has questioned how United States origin meat or poultry products that are exported to a foreign country for processing prior to re-importation back to the United States should be labeled under the final COOL regulations. To the extent that existing CBP or FSIS regulations allow for products that have been minimally processed in a foreign country to reenter the United States as ''Product of the U.S.,'' nothing in the AMS final rule precludes this practice.

It should be noted, however, that FSIS meat and poultry product inspection regulations require country of origin statements on the immediate containers of imported products (9 CFR 327.14 and 381.205). Therefore, if a U.S. country of origin meat or poultry product is transported to be minimally processed (*e.g.*, marinated) in Canada prior to re-importation back to the United States, the immediate containers of the finished product would have to be labeled with the statement, ''product of Canada.'' Notwithstanding this requirement, FSIS regulations allow such product to be repackaged for sale at retail. If such product is repackaged for sale at retail, the retailer could provide labeling indicating that the product is of U.S. origin if the product otherwise meets the criteria in 7 CFR 65.260.

Executive Order 12988

This final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this final rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 12866 and the Regulatory Flexibility Act

This final 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 (OMB). All costs and benefits associated with this rule are accounted for in AMS' final rule economic analysis.

Effect on Small Entities

AMS' final rule includes a final regulatory flexibility analysis. AMS believes that its regulations will have a significant economic impact on a substantial number of small entities. FSIS' conforming regulations will not have any additional impact on small entities.

Paperwork Reduction Act

AMS' final rule includes an estimate of the annual recordkeeping burden associated with COOL requirements. FSIS' final rule has been reviewed under the Paperwork Reduction Act and imposes no additional paperwork or recordkeeping requirements.

Government Paperwork Elimination Act (GPEA)

FSIS is committed to compliance with the GPEA, which requires Government agencies, in general, to provide the public the option of communicating electronically with the government to the maximum extent possible. The Agency will ensure that all forms used by the establishments are made available electronically.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it online through the FSIS Web page located at *http://www.fsis.usda.gov/Regulations_&_Policies/2009_Interim_&_Final_Rules_Index/index.asp*. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 381

Food labeling, Poultry and poultry products.

■ For the reasons discussed in the preamble, FSIS adopts the interim rule published August 28, 2008 (73 FR 50701) as final without change.

Done in Washington, DC, on March 17, 2009.

Alfred V. Almanza,

Administrator.

[FR Doc. E9–6127 Filed 3–19–09; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF ENERGY

10 CFR Part 820

RIN 1990–AA30

Procedural Rules for DOE Nuclear Activities

AGENCY: Office of Health, Safety and Security, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is today publishing a final rule to amend its Procedural Rules for DOE Nuclear Activities at Part 820 to be consistent with section 610 of the Energy Policy Act of 2005, Public Law 109–58 (EPAct of 2005), signed into law by President Bush on August 8, 2005. Section 610 amends provisions in section 234A. of the Atomic Energy Act of 1954 (AEA) concerning civil penalty assessments against certain DOE contractors, subcontractors and suppliers. Specifically, this final rule revises DOE regulations at section 820.20 to be consistent with the changes under section 610 of the EPAct of 2005.

DATES: *Effective Date:* This rulemaking is effective on April 20, 2009.

FOR FURTHER INFORMATION CONTACT: John S. Boulden III, Acting Director (HS–40), Office of Enforcement, Office of Health, Safety and Security, U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874, (301) 903–2178; or Sophia Angelini, Attorney Advisor (GC–52), Office of the General Counsel, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–6975.

SUPPLEMENTARY INFORMATION:

I. Background

In 1988, Congress amended the Atomic Energy Act of 1954 (AEA) (codified at 42 U.S.C. 2011 *et seq.*) by adding section 234A. (42 U.S.C. 2282a.) that establishes a system of civil penalties for DOE contractors, subcontractors, and suppliers that are covered by an indemnification agreement under section 170d. of the AEA (42 U.S.C. 2210d.) (commonly referred to as the Price-Anderson Act). The civil penalties govern DOE contractors, subcontractors and suppliers that violate, or whose employees violate, any applicable rule, regulation or order related to nuclear safety issued by the Secretary of Energy. Section 234A. specifically exempted seven institutions (and any subcontractors or suppliers thereto) from such civil penalties and directed the Secretary of Energy to determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty. On August 17, 1993, DOE promulgated ''Procedural Rules for DOE Nuclear Activities,'' codified at 10 CFR part 820 (Part 820), to provide for the enforcement under section 234A. of the AEA of DOE nuclear safety requirements. Under Part 820, the exemption provision for the seven institutions is set forth in section 820.20(c); the provision for an automatic remission of civil penalties for ''nonprofit educational institutions'' is established in section 820.20(d).

