

# Rules and Regulations

Federal Register

Vol. 63, No. 242

Thursday, December 17, 1998

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 98-087-4]

RIN 0579-AB01

#### Solid Wood Packing Material From China

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This document amends an interim rule published in the **Federal Register** on September 18, 1998, and effective December 17, 1998. That interim rule amends the regulations for importing logs, lumber, and other unmanufactured wood articles by adding treatment and documentation requirements for solid wood packing material imported from the Peoples Republic of China, including the Hong Kong Special Administrative Region. We are amending certain provisions of that rule regarding two documents, the official certificate and the exporter statement, and provisions regarding use of these documents for the entry of goods imported into the United States from the Peoples Republic of China including Hong Kong. We are adding a provision regarding a third document, the importer statement. We are making these changes to better coordinate the requirements of the rule with the United States Customs Service's electronic Automated Broker Interface system and entry operations procedures.

**DATES:** Interim rule effective December 17, 1998. Consideration will be given only to comments received on or before February 16, 1999.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 98-087-4, Regulatory

Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 98-087-4. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Campbell, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236, (301) 734-6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Animal and Plant Health Inspection Service (APHIS) regulates the importation of logs, lumber, and other unmanufactured wood articles to prevent the introduction into the United States of dangerous plant pests, including forest pests.

On September 18, 1998, we published in the **Federal Register** (63 FR 50100-50111, Docket No. 98-087-1) an interim rule that amended the regulations by imposing certain requirements on imported solid wood packing material (SWPM) from the Peoples Republic of China (referred to below as the PRC), including the Hong Kong Special Administrative Region (referred to below as Hong Kong). That interim rule was promulgated in order to prevent the introduction and establishment of the Asian longhorned beetle and other dangerous plant pests associated with SWPM from the PRC including Hong Kong. Under that rule (referred to below as the interim rule), if a commercial shipment from the PRC including Hong Kong contains SWPM, then prior to departure from the PRC including Hong Kong the SWPM must be heat treated, fumigated, or treated with preservatives<sup>1</sup>, and must be accompanied by a certificate signed by

<sup>1</sup> Allowed preservatives must use a product that is registered by the United States Environmental Protection Agency, applied in accordance with label directions. In response to questions from industry, APHIS wishes to give notice that registered borate products are one allowed preservative.

an official of a responsible government agency that documents the treatment of the SWPM. The interim rule also required that commercial shipments from the PRC including Hong Kong that do not contain any SWPM include an exporter statement on, or attached to, the commercial invoice *and* as an attachment to the bill of lading stating that the shipment contains no SWPM.

Since publication of the interim rule, in the course of coordinating with the United States Customs Service (referred to below as Customs) to prepare for implementation of the rule, we have become aware of several potential problems that could be caused by the language of the interim rule. These potential problems concern four areas: (1) What types of shipments are regulated; (2) location and presentation of documents required by the interim rule; (3) identity of authorities authorized to issue certificates required by the interim rule; and (4) liability of importers under the Customs import bond and the international carrier bond. The changes we are making to address these four problem areas are discussed below.

#### What Types of Shipments Are Regulated

The earlier interim rule imposed requirements on articles and SWPM "from China," which resulted in some confusion regarding transshipments, through ports of the PRC including Hong Kong, of cargo from other countries, and whether merchandise and SWPM from another country would be regulated if it was transshipped through the Peoples Republic of China including Hong Kong en route to the United States. This current rule uses the terms "merchandise exported from the PRC including Hong Kong accompanied by solid wood packing material" and "merchandise exported from the PRC including Hong Kong not accompanied by any solid wood packing material." We have also added a prefatory sentence reading "This paragraph does not apply to shipments transitting the Peoples Republic of China including Hong Kong from other countries en route to the United States, unless other merchandise or solid wood packing material is added to such shipments while in the Peoples Republic of China including Hong Kong." In both the original interim rule and this amendment, APHIS intends the

regulatory requirements to apply to merchandise and SWPM from the Peoples Republic of China including Hong Kong, not to merchandise and SWPM that originated in other countries and were merely transshipped through PRC or Hong Kong ports en route to the United States. So, for example, merchandise from Europe packed in SWPM from Europe that was transshipped through Hong Kong would not be subject to the regulations; but if merchandise or SWPM was added to that shipment in Hong Kong, that merchandise and SWPM would be subject to the regulations.

