

unacceptable performance or conduct), if the employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of less than "Fully Successful" or equivalent, if the employee fails to maintain residency in the new geographic area for the duration of the service agreement, or if the employee otherwise fails to fulfill the terms of the service agreement.

\* \* \* \* \*

12. In § 575.213, revise paragraph (b) introductory text to read as follows:

**§ 575.213 Records and reports.**

\* \* \* \* \*

(b) OPM may require that each agency submit an annual written report to OPM on the use of the relocation incentive authority within the agency during the previous calendar year. OPM may exempt an agency (or part of an agency) from all or any part of any reporting requirement established under this section if OPM has determined that the relocation incentive data submitted to OPM's central data systems under 5 CFR 9.2 is accurate and sufficient. Each agency report that is required must include—

\* \* \* \* \*

**§ 575.214 [Removed]**

13. Remove § 575.214.

**Subpart C—Retention Incentives**

14. In § 575.304—

- a. Revise paragraph (d)(1);
- b. Remove "or" at the end of paragraph (d)(2);
- c. Remove the period at the end of paragraph (d)(3) and add "; or" in its place; and
- d. Add paragraph (d)(4).

The revision and addition read as follows:

**§ 575.304 Ineligible categories of employees.**

\* \* \* \* \*

(d) \* \* \*

(1) To which an individual is appointed by the President without the advice and consent of the Senate, except a Senior Executive Service position in which the individual serves as a career appointee (as defined in 5 U.S.C. 3132(a)(4));

\* \* \* \* \*

(4) To which an individual is appointed as a Senior Executive Service limited term appointee or limited emergency appointee (as defined in 5 U.S.C. 3132(a)(5) and (a)(6), respectively) when the appointment must be cleared through the White House Office of Presidential Personnel.

15. In § 575.305, revise paragraph (c) to read as follows:

**§ 575.305 Applicability to employees.**

\* \* \* \* \*

(c) An agency may not include in a group retention incentive authorization an employee covered by § 575.303(a)(2), (a)(3), or (a)(5) or those in similar categories of positions approved by OPM to receive retention incentives under § 575.303(a)(7).

\* \* \* \* \*

16. In § 575.306, redesignate paragraphs (b)(2) through (8) as paragraphs (b)(3) through (9), respectively, and add a new paragraph (b)(2) to read as follows:

**§ 575.306 Authorizing a retention incentive.**

\* \* \* \* \*

(b) \* \* \*

(2) The quality and availability of the potential sources of employees that are identified in the agency's succession plan, who possess the competencies required for the position, and who, with minimal training, cost, and disruption of service to the public, could perform the full range of duties and responsibilities of the employee's position at the level performed by the employee;

\* \* \* \* \*

17. In § 575.311, redesignate paragraphs (a)(1) and ((2) as paragraphs (a)(2) and (3), respectively, and add a new paragraph (a)(1) to read as follows:

**§ 575.311 Continuation, reduction, and termination of retention incentives.**

(a)(1) For each retention incentive that is subject to a service agreement, an authorized agency official must review the determination to pay a retention incentive at least annually to determine whether the original determination still applies or whether payment is still warranted as provided in paragraph (a)(2) of this section, and must certify this determination in writing.

\* \* \* \* \*

18. In § 575.313, revise paragraph (b) introductory text to read as follows:

**§ 575.313 Records and reports.**

\* \* \* \* \*

(b) OPM may require that each agency submit an annual written report to OPM on the use of the retention incentive authority within the agency during the previous calendar year. OPM may exempt an agency (or part of an agency) from all or any part of any reporting requirement established under this section if OPM has determined that the retention incentive data submitted to OPM's central data systems under 5 CFR

9.2 is accurate and sufficient. Each agency report that is required must include—

\* \* \* \* \*

**§ 575.314 [Removed]**

19. Remove § 575.314.

**§ 575.315 [Redesignated as § 575.314]**

20. Redesignate § 575.315 as § 575.314.

**§ 575.314 [Amended]**

- 21. In newly redesignated § 575.314:
  - a. Redesignate paragraph (i)(1) as paragraph (i) introductory text;
  - b. Remove paragraph (i)(2); and
  - c. Redesignate paragraphs (i)(1)(i) through (i)(1)(v) as paragraphs (i)(1) through (i)(5).

