

Proposed Rules

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. APHIS–2008–0147]

Change in Disease Status of the Republic of Korea With Regard to Foot-and-Mouth Disease and Rinderpest; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of an environmental assessment.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to a proposed rule that would add the Republic of Korea to the list of regions considered free of rinderpest and foot-and-mouth disease. The environmental assessment documents our review and analysis of environmental impacts associated with adding the Republic of Korea to the list of regions considered free of rinderpest and foot-and-mouth disease. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before May 29, 2009.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0147> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2008–0147, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your

comment refers to Docket No. APHIS–2008–0147.

Reading Room: You may read any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Julia Punderson, Senior Staff Veterinarian, Regionalization Evaluation Services, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

In a proposed rule¹ titled “Change in Disease Status of the Republic of Korea With Regard to Foot-and-Mouth Disease and Rinderpest” and published in the **Federal Register** on March 30, 2009 (74 FR 14093–14097, Docket No. APHIS–2008–0147), we proposed to amend the regulations in 9 CFR part 94 by adding the Republic of Korea to the list of regions that are considered free of rinderpest and foot-and-mouth disease.

APHIS’ review and analysis of the potential environmental impacts associated with adding the Republic of Korea to the list of regions considered free of rinderpest and foot-and-mouth disease are documented in detail in an environmental assessment entitled “Proposed Rule for the Status of the Republic of Korea Regarding Foot-and-Mouth Disease and Rinderpest: Environmental Assessment” (February 2009). We are making this environmental assessment available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

¹To view the proposed rule and environmental assessment, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0147>.

The environmental assessment may be viewed on the Regulations.gov Web site or in our reading room (*see ADDRESSES* above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies.

The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS’ NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 8th day of April 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–8494 Filed 4–13–09; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150 AI25

[NRC–2008–0619]

Requirements for Fingerprinting for Criminal History Record Checks of Individuals Granted Unescorted Access to Research and Test Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing this Advance Notice of Proposed Rulemaking (ANPR) to begin the process of establishing generic requirements for NRC research and test reactor (RTR) licensees to obtain fingerprint-based criminal history record checks on individuals having unescorted access to their facilities. This action is taken to inform all interested parties of the

options that the NRC is considering for implementing the requirements of the Energy Policy Act of 2005 (EPA) as they pertain to RTRs.

DATES: Submit comments by June 15, 2009. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only of comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Comments submitted in writing or in electronic form will be made available for public inspection. 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. All commenters should ensure that sensitive or Safeguards Information is not contained in their responses or comments to this ANPR.

Federal e-Rulemaking Portal: Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2008-0619. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail Carol.Gallagher@nrc.gov.

E-mail Comments To: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1677.

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. during Federal workdays. (Telephone (301) 415-1677).

Fax Comments To: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

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, Public File Area, Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

NRC's Agencywide Document 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.

FOR FURTHER INFORMATION CONTACT:

Harry Tovmassian, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-3092, e-mail harry.tovmassian@nrc.gov; or Linh Tran, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-4103, e-mail linh.tran@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Before the terrorist actions of September 11, 2001, NRC regulations in 10 CFR 73.60 and 10 CFR 73.67 imposed physical protection requirements on RTRs that included measures for storing and using special nuclear material in controlled access areas, monitoring the controlled access areas for unauthorized activities, and ensuring a response to all unauthorized activities to protect special nuclear material from theft or diversion. Additionally, 10 CFR 73.60(f) implemented the Commission's authority to impose alternative or additional security measures for the protection against radiological sabotage for RTRs licensed to operate at power levels at or above two megawatts thermal (MWt). Under this provision, several RTRs have implemented such additional measures. Subsequent to September 11, 2001, the NRC evaluated the adequacy of security at RTRs and considered whether additional actions should be taken to help ensure the trustworthiness and reliability of individuals with unescorted access to RTRs. RTRs were advised to consider taking immediate additional precautions, including observation of activities within their facility. The NRC evaluated these additional measures at each facility during the remainder of 2001.

From 2002 through 2004, RTRs voluntarily implemented compensatory measures (CM) that included site-specific background investigations for individuals granted unescorted access. Depending on local restrictions, such as university rules, some of these background investigations included provisions for Federal Bureau of Investigation (FBI) fingerprint-based criminal history record checks, while

checks at other RTRs included provisions for local or State law enforcement fingerprint-based criminal history record checks. Investigations at some RTRs did not include any fingerprinting. The NRC has also conducted security assessments at certain RTRs which helped to identify risk-significant areas and materials.