As discussed in the interim rule, Hong Kong as well as the mainland of China is subject to regulation due to the close and unique economic connections between the Hong Kong Special Administrative Region and the mainland of China, and the fact that about half of the mainland of China's exports to the United States go through Hong Kong. Additionally, Hong Kong does not produce any SWPM from its own forests and obtains the bulk of its SWPM from the mainland of China. Because there are no internal controls in the PRC to prevent the movement of the pests of concern, there is a significant risk that the SWPM Hong Kong obtains from the mainland of China and uses to export Hong Kong goods to the United States could introduce pests into the United States unless the SWPM is treated in accordance with the regulations.

#### **Location and Presentation of Documents Required by the Interim Rule**

The interim rule required that SWPM from the PRC including Hong Kong "be accompanied by" the required government certificate, and that shipments of merchandise from the PRC including Hong Kong that contain no SWPM must have an exporter statement "on or attached to the commercial invoice and as an attachment to the bill of lading."

Attachment of certificates and exporter statements could greatly increase the size of vessel manifests. The purpose of requiring documents to be attached was to allow inspectors at the port of entry to confirm that the required documents exist.

It is not necessary for the certificate to physically accompany the shipment if the existence of the certificate is confirmed and a copy of it is available to the inspector when needed. When cargo enters the United States using Customs electronic entry procedures, the existence of a certificate and the contact person who can provide a copy

of the certificate can be recorded in the Customs Automated Broker Interface (ABI) discussed below. Therefore, this rule will not require that a certificate accompany a shipment containing SWPM from the PRC including Hong Kong, if the pertinent entry summary has been electronically filed in the Customs ABI. Instead, the rule will require that an importer must have on file in his or her office a certificate accurately documenting the treatment of the SWPM. The importer must also have on file an importer statement, which is a written statement by the importer affirming that the importer has on file at his or her office the required certificate. This importer statement will be useful in enforcing the regulations because in the importer statement the importer attests to awareness of and compliance with the certificate requirement. The importer must produce a copy of the certificate and the importer statement if requested by an inspector. The importer must retain copies of these two documents in its office for a period of one year following the date of importation.

For importers who do not employ ABI filing for their shipments, the rule will continue to require that a copy of the certificate accompany the shipment. These importers, however, must also have a copy of the certificate and importer statement on file at their office and retain them for a period of one year following the date of importation.

While using ABI records will allow inspectors to avoid having to examine the *certificate* for every certified shipment from the PRC including Hong Kong, it is necessary that an *exporter statement* be available in the paperwork associated with every shipment that does not contain SWPM. This is because APHIS enforcement activities at ports usually begin with examination of manifests and other cargo documents, and an exporter statement attached to these documents is the basis for distinguishing between shipments that contain regulated SWPM and shipments that do not. In other words, an inspector reviewing manifests and bills of lading must assume that any shipment that does not have an exporter statement in these documents should contain SWPM, and therefore has a certificate and importer statement on file in the importer's office. Any shipment that does not contain SWPM, but lacks an exporter statement documenting this fact attached to the associated paperwork, may be delayed while the inspector determines through inspection that it does not contain SWPM.

Therefore, we are continuing to require that an exporter statement be

presented at the port, rather than be available on file in the importer's office. However, to provide more options for presenting the exporter statement, we are changing the requirement that it be attached to both the commercial invoice and the bill of lading. Instead, it may be attached to the bill of lading, commercial invoice, or airway bill, or may be supplied to the inspector at the port of arrival prior to arrival of the cargo. In this last case the exporter statement would not need to accompany the bill of lading, invoice, or airway bill.

Thus, an importer using ABI must ensure that a certificate has been issued for his shipment if it contains SWPM from the Peoples Republic of China including Hong Kong, and must keep this certificate along with the importer statement on file in his or her office, and must produce them if requested by an inspector. Importers who do not use ABI must ensure that a copy of the certificate accompanies their shipment, and that the certificate and importer statement are on file in his or her office. For shipments from the PRC including Hong Kong containing no SWPM, the importer must present an exporter statement by either attaching it to papers accompanying the shipment, or by sending it (e.g., by fax) in advance to the port of arrival.

We anticipate that brokers and importers will make extensive use of fax transmission to provide inspectors with copies of certificates the inspectors request, and to send inspectors exporter statements in advance of the arrival of cargo. We will be enhancing the capabilities of affected ports to receive large volumes of faxes, and will widely publish the port fax machine telephone numbers.

