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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 83-318]

Citrus Canker—Mexico; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Amendment to interim rule; correction.

SUMMARY: This document corrects the amendment to the "Citrus Canker—Mexico" interim regulations which was published in the **Federal Register** on April 21, 1983 (48 FR 17322–17327). The interim regulations were amended to allow any importer to import restricted articles for movement to and use in certain northern parts of Louisiana and Texas in accordance with certain conditions, and to allow restricted articles to be culled and repacked under certain conditions in restricted areas in Texas. Because of editorial errors it is necessary to make a correction to clarify provisions which were intended to help assure that wholesale and chain store distributors in nonrestricted areas in Louisiana or Texas do not reship restricted articles into restricted areas. Accordingly, in 7 CFR 319.27–12(b) on page 17327, the phrase "to any other wholesale or chain store distributor in a restricted area" is changed to "to any other wholesale or chain store distributor in a nonrestricted area in Louisiana or Texas".

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–5533.

Harvey L. Ford,
Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-14571 Filed 5-31-83; 8:45 am]
BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 932

Olives Grown in California; Administrative Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the administrative rules and regulations with respect to nomination procedures, public member and late assessment procedures of the California Olive Committee. The rule also specifies the procedures for assessment crediting of handler paid advertising expenditures and removes an obsolete definition of "limited use" styles. The changes implement two recent amendments to the marketing order.

EFFECTIVE DATE: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of California olives for the benefit of producers, and will not substantially affect costs for those persons directly regulated.

The amendment of Subpart—Rules and Regulations (47 FR 13118, 51348) is issued under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932, 47 FR 32905, 51092), regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section is based upon the recommendations and information submitted by the California Olive Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The changes contained herein would become effective June 1, 1983, and they are identical to those published as an interim final rule in the March 8, 1983, issue of the **Federal Register** (48 FR 9633). The interim final rule was made effective for the period March 8 through June 1, 1983, and provided the opportunity for the public to submit written comments on the interim rule until April 7, 1983. No comments were received.

Section 932.52 was amended effective August 1, 1982 (47 FR 32905), to provide that the current U.S. Standards for Grades of Canned Ripe Olives (7 CFR Part 52), instead of the U.S. Standards effective in 1971, apply for purposes of outgoing quality and limited use regulations. Thus, § 932.110 which adds "quartered" and "segmented" styles as those which may be produced from limited use sized olives, is no longer applicable and should be terminated.

Effective August 1, 1982, § 932.29 was amended to provide that producer members of the Committee may be nominated through a combination of producer meetings and subsequent mail ballots, or such other procedure recommended by the Committee and approved by the Secretary. Thus, § 932.129 should be revised to provide that Committee members who represent producers shall be nominated through a prescribed combination of public meetings with or without mail ballots, as the Committee may determine. Section 932.129 should also be revised to specify who may vote in such nominations and who may serve on the Committee.

Effective August 1, 1982, § 932.25 was revised to provide that the size of the Committee may be increased from 16 members and alternates to 17 members and alternates through the selection of a public member and alternate who are not producers or handlers. Also, § 932.29(c) was added to provide that nominations for public member and alternate shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. Section 932.29(c) also provides that the Committee shall prescribe procedures for the selection and voting for each candidate. Thus, § 932.130 should be added to prescribe the qualifications for the public member and alternate and to permit the Committee to recommend its nominee to the Secretary.

Section 932.39(c) was added in 1982 (47 FR 32905) to permit the Committee with the approval of the Secretary to levy interest and/or late charges for assessments not paid to the Committee by handlers within a prescribed period of time. Thus, § 932.139 should be added, which establishes for all assessments not received by the Committee within 30 days, a two percent late payment charge and an additional interest charge computed according to the number of days an assessment is delinquent beyond the 30 day payment period.

Finally, § 932.45 was amended in 1982 (47 FR 51092) to provide for crediting a portion of a handler's direct expenditures for paid advertising for olives. Section 932.145 should be added to implement this provision. That section specifies the direct expenditures which may be so credited, the amount of assessments available for crediting, and the procedures handlers should follow to obtain credit.

It is found that it is impracticable and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and good cause exists for making these regulatory provisions effective as specified in that: (1) The changes implement recent amendments to the order and were recommended by the California Olive Committee; (2) olive handlers are aware of the changes and require no advanced preparation time; (3) some of changes represent a relief of restrictions or an application for benefits and no useful purpose is served by delaying the effective date of this action; and (4) the public has had an opportunity to comment on the amendments and no comments were received.

List of Subjects in 7 CFR Part 932

Marketing agreements and orders, Olives, California.

PART 932—[AMENDED]

Therefore, Subpart—Rules and Regulations (7 CFR 932.108–932.161) is amended as follows:

§ 932.110 [Removed]

1. Section 932.110 is removed.

2. Section 932.129 is revised to read as follows:

§ 932.129 Nomination procedures for producer members.

Members and alternate members on the Committee who represent producers shall be nominated in accordance with the procedures specified in either paragraph (a) or paragraph (b) of this section as the Committee may determine.

(a) *Mail ballot voting.* (1) The Committee shall schedule a meeting, prior to March 1 of each odd-numbered year, in each producing district for the purpose of selecting candidates for member and alternate member nominations. A notice of such meetings will be mailed to each producer of record in each district. The nomination process is as follows:

(i) Any person who produces olives in a particular district may offer the name of any producer from that district as a candidate for either a member or alternate member position in said district.

(ii) A producer, who produces olives in more than one district, can be selected as a candidate for a member or alternate member position in only one district.

(iii) The Committee will notify by mail producers who are selected as candidates but are not in attendance at such meetings. Such producers have the right to decline such listing on the ballot within 7 days of mailing such notice.

(iv) In the event that no candidates or an insufficient number of candidates are selected at such meetings for the producer members and alternates in the respective districts, the Committee will give written notice to producers in said district that additional names may be submitted for the specified position(s).

