. Because the NRC

believes that this action should not cause controversy, the NRC is using the direct final rule process for this rule. The amendment in this rule will become effective on October 24, 2007. However, if the NRC receives significant adverse comments on this direct final rule by September 10, 2007, the NRC will publish a document that withdraws this action. In that event, the comments received in response to these amendments would then be considered as comments on the companion proposed rule published elsewhere in this **Federal Register**, and the comments will be addressed in a later final rule based on that proposed rule. Unless the modifications to the proposed rule are significant enough to require that it be republished as a proposed rule, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

### List of Subjects

#### 10 CFR Part 2

Administrative practice and procedure, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Source material, Special nuclear material, Waste treatment and disposal.

#### 10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations,