

analysis was necessary since, on the mainland, settlements are generally based on separations studies. The aforementioned studies clearly demonstrate that the local telephone companies, PRTC, PRCA, and VITELCO, would receive more revenues under the separations and settlement ratio assumptions we set forth than under current revenue divisions. Adoption of the staff recommendation would, therefore, have a beneficial impact on the local jurisdictions. The only adverse financial impact (as compared with present revenue divisions) which we could discern was on the long lines carriers, AAC&R and CIVL. Such impact however, will be substantially reduced with the advent of full rate integration. It is clear to the Joint Board that the adverse impact was the result of the settlement ratio, 9.5%, set forth as a criterion for the studies together with rate integration, but that the long lines carriers would always recover their costs under the staff recommendation. Since settlements are not before the Joint Board, it is clear that should the long lines carriers seek relief from the adverse financial impact, such relief would have to be sought in another forum. Based on the assumption that settlements will flow from separations and that all carriers will recover their costs and a return on investment, we find no good reason to defer final action by this Joint Board or the Commission.

29. The record made in this proceeding clearly demonstrates that the existing separations manual can be applied to Puerto Rico and the United States Virgin Islands. The existing manual will not unfairly nor unreasonably treat any party. With the advent of full rate integration, Puerto Rico and the Virgin Islands will, for the purposes of MTS and WATS, be treated as any mainland state and will also participate in the interstate revenue pool.¹⁵ Adoption of the existing separations procedures will result, therefore, in such participation on the same basis as the mainland states. Participation in this manner is clearly consistent with the Commission's stated

goal in its Domsat order to minimize distinctions in communications between the mainland and the off-shore points.¹⁶ Participation on an equal basis with the mainland will, of course, permit these off-shore locations to be treated in any modification to the Manual. From all of the foregoing the Joint Board is firmly of the opinion that adoption of the staff recommendation, i.e., use of the existing Separations Manual, would be in the public interest and is supported by the record.¹⁷

Conclusion

30. We have given careful consideration to the staff recommended report and order, the parties filings and implementation studies, the points raised in oral argument, and past Commission actions concerning separations matters. Based thereon it is the Joint Board's conclusion that the existing separations methodology prescribed for the mainland be made applicable to Puerto Rico and the United States Virgin Islands. While the issue of settlements is not before us, we conclude that adoption of the Joint Board's recommendation as a methodology for the development of cost based settlements will not have an adverse economic impact on the local telephone companies. We further conclude that settlements questions, if necessary, can be expeditiously addressed in other appropriate proceedings upon adoption of this recommended decision by the Commission.

31. Accordingly, it is recommended, that the following form of order be adopted by the Commission:

It is ordered, That, pursuant to the provisions of Sections 4(i), 205, 213, 221(c), 221(d) and 403 of the Communications Act of 1934, as amended, the NARUC-FCC Separations Manual, which is incorporated by reference into Part 67 of the Commission's rules and regulations, shall apply to Puerto Rico and the United States Virgin Islands.

It is further ordered, That Part 67 of the Commission's Rules and Regulations, 47 CFR Part 67 is amended by adding the following sentence:

These Separations procedures apply to Puerto Rico and the United States Virgin Islands.

FCC-NARUC Joint Board on Jurisdictional Separations.

[FR Doc. 79-22771 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 78-79; RM-3006]

FM Broadcast Station in Rosamond, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Rosamond, California, in response to a petition filed by Israel Sinofsky. The assigned channel would provide a first local aural broadcast service to the community.

EFFECTIVE DATE: August 27, 1979.

ADDRESS: 5 Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: July 13, 1979.

Released: July 19, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Rosamond, California), BC Docket No. 78-79, RM-3006.

1. By *Notice of Proposed Rule Making*, released March 2, 1978, 43 FR 9510, the Commission proposed the assignment of Class A FM Channel 288A to Rosamond, California (pop. 2,281).

2. Petitioner, Israel Sinofsky, who is urging the assignment, had stated that Rosamond is not located near an urbanized area. While he recognized that Rosamond receives service from stations in three other communities in the area, including Lancaster (30,948), Palmdale (8,511) and Mojave (2,573), he asserted that it has no locally originated source of information, expression and advertising. Petitioner asserted that Rosamond's population has increased substantially since the 1970 Census, and stated he will apply for permission to construct a facility on Channel 288A if the assignment is made.

3. In response to the *Notice*, Sinofsky reiterated his interest in such an assignment. The only other party filing comments, Lancaster-Palmdale Broadcasting Corporation ("LPB"), licensee of Stations KKZZ(AM) and KOTE(FM) in Lancaster, and KDOL(AM/FM) in Mojave, asserted in opposing the proposal that such an assignment would be inappropriate. LPB contends that Rosamond is actually a suburb of Lancaster (some 10 miles

¹⁵ The studies submitted in this proceeding clearly demonstrate that full rate integration accompanied by current divisions of revenues rather than Manual based settlements would have severe adverse impacts on the local telephone companies since they would not recover their interstate revenue requirements.