(2) Following such meetings, and no later than March 15 of each odd-numbered year, the Committee shall prepare and mail a ballot to each producer that delivered olives during that crop year in each district.

(i) A producer who produces olives in more than one district must choose the district in which the producer will vote and notify the Committee of that choice. If the Committee is not notified and more than one ballot is received from such a producer, the first ballot received will be counted. Candidates may only vote in the district in which they are seeking nomination.

(ii) Each ballot will list separately the names of candidates for the member positions and the names of candidates for the alternate member positions for said district.

(iii) A ballot will be mailed to producers of record to give them an opportunity to vote. Committee records will be used to determine the list of producers eligible to cast ballots. However, any producer who is not identified in such records may receive a ballot if the Committee determines that such producer is eligible to participate in nominations in that district.

(iv) A producer may cast a vote for as many candidates as there are member or alternate positions in said district.

(v) The candidate on each list, as prescribed in paragraph (a)(2)(ii) of this section, who receives the most votes will be the nominee for the first position, and until all positions for that district are filled, the candidates receiving the second, third and fourth highest number of votes will be the nominees for the second, third and fourth position respectively.

(vi) In the event of a tie which would result in elimination of a tied candidate, a second ballot with the names of those tied candidates will be mailed to producers in said district for another vote.

(b) Nomination Meetings. In lieu of the mail ballot nomination procedure specified in paragraph (a) of this section, the Committee may schedule nomination meetings. In such an event, the following procedure will apply:

(1) Prior to March 15 of each odd-numbered year, the Committee shall schedule a nomination meeting to be held in each district for the purpose of obtaining nominees for producer members and alternate members for such district.

(2) Nominations for members and balloting thereon shall precede nominations and balloting for alternate members.

(3) The candidate for each position who receives the highest number of votes shall be the nominee for the position: *Provided,* That such candidate receives a majority of the ballots cast. If no candidate receives such a majority, the two candidates who received the highest number of votes shall participate in a run-off balloting to determine which is the nominee.

(c) For the purposes of this section, a producer is a person engaged in a proprietary capacity as a single business unit in the production of olives for market as packaged olives and includes an individual (owner-operated), partnership, corporation, association, institution, or other legal business unit.

(d) *Determination of producer eligibility.* (1) Only producers (including duly authorized officers or employees of producers) who produced olives within the district shall participate in the nomination and election of producer members and alternates.

(2) Each producer (as defined in paragraph (c) of this section) shall be entitled to cast only one vote for each position.

(3) A producer having olive acreage in more than one district may participate in nominations and elections in only one district. The district in which the producer wishes to participate shall be the producer's choice.

(4) Any member of a producer's family (husband, wife, son or daughter) may vote on behalf of an owner-operated, landlord-tenant, family enterprise, or other farming unit.

(5) Any authorized officer or employee of a corporation which is a producer may vote.

(6) Any authorized member of a partnership which is a producer may vote.

(7) Power of attorney (proxies) for voting purposes are not accepted.

3. Section 932.130 is added to read as follows:

§ 932.130 Public member and alternate public member eligibility requirements and nomination procedures.

(a) *Eligibility requirements.* (1) The public member and alternate public member shall not be a producer, handler, or family member (husband, wife, son or daughter) of a producer or handler of olives and shall have no direct financial interest in, nor be engaged in, the commercial production, marketing, buying, grading or processing of olives; nor shall they be either an officer, director, or employee, or family member of an officer, director, or employee of any firm engaged in such activities.

(2) The public member and alternate public member should be able to devote sufficient time and must express a willingness to attend subcommittee and committee activities regularly and to familiarize themselves with the background and economics of the olive industry.

(3) The public member and alternate public member must be residents of California.

(b) *Nomination procedures.* (1) Prior to April 16 of the year in which nominations are made, the Committee will recommend to the Secretary a public member and alternate public member for the Committee for a two-year term of office beginning June 1 and ending May 31 of odd numbered years.

(2) The Committee will solicit, interview and recommend to the Secretary its nominees for public member and alternate public member.

(3) A majority vote is required in Committee actions concerning the nomination of the public member and alternate public member.

4. Section 932.139 is added to read as follows:

§ 932.139 Late payment and interest charges.

(a) The Committee shall impose a late payment charge on any handler whose assessment has not been received in the Committee's office within 30 days of the invoice date shown on the handler's assessment statement. The late payment charge shall be two percent of the unpaid balance.

(b) In addition, the Committee shall impose an interest charge on any handler whose assessment payment has not been received in the Committee's office within 30 days of the invoice date. The interest charge shall be the current commercial prime rate at the Committee's bank and shall be applied thereafter to the unpaid balance and late payment charge for the number of days an assessment is delinquent beyond the 30 day payment period.

5. Section 932.145 is added to read as follows:

§ 932.145 Marketing promotion, including paid advertising and crediting for handler paid brand advertising.

(a) In order for a handler to receive credit for paid brand advertising expenditures against the handler's pro rata expense assessment obligations pursuant to § 932.45, the Committee shall determine that such expenditures meet the applicable requirements of this section.

(1) Creditable direct expenditures shall mean the actual money spent for advertising space in magazines, newspapers, outdoor media, transit, or other similar print media not otherwise prohibited in this section, or time charges for radio, television and other similar electronic media: *Provided,* That the amount of the creditable expenditures shall be the gross media cost as listed on the invoice, less any frequency or cash discounts earned.

(2) For an advertisement resulting from joint participation by a handler and one or more manufacturers or sellers of complementary commodities or products, and including the brands of all participants, the handler's credit shall be the amount computed according to the handler's proportional share of the total allowable payment to the advertising medium, or the handler's payment thereof, whichever is less.