[FR Doc. 2011-111 Filed 1-6-11; 8:45 am]

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**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 40**

**[NRC-2011-0003]**

**RIN 3150-AH15**

**Implementation Guidance for Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions; Draft Guidance Document for Comment**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability of draft guidance for public comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require that the initial distribution of source material to exempt persons or general licensees be explicitly authorized by a specific license. The proposed rule would also modify the existing possession and use requirements of the general license for small quantities of source material and revise, clarify, or delete certain source material exemptions from licensing. The NRC has prepared draft guidance to address implementation of the proposed regulations. This notice is announcing the availability of the draft implementation guidance document for public comment.

**DATES:** Submit comments by March 8, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC-2011-0003 in the subject line of

your comments. For instructions on submitting comments and accessing documents related to this action, see "Submitting Comments and Accessing Information" in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

**Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2011-0003. Address questions about NRC dockets to Carol Gallagher, telephone: 301-492-3668; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

**Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**Fax comments to:** RADB at 301-492-3446.

**FOR FURTHER INFORMATION CONTACT:** Gary Comfort, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-8106, e-mail: [Gary.Comfort@nrc.gov](mailto:Gary.Comfort@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **Submitting Comments and Accessing Information**

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal Rulemaking Web site, <http://www.regulations.gov>. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

**NRC's Public Document Room (PDR):** The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or

received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, or 301-415-4737, or by e-mail to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The draft Part 40 implementation guidance is available electronically under ADAMS Accession Number ML103160241.

**Federal Rulemaking Web site:** Public comments and supporting materials related to the implementation guidance, including the draft implementation guidance, can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0003. Documents related to the proposed rule can be found by searching on Docket ID NRC-2009-0084.

#### **Discussion**

The NRC published a proposed rule (75 FR 43425; July 26, 2010) that would amend its regulations in part 40 of Title 10 of the Code of Federal Regulations (10 CFR) to require that the initial distribution of source material to exempt persons or general licensees be explicitly authorized by a specific license, which would include new reporting requirements. This proposed rule would affect manufacturers and distributors of certain products and materials containing source material and certain persons using source material under general license and under exemptions from licensing. The public comment period runs through February 15, 2011.

In conjunction with the proposed rule, the NRC has developed draft implementation guidance. The draft implementation document provides guidance to a licensee or applicant for implementation of proposed 10 CFR Part 40, "Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions." It is intended for use by applicants, licensees, Agreement States, and NRC staff. The document describes methods acceptable to the NRC staff for implementing proposed 10 CFR part 40. The approaches and methods described in the document are provided for information only. Methods and solutions different from those described in the document are acceptable if they meet the requirements in proposed 10 CFR part 40. The guidance is provided in the form of questions and answers on

the provisions of the proposed rule. The draft implementation guidance document for proposed 10 CFR part 40 is available electronically under ADAMS Accession Number ML103160241, and can also be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0003.

At this time, the NRC is announcing the availability for public comment of "Implementation Guidance for 10 CFR Part 40 Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions." The document provides guidance on implementing the provisions of proposed 10 CFR part 40, "Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions."

Dated at Rockville, Maryland, this 28th day of December 2010.

For the Nuclear Regulatory Commission.

**James Luehman,**

*Deputy Director, Licensing and Inspection Directorate, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.*

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 1**

**[REG-131947-10]**

**RIN 1545-BJ71**

#### **Property Traded on an Established Market**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** This document contains proposed regulations relating to determining when property is traded on an established market (that is, publicly traded) for purposes of determining the issue price of a debt instrument. The regulations amend the current regulations to clarify the circumstances that cause property to be publicly traded. The regulations provide needed guidance to issuers and holders of debt instruments. This document also provides a notice of a public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by March 8, 2011. Outlines of topics to be discussed at the public hearing scheduled for April 13,