¹⁶ *Domestic Communications-Satellite Facilities*, 35 FCC 2d at 856, 859, *Reconsideration* 38 FCC 2d at 695-697.

¹⁷ We note that all parties except the ITT Companies support this finding. It is further noted that with the advent of full rate integration our conclusion will be more beneficial to VITELCO when settlements are based on separations rather than on division of revenues.

removed), and is not so isolated from urbanized areas with existing stations as petitioner contends. LPB also contended that no significant population would be provided with a first or second aural service by the assignment, and that "Rosamond's problems are no different in any material degree" from those of other communities with licensed stations in the area.¹ Petitioner disputes LPB on several counts.

4. We believe Rosamond can benefit from its first locally originated aural service, and see no public interest to be served by denying this assignment. There is no question that Rosamond is of sufficient size to warrant such an assignment absent unusual conditions. There is no requirement in Commission policy that first or second aural service be established for a Class A assignment such as this, nor does the Commission restrict assignments to incorporated communities. While LPB contends the community's needs do not materially differ from those of surrounding local communities, this is a judgment better made by an independent licensee attempting to serve its local community of license than by a competitor operating four stations in the immediate vicinity. Rosamond is well outside the urban area of Lancaster, and the exact location or telephone listings of local employers are not determinative of an area's identity as a community sufficient to warrant an FM assignment. Such judgments are open to detailed examination at the application stage, but on the record before us here we believe the various indicia of common interests in Rosamond support such an assignment as was indicated in the *Notice*.

5. Accordingly, it is ordered, That effective August 27, 1979, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the community named is concerned, as follows:

City	Channel No.
Rosamond, California.....	288A

6. It is further ordered, That this proceeding is terminated.

7. For further information on this proceeding, contact Stanley P. Wiggins, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

¹ LPB also offers other assertions along with its contention that no support for such an assignment has been established in terms of demand for local advertising. This matter is not a proper question to resolve here but is an issue properly addressed at the application stage of proceedings. *Adrian, Michigan*, 37 F.C.C. 2d 1021 (1972).

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-22769 Filed 7-23-79; 8:45 am]

BILLING CODE 6712-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 73, and 150

Safeguard Requirements for Special Nuclear Material of Moderate and Low Strategic Significance

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations for physical protection of plants and materials, including nonpower reactors, to require physical protection measures to detect theft of special nuclear material of moderate and low strategic significance. The amendments are being made in the interest of common defense and security. The measures are designed to provide a level of protection equivalent to that recommended in Information Circular/225/Rev. 1 (INFCIRC/225) published by the International Atomic Energy Agency (IAEA). The amendments specify protection requirements for special nuclear material at fixed sites, including nonpower reactors, and for special nuclear material in transit.

Physical protection requirements for independent spent fuel storage installations and nuclear power reactors are presently covered under 10 CFR § 73.40, § 73.50, and § 73.55 and therefore are not included in these amendments.

Concurrent with the publication of the amendments, the NRC is publishing a regulatory guide entitled, "Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." This document has been prepared as an aid to uniformity and completeness in the preparation and review of the physical security plan for special nuclear material of moderate and low strategic significance. In addition, a value/impact assessment of these amendments has been prepared and placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

EFFECTIVE DATE: November 21, 1979.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirement under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which

that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Mr. J. A. Prell, Safeguards Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443-5904 or Mr. C. K. Nulsen, Requirements Analysis Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4043.

SUPPLEMENTARY INFORMATION: On May 24, 1978 the Nuclear Regulatory Commission published in the *Federal Register* (43 FR 22216) proposed amendments to 10 CFR Parts 70, 73, and 150 of its regulations. Interested persons were invited to submit written comments and suggestions on the proposed amendments within thirty days after publication in the *Federal Register*. Based on the public comments and other considerations, the Commission has adopted the proposed amendments, with modifications as set forth below.

The effective physical protection amendments are designed to have overall equivalency to the recommendations of INFCIRC/225 Rev. 1, but there are differences in the detailed requirements. INFCIRC/225 Rev. 1 recommendations are designed to minimize the possibilities of theft or sabotage of SNM of moderate or low strategic significance. The effective amendments have been primarily designed to require early detection of theft of SNM of moderate or low strategic significance. However, in requiring early detection capabilities, these amendments deter the possibilities of theft or diversion. In the judgment of the Commission, the degree of protection afforded by the containment, monitoring and detection procedures required by these amendments provide equivalency to the INFCIRC/225 Rev. 1 recommendations for protection of theft or diversion of SNM.