Additionally, as described below, brokers who use the ABI for their shipments must indicate the existence of a certificate or exporter statement for a shipment in the appropriate field of the ABI. (Customs is currently developing ABI fields for this purpose, and instructions to ABI users.) Inspectors will thus be able to use ABI data to see whether the importer states that a certificate or exporter statement exists for each shipment listed in the ABI (which is currently used for over 75 percent of all seaborne cargo shipments).

The ABI is being modified to include new fields for cargo imported from the PRC including Hong Kong (at a minimum, one field documenting existence of a certificate and that the shipment contains SWPM, and another field documenting the existence of an exporter statement and that the shipment does not contain SWPM).

Because the electronic filing protocol will not accept a filing for cargo from the PRC including Hong Kong unless the broker making the filing completes one of these two fields, the revised ABI will help ensure that brokers and importers are aware of the APHIS regulatory requirements for SWPM. We expect this feature will greatly enhance awareness of and compliance with the regulations.

On another topic related to the location and presentation of documents required by the regulations, we are adding a new paragraph § 319.40-5(i), "Special provisions for air overnight couriers and air express delivery companies." This paragraph clarifies that companies that carry express delivery packages from the PRC including Hong Kong to the United States for many different customers may present a single certificate, exporter statement, or both (as appropriate under the regulations) for each aircraft carrying their packages for delivery in the United States. The company may present a single certificate if it has arranged treatment of all the SWPM on the flight, or it may present multiple certificates if the flight carries multiple packages containing SWPM that were accepted for delivery from multiple customers, each of whom arranged treatment and certification of their own packages. The company may also present a single exporter statement if it determines that all packages on the flight not accompanied by certificates are free from SWPM. Alternatively, the company may present more than one exporter statement if it finds, for instance, that it is more convenient to have individual customers write exporter statements for their own packages.

As provided by the original interim rule, if an importer does not present the required documents, or is otherwise in violation of the regulations, inspectors at the port of entry can order the shipment to be reexported. If there is no immediate plant pest risk and appropriate facilities are available for use, inspectors may allow the SWPM to be separated from the cargo and reexported or destroyed. Separation of the cargo from the SWPM will only be allowed if the inspector determines this may be done without risk of spreading plant pests. If there is no secure area in which a shipment can be stored until the importer produces required documentation, or if there is no secure area where separation of cargo and SWPM can occur, or if separation cannot be done in a manner to prevent risk of pests escaping, the inspector will order the shipment reexported.

#### **Identity of National Authorities Authorized To Issue Certificates Required by the Interim Rule**

It appears that readers of the interim rule would like further guidance on which national authorities may issue certificates. Therefore, we are changing the phrase "a certificate signed by an official of a Chinese government agency authorized by the national government of China," to read "a certificate signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the government of the Hong Kong Special Administrative Region." To make it perfectly clear that the regulations apply to Hong Kong, we are also changing several references to articles "from China" to read "from the Peoples Republic of China including Hong Kong."

#### **Liability Under the Import Bond and the International Carrier Bond**

The interim rule explained how APHIS would charge user fees for certain activities required to enter cargo from the PRC including Hong Kong in accordance with the regulations, but did not specifically discuss the overall liability of importers and carriers under the interim rule. This amendment includes a new paragraph, § 319.40-5(k), that describes the liability of importers. The new paragraph on liability states that "Any failure of an importer to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the Customs basic import bond. Any failure of a carrier to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the international carrier bond." Paragraphs (g)(6) and (h) of § 319.40-5 in this amendment also discuss importers' costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material. This amendment adds the sentence "Any such costs may be charged to the importer's customs bond" to those paragraphs.

#### **Immediate Action**

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent further introduction and spread of exotic pests associated with SWPM

from the Peoples Republic of China including Hong Kong.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this rule effective on December 17, 1998. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This interim rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This interim rule makes minor changes regarding documentation and entry procedures to the earlier interim rule published on September 18, 1998 (63 FR 50100-50111, Docket No. 98-087-1) affecting importation of solid wood packing materials from the PRC including Hong Kong. Please refer to the text of that rule for a discussion of its effects under Executive Order 12886 and the Regulatory Flexibility Act.

