regulated articles interstate from a quarantined area would be deprived of the opportunity to benefit from the sale of the affected regulated articles in another State. However, we do not have data to estimate either the potential loss of income or the economic effect of any potential loss of income on small businesses.

ALB has the potential to cause extensive tree damage and serious economic losses to many businesses, both large and small, in the United States. In the eastern region of the United States alone, which includes the north-central States, there are 279 million acres of hardwood forests, representing about 75 percent of the land of all eastern forests. That forest acreage is in addition to land in urban and suburban areas where hardwood trees are common in streets, backyards, and parks. It is estimated that maple trees account for at least 30 percent of the street and park plantings in urban areas. Nursery stock and certain fruit trees are also at risk.

Industries that would be negatively affected by the spread of ALB are important economically. The forest products industry provided employment to 1.6 million U.S. workers in 1986, the last year for which complete data is available. That number represents 9 percent of the employment in all industries that year. For the United States as a whole, timber was the most important agricultural crop in 1986 in terms of the dollar value of production. In 1986, roundwood timber products, at local points of delivery, were valued at $12.6 billion, ahead of corn, which was valued at $12.4 billion. In the north-central United States, timber was the fourth most important agricultural crop in 1986, behind only corn, soybeans, and hay. The value of roundwood timber products harvested in the north-central United States accounted for 8 percent of the employment, 6 percent of the wages and salaries, and 7 percent of the value of shipments of all industries in that area in 1986. This translates to a workforce of 382,000 employees earning $8.6 billion. Industry shipments were valued at $44.8 billion in 1986. In all, forest industry manufacturing in the north-central United States contributed $53.4 billion to the gross national product in 1986. (These statistics on the forest products industry reflect products made from softwood timber as well as hardwood timber. However, the effect of hardwood timber on the totals is significant. As an example, hardwood accounted for 80 percent of the net volume of growing stock on timberland in eight north-central States in 1992.)

Nonmanufacturing industries that rely on healthy hardwood trees are also important economically. In 1994, the annual average employment and wages at firms in the north-central States engaged primarily in the production of ornamental nursery products, including nursery stock, totaled 18,429 and $303 million, respectively. In 1993, sales of plants (trees and shrubs) by nurseries and greenhouses in the United States totaled an estimated $3.1 billion, of which $525 million was derived from sales in eight north-central States. During the year ending September 30, 1993, 103.9 million landscape trees were sold in the United States, including 26 million in 8 north-central States. Approximately half of all landscape trees sold in the United States are hardwood trees.

The maple syrup industry relies on healthy maple trees, especially the sugar maple, for its production. In 1995, three north-central States (Michigan, Ohio, and Wisconsin) accounted for about 20 percent of the value of the U.S. maple syrup production ($25.5 million).

The tourism industry is tied heavily to leaf color changes in the fall, and the maple tree is noted for producing some of the most vivid colors. Between mid-September and late October, for example, the hardwood forests of New England draw 1 million tourists and generate $1 billion in revenue. It is estimated that up to one-fourth of the tourism revenue generated annually in New England is due to the fall foliage displays. Although to a lesser extent than in New England, the forests of the north-central States also generate tourism revenue as a result of leaf color changes in the fall.

The commercial fruit industry is also at risk of pest infestation, as pear, apple, plum, and citrus trees are susceptible to ALB infestation. It is estimated that, for the United States as a whole, the cost of replacing host fruit trees would amount to $5.2 billion alone for pear, apple, and plum orchards and $10.4 billion for citrus. The fruits of host trees would also be affected by a widespread infestation. The average 1995–1997 value of utilized production in the United States of the four fruits noted above was estimated at $4.7 billion.

The alternative to the interim rule was to take no action. We rejected this alternative because the quarantine of the three areas in Illinois listed in the interim rule is necessary to prevent the spread of ALB.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR 301 and that was published at 63 FR 63385–63388 on November 13, 1998.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 25th day of May 1999.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–13792 Filed 5–28–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 245

[INS No. 1881–97]

RIN 1115–AE96

Adjustment of Status; Continued Validity of Nonimmigrant Status, Unexpired Employment Authorization, and Travel Authorization for Certain Applicants Maintaining Nonimmigrant H or L Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rulemaking amends and clarifies Immigration and Naturalization Service regulations governing an H–1 and L–1 nonimmigrant's continued nonimmigrant status during the pendency of an application for adjustment of status. This action incorporates into the regulations existing Service policy statements regarding this issue. In addition, this rule eliminates the requirement for those adjustment applicants who maintain valid H–1 and L–1 nonimmigrant status, and their dependent family members, to obtain advance parole prior to traveling outside the United States. Finally, the Service is considering expanding the ''dual intent'' concept to cover long term nonimmigrants, in E, F, J, and M visa classifications, who are visiting this country as traders, investors, students, scholars, etc.

