

Proposed Rules

Federal Register

Vol. 67, No. 224

Wednesday, November 20, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 1001

RIN 3206-AJ 69

OPM Employee Responsibilities and Conduct

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing a plain language rewrite of its regulations regarding the standards that govern OPM employee responsibilities and conduct as part of a broader review of OPM's regulations. The purpose of the revisions is to make the regulations more readable.

DATES: Comments must be submitted on or before January 21, 2003.

ADDRESSES: Send or deliver written comments to Wade Plunkett, Principal Deputy Ethics Official, Office of the General Counsel, Office of Personnel Management, Room 7532, 1900 E St., NW., Washington, DC 20415, FAX: 202-606-0082 or e-mail them to wmplunke@opm.gov.

FOR FURTHER INFORMATION CONTACT: Wade Plunkett, by telephone at 202-606-1700; by FAX at 202-606-0082; or by e-mail at wmplunke@opm.gov.

SUPPLEMENTARY INFORMATION: OPM is revising part 1001, which deals with OPM employee responsibilities and conduct, as part of a larger review of OPM regulations for plain language purposes. The purpose of this revision to part 1001 is not to make substantive changes, but rather to make part 1001 more readable. The proposed regulations have been converted to a question-and-answer format and we have made minor changes to the wording to enhance clarity.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities

because they will affect only Federal employees.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

List of Subjects in 5 CFR Part 1001

Conflicts of Interest.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM proposes to revise part 1001 as follows:

Subchapter C—Regulations Governing Employees of the Office of Personnel Management

PART 1001—OPM EMPLOYEE RESPONSIBILITIES AND CONDUCT

Sec.

1001.101 In addition to this part, what other rules of conduct apply to Office of Personnel Management employees?

1001.102 What are the Privacy Act rules of conduct?

Authority: 5 U.S.C. 552a, 7301.

§ 1001.101 In addition to this part, what other rules of conduct apply to Office of Personnel Management employees?

In addition to the regulations contained in this part, employees of the Office of Personnel Management (OPM) should refer to:

(a) The Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture regulations at 5 CFR part 2634;

(b) The Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635;

(c) The Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees regulations at 5 CFR part 2636;

(d) Regulations Concerning Post Employment Conflict of Interest at 5 CFR part 2637;

(e) Post-employment Conflict of Interest Restrictions regulations at 5 CFR part 2641;

(f) The OPM regulations at 5 CFR part 4501, which supplement the executive branch-wide standards;

(g) The Employee Responsibilities and Conduct regulations at 5 CFR part 735;

(h) The restrictions upon use of political referrals in employment matters at 5 U.S.C. 3303.

§ 1001.102 What are the Privacy Act rules of conduct?

(a) An employee shall avoid any action that results in the appearance of using public office to collect or gain access to personal data about individuals beyond that required by or authorized for the performance of assigned duties.

(b) An employee shall not use any personal data about individuals for any purpose other than as is required and authorized in the performance of assigned duties. An employee shall not disclose any such information to other agencies or persons not expressly authorized to receive or have access to such information. An employee shall make any authorized disclosures in accordance with established regulations and procedures.

(c) Each employee who has access to or is engaged in any way in the handling of information subject to the Privacy Act, 5 U.S.C. 552a, shall be familiar with the regulations of this subsection as well as the pertinent provisions of the Privacy Act relating to the treatment of such information.

[FR Doc. 02-29439 Filed 11-19-02; 8:45 am]

BILLING CODE 6325-48-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150-AH-05

List of Approved Spent Fuel Storage Casks: VSC-24 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the Pacific Sierra Nuclear Associates VSC-24 system listing within the "List of Approved Spent Fuel Storage Casks" to include Amendment No. 4 to the Certificate of Compliance. Amendment No. 4 would modify the present cask system design to permit the storage of different specific fuel control elements as integral components to fuel assemblies under a general license. Also, Technical Specification (TS) 1.1.1 would be amended to change the flood condition velocity from 7.62 meters per

second (m/s) [25 feet per second (ft/s)] to 5.39 m/s (17.7 ft/s); TS 1.2.1, 1.2.4., and 1.2.6 would be amended to address the additional fuel control elements approved for storage; and TS 1.2.10 would be deleted to eliminate redundant requirements for controlling moderator density.

DATES: Comments on the proposed rule must be received on or before December 20, 2002.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, Attn: Rulemaking and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Certain documents related to this rulemaking, as well as all public comments received on this rulemaking, may be viewed and downloaded electronically via the NRC's rulemaking website at <http://ruleforum.llnl.gov>. You may also provide comments via this website by uploading comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher (301) 415-5905; e-mail CAG@nrc.gov.

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room 11555 Rockville Pike, Rockville, MD. For more information, 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.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet 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. An electronic copy of the proposed Certificate of Compliance (CoC) and preliminary Safety Evaluation Report (SER) can be found under ADAMS Accession No. ML 022490171. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, telephone (301) 415-6219, e-mail, jmm2@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001.

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

Procedural Background

This rule is limited to the changes contained in Amendment 4 to CoC No. 1007 and does not include other aspects of the VSC-24 system design. The NRC is using the "direct final rule procedure" to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured.