(3) Production costs, preparation expense, travel allowances, costs relating to pre-testing of advertising, test marketing, directory advertising, point of sale material, premiums, trade promotional allowances, coupon redemeption fees, or other expenses not directly connected with paid space or time costs, shall not be eligible for such assessment crediting.

(4) "Brand" is defined as those brands which are controlled, owned and registered by regulated olive handlers, or their parent or subsidiary companies.

(b) Pursuant to § 932.39, assessments shall be paid by each handler in each fiscal year to cover the Committee's expenses as approved by the Secretary pursuant to § 932.38.

(1) Such assessment funds shall first be made available to cover the Committee's administrative expenses, and if applicable, expenses for research and crop estimates.

(2) Any remaining assessment funds over the amount budgeted pursuant to paragraph (b)(1) up to an additional $8 per ton, shall be used for the Committee's generic advertising and marketing promotion projects.

(3) Any remaining assessment funds over the amounts budgeted pursuant to paragraphs (b) (1) and (2), up to an additional $8 per ton, shall be made available for crediting a handler's direct expenditures for paid brand advertising; and

(4) Any remaining assessment funds over the amounts budgeted pursuant to paragraphs (b) (1), (2) and (3) shall be allocated equally for:

(i) The Committee's generic advertising and marketing promotion projects; and

(ii) Crediting a handler's direct expenditures for paid brand advertising.

(c) Each advertisement must be published, broadcast, or displayed during the fiscal year in which credit is requested, except:

(1) The initial period shall begin on September 1, 1982, and end on December 31, 1983; and

(2) That a maximum of 34 percent of a handler's total assessment obligation available for crediting advertising expenditures as of December 31 of each fiscal year, may be included as an assessment obligation in the succeeding fiscal year, but must be so credited no later than June 30 of such succeeding fiscal year with documentation to be filed with the Committee no later than the following August 31. Any such remaining assessment funds not credited are due to the Committee no later than the following September 15.

(d) Except as provided in paragraph (c), assessments available to a handler for crediting but not so credited by December 1 shall become due and payable by December 1, except that the creditable brand advertising scheduled after December 1 may be deducted from the assessment due provided a purchase order, insertion order or other document showing that intention to advertise is submitted by December 1. The submission of intentions to advertise will not relieve a handler from the obligation of submitting proof of performance for the expenditure.

(e) Handlers who meet the applicable requirements specified in this section shall be credited with 100 percent of such allowable expenditures, but the total amount credited shall not exceed their individual prorate share of the total amount assessable for brand credit for that fiscal year.

(f) Except as provided in paragraph (c) of this section, any funds available for the assessment credit for handler paid brand advertising but not so credited, shall be paid to the Committee as provided in § 932.39, and such funds shall be placed in the Committee's reserves pursuant to § 932.40(a)(2).

(g) A handler must file a claim with the Committee to obtain credit for advertising expenditure. Each claim must be submitted in writing and accompanied by appropriate proof of performance as follows:

(1) For published advertisements, a copy of the publication invoice, agency invoice, if any, and tear sheet of the advertisement;

(2) For radio advertisements, a copy of the station invoice, a copy of the script, or reference to a copy on file with the Committee, and the agency invoice, if any;

(3) For television advertisements, a copy of the station invoice, script, and tape or story board of the advertisement, or a reference to these in the Committee files, and the agency invoice, if any;

(4) For outdoor advertisements, a copy of the company invoice, a photograph of the display or a reference to a photograph in the Committee files, and the agency invoice, if any;

(5) Or such other proof of performance and invoice as may be approved by the Committee.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: May 24, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-14570 Filed 5-31-83; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 318

[Docket No. 82-004F]

Production Requirements for Cooked Beef, Roast Beef, and Cooked Corned Beef

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On July 23, 1982, the Food Safety and Inspection Service (FSIS) published an immediately effective interim rule establishing production requirements for cooked beef, roast beef, and cooked corned beef. The interim rule reorganized and clarified the existing rules, strengthened cooking requirements, required marking of the production data, and established handling and storage requirements. FSIS solicited comments on the interim rule and has considered all comments received. FSIS has determined that the interim rule, with some modifications, shall be made a final rule.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3840.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.[1]

Effect on Small Entities

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it contains sufficient flexibility to allow a number of different production procedures to be used which will result in safe, wholesome product.[1]

Background

On July 23, 1982, FSIS published in the **Federal Register** (47 FR 31854) an interim final rule, effective immediately, establishing production requirements for cooked beef, roast beef, and cooked corned beef. The interim final rule was designed to assure destruction of salmonellae in roasts during cooking and to prevent recontamination after cooking so that cooked beef, roast beef, and cooked corned beef would be salmonellae-free upon leaving the official establishment. Recent outbreaks of salmonellosis had shown the need for strengthened requirements.

Comments on the Interim Rule

FSIS received 14 comments in response to the interim final rule—9 from meat processing establishments, 2 from industry associations, 1 from a university, 1 from a consumer, and 1 from a State health department. One commenter was in full support of the interim rule, and another commenter opposed it in general. The following is a discussion of the issues raised by the commenters and FSIS's response to each:

1. The largest single area of interest in the comments was the chilling process. The interim rule required that chilling begin within 90 minutes after the completion of the cooking cycle of the product, and that product be chilled to an internal temperature of 40° F or lower within 7½ hours after completion of the cooking cycle. Although few argued that roasts could not be chilled in 7½ hours, the major contentions concerning chilling requirements were that FSIS did not take the following factors into consideration when adopting the chilling requirements: (1) larger roasts are more difficult to chill than smaller ones; (2) some roasts are heated well above 145° F (the maximum internal temperature addressed in the interim rule) and thus may require longer than 7½ hours to chill; (3) air cooling, which does not spoil a dry cooked roast's appearance, is more difficult than water cooling; and (4) commercial chilling conditions in setting the requirement.