DATES: *Effective date:* This interim regulation is effective July 1, 1999.

Comment date: Written comments must be submitted on or before August 2, 1999.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalizations Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS No. 1881–97 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Frances A. Murphy, Adjudications Officer, Residence and Status Services Branch, Office of Adjudications, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–3978.

SUPPLEMENTARY INFORMATION:

Why Is the Service Issuing This Regulation?

This rule is being issued to codify previous Service policy statements regarding the eligibility of H–1 and L–1 nonimmigrants, and their dependent family members, to maintain and to extend their nonimmigrant status while their applications for permanent residence remain pending. This rule also addresses the issue of the eligibility of these aliens to travel outside the Untied States without abandoning their applications for status.

What Categories of Aliens May Maintain Nonimmigrant Status After Having Filed for Adjustment of Status?

Under Section 214(b) of the Immigration and Nationality Act, (Act), most nonimmigrants who apply for adjustment of status to that of permanent residents of the United States are presumed to be intending immigrants and, therefore, are no longer eligible to maintain nonimmigrant status. Section 214(h) of the Act, however, permits aliens described in section 101(a)(15)(H)(i) and (L) of the Act, i.e., temporary workers in specialty occupations, intracompany managerial or executive transferees, and their dependent spouses and children, to maintain their nonimmigrant status during the pendency of their applications for adjustment of status.

In addition, the Service is considering expanding the dual intent concept to cover other long term nonimmigrants who are visiting this country as traders (E–1), investors (E–2), students (F–1, J–1 or M–1), or scholars (J–1), etc. These nonimmigrants, who are typically authorized to stay in this country for considerable lengths of time, often need to make short overseas travels during their authorized stay. Under the ''dual intent'' doctrine, these nonimmigrants would be able to maintain valid nonimmigrant status and travel overseas without advance parole while applying for adjustment of status.

The Service has, traditionally, considered applying for adjustment of status as relevant evidence in determining whether an alien has abandoned the requisite nonimmigrant intent. Section 214(b) of the Act does not, however, require the Service to hold this position as an absolute rule. So long as the alien clearly intends to comply with the requirements of his or her nonimmigrant status, the fact that the alien would like to become a permanent resident, if the law permits this, does not bar the alien's continued holding of a nonimmigrant status.

The Service is interested in the public view on this matter and would appreciate written comments.

How Does This Rule Affect Maintenance of H–1 and L–1 Nonimmigrant Status?

Section 214(h) of the Act specifically provides that the fact that an H–1 or L–1 nonimmigrant is the beneficiary of an application for a preference status filed under section 204 or has ''otherwise sought permanent residence'' in the United States shall not constitute evidence of an intent to abandon the foreign residence. The Service interprets section 214(h) to mean that, in addition to the approval of a labor certification or a preference visa petition, the mere filing of an application for status shall not be the basis for denying an H–1 or L–1 nonimmigrant's properly completed application (or that of their dependent family members in H–4 or L–2 status) for extension of stay or change of status within the H–1 or L–1 (or, as applicable, a H–4 or L–2) classifications. A pending adjustment application, however, does not relieve nonimmigrant H–1 and L–1 aliens of the requirement to comply with the terms of their nonimmigrant classification, including restrictions on periods of stay, change of employer, and engaging in employment. For example, changing employers without first obtaining approval from the Service will cause the alien to lose his or her valid H–1 or L–1 nonimmigrant status.

What Are the Documentary Requirements for Travel Outside the United States for H–1 and L–1 With Pending Applications for Adjustment of Status?