Significant differences from the proposed rule published for comment on May 24, 1978 are: (1) Plutonium-Beryllium (PuBe) sealed sources would be exempted from the physical protection requirements; (2) Plutonium with isotopic concentration exceeding 80 percent in plutonium-238 would be exempted from the physical protection requirements; (3) package and vehicle search requirements at facilities where special nuclear material of moderate strategic significance is used or stored have been changed; (4) The period of time allotted for submittal of a licensee plan to implement these requirements has been changed from 60 days to 120

days after the effective date of the amendment. In addition, editorial and clarifying changes were made and some definitions added to clarify the intent of the regulations.

The following discussion pertains to items (1) through (4) above.

(1) PuBe sealed sources—Commenters stated that the cost of providing the required physical protection for PuBe sealed sources would be prohibitive from the point of view of the limited budgets available at universities where most of the sources are now located. Imposition of the proposed requirements, it was said, would result in the curtailment of the use of PuBe sources at some sites with a significant impact on the educational and research programs at those institutions. In view of the very small quantities of plutonium found in PuBe sealed sources (generally, from 16 to 161 grams) and the fact that potential adversaries wishing to obtain a 5 kg formula quantity of plutonium would have to commit separate acts of theft at a large number of widely separated sites without being detected, the Commission has decided that the threat to the common defense and security of this country was sufficiently low that physical security measures should not be required for PuBe sealed sources. There is an upper limit of 500 grams of plutonium to which this exemption can be applied because greater than a 500 gram accumulation of plutonium in this form invalidates the basis for this exemption. IAEA guidelines allow for such exceptions in the case of research type facilities.

(2) More than 80 percent Pu-238—The proposed rule has been amended to reflect that plutonium with isotopic concentration exceeding 80 percent in plutonium-238 would be exempted from the physical protection requirements. This change corrects an oversight in the initially proposed amendments in which it was intended that such material would be exempted to be consistent with the definitions of Category II and III material in the IAEA document INFCIRC/225/Rev. 1.

(3) Search requirements—Package and vehicle search requirements at facilities at which special nuclear material of moderate strategic significance is used or stored have been changed. As revised, random searches are only required regarding items leaving controlled access areas, and not of those entering. The primary objective of entry searches is to detect materials which could be useful in sabotage. Since protection against sabotage is not within the scope of the proposed amendments,

an entry search requirement is not necessary.

(4) Submission and Implementation of Plans—Several commenters stated that more time would be needed than the sixty days allowed for submission of physical security plans, or amendments to them, following the date the proposed amendments become effective.

The Commission agrees that more time may be required, especially in the case of licensees who have limited managerial and financial resources, and has changed the submission date to be 120 days following the effective date of the amendment. In addition, the licensee is now required to implement the approved security plan within 240 days following the effective date of the amendment or within 30 days after the plan is approved, whichever is later.

Concurrent with the publication of the amendments, the NRC is publishing a guide entitled "Standard Format and Content for the Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance." The guide is being published for a sixty-day comment period and will be reissued with comments taken into consideration. The amendments to 10 CFR Parts 70, 73 and 150 would become effective at this time (120 days after publication) (November 21, 1979). Licensees would therefore have 240 days after publication of the amendments to submit their plans. The plan would have to be implemented 30 days after approval by the Commission or 360 days after (date of publication in the *Federal Register*) (July 24, 1979).

Another area of comment dealt with employee screening. Some of the licensees interpreted the screening requirement to call for a full field background investigation of all personnel entering the controlled access areas where the material is used or stored. The wording of the rule has been revised to more clearly indicate that the requirement is merely one requiring a screening based on knowledge of persons permitted access rather than a formal security investigation. The guidance package being issued with the rule explains more fully the intent of this requirement.

There was one other area of comment for which no specific changes were made to the amendments but which is of significance. These comments dealt generally with the technical justification for the proposed amendments.

Many of the commenters questioned the technical justification for the proposed amendments on the basis of the lack of detailed information regarding the threat; the additional costs

of implementation they perceived to be incommensurate with only marginal improvements in physical protection; and the impacts on the licensees' ongoing educational and research programs. Particular attention was focused by some commenters on the physical protection requirements for low enriched uranium.

The technical justification for the U.S. adoption of the proposed amendments is contingent on both domestic and international factors, which are closely interrelated. Current NRC physical protection regulations apply primarily to strategic special nuclear material (uranium enriched in the isotope U-235 to 20% or greater, U-233, and plutonium) in quantities of five formula kilograms or greater. There are no specific physical protection requirements for quantities in lesser amounts. Yet, it can be properly argued that a 4.9 formula kilogram quantity of SNM is about as important a quantity as 5.0 kilograms. Multiple thefts of such materials in close to formula quantities could result in the accumulation of more than a formula quantity. The proposed detection requirements are considered to provide sufficient protection with minimum added cost so as not to affect educational and research programs. Since the requirements are of a detection nature rather than prevention, characterization of the adversary in the regulations was deemed not to be necessary.