Because NRC considers this action noncontroversial and routine, the proposed rule is being published concurrently as a direct final rule. The direct final rule will become effective on February 3, 2003. However, if the NRC receives significant adverse comments by December 20, 2002, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**. 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, in a substantive response:

(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 NRC staff to make a change (other than editorial) to the CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action.

List of Subjects In 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

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. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(20), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2224, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1007 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1007.

Initial Certificate Effective Date: May 7, 1993.
 Amendment Number 1 Effective Date: May 30, 2000.
 Amendment Number 2 Effective Date: September 5, 2000.
 Amendment Number 3 Effective Date: May 21, 2001.
 Amendment Number 4 Effective Date: February 3, 2003.
 SAR Submitted by: Pacific Sierra Nuclear Associates.
 SAR Title: Final Safety Analysis Report for the Ventilated Storage Cask System.
 Docket Number: 72-1007.
 Certificate Expiration Date: May 7, 2013.
 Model Number: VSC-24.

* * * * *

Dated at Rockville, Maryland, this 1st day of November, 2002.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 02-29486 Filed 11-19-02; 8:45 am]

BILLING CODE 7590-01-M

5226, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 am and 5 pm to: CC:ITA:RU (REG-127380-02), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20044. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at www.irs.gov/reg. The public hearing will be held in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Aaron A. Farmer (202) 622-3860; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Lanita Van Dyke, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Generally, a liquidating corporation does not recognize gain or loss under section 337(a) on a distribution of any property to an 80-percent distributee (as defined in section 337(c)) in a complete liquidation to which section 332 applies. Section 367(e)(2) provides that, in the case of any liquidation to which section 332 applies, section 337(a) and (b)(1) shall not apply where the 80-percent distributee is a foreign corporation except as provided in regulations. The purpose of section 367(e)(2) generally is to prevent the removal of appreciated assets from U.S. taxing jurisdiction without the imposition of a U.S. corporate level tax. See H.R. Conf. Rep. No. 99-841, at II-202 (1986).

On August 9, 1999, the IRS and Treasury published final regulations (TD 8834 in the **Federal Register** at 64 FR 43072) under section 367(e)(2) regarding distributions of property in a complete liquidation under section 332 by a domestic corporation to a foreign parent corporation (outbound liquidation) and by a foreign corporation to a foreign parent corporation (foreign-to-foreign liquidations).

With regard to foreign-to-foreign liquidations, § 1.367(e)-2(c) generally provides that nonrecognition treatment applies under section 337(a) and (b)(1) when a foreign corporation (foreign liquidating corporation) makes a distribution of property in complete liquidation under section 332 to a foreign corporation that meets the ownership requirements of section 332(b). The regulations require gain to

be recognized in a foreign-to-foreign liquidation if the foreign liquidating corporation makes a distribution of property which either is used by the foreign liquidating corporation in the conduct of a trade or business within the United States (a U.S. trade or business) at the time of the distribution or which ceased to be used in the conduct of a U.S. trade or business within the ten-year period ending on the date of distribution and would have been subject to section 864(c)(7) had it been disposed. The final regulations include an exception to this gain recognition rule in certain circumstances where the property is distributed to a foreign corporation that uses such property in a U.S. trade or business for the ten-year period following the distribution, provided that certain requirements are satisfied. § 1.367(e)-2(c)(2).

The final regulations included an anti-abuse rule providing that the Commissioner may require a foreign or domestic liquidating corporation to recognize gain (or treat the liquidating corporation as if it had recognized a loss) on a liquidating distribution if a principal purpose of the liquidation is the avoidance of U.S. tax. The final regulations further provide that a liquidation may have a principal purpose of tax avoidance even though the tax avoidance purpose is outweighed by other purposes (taken together or separately).

The preamble to the final regulations states that the anti-abuse rule would apply, for example, if a principal purpose of a liquidation is the distribution of a domestic liquidating corporation's earnings and profits without a U.S. withholding tax. The preamble to the final regulations also states that, in certain circumstances, the IRS is also concerned about a liquidation of a domestic corporation into a U.S. branch of a foreign corporation in a manner that facilitates the avoidance of U.S. tax, including the inappropriate use of attributes such as net operating losses. The preamble does not address the potential application of the anti-abuse rule to foreign-to-foreign liquidations.

Explanation of Provisions

Since the final regulations were issued, various commentators have expressed concern that the anti-abuse rule is overly broad because it is not limited by its express terms to outbound liquidations. Specifically, it has been brought to the attention of Treasury and the IRS that uncertainty regarding the potential application of the anti-abuse rule is preventing taxpayers from

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-127380-02]

RIN 1545-BA79

Outbound Liquidations to Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance regarding the application of section 367(e)(2) to certain outbound liquidations. The regulations amend the anti-abuse rule of § 1.367(e)-2(d) by narrowing the scope of the rule to apply only to outbound transfers to a foreign corporation in a complete liquidation of a domestic corporation in which a principal purpose of the liquidation is the avoidance of U.S. tax. This document also provides a notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by February 18, 2003. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for March 3, 2003, at 10 a.m. must be received by February 11, 2003.

ADDRESSES: Send submissions to CC:ITA:RU (REG-127380-02), room