

governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.”

The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. These regulations will not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### **Executive Orders 12866 and 13563—Regulatory Planning and Review**

OPM has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, “Regulatory Planning and Review”. Nevertheless, the Office certifies that this regulation has been drafted in accordance with the principles of Executive Order 12866, section 1(b), and Executive Order 13563, “Improving Regulation and Regulatory Review.” Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits, including consideration of potential economic, environmental, public health, and safety effects, distributive impacts, and equity. The benefits of this

proposed rule include simplification of the identification of nonexempt employees, inclusion of a mechanism to prevent the rule from becoming outdated, and harmonization with Department of Labor FLSA regulations. Additionally, the proposed rule provides equity in the treatment of Federal and private sector FLSA minimum wage and overtime pay treatment. The Office does not foresee any burdens to the public.

#### **Executive Order 13132—Federalism**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### **Executive Order 12988—Civil Justice Reform**

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Paperwork Reduction Act**

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this proposed rule because there are no new or revised recordkeeping or reporting requirements.

#### **List of Subjects in 5 CFR Part 551**

Government employees, and wages.  
U.S. Office of Personnel Management.

**Beth F. Cobert,**  
*Acting Director.*

Accordingly, OPM proposes to amend title 5, Code of Federal Regulations, part 551, as follows:

#### **PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT**

■ 1. The authority citation for part 551 continues to read as follows:

**Authority:** 5 U.S.C. 5542(c); Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended by Pub. L. 93–259, 88 Stat. 55 (29 U.S.C. 204(f)).

■ 2. Revise § 551.203 to read as follows:

#### **§ 551.203 Salary-based nonexemption.**

(a) An employee, including a supervisory employee, whose annual rate of basic pay is less than \$47,476 is nonexempt, unless:

(1) The employee is subject to § 551.211 (Effect of performing different work or duties for a temporary period of time on FLSA exemption status); or

(2) The employee is subject to § 551.212 (Foreign exemption criteria); or

(3) The employee is a professional engaged in the practice of law or medicine as prescribed in paragraphs (c) and (d) of § 551.208.

(b) For the purpose of this section, “rate of basic pay” means the rate of pay fixed by law or administrative action for the position held by an employee, including any applicable locality payment under 5 CFR part 531, subpart F, special rate supplement under 5 CFR part 530, subpart C, or similar payment or supplement under other legal authority, before any deductions and exclusive of additional pay of any other kind, such as premium payments, differentials, and allowances.

(c) Beginning on January 1, 2020, and every three years thereafter, the salary-based nonexemption level will be updated to equal the annualized earnings amount of the 40th percentile of weekly earnings of full-time non-hourly workers in the lowest-wage Census Region in the second quarter of the year preceding the update as published by the Bureau of Labor Statistics.

[FR Doc. 2016–27887 Filed 11–18–16; 8:45 am]

**BILLING CODE 6325–39–P**

## **NUCLEAR REGULATORY COMMISSION**

### **10 CFR Part 71**

[NRC–2016–0179]

RIN 3150–AJ85

### **Revisions to Transportation Safety Requirements and Compatibility With International Atomic Energy Agency Transportation Standards**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of issues paper, public meeting, and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering a potential amendment to its regulations that would revise the regulations on packaging and transporting radioactive material. The NRC is gathering information about potential changes that may be proposed in a subsequent rulemaking activity. The NRC is requesting public comment on the issues paper about potential changes that is referenced in this document. The

NRC plans to hold a public meeting to promote full understanding of the issues paper and to facilitate public comment.

**DATES:** Submit comments by January 20, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date. A public meeting will be held December 5–6, 2016.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2016–0179. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

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

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

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Emma Wong, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7091; [Emma.Wong@nrc.gov](mailto:Emma.Wong@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

### **I. Obtaining Information and Submitting Comments**

#### *A. Obtaining Information*

Please refer to Docket ID NRC–2016–0179 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2016–0179.