On April 11, 2008, DOE published a notice of proposed rulemaking (NOPR) for the purpose of amending subpart B of Part 820 to incorporate the changes required by section 610 of the EPAct of 2005, 73 FR 19761 (April 11, 2008). Section 610, entitled ''Civil Penalties,'' amended section 234A. of the AEA by:

(1) Repealing the automatic remission of civil penalties for nonprofit educational institutions by striking the last sentence of subsection 234A.b.(2) which reads: ''In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.'';

(2) Removing exemptions provided to seven institutions (including their subcontractors and suppliers) for activities at certain facilities by deleting existing subsection 234A.d. and replacing with a new subsection 234A.d.(1) in which the total amount of civil penalties for violations under subsection 234A.a. of the AEA by any not-for-profit contractor, subcontractor, or supplier may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract; and

(3) Adding a new section 234A.d.(2) that defines the term ''not-for-profit'' to mean that ''no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.''

Finally, section 610 of the EPAct of 2005 included an effective date provision at subsection 234A.c. specifying that the amendments to section 234A. shall not apply to any violation of the AEA occurring under a contract entered into before the date of enactment of the EPAct of 2005, which was August 8, 2005.

Accordingly, in the NOPR DOE proposed to amend section 820.20 by: (1) Limiting at paragraph (c) the exemption for seven institutions (and their subcontractors and suppliers) from civil penalties to violations occurring under contracts entered into before August 8, 2005; (2) limiting at paragraph (d) the automatic remission of civil penalties for nonprofit educational institutions to violations occurring under contracts entered into before August 8, 2005; (3) providing at new paragraph (e) that, for any violation occurring under a contract entered into on or after August 8, 2005, the total civil penalties paid by any not-for-profit contractor, subcontractor, or supplier may not exceed the total amount of fees paid within the fiscal year in which the violation occurs; and (4) providing at new paragraph (f) the EPAct of 2005 definition of a ''not-for-profit.'' In summary, for contracts entered into with DOE on or after August 8, 2005, all contractors, subcontractors and suppliers would be subject to civil penalties for violations of nuclear safety regulations; however, not-for-profit contractors, subcontractors and suppliers could not be assessed any such penalties greater than the total amount of fees paid to them by DOE within the fiscal year in which the violation occurs. For contracts entered into with DOE prior to August 8, 2005, the existing provisions of section 820.20 pertaining to the exemption from civil penalties for the seven institutions (including their subcontractors and suppliers) and the automatic remission of civil penalties for nonprofit educational institutions would remain unchanged.

In section II of the NOPR, DOE provided a detailed discussion of the proposed modifications to section 820.20. Specifically, DOE addressed the following topics to explain the operation of its proposed rule: (1) When a contract is ''entered into'' for purposes of section 820.20; (2) what subcontractors and suppliers are entitled to the exemption from civil penalties; (3) how DOE would determine the ''1-year period'' to calculate the limitation on civil penalties for not-for-profit entities; (4) how DOE would determine the ''total amount of fees paid'' to calculate the limitation on civil penalties for not-for-profit entities; (5) the repeal of the automatic remission of civil penalties for nonprofit educational institutions; and (6) how a ''not-for-profit'' contractor under section 610 of the EPAct of 2005 is not considered the same as a nonprofit educational institution.

II. DOE's Response to Comments

The following discussion describes the major issues raised in the three comments received on the proposed rule. The three commenters, private entities that currently operate DOE National Laboratories under Management and Operating (M&O) contracts, expressed concern with respect to the ''entered into'' date of a contract which determines when the amendments of section 610 of the EPAct of 2005 are applicable. After reviewing these comments, DOE has concluded that the rule should be finalized as proposed and without change. DOE's response to these comments is fully explained below.

As noted, DOE received comments regarding its interpretation of when a contract is ''entered into'' for purposes of section 610 of the EPAct of 2005. The interpretation of this phrase is significant in order to determine whether: (1) A contractor remains exempt from the payment of civil penalties; (2) a contractor remains entitled to receive an automatic remission of a civil penalty; or (3) a contractor is covered by the civil penalty cap provisions of section 610.

The commenters offered various rationales for their respective positions on the ''entered into'' date. Two commenters wrote that when DOE extends a contract through an exercise

of its option to extend the term of a contract, it includes updated regulation clauses which contractually obligate the contractor to new standards and therefore effectively creates a ''new'' contract with a new ''entered into'' date. One commenter stated that for not-for-profit contractors that do not receive the automatic remission, the effective date of section 610 should be interpreted as the date when such not-for-profit contractors would be covered by the cap on civil penalties. Another commenter stated that it is not legally acceptable to define the term ''entered into'' as supporting a different legal result because one contract is extended with a pre-existing clause (option to extend the term of the contract) versus an extension exercised for the Government's convenience (noncompetitive extension). This commenter further believed that DOE's position was inconsistent with a prior Department position expressed in a January 3, 2008, letter, attached to its comments, which discussed a waiver of civil penalties for Price-Anderson Act violations (discussed further below).