In regard to low enriched uranium (LEU) (enrichments less than 20%), clandestine enrichment to higher levels may go beyond the capability of subnational terrorists, but it does not go beyond the capability of other governments. Unless properly safeguarded, low enriched uranium could be stolen on behalf of foreign governments and enriched to explosive useable levels after it is smuggled out of the U.S.

The Nuclear Non-Proliferation Act of 1978 specifies that NRC shall promulgate regulations which assure that physical security measures are provided to special nuclear materials exported from the United States without specifying whether the materials are low enriched uranium or high enriched uranium. Pursuant to this legislation, the Commission has promulgated 10 CFR Part 110.43 which provides among other things that:

"(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or

group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained."

While the proposed amendments would provide a needed extension of domestic physical protection to special nuclear materials for which the level of physical protection required was not previously specified, the full value of such protection could not be realized until similar protection is afforded all such material among the nations utilizing such materials. Physical protection measures similar to those proposed, which are based on the recommendations of the IAEA Information Circular INFCIRC/225/Rev. 1, have already been adopted by several countries.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 70, 73, and 150 are published as a document subject to codification.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. Paragraph 70.22(g) of 10 CFR Part 70 is revised to read as follows:

§ 70.22 Contents of Applications

(g) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter shall include (1) a description of the plan for physical protection of special nuclear material in transit in accordance with §§ 73.30 through 73.36, 73.47 (a) and (e), 73.47(g) for 10 kg or more of special nuclear material of low strategic significance, and 73.70(g) of this chapter including, as appropriate, a plan for the selection, qualification and training of armed escorts, or the specification and design of a specially designed truck or trailer, and (2) a licensee safeguards contingency plan or response procedures, as appropriate, for dealing with threats, thefts, and industrial sabotage relating to the special nuclear material in transit. Each application for such a license involving formula quantities of strategic special nuclear material shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of

information, Procedures, does not have to be submitted for approval.)

2. Paragraph 70.22(h) of 10 CFR Part 70 is revised to read as follows:

(h) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula,

$$\text{grams} = (\text{grams contained U-235} + 2.5 (\text{grams U-233} + \text{grams plutonium})),$$
 other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan, consisting of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to meet the requirements of §§ 73.40, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed. Part II shall list tests, inspections, and other means to demonstrate compliance with such requirements.

3. Section 70.22 is amended to add a new paragraph (k) to read as follows:

(k) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance as defined under paragraphs 73.2 (x) and (y) of this chapter, other than a license for possession or use of such material in the operation of a nuclear power reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan which shall demonstrate how the applicant plans to meet the requirements of paragraph 73.47 (d), (e), (f) and (g), as appropriate, of Part 73 of this chapter.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

4. Paragraph 73.1(b) of 10 CFR Part 73 is revised to read as follows:

§ 73.1 Purpose and Scope.

(b) Scope

(1) This part prescribes requirements for (i) the physical protection of production and utilization facilities licensed pursuant to Part 50 of this chapter; (ii) the physical protection of plants in which activities licensed pursuant to Part 70 of this chapter are

conducted, and (iii) the physical protection of special nuclear material by any person who, pursuant to the regulations in Part 70 of this chapter, possesses or uses at any site or contiguous sites subject to the control by the license, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

(2) This part prescribes requirements for the physical protection of special nuclear material in transportation by any person who is licensed pursuant to the regulations in Part 70 and Part 110 of this chapter who imports, exports, transports, delivers to a carrier for transport in a single shipment, or takes delivery of a single shipment free on board (f.o.b) where it is delivered to a carrier, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

5. Section 73.2 of 10 CFR Part 73 is amended by revising paragraph (b) and adding new paragraphs (x), (y), (z), (aa) and (bb) to read as follows:

§ 73.2 Definitions.

(b) "Authorized individual" means any individual, including an employee, a student, a consultant, or an agent of a licensee who has been designated in writing by a licensee to have responsibility for surveillance of or control over special nuclear material or to have unescorted access to areas where special nuclear material is used or stored.

(x) "special nuclear material of moderate strategic significance" means:

(1) less than a formula quantity of strategic special nuclear material but more than 1000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of more than 1000 grams when computed by the equation, $\text{grams} = (\text{grams contained U-235}) + 2 (\text{grams U-233} + \text{grams plutonium})$, or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope).

(y) "special nuclear material of low strategic significance" means:

(1) less than an amount of strategic special nuclear material of moderate strategic significance, as defined in § 73.2(x)(1), but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or 15 grams of uranium-233

or 15 grams of plutonium or the combination of 15 grams when computed by the equation,
 $\text{grams} = \text{grams contained U-235} + \text{grams plutonium} + \text{grams U-233}$,
 or

(2) less than 10,000 grams but more than 1000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope), or

(3) 10,000 grams or more of uranium-235 contained in uranium enriched above natural but less than 10 percent in the U-235 isotope.