- *NRC’s Agencywide Documents Access and Management System*

(*ADAMS*): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

- *NRC’s PDR:* You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### *B. Submitting Comments*

Please include Docket ID NRC–2016–0179 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

### **II. Background**

In accordance with Commission direction, the NRC has initiated a rulemaking effort that addresses the need to make the regulations in part 71 of title 10 of the *Code of Federal Regulations* (10 CFR), “Packaging and Transportation of Radioactive Material,” compatible with the most current revisions of the International Atomic Energy Agency (IAEA) Specific Safety Requirements (SSR) No. SSR–6, “Regulations for the Safe Transport of Radioactive Material,” (SSR–6). The regulations in 10 CFR part 71 are based, in general, on the specific safety requirements developed by the IAEA. The IAEA has been revising its requirements on an approximate 10-year cycle, with the last edition of IAEA SSR–6 published in 2012 and the current draft of the new revision of SSR–6 expected to be published in

2018. Further, as described below, the NRC is considering other changes to 10 CFR part 71 that are not related to SSR–6.

To facilitate discussion and public comments, the NRC has prepared an issues paper that describes potential rulemaking issues (IAEA and non-IAEA-related) for the next revision to 10 CFR part 71. The issues paper will be posted at <http://www.regulations.gov/docket?D=NRC-2016-0179>.

The issues paper was developed in coordination with the U.S. Department of Transportation (DOT), because the DOT and the NRC co-regulate transportation of radioactive materials in the United States and have historically coordinated to harmonize their respective regulations to these IAEA revisions through the rulemaking process. Coordination ensures that consistent regulatory standards are maintained between the NRC’s and the DOT’s radioactive material transportation regulations, and coordinated publication of any final rules and associated regulatory guidance documents by each agency.

### **III. Regulatory Objectives**

The NRC identified changes made in SSR–6 published in 2012 by comparing it to the previous revision of SSR–6 published in 2009, and then identified affected sections of 10 CFR part 71. Based on this comparison, the NRC identified compatibility issues to potentially be addressed through the rulemaking process. The NRC also identified changes based on the current draft of the new revision of SSR–6, which is expected to be published in 2018. These issues are discussed in greater detail in the issues paper that will be posted at <http://www.regulations.gov/docket?D=NRC-2016-0179>. The NRC identified additional potential issues for incorporation in the rulemaking action that are also discussed in the issues paper (*i.e.*, changes related to harmonization with DOT regulations and include administrative, editorial, or clarification matters).

### **IV. Specific Considerations**

The NRC is seeking to gauge perspectives from the public before proceeding to the development of the proposed rule. The NRC is particularly interested in receiving comment and supporting rationale from the public about the potential changes in the packaging and transportation of radioactive material requirements. The following topics are discussed in the issues paper and will be discussed at the public meeting:

- Aging
- Definitions
- Fissile Materials
- Low Specific Activity (LSA)—III
- NRC-Identified Changes
- Reduced External Pressure Requirement for Type A Package Test
- Solar Insolation
- Surface Contaminated Object (SCO)—III
- Transitional Arrangements
- Type C Package
- UF<sub>6</sub> Package

Specifically, the NRC is interested in public and industry comments related to: (1) Quantitative information expressed as a realistic range of estimated costs and benefits for the potential changes described in the issues paper; (2) operational data about radiation exposures (increased or reduced) that might result from implementing the potential changes; (3) whether the potential changes are appropriate; and (4) whether there are any additional changes that should be considered, and if so, the supporting rationale and quantitative information for the additional change. The NRC will consider the stakeholders' comments to help quantify the potential impact of any proposed changes.

The NRC will provide another opportunity for public comment in any subsequent proposed rule that may be developed. Comments received in response to this **Federal Register** document will be considered in any subsequent rulemaking process.

## V. Public Meeting

The NRC will conduct a public meeting to describe the issues paper and answer clarifying questions from the public about the potential changes in the packaging and transportation of radioactive material requirements. The NRC will not be accepting verbal or written comments at the public meeting. All comments must be submitted as indicated in the **ADDRESSES** section of this document.

The meeting will be held on December 5–6, 2016, at Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852–2738, between 9:00 a.m. and 5:00 p.m. in Room T02B03. Public access to the meeting room is through the adjacent building located at One White Flint North, 11555 Rockville Pike.