On August 8, 2005, the President signed the EPA into law. Among other features, Section 652 of the EPA amended Section 149 of the Atomic Energy Act of 1954 (AEA) and provided the NRC with additional authority to require fingerprint-based criminal history record checks for unescorted access to a broader class of its licensees, including RTRs. Before the passage of the EPA, Section 149 limited the NRC's authority to require fingerprinting of individuals being considered for unescorted access to nuclear power plants.

In October 2005, the NRC staff informed the Commission of the staff's plan for implementing the NRC's responsibilities under the EPA and requested Commission approval of the staff's funding recommendation for fiscal year 2006. The Commission approved the staff's recommendations and directed the staff to recommend appropriate interim regulatory actions that the NRC should implement while it developed the generic requirements for granting unescorted access, including the provisions in Section 652 of the EPA pertaining to fingerprinting.

In January 2007, the NRC staff provided information and recommendations to the Commission on its EPA interim implementation plan. In March 2007, the Commission directed the NRC staff to issue orders to RTRs to require fingerprint-based criminal history record checks for individuals with unescorted access to these facilities. The orders were to require fingerprinting only for individuals with unescorted access to risk-significant areas or materials within the facilities. The Commission also directed the NRC staff to proceed with a rulemaking to determine if fingerprint-based criminal history record checks should be required for additional RTR personnel.

On April 30, 2007, the NRC issued NRC Order EA-07-074, "Order Imposing Fingerprinting and Criminal History Records Check Requirements for Unescorted Access to Research and Test Reactors," (ADAMS Accession No. ML070750140) (72 FR 25337; May 4, 2007). On August 1, 2007, the NRC issued Order EA-07-098, "Order Imposing Fingerprinting and Criminal History Records Check Requirements for

Unescorted Access to the General Atomics' Research and Test Reactor," (ADAMS Accession No. ML072050494) (72 FR 44590; August 8, 2007). These orders required RTR licensees to conduct FBI fingerprint-based criminal history record checks for individuals granted unescorted access to special nuclear materials at their facilities.

The Commission directed the NRC staff to implement the EPAct on an interim basis through orders while developing a rule because it was necessary to implement the requirements immediately for common defense and security. Unlike the requirements of a rule, the orders apply only to the licensees named in the orders and would not apply prospectively to applicants for new licenses. Therefore, the NRC would have to periodically issue orders as needed to cover new and amended licenses, and perhaps reissue them periodically to existing licensees if requirements or administrative practices change. Finally, to improve regulatory efficiency and stability, it is appropriate to place generally applicable requirements in the regulations, rather than to rely on orders indefinitely to impose these requirements.

This ANPR is being published to obtain stakeholder views on the issues associated with the proposal to require fingerprint-based criminal record checks for individuals granted unescorted access to RTRs. The rulemaking would generically require RTR licensees to ensure that individuals granted unescorted access to risk-significant areas and risk-significant materials at RTRs are subject to an FBI fingerprint-based criminal history record check or an acceptable alternative. The rulemaking process, which will include a proposed and final rule as well as this ANPR, will provide RTR licensees and other interested stakeholders several opportunities to comment on the proposed requirements to ensure transparency in the development of requirements designed to provide adequate protection of the public health and safety and the common defense and security.

Existing Requirements Pertaining to Research and Test Reactors

The security of RTRs is regulated through requirements located in part 73 of the Commission's regulations. The specific security measures that are required vary depending on several factors, which include the quantity and type of special nuclear material possessed by the licensee, as well as the power level at which the licensee is authorized to operate. For RTRs that

possess special nuclear material of moderate or low strategic significance (defined by 10 CFR 73.2), 10 CFR 73.67(b)(c)(d) and 73.67(f), as applicable, specify the basic fixed site physical security requirements (*e.g.*, storage and access controls). Sections 73.60(a) through (e) specify additional requirements for physical protection at RTRs with a formula quantity of strategic special nuclear material that is not readily separable from other radioactive material and that has a total dose rate of less than 100 rem per hour at 3 feet without shielding. For licensees subject to these requirements, the provisions of 10 CFR 73.60 are intended to be implemented in addition to the applicable requirements of 10 CFR 73.67.