(z) "Controlled access area" means any temporarily or permanently established area which is clearly demarcated, access to which is controlled and which affords isolation of the material or persons within it.

(aa) "Strategic special nuclear material" means uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium.

(bb) "Formula quantity" means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula,
 $\text{grams} = (\text{grams contained U-235}) + 2.5 (\text{grams U-233} + \text{grams plutonium})$.

6. A new § 73.47 is added to 10 CFR Part 73 to read as follows:

§ 73.47 Licensee Fixed Site and In-Transit Requirements For The Physical Protection of Special Nuclear Material of Moderate and Low Strategic Significance.

(a) General Performance Objectives

(1) Each licensee who possesses, uses or transports special nuclear material of moderate or low strategic significance shall establish and maintain a physical protection system that will achieve the following objectives:

(i) Minimize the possibilities for unauthorized removal of special nuclear material consistent with the potential consequences of such actions; and

(ii) Facilitate the location and recovery of missing special nuclear material.

(2) To achieve these objectives, the physical protection system shall provide:

(i) Early detection and assessment of unauthorized access or activities by an external adversary within the controlled access area containing special nuclear material;

(ii) Early detection of removal of special nuclear material by an external adversary from a controlled access area;

(iii) Assure proper placement and transfer of custody of special nuclear material; and

(iv) Respond to indications of an unauthorized removal of special nuclear material and then notify the appropriate response forces of its removal in order to facilitate its recovery.

(b)(1) A licensee is exempt from the requirements of this section to the extent that he possesses, uses, or transports (i) special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding or (ii) sealed plutonium-beryllium neutron sources totaling 500 grams or less contained plutonium at any one site or contiguous sites or (iii) plutonium with an isotopic concentration exceeding 80 percent in plutonium-238.

(2) A licensee who has quantities of special nuclear material equivalent to special nuclear material of moderate strategic significance distributed over several buildings may, for each building which contains a quantity of special nuclear material less than or equal to a level of special nuclear material of low strategic significance, protect the material in that building under the lower classification physical security requirements.

(c) Each licensee who possesses, uses, transports or who delivers to a carrier for transport special nuclear material of moderate strategic significance of 10 kg or more of special nuclear material of low strategic significance shall:

(1) Submit by [date 120 days from effective date of amendment] a security plan or an amended security plan describing how the licensee will comply with all the requirements of Sections 73.47 (d), (e), (f), and (g), as appropriate, including schedules of implementation; and

(2) Within 240 days after the effective date of these amendments or 30 days after the plan(s) submitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, implement the approved security plan

(d) Fixed Site Requirements for Special Nuclear Material of Moderate Strategic Significance—Each licensee who possesses, stores, or uses quantities and types of special nuclear material of moderate strategic significance at fixed sites, except those who are licensed to operate a nuclear power reactor pursuant to Part 50, shall:

(1) use the material only within a controlled access area which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(2) store the material only within a controlled access area such as a vault-type room or approved security cabinet or their equivalent which is illuminated sufficiently to allow detection and surveillance of unauthorized penetration or activities,

(3) monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetration or activities,

(4) conduct screening prior to granting an individual unescorted access to the controlled access area where the material is used or stored, in order to obtain information on which to base a decision to permit such access,

(5) develop and maintain a controlled badging and lock system to identify and limit access to the controlled access areas to authorized individuals,

(6) limit access to the controlled access areas to authorized or escorted individuals who require such access in order to perform their duties,

(7) assure that all visitors to the controlled access areas are under the constant escort of an individual who has been authorized access to the area,

(8) establish a security organization or modify the current security organization to consist of at least one watchman per shift able to assess and respond to any unauthorized penetrations or activities in the controlled access areas,

(9) provide a communication capability between the security organization and appropriate response force,

(10) search on a random basis vehicles and packages leaving the controlled access areas, and

(11) establish and maintain response procedures for dealing with threats of thefts or thefts of such materials.

(e) In-Transit Requirements for Special Nuclear Material of Moderate Strategic Significance—

(1) Each licensee who transports, exports or delivers to a carrier for transport special nuclear material of moderate strategic significance shall:

(i) provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) receive confirmation from the receiver prior to the commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) transport the material in a tamper-indicating sealed container,

(iv) check the integrity of the containers and seals prior to shipment, and

(v) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(e)(3) of this part unless the receiver is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(2) Each licensee who receives special nuclear material of moderate strategic significance shall:

(i) check the integrity of the containers and seals upon receipt of the shipment,

(ii) notify the shipper of receipt of the material as required in Section 70.54 of Part 70 of this chapter, and

(iii) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(e)(3) of this part unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of moderate strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) arrange for a telephone or radio communications capability, for notification of any delays in the scheduled shipment, between the carrier and the shipper or receiver,

(ii) minimize the time that the material is in transit by reducing the number and duration of nuclear material transfers and by routing the material in the most safe and direct manner,

(iii) conduct screening of all licensee employees involved in the transportation of the material in order to obtain information on which to base a decision to permit them control over the material,

(iv) establish and maintain response procedures for dealing with threats of thefts or thefts of such material,

(v) make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(vi) conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in

Appendix A of the action being taken to trace the shipment.