#### **Executive Order 12988**

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### **National Environmental Policy Act and Environmental Effects Abroad of Major Federal Actions**

An environmental assessment and finding of no significant impact have been prepared for the earlier interim rule published on September 18, 1998 (63 FR 50100-50111, Docket No. 98-087-1). This new interim rule will not result in any environmental effects not discussed in that environmental assessment.

#### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in

this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0135.

**List of Subjects in 7 CFR Part 319**

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

**PART 319—FOREIGN QUARANTINE NOTICES**

1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 150dd, 150ee, 150ff, 151-167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 319.40-1, a new definition is added in alphabetical order to read as follows:

**§ 319.40-1 Definitions**

\* \* \* \* \*

*Importer statement.* A written declaration by the importer, for a shipment containing solid wood packing material from the Peoples Republic of China including Hong Kong, affirming that the importer has on file at his or her office the certificate required under § 319.40-5(g)(2)(i).

\* \* \* \* \*

**§ 319.40-3 [Amended]**

3. In § 319.40-3, paragraphs (b)(1), (b)(2), and (b)(3), the first sentence of the introductory text in each paragraph is amended by removing the phrase "from China must be imported in accordance with § 319.40-5(g)" and adding in its place the phrase "from the Peoples Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i)."

4. In § 319.40-5, paragraphs (g) and (h) are revised, and new paragraphs (i), (j), and (k) are added, to read as follows:

**§ 319.40-5 Importation and entry requirements for specified articles.**

\* \* \* \* \*

(g) *Solid wood packing material and merchandise from the Peoples Republic of China including Hong Kong.* This paragraph does not apply to shipments transiting the Peoples Republic of China including Hong Kong from other countries en route to the United States, unless merchandise or solid wood packing material is added to such shipments while in the Peoples Republic of China including Hong Kong.

Otherwise, merchandise exported from the Peoples Republic of China including Hong Kong that is accompanied by solid wood packing material may only be entered into the United States in accordance with this paragraph (g) and paragraph (i) of this section. This restriction applies to both merchandise that originated in the Peoples Republic of China including Hong Kong and merchandise that entered the Peoples Republic of China including Hong Kong for further processing or packaging, regardless of whether the merchandise moves directly from the Peoples Republic of China including Hong Kong to the United States or transits other countries en route to the United States.

(1) Prior to exportation from the Peoples Republic of China including Hong Kong, any solid wood packing material must be heat treated, fumigated, or treated with preservatives, using a treatment schedule contained in § 319.40-7 or in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. During the entire interval between treatment and export the solid wood packing material must be stored, handled, or safeguarded in a manner which excludes any infestation of the solid wood packing material by plant pests.

(2) Any merchandise accompanied by solid wood packing material exported from the Peoples Republic of China including Hong Kong may only be entered if the importer has on file at its office, and retains there for a period of one year following the date of importation, the following documents:

(i) A certificate signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the government of the Hong Kong Special Administrative Region, stating that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated, or treated with preservatives using a treatment schedule contained in § 319.40-7 or in the Plant Protection and Quarantine Treatment Manual, and

(ii) An importer statement (a written statement by the importer affirming that the importer has on file at his or her office the certificate required under paragraph (g)(2)(i) of this section).

(3) In addition to the document requirements of paragraph (g)(2) of this section, a copy of the certificate must accompany all shipments that do not enter using the United States Customs Service's electronic entry filing and Automated Broker Interface.

(4) Upon the request of an APHIS inspector or a United States Customs Service officer, the importer must produce a copy of the certificate and importer statement issued for any shipment.

(5) At their option, in order to expedite release of a shipment, an importer may provide a certificate to the APHIS inspector at the port of first arrival prior to the arrival of the shipment. Exporters may also at their option, in order to expedite release of their shipment at the port of first arrival, arrange to have each article of solid wood packing material that has been treated marked at the treatment facility with a stamp or weatherproof label that reads CHINA TREATED. This type of marking, however, is not a substitute for the required certificate.