In addition, 10 CFR 73.60(f) specifies that " * * * the Commission may require, depending on the individual facility and site conditions, any alternate or additional measures deemed necessary to protect against radiological sabotage at non-power reactors licensed to operate at or above a power level of 2 megawatts thermal." As noted previously, these additional measures have been imposed on several NRC licensees who are licensed to operate at these levels.

Sections 73.60 and 73.67 require RTRs, at a minimum, to store and to use special nuclear material in controlled access areas, monitor the controlled access areas for unauthorized activities, and ensure a response to all unauthorized activities. These regulations also require that unescorted access to the controlled access areas be limited to authorized individuals. The RTRs implement these requirements on a site-specific basis through their security plans and procedures. As previously mentioned, RTRs also implemented site-specific background investigations or checks in their voluntarily adopted CMs, and obtained an FBI fingerprint-based criminal history record check for individuals granted unescorted access to special nuclear material under NRC orders.

Rulemaking Considerations

As a result of the EPAct, the NRC is directed by Section 149 of the AEA to require the licensee to obtain a fingerprint-based criminal history record check for any individual who is permitted unescorted access to (i) a utilization facility; or (ii) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and

background checks. Section 149 requires that the fingerprints that are collected by licensees be submitted to the FBI through the NRC. The statute is clear that all persons who are granted unescorted access to these facilities, areas, or materials as designated by the NRC must be fingerprinted, unless relieved by rule. Section 149 permits the NRC to relieve certain individuals by rule from the fingerprinting requirement. Currently, the NRC has not issued a regulation that would relieve any person granted unescorted access to an RTR from the fingerprinting requirement.

As noted previously, the NRC issued site-specific orders to satisfy the mandate of the EPAct. Each RTR licensee was required by those orders to obtain an FBI fingerprint-based criminal history record check for individuals before granting unescorted access to special nuclear materials. Those orders remain in effect. The orders require each licensee to obtain the fingerprints of each individual who is seeking or permitted unescorted access. Specifically, the orders state that, "an individual who is granted 'unescorted access' could exercise physical control over the special nuclear material possessed by the licensee, which would be of significance to the common defense and security or would adversely affect the health and safety of the public, such that the special nuclear material could be used or removed in an unauthorized manner without detection, assessment, or response by systems or persons designated to detect, assess or respond to such unauthorized use or removal." In implementing the requirement of the EPAct on an interim basis, the orders were issued requiring fingerprinting only for individuals with unescorted access to risk-significant materials (*i.e.*, fuel), within the research and test reactor facilities.

Although the interim order requirements were limited to risk-significant materials of the licensee's facility, the Commission solicits comment on whether the scope of the unescorted access fingerprinting requirement in the order should be broadened in the proposed rule to include unescorted access to appropriate areas of the facility. This would ensure that all of the risk-significant materials and equipment in the facility are protected, rather than just the special nuclear material. Under the existing requirements, licensees must conduct the FBI fingerprint-based criminal history record checks for individuals who could exercise physical control over the special nuclear material; existing requirements do not,

however, specifically address unescorted access to the physical areas surrounding the special nuclear material or the reactor itself.

All RTRs are licensed as utilization facilities as that term is defined by Section 11 of the AEA and 10 CFR 50.2. However, because RTRs are all uniquely configured and not susceptible to a generic classification of what portion or portions of a larger facility constitute the part of the "utilization facility" for which unescorted access is an issue, the NRC is seeking comment on whether defining this term too broadly might frustrate the agency's regulatory objectives, interfere with other statutory mandates of the AEA, or inefficiently implement the intent of the EPAct. For example, imposing an FBI fingerprint-based criminal history record check for all individuals with unescorted access to all areas of a generically-defined utilization facility could potentially hinder research and education activities, create undue administrative burdens, and be a costly, but unnecessary requirement for licensees. It may be better to design the requirement in such a way that FBI fingerprint-based criminal history record checks at an RTR facility are limited to individuals with unescorted access to the "areas of significance" within the facility. The "areas of significance" would likely encompass the nuclear reactor as well as fuel storage areas and the components designed specifically for reactor safety and protection of the public health and safety. To ensure consistency among the RTRs in implementing the EPAct, the NRC is considering defining "areas of significance" as the protective boundary requiring FBI fingerprint-based criminal record checks for granting of unescorted access. Individuals who have unescorted access to the "areas of significance," without verification of trustworthiness and reliability, could directly perform malevolent acts or may facilitate others in commission of these acts, involving special nuclear material or equipment that would directly or indirectly endanger the public health and safety by exposure to radiation.