Current Service regulations at § 245.2(a)(4)(ii) require that all adjustment applicants obtain advance parole authorization prior to traveling outside the United States. Prior to enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [IIRIRA], such persons were deemed to be applicants seeking admission and were subject to the grounds of excludability. The Service imposed the advance parole requirement and the concomitant exclusion process in order to maintain control over the re-entry of such aliens. With the phasing out of exclusion proceedings under IIRIRA, however, the Service believes it is now appropriate to amend its regulations to provide fuller effect to section 214(h) of the Act by exempting H–1 and L–1 nonimmigrants with pending applications for adjustment of status (as well as their dependent family members) from obtaining advance parole authorization prior to traveling outside the United States. Generally, such H–1 and L–1 nonimmigrants may be readmitted into the United States in the same status provided they are in possession of a valid H–1 or L–1 nonimmigrant visa (for those aliens not visa exempt), and the original I–797 receipt notice for the application for adjustment of status, and continue to remain eligible for H–1 or L–1 classification. All other nonimmigrants with pending applications for status must obtain advance parole authorization in accordance with § 245.2(a)(4)(ii) prior to traveling outside the United States.

Under What Section of the Regulations Would H–1 or L–1 Nonimmigrants be Granted Authorization for Continued Employment?

H–1 and L–1 nonimmigrants filing applications for permanent residence have two options with respect to work authorization, but the choices have different consequences. Such aliens, of course, may continue to work in accordance with the terms of their nonimmigrant employment authorization, as provided in § 274a.12(b)(9) or (12). This means that, while their application for adjustment of status is still pending, their employment is limited to the employer for whom the current nonimmigrant visa petition was approved.

In the alternative, when filing an application for permanent residence, an

H–1 or L–1 nonimmigrant may also file a form I–765 application for unrestricted employment authorization as provided in § 274a.12(c)(9). After receiving an Employment Authorization Document, the alien would be eligible to work for any employer, and this work authorization would continue as long as the alien's application for adjustment of status remains pending. However, such an alien should bear in mind that, by accepting employment with an employer other than the one which filed the approved H–1 or L–1 nonimmigrant petition under § 274a.12(c)(9), the alien would no longer be in compliance with the requirements of the H–1 or L–1 nonimmigrant status.

If the alien's application for adjustment of status is ultimately approved, then it would not matter which option the alien had followed. However, if the application for adjustment is denied, then the alien's status would depend on which option was followed. If the alien had continued to work for an approved employer under the terms of his or her H–1 or L–1 status, and otherwise properly maintained such status, the alien would still retain his or her nonimmigrant status, if that status had not yet expired according to the established terms. However, an alien who had chosen to work for a different employer during the period that his or her application for adjustment of status was pending would have thereby lost his or her H–1 or L–1 nonimmigrant status. Thus, if the alien's application for adjustment of status is denied, the alien would no longer be in a lawful status and would be subject to removal proceedings. In addition, a dependent family member who had chosen to engage in unrestricted employment while the application for adjustment of status was pending would lose his or her H–4 or L–2 nonimmigrant dependent status. Therefore, if the principal's application for adjustment of status is denied, such dependent family members would also not be in a lawful status and could not revert back to H–4 or L–2 dependent status.

Filing of I–765 for H's and L's Seeking Employment Authorization Under § 274a.12(c)(9)

H–1 and L–1 nonimmigrants filing adjustment applications who intend to seek open-market employment authorization under § 274a.12(c)(9) should file Form I–765 concurrently with the I–485 to avoid a lapse of employment authorization. After filing the Form I–765, the H–1 or L–1 nonimmigrant must wait until he or she receives the employment authorization document before the alien may enter into open-market employment. The INS Service Centers will continue to entertain requests for expeditious handling of Form I–765 employment authorization requests in accordance with prevailing criteria. Expeditious handling of a request for employment authorization under § 274a.12(c)(9), however, may be insufficient to ensure that a lapse in employment authorization does not occur when the application for status is filed near the expiration of H–1 or L–1 nonimmigrant status.

What Are the Effects of Denial of I–485 on Employment Authorization and Nonimmigrant Status?

An alien whose adjustment of status application is denied but who has continuously maintained his or her H–1 or L–1 nonimmigrant status while the adjustment application was pending, may continue to work in accordance with the terms of the nonimmigrant visa. If the adjustment of status application is denied, any employment authorization granted to the alien under § 274a.12(c)(9) will be subject to termination pursuant to § 274a.14(b). Further, if the alien is not maintaining his or her H–1 or L–1 nonimmigrant status, he or she will be subject to removal proceedings.