This is a Category 3 meeting. Public participation is actively sought for this meeting to fully engage the public in a discussion of regulatory issues. The purpose of the meeting is for the NRC to present the potential changes to the requirements in 10 CFR part 71.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If reasonable accommodation is needed to participate in this meeting, or if a meeting notice or other information about this meeting is needed in another format (e.g., Braille, large print), please notify the individual listed in the **FOR FURTHER INFORMATION CONTACT** section in this document. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Individuals should monitor the NRC's public meeting Web page for information about the public meeting at: <http://www.nrc.gov/public-involve/public-meetings/index.cfm> where the telephone bridge line and passcode for the meeting will be available. All individuals should register their attendance for the meeting by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section in this document, or by completing the webinar registration at the NRC's public meeting Web page.

The NRC may post additional materials to the Federal rulemaking Web site at [www.regulations.gov](http://www.regulations.gov), under Docket ID NRC–2016–0179. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC–2016–0179); (2) click the “Sign up for Email Alerts” link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

## VI. Cumulative Effects of Regulation (CER)

The NRC has implemented a program to address the possible cumulative effects of regulation (CER), in the development of a regulatory basis for a rulemaking. The CER describes the challenges that licensees or other impacted entities (such as shippers, receivers, carriers, and State regulatory agencies) may face while implementing new or revised regulatory positions, programs, and requirements (e.g., rules, generic letters, backfits, inspections). The CER is an organizational effectiveness challenge that results from a licensee or impacted entity implementing a number of complex positions, programs, or requirements within a limited implementation period and with resources which may lack expertise to address a specific issue. The NRC is specifically requesting comment on the cumulative effects that may result from the potential changes in 10 CFR part 71. In developing comments on the potential changes relative to CER, consider the following questions:

(1) In light of any current or projected CER challenges, what should be a reasonable effective date, compliance date, or submittal date(s) from the time a final rule is published to the actual implementation of new or revised requirements in 10 CFR part 71 including changes to programs, procedures, or facilities?

(2) If current or projected CER challenges exist, what should be done to address this situation? For example if more time is required to implement a new or revised requirement, what period of time would be sufficient and why would such a time frame be necessary?

(3) Do other regulatory actions (e.g., orders, generic communications, license amendment requests, and inspection findings of a generic nature) from the NRC, DOT or other agencies influence the implementation of a new or revised requirement?

(4) Are there unintended consequences? Does a new or revised requirement create conditions that would be contrary to the requirement's intent? If so, what are the consequences and how should they be addressed?

(5) Please provide information on the costs and benefits for a new or revised requirement. The information should be expressed as a realistic range of estimated costs and benefits. This information would be used for the NRC's regulatory analysis of the proposed changes.

## VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31883). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

## VIII. Rulemaking Process

The NRC does not intend to provide formal comment responses for information provided from the public comment period on the issues paper. The NRC will consider comments on the issues paper in the rule development process. If the NRC develops a regulatory basis sufficient to support a proposed rule, there will be an opportunity for additional public comment when the draft regulatory basis and the proposed rule are published. If supporting guidance is developed for the proposed rule, stakeholders will have an opportunity to

provide feedback on it as well. Alternatively, if the regulatory basis does not provide sufficient support for a proposed rule, the NRC will publish a **Federal Register** document withdrawing this rulemaking activity and addressing the public comments received on the issues paper.

Dated at Rockville, Maryland, this 1st day of November, 2016.

For the Nuclear Regulatory Commission.

**Mark D. Lombard,**

*Director, Division of Spent Fuel Management.*

[FR Doc. 2016-27944 Filed 11-18-16; 8:45 am]

**BILLING CODE 7590-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Parts 343 and 390

RIN 3064-AE49

#### Removal of Transferred OTS Regulations Regarding Consumer Protection in Sales of Insurance and Amendments to FDIC Consumer Protection in Sales of Insurance Regulation

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this notice of proposed rulemaking, the Federal Deposit Insurance Corporation (“FDIC”) proposes to rescind and remove from the Code of Federal Regulations the subpart entitled “Consumer Protection in Sales of Insurance” (“the subpart”) that was included in the regulations transferred to the FDIC from the Office of Thrift Supervision (“OTS”) on July 21, 2011 in connection with the implementation of applicable provisions of title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The requirements for State savings associations in this subpart are substantively similar to the requirements in the FDIC’s part which is also entitled “Consumer Protection in Sales of Insurance” (“the part”) and is applicable for all insured depository institutions (“IDIs”) for which the FDIC has been designated the appropriate Federal banking agency.