Specific Considerations

The NRC proposes to specify the requirement to have a fingerprint-based criminal history record check for individuals with unescorted access to RTRs through a revision of 10 CFR 73.60. The NRC proposes to add a new paragraph (g) "Requirements for criminal history record checks of individuals granted unescorted access," to the existing regulation at 10 CFR 73.60. The NRC is proposing to require

that each RTR licensee have: (1) A program for obtaining fingerprint-based criminal record checks for individuals granted unescorted access to "areas of significance;" (2) a procedure to assure that certain prohibited information is not used as the basis for the denial of unescorted access; (3) specific procedures for the conduct of fingerprinting; (4) a procedure for correction or completion of criminal record information; (5) a procedure for protection of information; and (6) a procedure for official review.

Before determining the exact nature of a proposed rule implementing the requirements of the EPAct, the NRC is seeking comments on this matter from stakeholders. Specific areas on which the Commission is requesting comments are discussed in the following sections. Comments accompanied by supporting rationale are particularly requested on the following questions or subjects.

Areas of Significance

Under the EPAct's mandate to require fingerprinting for unescorted access to utilization facilities, the NRC is proposing to require fingerprint-based criminal history record checks only for individuals granted unescorted access to the "areas of significance" within the RTR facility. As noted earlier, the unique nature of each RTR makes it difficult to develop a generically-applicable definition of "utilization facility" that would result in an effective and implementable regulation. This objective would be better achieved by limiting this requirement to an area within the RTRs identified as the "area of significance." Generally speaking, the NRC considers "areas of significance" of a particular RTR as physically bounded location(s) within the facility where special nuclear material and/or equipment are contained, such that access to, or disruption within the area could cause an event endangering the general public health and safety by exposure to radiation. In attempting to determine what specific areas of an RTR might generically constitute "areas of significance," the NRC identified three potential options: (1) Controlled access areas (CAAs) as defined in 10 CFR 73.2; (2) areas of the facility as determined in each licensee's security assessment; or (3) prescriptive locations, such as the reactor (regardless of type), spent fuel storage areas, fresh fuel storage areas, fresh fuel processing areas, control room, areas containing engineered safety feature equipment, if applicable, areas of containment/confinement, if applicable, and areas containing coolant piping, if applicable.

Regarding option 1, the NRC believes that areas at the facility that are designated as CAAs are already defined in each licensee's security plans or security procedures and access to these CAAs is already being controlled. Regarding Option 2, licensee's security assessments could be used to identify "areas of significance" as areas designated to be protected against malevolent activities such as theft or sabotage.

Areas of Significance Issues

Keeping these options in mind, the NRC is seeking specific comment on the following questions and issues:

1. Which of these definitions of "areas of significance" should be adopted by the NRC? Are there other preferable ways to define "areas of significance"? If so, what should they be and what are their advantages and disadvantages?

2. What would be the approximate number of additional personnel that must be fingerprinted for unescorted access based on the "areas of significance" as described in Question 1? Are there any specific categories of persons whom the NRC should consider exempting from fingerprinting?

3. What is the estimated cost or impact of performing security plan or procedure revisions, and of providing the necessary administrative controls and training to implement fingerprint requirements for individuals permitted unescorted access to "areas of significance" such as those described in Question 1?

Unescorted Access

The NRC is also considering a definition of unescorted access that would be specific to the RTR facilities. The current concept of "unescorted access" for power reactors is not readily applicable to RTRs because of an RTR's site-specific configuration. For the purpose of the orders, an individual who is required to be authorized by the licensee for "unescorted access" is someone who could exercise physical control over the special nuclear material possessed by the licensee. These individuals include those with the capability and knowledge to use the special nuclear material in the utilization facility or to remove the special nuclear material from the utilization facility without detection, assessment, or response by the physical protection system. Because the focus of this rulemaking effort is related to the trustworthiness and reliability of individuals being granted unescorted access to the facility, and not just access to the special nuclear material, the NRC plans to define an individual with

unescorted access to the utilization facility as any individual who has the ability to access licensee-designated "areas of significance" without continuous direct supervision or monitoring by an authorized individual.