In the final rule, the maximum chilling time after the cooking cycle has been restricted to no more than 6 hours for the time that product is in the optimal growth zone for pathogens—the zone between 120°F (48.8°C) and 55°F (12.7°C)—with the stipulations that chilling then continues until 40°F (4.4°C) is reached and that the product is not packed for shipment until this occurs. To

[1] More detailed information relating to the impact is set forth in the interim rule (pages 31854 and 31855 of the July 23, 1982, **Federal Register**).

arrive at this chilling requirement, FSIS scientists requested cooling times and temperatures from many processors. After a thorough review and evaluation of the cooling times and temperatures, FSIS has determined that the above chilling requirement is safe and represents good manufacturing practices. Further, the revised chilling requirement is consistent with the cooling requirements for roast beef as set forth in the Food and Drug Administration's Model Ordinance and Code for Retail Stores.

The interim rule also required that product prepared for cooking either be chilled to 40°F within 2 hours of completion of the precooking preparation or that the product be entered into the cooking cycle. This provision was somewhat misunderstood, and several commenters objected to it.

FSIS intended the provision to require the processor to decide by the time precooking preparation was completed whether the product could shortly thereafter enter the cooking cycle. If the product could enter the cooking cycle within 2 hours, the product could remain at processing room temperature for that time. If not, the product would be placed immediately in a cooler at 40°F or lower. In the final rule, the wording of this provision has been changed to make this intention clearer.

2. The interim rule required all pieces of meat in each lot which was being cooked to be within a range of 2 pounds and 2 inches in thickness. A number of commenters considered this requirement unnecessary. One suggested that control be either 2 pounds or 2 inches in thickness, not both.

FSIS agrees with that suggestion. The original purpose of the interim rule was to prevent such diversity in size and thickness of the meat that some pieces were overcooked before other pieces were cooked enough. The fear was that the establishments would tend to err on the side of taste and consumer appeal and, in trying to prevent overcooking of some pieces of meat, would undercook others. However, once the point was raised, the Administrator has determined that either criterion gives sufficient control on uniformity, and that allowing either criterion provides more flexibility for the establishments. Therefore, the final rule has been changed to require that all pieces of meat in a lot which is being cooked to be within a range of either 2 pounds or 2 inches in thickness.

3. A few comments addressed the variety of control provisions contained in the interim rule dealing with recognized problems. Some said the controls were effective as written, whereas others challenged some particular aspect. (If one kills all salmonellae during cooking, why worry about chilling? If a plant has a good record, why require expensive changes, especially expensive monitoring equipment? If the problem is recontamination, why not just deal with that and leave processing alone?)

Because the problems with respect to the production of cooked beef, roast beef, and cooked corned beef are serious and all the outbreaks of salmonellosis cannot be assigned to any one cause, a broadly-based, many-faceted control program is appropriate. FSIS is cognizant of the fact that cooked beef, roast beef, and cooked corned beef are produced under a variety of conditions and procedures. The Administrator is willing to consider future presentations of data concerning additions or modifications to these requirements. It should be stressed, however, that adequate documentation of satisfactory performance is essential.

4. Several commenters stated that separate areas should not be required for raw and cooked product if the meat is cooked in a bag.

Many establishments cut the end or corner of the bag to release some cook-out juices while other establishments rebag the product. In either case, this allows opportunity for recontamination by Salmonellae organisms. Even where the meat remains in the bag throughout the cooking and chilling cycles, if the outside of the bag is placed on a surface contaminated with salmonellae by raw meat, the finished product can be contaminated by a transfer of organisms from the bag to the meat when it is taken from the bag. Therefore, separation during processing is necessary.

Some commenters also stated that cooked product need not be in a water-tight covering to be stored in the same cooler as raw product.

FSIS acknowledges that other forms of suitable protective coverings exist. Therefore, the final rule has been amended to permit the use of other protective coverings, provided that the alternative coverings used are approved, upon request in writing, by the Circuit Supervisor.

5. Several commenters indicated that the interim rule was not clear concerning exactly which products are being regulated. Specifically, one commenter stated that the term "cooked beef" was ambiguous.

FSIS disagrees with that comment. Roast beef and cooked beef are the common or usual names for the products being regulated. Although some comminuted beef products such as patties, loaves, and hamburger may be cooked beef, they are not labeled as simply "cooked beef." The products being regulated are beef roasts (cuts of beef suitable for roasting), cured or uncured, which are cooked by dry heat (roasting) or moist heat.

Since the publication of the interim rule, FSIS has become aware of some confusion as to whether roasts which are chunked and formed or sectioned and formed are included in the interim rule. The interim rule was intended to cover these roasts, and the final rule has been clarified to make this evident.

6. A number of the commenters objected to the requirement that establishments which have a cooling deviation contact the Processed Products Inspection Division in Washington. The commenters believed that this requirement is time consuming and burdensome, and that the establishments would not quickly obtain the information they needed. The commenters suggested that these deviations be controlled at a regulatory level that is more accessible.

FSIS's concern was that the deviations be handled by personnel with sufficient expertise to assure that the problem is handled safely. In response, FSIS has revised the final rule to provide that the decisions concerning cooling deviations be made at the Regional Offices since they have processing specialists trained to handle cooling deviations.

7. One commenter questioned the inclusion of corned beef along with roast beef, but not the inclusion of other deli items such as ham, pastrami, cooked turkey, etc.

FSIS included corned beef in the interim rule because this product is frequently produced by the same processors that produce cooked and roast beef, often using the same packaging tables and equipment. Further, routine sampling of cooked corned beef has revealed the presence of salmonellae. Corned beef, because it is frequently consumed in sandwiches without reheating, represents a potential health hazard when contaminated with salmonellae.

8. Several commenters stated that the handling of spices is not properly specified. Several believed that FSIS was being too rigorous and compliance would be too costly. On the other hand, one commenter stated that FSIS was not rigorous enough. One stated that filtering spice mixtures was futile because one cannot filter out bacteria.