How Does the Approval of an Application for Adjustment of Status During the Alien's Absence From the United States Affect His or Her Readmission?

In accordance with 8 CFR 211.1, a Form I–797 approval notice for an adjustment of status application is insufficient to establish an arriving alien's entitlement to lawful permanent residence. An H–1 or L–1 nonimmigrant (or a dependent family member) whose application for adjustment of status was approved during the alien's absence from the United States will be granted deferred inspection in accordance with § 235.2(b) upon presentation of a valid I–797 notice of approval of the application for status. Such deferred action shall be for the purpose of providing conclusive evidence that the alien's status has in fact been adjusted to that of a lawful permanent resident.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 533(b)(3)(B), and (d)(3). The immediate implementation of this interim rule without prior notice and comment is necessary to: (1) Clarify existing Service policy with respect to adjustment applicants who need to travel abroad while their application is pending, (2) provide a benefit to U.S. employers by facilitating the continued employment of nonimmigrant H–1 and L–1 workers who have filed for adjustment of status, and (3) allow such workers more flexibility to travel. The Service will consider fully all comments submitted during the comment period.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because it affects individuals by allowing them to continue to be employed and to travel while seeking adjustment of status. Any effect on small entities that employ such nonimmigrants will be beneficial.

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 1 year, and 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.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the realtionship 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 Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

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

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2

2. Section 214.2 is amended by revising paragraphs (h)(16)(i) and (l)(16) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(16) * * * (i) *H–1 classification.* An alien may legitimately come to the United States for a temporary period as an H–1 nonimmigrant and, at the same time, lawfully seek to become a permanent resident of the United States provided he or she intends to depart voluntarily at the end of his or her authorized stay. The filing of an application for or approval of a permanent labor certification, an immigrant visa preference petition, or the filing of an application for adjustment of status for an H–1 nonimmigrant shall not be a basis for denying:

(A) An H–1 petition,

(B) A request to extend an H–1 petition,

(C) The H–1 alien's application (and that of their dependent family members) for change of status to a different H–1 or L classification, or a dependent of an H–1 of L nonimmigrant, or

(E) The H–1 alien's application for extension of stay, (and that of their dependent family members).

* * * * *

(l) * * *

(16) *Effect of filing an application for or approval of a permanent labor certification, preference petition, or filing of an application for adjustment of status on L–1 classification.* An alien may legitimately come to the United States for a temporary period as an L–1 nonimmigrant and, at the same time, lawfully seek to become a permanent resident of the United States provided he or she intends to depart voluntarily at the end of his or her authorized stay. The filing of an application for or approval of a permanent labor certification, an immigrant visa preference petition, or the filing of an application of readjustment of status for an L–1 nonimmigrant shall not be the basis for denying:

(i) An L–1 petition filed on behalf of the alien,

(ii) A request to extend an L–1 petition which had previously been filed on behalf of the alien;

(iii) An application for admission as an L–1 nonimmigrant by the alien, or as an L–2 nonimmigrant by the spouse or child of such alien;

(iv) An application for change of status to H–1 or L–2 nonimmigrant filed by the alien, or to H–1, H–4, or L–1 status filed by the L–2 spouse or child of such alien;

(v) An application for change of status to H–4 nonimmigrant filed by the L–1 nonimmigrant, if his or her spouse has been approved for classification as an H–1; or

(vi) An application for extension of stay filed by the alien, or by the L–2 spouse or child of such alien.

* * * * *

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

3. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255, sec. 202, Pub. L. 105–100 (111 Stat. 2160, 2193); and 8 CFR part 2.

4. In § 245.2, paragraph (a)(4)(ii) is revised to read as follows:

§ 245.2 Application.

(a) * * *

(4) * * *

(ii) *Under section 245 of the Act.* (A) The departure from the United States of an applicant who is under exclusion, deportation, or removal proceedings shall be deemed an abandonment of the application constituting grounds for termination of the proceeding by reason of the departure. Except as provided in paragraph (a)(4)(ii)(B) and (C) of this section, the departure of an applicant who is not under exclusion, deportation, or removal proceedings shall be deemed an abandonment of the application constituting grounds for termination of any pending application for adjustment of status, unless the applicant was previously granted advance parole by the Service for such absences, and was inspected upon returning to the United States. If the adjustment application of an individual granted advance parole is subsequently denied the individual will be treated as an applicant for admission, and subject to the provisions of section 212 and 235 of the Act.