The FDIC proposes to rescind in its entirety the subpart and to modify the scope of the part to include State savings associations and their subsidiaries to conform to and reflect the scope of the FDIC’s current supervisory responsibilities as the appropriate Federal banking agency. The FDIC also proposes to define “FDIC-supervised insured depository

institution or institution” and “State savings association.” Finally, the FDIC proposes to transfer an anticoercion and antitying provision from the subpart that is applicable to State savings associations.

Upon removal of the subpart, the Consumer Protection in Sales of Insurance, regulations applicable for all IDIs for which the FDIC has been designated the appropriate Federal banking agency will be found in the part.

**DATES:** Comments must be received on or before January 20, 2017.

**ADDRESSES:** You may submit comments by any of the following methods:

- *FDIC Web site:* <http://www.fdic.gov/regulations/laws/federal/propose.html>. Follow instructions for submitting comments on the agency Web site.

- *FDIC Email:* [Comments@fdic.gov](mailto:Comments@fdic.gov). Include RIN #3064-AE49 on the subject line of the message.

- *FDIC Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

- *Hand Delivery to FDIC:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m.

Please include your name, affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, comments should include a short Executive Summary consisting of no more than five single-spaced pages. All statements received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. You should submit only information that you wish to make publicly available.

**Please note:** All comments received will be posted generally without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Paper copies of public comments may be requested from the Public Information Center by telephone at 1-877-275-3342 or 1-703-562-2200.

**FOR FURTHER INFORMATION CONTACT:** Martha L. Ellett, Counsel, Consumer Compliance Section, Legal Division, (202) 898-6765; John Jackwood, Sr. Policy Analyst, Division of Depositor and Consumer Protection, (202) 898-3991.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *The Dodd-Frank Act*

The Dodd-Frank Act<sup>1</sup> provided for a substantial reorganization of the regulation of State and Federal savings associations and their holding companies. Beginning July 21, 2011, the transfer date established by section 311 of the Dodd-Frank Act, codified at 12 U.S.C. 5411, the powers, duties, and functions formerly performed by the OTS were divided among the FDIC, as to State savings associations, the Office of the Comptroller of the Currency (“OCC”), as to Federal savings associations, and the Board of Governors of the Federal Reserve System (“FRB”), as to savings and loan holding companies. Section 316(b) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(b), provides the manner of treatment for all orders, resolutions, determinations, regulations, and advisory materials that had been issued, made, prescribed, or allowed to become effective by the OTS. The section provides that if such materials were in effect on the day before the transfer date, they continue to be in effect and are enforceable by or against the appropriate successor agency until they are modified, terminated, set aside, or superseded in accordance with applicable law by such successor agency, by any court of competent jurisdiction, or by operation of law.

Section 316(c) of the Dodd-Frank Act, codified at 12 U.S.C. 5414(c), further directed the FDIC and the OCC to consult with one another and to publish a list of the continued OTS regulations that would be enforced by the FDIC and the OCC, respectively. On June 14, 2011, the FDIC’s Board of Directors approved a “List of OTS Regulations to be enforced by the OCC and the FDIC Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act.” This list was published by the FDIC and the OCC as a Joint Notice in the **Federal Register** on July 6, 2011.<sup>2</sup>

Although section 312(b)(2)(B)(i)(II) of the Dodd-Frank Act, codified at 12 U.S.C. 5412(b)(2)(B)(i)(II), granted the OCC rulemaking authority relating to both State and Federal savings associations, nothing in the Dodd-Frank Act affected the FDIC’s existing authority to issue regulations under the Federal Deposit Insurance Act (“FDI Act”) and other laws as the “appropriate Federal banking agency” or under similar statutory terminology. Section

<sup>1</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010) (codified at 12 U.S.C. 5301 *et seq.*).

<sup>2</sup> 76 FR 39247 (July 6, 2011).