Filtering the curing solutions removes the particles of meat and other debris upon which bacteria grow. It is more difficult to remove debris and bacteria from a dry mixture. In either case discarding daily any ingredient that has contacted the product controls the build-up of salmonellae. An incidental advantage to this for the establishment is that this provision establishes an incentive for management to better control its spices to avoid waste. The one exception is for product that is immersed in the same brine for more than 1 day.

9. Two commenters stated that they had been given an unreasonably short time to plan a major capital expense to comply with the interim rule.

There are several hundred establishments under inspection, many of which had to make some change to accommodate the provisions of the interim rule. FSIS appreciates that some establishments suffered inconveniences due to the immediately effective interim rule. However, FSIS's public health obligation to prevent further outbreaks of salmonellosis mandated issuance of the interim rule.

10. Several commenters stated the regulation was too burdensome. Two requested that USDA supply a format for the written procedure. Another believed that holding records for 6 months was too long.

The rule itself provides a guide as to the type of submittal needed. Six months record storage is necessary due to the possibility of a recall.

11. Two comments concerned labeling. One suggested that the production date be required on the shipping case rather than on the immediate container. Another suggested that FSIS allow a choice of the production, packaging, or pull date to be used.

Labeling serves two functions. First, it identifies the manufacturer of the package. Only immediate container labeling can provide rapid traceback in case of food-borne illnesses. Second, labeling provides the date of production so that, should contamination occur, similarly affected product can be efficiently and economically located. The date of production is obviously far more useful for this purpose than the packaging or pull date which can vary among establishments.

Miscellaneous Amendments

The final rule has been modified by allowing more flexibility in cooking methods, including the cooking of corned beef in sealed ovens and the roasting of corned beef, by removing a requirement for netting or racks for roasts of more than 10 pounds, and by allowing more flexibility in the use of relative humidity to kill surface bacteria. The Administrator has determined that requiring netting or racks for roasts greater than 10 pounds does not detract or add to the safety of the product and that the cooking methods required for roast beef are equally effective for corned beef. Also, the humidity requirements can be eased for products cooked to an internal temperature of 145° F or above because there is scientific evidence showing that humidity is not as necessary for these products as it is for products cooked to lower temperatures.

The final rule has been modified to clarify that the requirement that roasts do not touch or overlap while cooking does not apply to product that is stirred or agitated to assure heat transfer during cooking or cooling. Such product is likely to move around in the cooking or cooling vessel, and there is far less trouble with heat distribution because both convection and conduction heat transfer are present. Since the only reason for this provision was to assure that each roast receives the minimum internal temperature required for safety, and since stirred or agitated product will not have a heat distribution problem, the safety of these products does not depend on the applicability of this provision.

To assure sanitary handling, processing, and storing of cooked beef, roast beef, and cooked corned beef, the interim rule required that establishments submit a set of written procedures to the Regional Director for approval. Section 318.17(f) (1) through (6) sets forth the information to be included in the written procedures. FSIS has become aware that some confusion exists as to what is required in the set of written procedures. In some cases, the written procedures may include only the information required in § 318.17(f); however, written alternate procedures may be required to be submitted as well by other paragraphs within § 318.17, e.g., (h)(2), (h)(6), and (i)(3). Therefore, a new paragraph (f)(7) has been added to § 318.17 in the final rule to include any permitted alternate procedure into the written procedures to be submitted for approval.

Minor revisions have also been made for clarity in the final rule.

Recordkeeping Requirements

Information collection requirements contained in this regulation (§ 318.17) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #0583-0015.

Final Rule

After careful consideration of the comments received on the interim rule and other relevant information available to FSIS, the Administrator has determined that the interim rule, as revised herein, should be published as permanent regulations as set forth below.

List of Subjects in 9 CFR Part 318

Meat inspection, Preparation of products.

PART 318—[AMENDED]

1. The authority citation for Part 318 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.* (33 U.S.C. 1254).

2. The heading and text of § 318.17 are revised to read as follows:

§ 318.17 Requirements for the production of cooked beef, roast beef, and cooked corned beef.

(a) Cooked beef and roast beef, including sectioned and formed roasts and chunked and formed roasts, and cooked corned beef shall be prepared by one of the time and temperature combinations in the following table. The stated temperature is the minimum which shall be produced and maintained in all parts of each piece of meat for at least the stated time:

TABLE FOR TIME/TEMPERATURE COMBINATION FOR COOKED BEEF, ROAST BEEF, AND COOKED CORNED BEEF

Minimum internal temperature		Minimum processing time in minutes after minimum temperature is reached
Degrees Fahrenheit	Degrees Centigrade	
130	54.4	121
131	55.0	97
132	55.6	77
133	56.1	62
134	56.7	47
135	57.2	37
136	57.8	32
137	58.4	24
138	58.9	19
139	59.5	15
140	60.0	12
141	60.6	10
142	61.1	8
143	61.7	6
144	62.2	5
145	62.8	Instantly

(b) Cooked beef, including sectioned and formed roasts and chunked and formed roasts, and cooked corned beef shall be moist cooked throughout the process or, in the case of roast beef or corned beef to be roasted, cooked as provided in paragraph (c) of this section. The moist cooking may be accomplished by (1) placing the meat in a sealed, moisture impermeable bag, removing the excess air, and cooking, (2) completely immersing the meat, unbagged, in water throughout the entire cooking process, or (3) using a sealed oven or steam injection to raise the relative humidity above 90 percent throughout the cooking process.