DOE generally disagrees with the commenters about whether there is a difference between a noncompetitive extension of an M&O contract and the exercise of an option to extend a contract. The exercise of an option to extend the term of the contract is a different action than the noncompetitive extension of a contract. In the first instance, the exercise of an option is based on the options clause contained in the original contract that sets out specific terms for the Government to exercise its option. Thus, as stated in the NOPR, if DOE exercises its option, the contract retains the same ''entered into'' date as the initially competed contract for the purpose of section 820.20. 73 FR 19762. In the second instance, an extension of a contract pursuant to the applicable provisions of the FAR and DEAR addressing the extension of M&O contracts is not part of the original contract but is, in procurement terms, a new contract action. Consequently, the ''entered into'' date for a contract where DOE exercises an option is the date of the original contract, whereas the ''entered into'' date of a contract extended by DOE under applicable FAR and DEAR provisions is the date of the extension.

A contract extended by an option to extend the term of the contract is treated differently from a contract that has been noncompetitively extended under the applicable provisions of the FAR and DEAR. A contract extended under the FAR and DEAR must be justified as by an exception to competition. (*See* DEAR section 917.602 which states that a ''management and operating contract may be awarded or extended at the completion of its term without providing for full and open competition only when award or extension is justified under one of the statutory authorities identified in 48 CFR section 6.302 and only when authorized by the Secretary.'') The justification for other than full and open competition is prepared and approved before extending the contract, thereby further establishing the effect of the extension as creating a new contract with a new ''entered into'' date. When an option to extend the term of a contract is exercised under an M&O contract under DEAR section 970.17, the contract is unilaterally extended by DOE and no justification for other than full and open competition is required. Therefore, no new contract is entered into.

The fact that DOE may use the opportunity to update contract terms and conditions when it exercises an option to extend the term of an M&O contract is not dispositive on this issue. As previously explained, the key factor in determining whether the extension of an M&O contract constitutes a new award or contract is whether DOE is required to prepare a justification for other than full and open competition.

One commenter stated that DOE's proposed definition of ''entered into'' was inconsistent with the Department's position in a January 3, 2008, letter, attached to its comments, which discussed the waiver of civil penalties for nuclear safety violations. In that letter, DOE indicated that civil penalties were waived because the violations occurred under a contract that was entered into in August 2003, prior to the enactment of the EPAct of 2005. DOE does not believe that the proposed definition of the ''entered into'' date is inconsistent with the Department's position in that letter. The commenter, furthermore, is one of the seven exempt contractors under section 820.20(c). This commenter's contract was extended before the effective date of the EPAct of 2005 and the civil penalties were issued for violations that occurred during the term subsequent to that extension. Therefore, DOE's position that the contractor was exempt from civil penalty assessment is entirely consistent with the Department's proposed definition of when a contract is ''entered into'' under section 610.

Lastly, one commenter addressed the situation where a not-for-profit contractor may be under a contract entered into prior to August 8, 2005, but does not qualify for an exemption or the automatic remission of civil penalties, and would not be entitled to the civil penalty cap. This commenter stated that DOE's proposed interpretation of the ''entered into'' date is contrary to the intent of Congress in passing section 610 of the EPAct of 2005 with regard to limiting civil penalties, and that the ''effective date of the Act should be the date when the penalties of not-for-profits are capped at their annual fee.'' The commenter argued that there is no indication that Congress intended for such a gap where a not-for-profit contractor could pay civil penalties greater than the amount of its fee in any given year.

DOE's interpretation of the ''entered into'' date is consistent with the language and intent of Congress in enacting section 610. It is clear that Congress intended for a certain type of contractor to be eligible for the cap on civil penalties, as Congress expressly defined the term ''not-for-profit'' contractor, subcontractor or supplier. It is also clear that Congress intended for the system establishing a cap on civil penalties to apply only to violations occurring under contracts entered into after the effective date of section 610 (August 8, 2005), and that for violations associated with contracts entered into before that date, the existing system of either exemption or automatic remission of penalties would continue to apply to those contractors previously granted such benefits. Under either system, a qualifying contractor would not be required to pay civil penalties that exceed any annual fee paid by DOE.

In the NOPR, DOE noted that the definition of a not-for-profit contractor is not the same as the definition of a nonprofit educational institution. 73 FR 19763. While this change in definition may create a situation where some contractors previously entitled to the automatic remission of civil penalties are now ineligible for a cap on civil penalties and, conversely, there may be some contractors that are eligible as not-for-profit contractors under the new law but are ineligible for the cap on civil penalties because they remain under a contract entered into prior to August 8, 2005, DOE is required to establish these regulations in accordance with the Congressional language of section 610. Therefore, contracts entered into by not-for-profit contractors before the effective date of section 610 are not entitled to the cap on civil penalties established in section 610.