(B) The travel outside of the United States by an applicant for adjustment who is not under exclusion, deportation, or removal proceedings shall not be deemed an abandonment of the application if he or she was previously granted advance parole by the Service for such absences, and was inspected and paroled upon returning to the United States. If the adjustment of status application of such individual is subsequently denied, he or she will be treated as an applicant for admission, and subject to the provisions of section 212 and 235 of the Act.

(C) The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful H–1 or L–1 status shall not be deemed an abandonment of the application if, upon returning to this country, the alien remains eligible for H or L status, is coming to resume employment with the same employer for whom he or she had previously been authorized to work as an H–1 or L–1 nonimmigrant, and, is in possession of a valid H or L visa (if required) and the original I–797 receipt notice for the application for adjustment of status. The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful H–4 or L–2 status shall not be deemed an abandonment of the application if the spouse or parent of such alien through whom the H–4 or L–2 status was obtained is maintaining H–1 or L–1 status and the alien remains otherwise eligible for H–4 or L–2 status, and, the alien is in possession of a valid

H–4 or L–2 visa (if required) and the original copy of the I–797 receipt notice for the application for adjustment of status.

* * * * *

Dated: May 12, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–13759 Filed 5–28–99; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AG27

Formal and Informal Adjudicatory Hearing Procedures; Clarification of Eligibility To Participate

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing participation in adjudicatory proceedings conducted under its Rules of Practice to clarify that Federally-recognized Indian tribal governments are entitled to participate in these proceedings on the same basis as other governmental units.

DATES: The final rule is effective August 2, 1999, unless significant adverse comments are received by July 1, 1999. If significant adverse comments are received, a timely withdrawal will be published in the **Federal Register**.

ADDRESSES: Mail any comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, 20852, between 7:30 am and 4:15 Eastern time on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website through the NRC home page (*http://www.nrc.gov*). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the NRC's interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905; email *CAG@nrc.gov*.

Copies of any comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles E. Mullins, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone (301) 415-1606; e-mail: *CEM@nrc.gov*.

SUPPLEMENTARY INFORMATION: Because the NRC considers this action noncontroversial and routine, the NRC is publishing the rule in final form without first seeking public comments on the amendments in a proposed rule. This action will become effective on August 2, 1999. However, if the NRC receives significant adverse comments by July 1, 1999, the NRC will publish a document that withdraws this action pending review of the comments, and will address those comments in a subsequent final rule. The NRC will not initiate a second comment period on this action.

Background

These amendments are intended to ensure that Federally-recognized Indian Tribal governments and their official subdivisions have the same participation rights in NRC adjudicatory proceedings as State governments, units of local governments, and their official subdivisions. In many respects, Federally-recognized Indian tribes exercise inherent sovereign powers over their members and territory, similar to the powers exercised by States and other units of local government. In many areas of the law, these sovereign rights are recognized either by court decision, statute, or treaty. Therefore, because these tribes exercise many of the attributes of States or other governmental units, the Commission has determined that they should be recognized in adjudicatory proceedings in the same fashion as State and local governmental bodies. Accordingly, the Commission is issuing this amendment to ensure that Federally-recognized Indian tribes will have the same opportunity to participate in any proceeding that affects their interests. These amendments are intended to meet the goals of Executive Order No. 13084 of May 14, 1998.

In addition, the Commission is also making two minor editorial changes in § 2.1211(b) to conform its wording to the wording in § 2.715(c).

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)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

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

Regulatory Analysis

A regulatory analysis has not been prepared for this direct final rule because this rule is considered a minor, non-substantive amendment; it has no economic impact on NRC licensees or the public.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rulemaking is an administrative action that clarifies the rights of Federally-recognized Indian tribes to participate in NRC adjudicatory proceedings. It has no financial impact on NRC licensees or the public.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not impose any provisions that would impose backfits as defined in 10 CFR 50.109.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 2

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 2.