(c) Roast beef or corned beef to be roasted shall be cooked by one of the following methods:

(1) Heating roasts of 10 pounds or more in an oven maintained at 250°F (121°C) or higher throughout the process;

(2) Heating roasts of any size to a minimum internal temperature of 145°F (62.8°C) in an oven maintained at any temperature if the relative humidity of the oven is maintained either by continuously introducing steam for 50 percent of the cooking time or by use of a sealed oven for over 50 percent of the cooking time, or if the relative humidity of the oven is maintained at 90 percent or above for at least 25 percent of the total cooking time, but in no case less than 1 hour; or

(3) Heating roasts of any size in an oven maintained at any temperature that will satisfy the internal temperature and time requirements of paragraph (a) of this section if the relative humidity of the oven is maintained at 90 percent or above for at least 25 percent of the total cooking time, but in no case less than 1 hour.

The relative humidity may be achieved by use of steam injection or by sealed ovens capable of producing and maintaining the required relative humidity.

(d)(1) Except as provided in paragraph (d)(2) of this section, establishments producing cooked beef, roast beef, or cooked corned beef shall have sufficient monitoring equipment, including recording devices, to assure that the time (within 1 minute), the temperature (within 1°F), and relative humidity (within 5 percent) limits of these processes are being met. Data from the recording devices shall be made available to a program employee upon request.

(2) In lieu of recording devices, establishments may propose in the written procedures prescribed in paragraph (f) of this section, an alternative means of providing inspection personnel with evidence that finished product has been prepared in compliance with the humidity requirements of paragraphs (b) and (c) of this section, and the 145°F (62.8°C) temperature requirements of paragraph (a) of this section.

(e) Each package of finished product shall be plainly and permanently marked on the immediate container with the date of production either in code or with the calendar date.

(f) In order to assure that cooked beef, roast beef, and cooked corned beef are handled, processed, and stored under sanitary conditions, the establishment shall submit a set of written procedures through the inspector-in-charge for approval by the Regional Director. The written procedures shall include the following information:

(1) The temperature to which raw frozen product is thawed and the time required.

(2) The lot identification procedure for lots of product during processing.

(3) The storage time and temperature combinations which the establishment intends to use before cooking, the cooking time and temperature the establishment intends to use, and the time, if any, the establishment intends to wait after cooking and before cooling.

(4) If a code, instead of the calendar date, is used on the immediate container of the finished product, its meaning shall also be included.

(5) Any other critical control points in the procedures which could affect the safety of the product.

(6) In lieu of recording devices, the alternate means permitted by § 318.17(d)(2) of providing evidence to inspection personnel that the finished product will be prepared in compliance with temperature or humidity requirements.

(7) Any other alternate procedure used that is permitted in this section.

(g) The establishment shall maintain records and reports which document the time, temperature, and humidity at which any cooked beef, roast beef, or cooked corned beef is cooked and cooled at the establishment. Such records shall be kept by the establishment for 6 months or for such further period as the Administrator may require for purposes of any investigation or litigation under the Act, by written notice to the person required to keep such records. Such records shall be made available to the inspector or any duly authorized representative of the Secretary upon request.

(h) The handling and processing of cooked beef, roast beef, and cooked corned beef before, during, and after cooking shall be such as to prevent the finished product from being adulterated. As a minimum, they shall be controlled as follows:

(1) The establishment shall notify the inspector-in-charge which processing procedure will be used on each lot, including time and temperature.

(2) In order to assure uniform heat penetration and consequent adequate cooking of each piece of beef, individual pieces of raw product in any one lot shall either not vary in weight by more than 2 pounds or not vary in thickness by more than 2 inches at the thickest part. Alternate methods of assuring uniform heat penetration may be submitted in writing for approval to the Regional Director.

(3) A water-based solution that is used for injecting or immersing the meat shall be refrigerated to 50°F (10°C) or lower from the time it contacts the meat, and shall be filtered each time it is recirculated or reused.

(4) A nonmeat ingredient, including the water-based solution in (h)(3) above, which has contacted meat shall be discarded at the end of that day's production unless it is in continuous contact with one batch of product.

(5) Product prepared for cooking shall be entered into the cooking cycle within 2 hours of completion of precooking preparation, or be placed immediately in a cooler at a temperature of 40°F (4.4°C) or lower.

(6) The time and temperature requirements shall be met before any product in the lot is removed from the cooking units. Unless otherwise specified in the written procedures approved in accordance with paragraph (f) of this section, the heat source shall not be shut off until these requirements are met.

(7) Other than incidental contact caused by water currents during immersion cooking or cooling, product shall be placed so that it does not touch or overlap other products. This provision does not apply to product that is stirred or agitated to assure uniform heat transfer.

(8) Temperature sensing devices shall be so placed that they monitor product in the coldest part of the cooking unit; and when an oven temperature is required by paragraph (c) of this section, the oven temperature shall also be monitored in the coldest part of the cooking unit.

(9) If a humidity sensing device is required in an oven, it shall be placed so that it measures humidity in either the oven chamber or at the exit vent.

(10) Chilling shall begin within 90 minutes after the cooking cycle is completed.

(i) All product shall be chilled from 120°F (48.8°C) to 55°F (12.7°C) in no more than 6 hours.

(iii) Chilling shall continue and the product shall not be packed for shipment until it has reached 40°F (4.4°C).

(11) Any establishment that has experienced a cooking process deviation during preparation of product may either

reprocess the product completely, continue the heating to 145°F (62.8°C), or contact the Regional Director for a review of the process schedule for adequacy and, if needed, for a cooking schedule to finish that one batch of product.

(12) An establishment that has experienced a cooling deviation after the product has been cooked shall contact the Regional Director to determine the disposition of that retained product.

(i) Cooked beef, roast beef, and cooked corned beef shall be so handled as to assure that the product is not recontaminated by direct contact with raw product. To prevent direct contamination of the cooked product, establishments shall:

(1) Physically separate areas where raw product is handled from areas where exposed cooked product is handled, using a solid impervious floor to ceiling wall; or

(2) Handle raw and exposed cooked product at different times, with a cleaning of the entire area after the raw material handling is completed and prior to the handling of cooked product in that area; or

(3) Submit a written procedure for approval through the inspector-in-charge to the Circuit Supervisor detailing the steps to be taken which would avoid recontamination of cooked product by raw product during processing.