(4) Each licensee who exports special nuclear material of moderate strategic significance shall comply with the requirements specified in § 73.47(c), (e)(1) and (e)(3).

(5) Each licensee who imports special nuclear material of moderate strategic significance shall:

(i) comply with the requirements specified in § 73.47(c) (e)(2) and (e)(3) and

(ii) notify the exporter who delivered the material to a carrier for transport of the arrival of such material.

(f) Fixed Site Requirements for Special Nuclear Material of Low Strategic Significance—Each licensee who possesses or uses special nuclear material of low strategic significance at fixed sites, except those who are licensed to operate a nuclear power reactor pursuant to Part 50, shall:

(1) store or use the material only within a controlled access area,

(2) monitor with an intrusion alarm or other device or procedures the controlled access areas to detect unauthorized penetrations or activities,

(3) assure that a watchman or offsite response force will respond to all unauthorized penetrations or activities, and

(4) establish and maintain response procedures for dealing with threats of thefts or thefts of such material.

(g) In-Transit Requirements for Special Nuclear Material of Low Strategic Significance—

(1) Each licensee who transports or who delivers to a carrier for transport special nuclear material of low strategic significance shall:

(i) provide advance notification to the receiver of any planned shipments specifying the mode of transport, estimated time of arrival, location of the nuclear material transfer point, name of carrier and transport identification,

(ii) receive confirmation from the receiver prior to commencement of the planned shipment that the receiver will be ready to accept the shipment at the planned time and location and acknowledges the specified mode of transport,

(iii) transport the material in a tamper indicating sealed container,

(iv) check the integrity of the containers and seals prior to shipment, and

(v) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(g)(3) of this part, unless the receiver is a licensee and has agreed in writing to

arrange for the in-transit physical protection.

(2) Each licensee who receives quantities and types of special nuclear material of low strategic significance shall:

(i) check the integrity of the containers and seals upon receipt of the shipment,

(ii) notify the shipper of receipt of the material as required in § 70.54 of Part 70 of this chapter, and

(iii) arrange for the in-transit physical protection of the material in accordance with the requirements of § 73.47(g)(3) of this part, unless the shipper is a licensee and has agreed in writing to arrange for the in-transit physical protection.

(3) Each licensee, either shipper or receiver, who arranges for the physical protection of special nuclear material of low strategic significance while in transit or who takes delivery of such material free on board (f.o.b.) the point at which it is delivered to a carrier for transport shall:

(i) establish and maintain response procedures for dealing with threats of thefts or thefts of such material,

(ii) make arrangements to be notified immediately of the arrival of the shipment at its destination, or of any such shipment that is lost or unaccounted for after the estimated time of arrival at its destination, and

(iii) conduct immediately a trace investigation of any shipment that is lost or unaccounted for after the estimated arrival time and report to the Nuclear Regulatory Commission as specified in § 73.71 and to the shipper or receiver as appropriate. The licensee who made the physical protection arrangements shall also immediately notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of the action being taken to trace the shipment.

(4) Each licensee who exports special nuclear material of low strategic significance shall comply with the appropriate requirements specified in § 73.47(c), (g)(1) and (g)(3).

(5) Each licensee who imports special nuclear material of low strategic significance shall:

(i) comply with the requirements specified in § 73.47(c), (g)(2) and (g)(3), and

(ii) notify the person who delivered the material to a carrier for transport of the arrival of such material.

7. Section 73.71(a) of 10 CFR Part 73 is revised to read as follows:

§ 73.71 Reports of unaccounted for shipments, suspected theft, unlawful diversion, or industrial sabotage.

(a) Each licensee who conducts a trace investigation of a lost or unaccounted for shipment pursuant to § 73.36(f), § 73.47(e)(3)(vi), or § 73.47(g)(3)(iii) shall immediately report to the appropriate NRC Regional Office listed in Appendix A the details and results of his trace investigation and shall file within a period of fifteen (15) days a written report to the appropriate NRC Regional Office setting forth the details and results of the trace investigation. A copy of such written report shall be sent to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

8. Section 73.72 of 10 CFR Part 73 is revised to read as follows:

§ 73.72 Requirement for advance notice of shipment of special nuclear material.

