

definitions of “native sod” and “Prairie Pothole National Priority Area;”

■ b. Amend section 9 by revising paragraph (e); and

■ c. Revise section 14(c) (Your Duties).

The revised and added text reads as follows:

#### § 457.8 The application and policy.

##### 1. Definitions.

\* \* \* \* \*

*Native sod.* Acreage that has no record of being tilled (determined in accordance with FSA or other verifiable records acceptable to us) for the production of an annual crop on or before May 22, 2008, and on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

\* \* \* \* \*

*Prairie Pothole National Priority Area.* Consists of specific counties within the States of Iowa, Minnesota, Montana, North Dakota or South Dakota as specified on the RMA Web site at <http://www.rma.usda.gov/>, or a successor Web site, or the Farm Service Agency, Agricultural Resource Conservation Program 2–CRP (Revision 4), dated April 28, 2008, or a subsequent publication.

\* \* \* \* \*

*Tilled.* The termination of existing plants by plowing, disking, burning, application of chemicals, or by other means to prepare acreage for the production of an annual crop.

##### 9. Insurable Acreage.

\* \* \* \* \*

(e) Notwithstanding the provisions in section 9(a)(1), if the Governor of a State designated within the Prairie Pothole National Priority Area elects to make section 508(o) of the Act effective for the State, any native sod acreage greater than five acres located in a county contained within the Prairie Pothole National Priority Area that has been tilled after May 22, 2008, is not insurable for the first five crop years of planting following the date the native sod acreage is tilled.

(1) If the Governor makes this election after you have received an indemnity or other payment for native sod acreage, you will be required to repay the amount received and any premium for such acreage will be refunded to you.

(2) If we determine you have tilled less than five acres of native sod a year for more than one crop year, we will add all the native sod acreage tilled after May 22, 2008, and all such acreage will be ineligible for insurance for the first five crop years of planting following the

date the cumulative native sod acreage tilled exceeds five acres.

\* \* \* \* \*

14. Duties in the Event of Damage, Loss, Abandonment, Destruction, or Alternative Use of Crop or Acreage.

##### Your Duties—

\* \* \* \* \*

(c) In addition to complying with the notice requirements, you must submit a claim for indemnity declaring the amount of your loss:

(1) Not later than 60 days after the end of the insurance period unless, prior to the end of the 60 day period, you:

(i) Request an extension in writing and we agree to such request (Extensions will only be granted if the amount of loss cannot be determined within such time period because the information needed to determine the amount of the loss is not available); or

(ii) Have harvested farm-stored grain production and elect, in writing, to delay measurement of your farm-stored production and settlement of any potential associated claim for indemnity (Extensions will be granted for this purpose up to 180 days after the end of the insurance period).

(A) For policies that require APH, if such extension continues beyond the date you are required to submit your production report, you will be assigned the previous year's approved yield as a temporary yield in accordance with applicable procedures.

(B) Any extension does not extend any date specified in the policy by which premiums, administrative fees, or other debts owed must be paid.

(C) Damage that occurs after the end of the insurance period (for example, while the harvested crop production is in storage) is not covered; and

(2) That includes all information we require to settle the claim. Failure to submit a claim or provide the required information will result in no indemnity, prevented planting payment or replant payment (even though no indemnity or other payment is due, you will still be required to pay the premium due under the policy for the unit).

\* \* \* \* \*

Signed in Washington, DC, on August 28, 2009.

**William J. Murphy,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. E9–21233 Filed 9–2–09; 8:45 am]

**BILLING CODE 3410–08–P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 55 and 76

RIN 3150–A169

[NRC–2009–0242]

### Administrative Changes

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Final rule.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is making administrative changes to its regulations to correct errors published in recent rulemaking documents. This final rule clarifies the term “Under the Influence” and corrects erroneous citations and typographical errors. This document is necessary to inform the public of these changes.

**DATES:** Effective date is October 5, 2009.

**FOR FURTHER INFORMATION CONTACT:** Lynn Hall, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, telephone 301–415–3759, e-mail [Lynn.Hall@nrc.gov](mailto:Lynn.Hall@nrc.gov).