(j) To prevent indirect contamination of cooked product:

(1) Any work surface, machine, or tool which contacts raw product shall be thoroughly cleaned and sanitized with a solution germicidally equivalent to 50 ppm chlorine before it contacts cooked product;

(2) Employees shall wash their hands and sanitize them with a solution germicidally equivalent to 50 ppm chlorine whenever they enter the heat processed product area or before preparing to handle cooked product, and as frequently as necessary during operations to avoid product contamination; and

(3) Outer garments, including aprons, smocks, and gloves, shall be especially identified as restricted for use in cooked product areas only, changed at least daily, and hung in a designated location when the employee leaves the area.

(k) Cooked product shall not be stored in the same room as raw product unless it is first packaged in a sealed, water-tight container or is otherwise protected by a covering that has been approved, upon written request, by the Circuit Supervisor.

(Approved by the Office of Management and Budget under OMB #0583-0015)

Done at Washington, DC, on: May 20, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-14659 Filed 5-31-83; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 25 and 95

Access to and Protection of National Security Information and Restricted Data

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to modify the requirements for submitting reports on classification/declassification actions, adding a specific marking to classified documents released to International Atomic Energy Agency (IAEA) representatives, maintaining records concerning visits involving classified information, and updating the regulations in accordance with the requirements of Executive Order 12356 and its Implementing Directive. These amendments provide additional guidance for handling classified drafts of documents and working papers and for obtaining approvals for the security of telecommunication and automatic data processing systems where classified information is involved. These amendments are necessary to incorporate experience gained under the current regulations and to prevent the unauthorized disclosure of National Security Information and Restricted Data.

EFFECTIVE DATE: June 27, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Dopp, Security Policy Branch, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 427-4415.

SUPPLEMENTARY INFORMATION: On December 30, 1982 the Commission published proposed amendments in the **Federal Register** (47 FR 58275) to improve the clarity of direction of 10 CFR Parts 25 and 95 and to bring these parts into conformance with E.O. 12356 which was published in the **Federal Register** on April 6, 1982 (47 FR 14874).

A thirty day public comment period for the proposed rule expired January 31, 1983. No public comments were received. The proposed amendments have been modified in response to editorial and minor content changes recommended by the NRC staff, and are being published in final form, to be effective thirty days after publication.

Effective August 1, 1982, E.O. 12356, together with an accompanying Information Security Oversight Office (ISOO) Implementing Directive, changed certain requirements governing the classification, declassification, downgrading and safeguarding of National Security Information. As explained more fully in connection with the specific changes indicated herein, Parts 25 and 95 required amendment to bring them into conformance with the provisions of E.O. 12356. Additional guidance and clarifying changes have been provided.

In particular, this rule revises the authority citations in 10 CFR Parts 25 and 95 and revises some definitions contained in these parts. The rule also clarifies the requirements for submittal of a complete security forms packet and makes other minor amendments.

Section 6.1 of E.O. 12356 reflects a change in the definition of the term "National Security Information." Sections 25.5 and 95.5 have been amended to reflect this revised definition. Additionally, § 95.5 has been revised to reflect changes in the definitions of "National Security," and "Classified Matter."

Section 25.17(c) in its original final form (45 FR 14476) required a full personnel security packet of forms identified in (1) through (6) of paragraph (c) to be submitted with each access authorization request. On October 30, 1980 (45 FR 71763), NRC amended § 25.17(c) and waived the full set of forms requirement for those individuals who already possessed an active security clearance from another Federal agency or who were being processed for a security clearance by another Federal agency on the effective date of the rule. The October 30, 1980 amendment substantially reduced the initial administrative burden on affected licensees who used the new procedure to obtain authorizations for affected employees. However, this provision continues to permit a reduced requirement for forms, even if the previously granted security clearance has since been terminated. This was not the staff's intent. The changes contained in this revision will continue to permit the certification of existing active Federal government access authorizations (with the reduced forms requirement) when based on adequate investigations which are not more than five years old.

Paragraph (c) of § 25.33, "Termination of access authorizations," currently requires the licensee or other organization official conducting a termination briefing to notify NRC in writing that a briefing was conducted and to forward the Security Termination Statement. Section 25.33(c) has been revised to reflect that the NRC Division of Security accepts the submission of the completed termination statement as evidence that the termination briefing has been conducted.

When Part 25 was originally published, NRC prescribed a number of recordkeeping requirements based on disposition schedules then in use. A recordkeeping requirement for documents relating to classified visits was not identified at that time. A records maintenance requirement for NRC Form 277 will provide the opportunity for NRC review of the classified visit program at the affected facility and provides assurance that only properly authorized individuals obtain access to classified matter during visits to other facilities and agencies. A revision of § 25.35 imposes this necessary recordkeeping requirement.

Sections 25.37 and 95.61, "Violations," have been revised to provide clear and concise notice of potential criminal liabilities and the availability of criminal penalties for the willful violation of the parts and to reflect the replacement of E.O. 12065 with E.O. 12356.

In order to permit licensees and others to make changes to their facility security plans, a new § 95.15(d) has been added. Changes which do not decrease the effectiveness of the plan may be made without prior NRC approval, but they must be submitted within two months after the changes have been made.

Classified documents which have been released to IAEA representatives will be identified by a special marking applied to them in accordance with instructions contained in the specific disclosure authorization letter provided by the NRC to the licensees. This additional means of identification and control for classified documents has been incorporated in § 95.36.