Each licensee who plans to import, export, transport, deliver to a carrier for transport in a single shipment, or take delivery at the point where it is delivered to a carrier, formula quantities of strategic special nuclear material or special nuclear material of moderate strategic significance shall notify the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A by U.S. Mail, postmarked at least 7 days in advance of the shipping date. The following information shall be furnished in the advance notice: shipper, receiver, carrier(s), estimated date and time of departure and arrival, transfer point(s), and mode(s) of shipment. The Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office shall also be notified by telephone 7 days in advance of the shipping date that an advance shipping notice has been sent by mail, and of any changes to the shipment itinerary prior to the shipment date. Road shipments or transfers with one-way transit times of 1 hour or less in duration between installations of a licensee are exempt from the requirements of this section.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

9. 10 CFR Part 150 is amended to add a new Section 150.14 to read as follows:

§ 150.14 Commission Regulatory Authority for Physical Protection.

Persons in Agreement States possessing, using or transporting special

nuclear material of low strategic significance in quantities greater than 15 grams of plutonium or uranium-233 or uranium-235 (enriched to 20 percent or more in the U-235 isotope) or any combination greater than 15 grams when computed by the equation grams = grams uranium-235 + grams plutonium + grams uranium-233 shall meet the physical protection requirements of § 73.47 of 10 CFR Part 73.

EFFECTIVE DATE: November 21, 1979.

(Sec. 53, 1611, Pub. Law 83-703, 68 Stat. 948, Pub. Law 93-377, 88 Stat. 475; Sec. 201, Pub. Law 93-438, 88 Stat. 1242-1243, Pub. Law 94-79, 89 Stat. 413 (42 U.S.C. 2073, 2201, 5841).)

Dated at Washington, D.C. this 18th day of July, 1978.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 79-22971 Filed 7-23-79; 8:45 am]
BILLING CODE 7590-01-M

Proposed Rules

Federal Register

Vol. 44, No. 143

Tuesday, July 24, 1979

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

Food and Nutrition Service

[7 CFR Part 226]

Child Care Food Program

Correction

In FR Doc. 79-20396 appearing at page 39077 in the issue for Tuesday, July 13, 1979, make the following corrections:

(1) On page 39078, in the first column, under the heading **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the 5th line, insert the word "limit" between the words "time" and "for".

(2) On page 39078, in the middle column, in the 18th line from the top of the page, insert the word "final" between the words, "affect" and "regulatory".

(3) On page 39080, in the third column, under the heading **III. State Responsibility**, in the paragraph designated by "2. Application approval," in the 1st line, substitute, "Pub. L. 95-627" for "The statute".

(4) On page 39082, in the middle column, in the paragraph designated by "8. Procurement standards," in the 8th line, replace the word "finds" with the word "funds".

(5) On page 39083, in the middle column, in the paragraph designated by "6. Audits," in the 7th line, insert the word "audit" between the words "the" and "biennial".

(6) On page 39083, in the middle column, in the paragraph designated by "6. Audits," in the 10th line, substitute "audit" for "audity".

(7) On page 39087, in the first column, in § 226.2(e), in the 6th line, insert the word "not" between the words "but" and "limited".

(8) On page 39091, in the middle column, in § 226.7(d)(2), the 26th line should read, "or certificates with any applicable State or".

(9) On page 39091, in the middle column, in § 226.7(d)(3), in the 28th line,

replace the word "Page" with the word "Program".

(10) On page 39091, in the middle column, in § 226.7(d)(3), in the 32nd line, replace the word "indicated" with the word "indicates".

(11) On page 39096, in the third column, in § 226.16(a), in the 10th line, substitute "tax-exempt" for "tax-exept" and replace the word "any" with the word "may".

(12) On page 39098, in § 226.17(c), in the 2nd line, replace the word "is" with the word "as".

(13) On page 39100, in the third column, in § 226.20(c), in the introductory paragraph, in the 3rd line, insert the prefix "sub" before the word "paragraphs".

(14) On page 39100, in the third column, in § 226.20(c)(2)(iii), in the 2nd line, insert the word "four" between the words "following" and "components".

(15) On page 39100, in the third column, in § 226.20(c)(3), in the 1st line, insert the number "1" in front of the word "cup".

(16) On page 39105, in the third column, in § 226.25(b)(3)(ii)(D), in the 9th line, replace "(b)(2) and (3)" with "(b)(2) and (b)(3)".

BILLING CODE 1505-01-M

Agricultural Marketing Service

[7 CFR Part 924]

Handling of Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Ore.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposal to exempt designated handlers from inspection and certification requirements of this order under a waiver of inspection procedure. This is designed to provide for orderly marketing in the interests of producers and consumers.

DATES: Comments must be received by August 8, 1979.

ADDRESSES: Send comments to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at

the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, (202) 447-5975.

SUPPLEMENTARY INFORMATION:

Consideration is being given to the following waiver of inspection rule proposal, recommended by the Washington-Oregon Fresh Prune Marketing Committee, established under the marketing agreement and Order No. 924, as amended (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This proposal has not been determined significant under USDA criteria for implementing Executive Order 12044.

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the need to grant certain handlers waivers of inspection and certification. Some handlers are located in areas remote from inspection offices. They would be eligible for a waiver if an inspector is not readily available. Fresh prunes are perishable, with the waiver needed to facilitate prompt marketing.