(6) If an APHIS inspector determines that a shipment imported from the Peoples Republic of China including Hong Kong contains plant pests, or contains solid wood packing material that was not heat treated, fumigated, or treated with preservatives, the APHIS inspector may refuse entry of the entire shipment (merchandise and solid wood packing material). If an importer does not produce upon request by an APHIS inspector the certificate required for a shipment imported from the Peoples Republic of China including Hong Kong containing solid wood packing material, the APHIS inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material) until the certificate is produced. For any shipment refused entry, if the APHIS inspector determines that the merchandise may be separated from the solid wood packing material and that the solid wood packing material may be destroyed or reexported without risk of spreading plant pests, the inspector may allow the importer to separate the merchandise from the solid wood packing material at a location and within a time period specified by the inspector to prevent the dissemination of plant pests, and destroy or reexport the solid wood packing material under supervision of an inspector. The means used to destroy solid wood packing material under this section must be incineration, or chipping followed by incineration. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities, in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer's customs bond.

(h) *Cargo from the Peoples Republic of China including Hong Kong that does*

not contain solid wood packing material. Merchandise exported from the Peoples Republic of China including Hong Kong that is not accompanied by any solid wood packing material must have attached to the commercial invoice, the bill of lading, or the airway bill, an exporter statement stating that the shipment contains no solid wood packing material. As an alternative to attaching the exporter statement to the paperwork presented at entry, the importer may provide the exporter statement to the APHIS inspector at the port of entry prior to arrival of the shipment. Any shipment is subject to inspection for solid wood packing material, and if such inspection is ordered by an inspector, the shipment will not be granted entry into the United States prior to completion of the inspection. If the inspection reveals solid wood packing material, the inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material). Any shipment refused entry will be handled in accordance with the procedures in paragraph (g)(6) of this section. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer's customs bond.

(i) *Special provisions for air overnight couriers and air express delivery companies.* Overnight couriers and express delivery companies must present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more certificates for each arriving aircraft that carries packages employing solid wood packing material. The company may present one certificate in cases where the company has arranged treatment of all solid wood packing material on the flight, and may present multiple certificates in cases where packages with solid wood packing material were accepted for delivery by the company from multiple customers, each of whom arranged for treatment and certification of their respective packages. The certificates must be signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the Hong Kong Special Administrative Region, and must state that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated, or treated with preservatives

using a treatment schedule contained in § 319.40-7 or in the Plant Protection and Quarantine Treatment Manual. If the aircraft contains no packages that employ solid wood packing material, or contains both packages that do and do not employ solid wood packing material, the overnight courier or express delivery company must also present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more exporter statements stating that the packages on the aircraft not covered by a certificate contain no solid wood packing material.

(j) *Customs entry or entry summary filing requirements.* By instruction, the United States Customs Service will inform importers of any information that may be required on entry or entry summary documentation under the Automated Broker Interface or other entry filing systems, electronic or otherwise, with regard to recording the existence of certificates, importer statements affirming that the importer has on file at his or her office any certificate required, and exporter statements that there is no solid wood packing material in a shipment.

(k) *Liability under the Customs import bond and international carrier bond.* Any failure of an importer to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the Customs basic import bond. Any failure of a carrier to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the international carrier bond.

Done in Washington, DC, this 14th day of December 1998.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 98-33444 Filed 12-14-98; 3:33 pm]

BILLING CODE 3410-34-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 1

RIN 3150-AG10

### Transfer of Rulemaking Functions

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to reflect the transfer of the

rulemaking functions and responsibilities from the Office of Nuclear Regulatory Research to the Office of Nuclear Material Safety and Safeguards and the Office of Nuclear Reactor Regulation. This final rule is necessary to inform the public of the transfer of rulemaking responsibilities within the NRC.

**EFFECTIVE DATE:** December 17, 1998.

**FOR FURTHER INFORMATION CONTACT:** Alzonja Shepard, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6864, e-mail:aws1@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

### Background

In a Staff Requirements Memorandum dated September 16, 1997, the Commission directed that all rulemaking functions and responsibilities be transferred from the Office of Nuclear Regulatory Research to the program offices. The transfer became effective on February 28, 1998. The Nuclear Regulatory Commission is amending portions of its regulations to reflect the transfer of rulemaking functions and responsibilities.

Because these amendments deal solely with the organization and transfer of duties, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(A). These amendments are effective upon publication in the **Federal Register**. Good cause exists to dispense with the usual 30-day delay in the effective date, because these amendments are of a minor and administrative nature, dealing with the organization and relocation of agency personnel.

### Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

### Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 10 CFR Part 1

Organization and functions (Government agencies).

For the reason set out in the preamble and under the authority of the Atomic