The NRC Seeks Stakeholders' Views on the Following Questions

4. Is the proposed definition of individuals with unescorted access reasonable and sufficient? If not, why? For example, should persons granted unescorted access to "areas of significance" be permitted access to the facility at times when no supervision or oversight is present (e.g., evenings or weekends)? Should the NRC require access controls such as maintaining records of the time and duration of persons accessing an "area of significance" without escorts?

Implementation of the Orders

To develop the proposed requirements for fingerprint-based criminal history record checks, the NRC would like feedback from stakeholders on their experiences in implementing the orders that were issued in April 2007, such as:

5. What has worked well, what has not, and why?

6. What requirements were found to be the most burdensome? Are there less burdensome alternatives that would accomplish the same level of protection?

7. Are there requirements in the orders that appear to contribute little to the security of the facility? Could the same resources be used more effectively in other ways?

8. Are there other enhancements that could be made?

9. Has the implementation of the orders identified any new issues that should be addressed through rulemaking?

Others Items of Interest to the NRC

Because RTRs all have unique site-specific configurations, the NRC is seeking stakeholders' views on the most effective way to formulate regulations that continue to provide adequate safety to the public without imposing an unnecessary burden on any individual licensee. During the development and implementation of the orders, the NRC identified several issues for which it planned to provide clarification in the rulemaking process. One issue was obtaining the fingerprints of a person for whom an FBI fingerprint-based criminal history record check is unlikely to yield reliable results. The FBI criminal history record check does not provide information on individuals who are

under eighteen years of age, and will only obtain information on an individual's criminal history record within the United States. Thus, for foreign nationals who have never lived in the United States, students who are 18 years old or younger, or even U.S. citizens who have lived abroad for much or all of their adult lives, the criminal history record check is unlikely to provide any useful information regarding a person's trustworthiness and reliability. However, as noted earlier, Section 149 of the AEA requires the obtaining of fingerprints for all persons granted unescorted access, except if these persons are relieved by rule.

In Light of This, the NRC Seeks Stakeholders' Views on the Following Questions

10. Regarding alternatives to fingerprinting foreign nationals and/or minors regarding a trustworthiness and reliability determination: (a) Do foreign nationals and/or minors require unescorted access to "areas of significance"? (b) are there alternative methods to obtain information upon which a licensee could base a trustworthiness and reliability determination for these individuals?

11. Is there any additional information that the NRC should consider in preparing the proposed rule?

Proposed rule language was not included in this ANPR. During the public comment period for this ANPR, the NRC plans to conduct a public workshop to discuss this rulemaking with stakeholders. Thus, RTR licensees and other interested stakeholders will have several opportunities to provide their comments for the NRC's consideration.

Dated at Rockville, Maryland, this 8th day of April 2009.

For the Nuclear Regulatory Commission.

J. Samuel Walker,

Acting Secretary of the Commission.

[FR Doc. E9-8461 Filed 4-13-09; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-144689-04]

RIN 1545-BD71

Determination of Distributive Share When a Partner's Interest Changes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the determination of partners' distributive shares of partnership items of income, gain, loss, deduction and credit when a partner's interests varies during a partnership taxable year. Also, the proposed regulations modify the existing regulations regarding the required taxable year of a partnership. These proposed regulations affect partnerships and their partners.

DATES: Written or electronic comments and requests for a public hearing must be received by July 13, 2009.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-144689-04), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-144689-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC; or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-144689-04).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Laura Fields or Jonathan Cornwell at (202) 622-3050, concerning submissions of comments and the hearing, Richard Hurst at (202) 622-7180 (not toll-free numbers) or Richard.A.Hurst@irs.counsel.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations contain amendments to the Income Tax Regulations (26 CFR part 1) under section 706 of the Internal Revenue Code (Code). These amendments are proposed to conform the Income Tax Regulations for certain of the provisions of section 1246 of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788 (1997)) (the 1997 Act) and section 72 of the Deficit Reduction Act