Such proposal reads as follows:

§ 924.110 Waiver of inspection and certification.

(a) *Application.* Any handler (including a grower-handler packing and handling prunes of such handler's own production), whose packing facilities are located in an area where either a Washington State Plant Industry Division Inspection Office or Oregon State Plant Industry Inspection Office or Federal-State Inspector is not readily available to perform the required inspection may, prior to shipment, apply to the Committee for a permit authorizing a waiver of inspection. Applications shall be made on forms furnished by the Committee and shall contain such information as the Committee may require including: Name and address of applicant, location of packing facility, distance of packing facility from the nearest inspection office, period (approximate beginning and ending dates) during which the applicant expects to ship prunes, estimated quantity of prunes applicant

expects to ship to fresh market during the period, manner in which the majority of applicant's fruit will be marketed (i.e., transported by applicant to market, sold at orchard to truckers, etc.), areas or markets to which the applicant expects to ship the majority of the prunes. The applicant shall also contain an agreement by applicant:

(1) Not to ship or handle any prunes unless such prunes meet the grade, size, maturity, container, and all other requirements of the marketing agreement and order in effect at time of handling;

(2) To report periodically to the Committee on reporting forms furnished by the Committee, the following information on each shipment: quantity, variety, grade, minimum size, container, date of shipment, destination, name and address of buyer or receiver, and such other information as the Committee may specify;

(3) To pay applicable assessments on each shipment;

(4) To have or cause to have each shipment of prunes inspected when such shipment is transported to a market or through a location enroute to market where an inspector is available; and

(5) To comply with such other safeguards as the Committee may prescribe.

(b) *Issuance of Permit.* Whenever the Committee finds and determines from the information contained in the application or from other proof satisfactory to the Committee that the applicant is entitled to a waiver from the inspection requirements of the marketing agreement and order at time of shipment, the Committee shall issue a permit authorizing the applicant to ship prunes in accordance with these administrative regulations and the terms and conditions of such permit.

Dated: July 19, 1979.

D. S. Kuryloski,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-22620 Filed 7-23-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 309]

Proposed Amendment to Existing Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Amendment to Existing Regulations—Extension of Comment Period.

SUMMARY: The Board of Directors of FDIC has voted to amend Part 309 of its regulations so as to allow for routine public disclosure of the Trust Department Annual Reports of Assets filed with the FDIC by State nonmember insured banks. All interested persons were invited to submit written comments on the proposed amendment until July 16, 1979. The comment period is being extended an additional thirty days.

DATE: Additional comments must be received by August 16, 1979.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Pamela E. F. LeCren, Attorney, Legal Division (202-389-4453), or John Harvey, Review Section Chief (202-389-4620).

SUPPLEMENTARY INFORMATION: The FDIC currently obtains Trust Department Annual Reports of Assets from nonmember insured banks. The information compiled from these reports is used in a publication of statistical data on trust activities. The publication contains in some instances the data supplied by individual banks. The reports are themselves exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(8)), but may be disclosed at the FDIC's discretion. As it is the opinion of the Board of Directors of the FDIC that the public will be benefited by the release of this information and that State nonmember insured banks will not be harmed thereby, the Board of Directors proposes to make these reports available to the public on a routine basis. In order to do so, § 309.4(b) of FDIC's regulations must be amended to allow for such disclosure.

In consideration of the foregoing, the Board of Directors of the FDIC proposes to amend 12 CFR 309.4(b)(1) by adding at the end thereof:

(v) Annual Trust Department Report of Assets for commercial banks and mutual savings banks.*

Dated: July 17, 1979.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79-22747 Filed 9-23-79; 8:45 am]

BILLING CODE 6714-01-M

* Trust Department report number 8020/33.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-10748, File No. S7-789]

Confidential Treatment of Names and Addresses of Dealers of Registered Investment Company Securities

Correction

In FR Doc. 79-20738 appearing at page 39197 in the issue for Thursday, July 5, 1979, on page 39198, second column, sixth line of the first full paragraph, the word "of" should read "or".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 178]

Indirect Food Additives; Proposed Revocation of use of Hydrogenated 4, 4'-Isopropyl Denediphenolphosphite Ester Resins

Correction

In FR Doc. 79-18375 appearing on page 34513 in the issue of Friday, June 15, 1979, where references to "4, 4_m * * *" or "4, 4Δ * * *" appear change them to "4, 4' * * *".

BILLING CODE 1505-01-M

[21 CFR Part 184]

[Docket No. 78N-0198]

Dextrin; Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient

Correction

In FR Doc. 79-9170 appearing at page 18246 in the issue for Tuesday, March 27, 1979 and corrected at page 34515 in the issue of Friday, June 15, 1979, in the fourth item of the correction, the superscript "D" should have been a subscript "D".

BILLING CODE 1505-01-M