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

*Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC–2009–0242]. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*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 O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*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 1–899–397–4209, 301–415–4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

### SUPPLEMENTARY INFORMATION:

#### Background

On March 31, 2008, (73 FR 16965), the NRC published a final rule

amending its Fitness-for-Duty programs to update the fitness-for-duty requirements and enhance consistency with advances in other relevant Federal rules and guidelines including the U.S. Department of Health and Human Services Mandatory Guidelines for Federal Workplace Drug Testing Programs, and other Federal drug and alcohol testing programs that impose similar requirements on the private sector. The March 2008 rule amended portions of former § 26.2 and moved them into new § 26.4. This final rule corrects a cross-reference to § 26.2(a)(1) through (5), as stated in § 76.60(f), to read § 26.4(d)(1) through (5).

Furthermore, this document clarifies the term “Under the Influence,” as stated in § 55.53(j), by stating that the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels of drugs or alcohol contained in 10 CFR Part 26. The reference to appendix A of Part 26 has been removed from § 55.53(f) because the March 2008, Final rule eliminated appendix A from Part 26.

#### Rulemaking Procedure

Because this amendment constitutes a minor administrative change to the regulations, the notice and comment provisions of the Administrative Procedure Act do not apply under 5 U.S.C. 553(b)(B).

#### Environmental Impact: Categorical Exclusion

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

#### Paperwork Reduction Act Statement

This final rule does not contain information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget (OMB) control number.

#### Backfit Analysis

The NRC has determined that the backfit rule does not apply to this final rule; therefore, a backfit analysis is not required for this final rule because these

amendments are administrative in nature and do not involve any provisions that would impose backfits as defined in 10 CFR Chapter I.

#### Congressional Review Act

In accordance with the Congressional Review 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

##### 10 CFR Part 55

Criminal penalties, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

##### 10 CFR Part 76

Certification, Criminal penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Special nuclear material, Uranium enrichment by gaseous diffusion.

■ For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 55 and 76.

#### PART 55—OPERATORS’ LICENSES

■ 1. The authority citation for part 55 continues to read as follows:

**Authority:** Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note). Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

■ 2. In § 55.53, paragraph (j) is revised to read as follows:

##### § 55.53 Conditions of licenses.

\* \* \* \* \*

(j) The licensee shall not consume or ingest alcoholic beverages within the protected area of power reactors, or the controlled access area of non-power reactors. The licensee shall not use, possess, or sell any illegal drugs. The licensee shall not perform activities authorized by a license issued under this part while under the influence of alcohol or any prescription, over-the-counter, or illegal substance that could adversely affect his or her ability to safely and competently perform his or

her licensed duties. For the purpose of this paragraph, with respect to alcoholic beverages and drugs, the term “under the influence” means the licensee exceeded, as evidenced by a confirmed test result, the lower of the cutoff levels for drugs or alcohol contained in 10 CFR Part 26, or as established by the facility licensee. The term “under the influence” also means the licensee could be mentally or physically impaired as a result of substance use including prescription and over-the-counter drugs, as determined under the provisions, policies, and procedures established by the facility licensee for its fitness-for-duty program, in such a manner as to adversely affect his or her ability to safely and competently perform licensed duties.

\* \* \* \* \*

#### PART 76—CERTIFICATION OF GASEOUS DIFFUSION PLANTS

■ 3. The authority citation for part 76 continues to read as follows:

**Authority:** Sec. 161, 68 Stat. 948, as amended, secs. 1312, 1701, as amended, 106 Stat. 2932, 2951, 2952, 2953, 110 Stat. 1321–349 (42 U.S.C. 2201, 2297b–11, 2297f); secs. 201, as amended, 204, 206, 88 Stat. 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846). Sec. 234(a), 83 Stat. 444, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243(a)); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. No. 109–58, 119 Stat. 2951, as amended.

Section 76.7 is also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 76.22 is also issued under sec. 193(f), as amended, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243(f)). Section 76.35(j) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152).

■ 4. In § 76.60, paragraph (f) is revised to read as follows:

##### § 76.60 Regulatory requirements which apply.

\* \* \* \* \*

(f) The Corporation shall comply with the applicable provisions of 10 CFR Part 26, “Fitness-for-Duty Programs.” The requirements of this section apply only if the Corporation elects to engage in activities involving formula quantities of strategic special nuclear material. When applicable, the requirements apply only to the Corporation and personnel carrying out the activities specified in § 26.4(d)(1) through (5), of this chapter.