Other than the above issues, there were no additional objections or adverse comments raised. For the reasons stated above, DOE's final rule on section 820.20, implementing section 610 of the

EPAct of 2005, is the same as set forth in the NOPR.

III. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this notice of final rulemaking was not subject to review by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) under Executive Order 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process, 68 FR 7990 (February 19, 2003), and has made them available on the Office of the General Counsel's Web site: *http://www.gc.doe.gov*. DOE has reviewed today's final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

Today's final rule amends DOE's Procedural Rules for DOE Nuclear Activities to incorporate statutory changes made under the EPAct of 2005. The amendments to section 820.20 are changes required to conform DOE's regulations to the new statutory provisions. The changes affect the seven institutions listed in AEA section 234A.d., prior to the amendments under section 610 of the EPAct of 2005, which are not small entities, and their subcontractors and suppliers, which may or may not be small entities. While the amended part 820 would expose small entities that are subcontractors and suppliers to potential liability for civil penalties, DOE does not expect that a substantial number of these entities will violate a DOE nuclear safety requirement, a DOE Compliance Order, or a DOE nuclear safety program, plan, or other provision, resulting in the imposition of a civil penalty. Based on the foregoing, DOE certifies that today's final rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration pursuant to 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

No new information or recordkeeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule amends an existing regulation without changing the environmental effect of the regulation being amended, and, therefore, is covered under the Categorical Exclusion in paragraph A5 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to establish an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's final rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and, (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires a Federal agency to perform a written assessment of the anticipated costs and benefits of any rule that includes a Federal mandate which may result in costs to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year (adjusted annually for inflation). 2 U.S.C. 1532(a) and (b). Section 204 of that title requires each agency that proposes a rule containing a significant Federal intergovernmental mandate to develop an effective process for obtaining meaningful and timely input from elected officers of State,

local, and tribal governments. 2. U.S.C. 1534.

This final rule will not impose a Federal mandate on State, local and tribal governments or on the private sector. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's notice under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies of those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804.

List of Subjects in 10 CFR Part 820

Administrative practice and procedure, Government contracts, Penalties, Radiation protection.

Issued in Washington, DC.

Glenn S. Podonsky,

Chief Health, Safety and Security Officer, Office of Health, Safety and Security.

■ For the reasons stated in the preamble, DOE hereby amends Chapter III of title 10 of the Code of Federal Regulations to read as follows:

PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

■ 1. The authority citation for part 820 continues to read as follows:

Authority: 42 U.S.C. 2201; 2282(a); 7191; 28 U.S.C. 2461 note; 50 U.S.C. 2410.

■ 2. Section 820.20 is amended by revising paragraphs (c) and (d) and by adding new paragraphs (e) and (f) to read as follows:

§ 820.20 Purpose and scope.

* * * * *

(c) *Exemptions.* With respect to a violation occurring under a contract entered into before August 8, 2005, the following contractors, and subcontractors and suppliers to that prime contract only, are exempt from the assessment of civil penalties under this subpart with respect to the activities specified below:

(1) The University of Chicago for activities associated with Argonne National Laboratory;

(2) The University of California for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

(3) American Telephone and Telegraph Company and its subsidiaries for activities associated with Sandia National Laboratories;

(4) University Research Association, Inc. for activities associated with FERMI National Laboratory;

(5) Princeton University for activities associated with Princeton Plasma Physics Laboratory;

(6) The Associated Universities, Inc. for activities associated with the Brookhaven National Laboratory; and

(7) Battelle Memorial Institute for activities associated with Pacific Northwest Laboratory.

(d) *Nonprofit educational institutions.* With respect to a violation occurring under a contract entered into before August 8, 2005, any educational institution that is considered nonprofit under the United States Internal Revenue Code shall receive automatic remission of any civil penalty assessed under this part.

(e) *Limitation for not-for-profits.* With respect to any violation occurring under a contract entered into on or after August 8, 2005, in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under this part may not exceed the total amount of fees paid by DOE to that entity within the U.S. Government fiscal year in which the violation occurs.

(f) *Not-for-profit.* For purposes of this part, a ''not-for-profit'' contractor, subcontractor, or supplier is one for which no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.

[FR Doc. E9–6134 Filed 3–19–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9438]

RIN 1545–BI50

Guidance Regarding Foreign Base Company Sales Income; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains corrections to final and temporary regulations that were published in the **Federal Register** on Monday, December 29, 2008 (73 FR 79334) relating to foreign base company sales income.

DATES: The corrections are effective July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Ethan Atticks, (202) 622–3840 (not a toll-free number).