\* \* \* \* \*

Dated at Rockville, Maryland, this 11th day of August 2009.

For the Nuclear Regulatory Commission.  
**R.W. Borchardt**,  
*Executive Director for Operations.*  
 [FR Doc. E9-21230 Filed 9-2-09; 8:45 am]  
 BILLING CODE 7590-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 25

[Docket No. NM409; Special Conditions No. 25-386-SC]

#### Special Conditions: Boeing Model 737-600/-700/-800/-900 and 900ER Series Airplanes; Seats With Inflatable Lapbelts

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for Boeing Model 737-600/-700/-700C/-800/-900 and 900ER series airplanes. These airplanes, manufactured by Boeing Commercial Airplanes, will have novel or unusual design features associated with seats with inflatable lapbelts. Special Conditions No. 25-187-SC were issued on October 3, 2001, addressing this issue for the Boeing Model 777 series airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special condition is August 7, 2009. We must receive your comments by: October 19, 2009.

**ADDRESSES:** You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM-113), Docket No. NM409, 1601 Lind Avenue, SW., Renton, Washington, 98057-3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM409. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** John Shelden, FAA, Airframe and Cabin Safety Branch, ANM-115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind

Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-2785 facsimile (425) 227-1232.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice of, and opportunity for public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected airplanes. In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

#### Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on these special conditions, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

#### Background

On July 8, 2008, Boeing Commercial Airplanes applied for an amendment to type certificate No. A16WE to include the new Boeing Model 737-600/-700/-700C-800/-900 and 900ER series airplanes. These special conditions allow installation of inflatable lap belts for head injury protection on certain seats in Boeing Model 737-600/-700/-700C/800/-900 and 900ER series airplanes. The FAA has issued similar special conditions, No. 25-187-SC and

subsequently 25-187A-SC for Boeing Model 777 series airplanes and Special Condition No. 25-148-SC for Boeing Model 767 series airplanes.

The inflatable lapbelt is designed to limit occupant forward excursion if an accident occurs. This will reduce the potential for head injury, thereby reducing the Head Injury Criterion (HIC) measurement, required by Title 14, Code of Federal Regulations (14 CFR), 25.562(c)(5). The inflatable lapbelt behaves similarly to an automotive inflatable airbag, but in this case the airbag is integrated into the lapbelt, and inflates away from the seated occupant. While inflatable airbags are now standard in the automotive industry, the use of an inflatable lapbelt is novel for commercial aviation.

Title 14, Code of Federal Regulations (14 CFR) 121.311(j) requires that no person may operate a transport category airplane type certificated after January 1, 1958, and manufactured on or after October 27, 2009, in passenger-carrying operations, after October 27, 2009, unless all passenger and flight attendant seats on an airplane operated under part 121 meet the requirements of § 25.562 in effect on or after June 16, 1988.

The Boeing Model 737-600/-700/-700C/-800/-900 and 900ER series airplanes, manufactured before October 27, 2009, operated under part 121, are required to show compliance with certain aspects of § 25.562 as specified per Type Certificate No. A16WE. Boeing Model 737-600/-700/-700C/-800/-900 and 900ER series airplanes manufactured on or after October 27, 2009, operated under part 121, must meet all of the requirements of § 25.562 for passenger and flight attendant seats. It is in the interest of installers to show full compliance with § 25.562, so that an operator under part 121 may be able to use the airplane without having to do additional certification work. In addition, some foreign civil airworthiness authorities have invoked these same operator requirements in the form of airworthiness directives.

Occupants must be protected from head injury, as required by § 25.785, by either the elimination of any injurious object within the striking radius of the head, or by padding. Traditionally, this has required a setback of 35 inches from any bulkhead or other rigid interior feature or, where not practical, specified types of padding. The relative effectiveness of these means of injury protection was not quantified. With the adoption of Amendment 25-64 to part 25, specifically § 25.562, a new standard that quantifies required head injury protection was created.