The requirements of E.O. 12356 modified the markings to be applied to classified documents. These modifications are reflected in the revisions made to § 95.37(c), "Markings required on face of classified document." Under E.O. 12356, the declassification of documents can occur on a specific date, event, or upon the originating agency's determination that the document may be declassified. Since the new E.O. eliminated the scheduled or routine review for declassification, § 95.37(c) has been revised to reflect this change. Additionally, § 95.37(c)(6), which addresses the extension of classification beyond six years, has been deleted since National Security Information documents under the new E.O. are no longer automatically declassified after that period.

The requirements of E.O. 12356 also modified the markings applied to transmittal documents. These new markings are set forth in the proposed revisions to § 95.37(h).

Section 95.37, "Classification and preparation of documents," provides detailed requirements for the marking and handling of classified documents. Experience in working with this section has demonstrated a need to provide more direction for the marking and handling of newly created documents. For this reason, a new § 95.37(k) has been added that provides specific direction for the marking and handling of drafts and working papers.

The existing § 95.39(d), "Telecommunication of classified information," and § 95.49, "Security of automatic data processing (ADP) systems," also demonstrated the need for revision to provide the necessary direction and requirements to establish a secure telecommunication or ADP system. Revised §§ 95.39(d) and 95.49 impose no additional requirements, but do offer more detailed direction.

Section 95.57 presently requires the submission of an NRC Form 790 whenever a document containing National Security Information or Restricted Data is generated or its classification is changed. The amendment to this section clarifies who should submit this report, what actions should be reported, and on what schedule.

Section 95.59, "Inspections," is being revised to reflect the replacement of E.O. 12065 with E.O. 12356.

Part 95, Appendix A, "Classification Guide for Safeguards Information," is being updatd to comply with E.O. 12356. A significant change occurs in the area of declassification guidance. Whereas previously, reviews at the end of seven or 20 years required, a determination by the originating agency is now required before information may be declassified.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval numbers 3150-0046, 0047, 0048.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact on any small entities. Each NRC licensee or other organization which may require access to National Security Information and/or Restricted Data used, processed, stored, reproduced, transmitted and destroyed in connection with a license or application for a license could potentially be impacted by this rule and required to provide adequate protection for National Security Information and/or Restricted Data. Only 12 entities (including five fuel cycle facilities, three transportation companies, one reactor and three other organizations) are currently required to meet the requirements of 10 CFR Parts 25 and 95. Since none of these have been determined to be small as defined by the Regulatory Flexibility Act of 1980 the Commission finds that this rule will not have a significant economic impact upon a substantial number of small entities.

List of Subjects

10 CFR Part 25

Classified information, Penalty, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 95

Classified information, Penalty, Security measures.

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 553, the following amendments to 10 CFR Parts 25 and 95 are published as a document subject to codification.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

1. The authority citation for Part 25 is revised to read as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

Appendix A also issued under Title V, Pub. L. 82-137, 65 Stat. 290 (31 U.S.C. 483a).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 25.13, 25.17(a), 25.33 (b) and (c) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 25.13 and 25.33(b) are also issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 25.5, the definition of "National Security Information" is revised to read as follows:

§ 25.5 Definitions.

* * * * *

"National Security Information" means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

* * * * *

3. In § 25.17, paragraphs (a) and (c) are revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

(a) Access authorizations shall be requested for licensee employees or other persons (e.g., 10 CFR Part 2, Subpart I) who need access to National Security Information and/or Restricted Data in connection with activities under Parts 50, 70, or 72.

* * * * *

(c)(1) Each personnel security packet submitted, must include the following completed forms:

(i) Personnel Security Questionnaire (NRC-1, Parts I and II);

(ii) National Agency Check-Data for Nonsensitive or Noncritical-Sensitive Position (SF-85-A)—for "L" cases only;

(iii) Two Standard Fingerprint cards (FD-258);

(iv) Security Acknowledgment (NRC-176);

(v) Authority to Release Information (NRC-259); and

(vi) Related forms where specified in accompanying instructions (NRC-254).

(2) Forms identified in paragraphs (c)(1) (i) and (ii) of this section must be typed. Only a Security Acknowledgment (NRC Form 176) need be completed by any person possessing an active access authorization, or who is being processed for an access authorization, by another Federal agency. The active or pending access authorization must be at an equivalent level to that required by the NRC and be based on an adequate investigation not more than five years old.

* * * * *

4. In § 25.31, paragraph (b) is revised to read as follows:

§ 25.31 Extensions and transfers of access authorizations.

* * * * *

(b) The NRC Division of Security may, on request, transfer an access authorization when an individual's access authorization under one employer or activity is terminated, simultaneously with the individual being granted access authorization for another employer or activity.

* * * * *

5. In § 25.33, paragraph (c) is revised to read as follows:

§ 25.33 Termination of access authorizations.

* * * * *

(c) When an access authorization is to be terminated, a representative of the licensee or other organization shall conduct a security termination briefing of the individual involved, explain the Security Termination Statement (NRC Form 136) and have the individual complete the form. The representative shall promptly forward the original copy of the completed Security Termination Statement to the NRC Division of Security, Office of Administration, Washington, DC 20555.

6. Section 25.35 and the center heading that precedes it are revised to read as follows:

Classified Visits

§ 25.35 Classified visits.

Visits to NRC, NRC contractor, licensee or licensee related facilities, or other government agencies or their contractors involving access to classified information by individuals covered by this part require advance certification of "need-to-know" and verification of NRC access authorization. Individuals planning these visits shall complete NRC Form 277, "Request for Visit or Access Approval," with the "need-to-know" certified by the appropriate NRC office exercising licensing or regulatory authority. This NRC office shall then forward the request to the NRC Division of Security at least 15 days in advance of the date of the visit for appropriate verification of NRC access authorization. The Division of Security shall forward the form to the facility to be visited. Records related to these visits must be maintained by the facility for two years following the expiration date of the visit authorization.

7. Section 25.37 and the center heading that precedes it are revised to read as follows:

Violations

§ 25.37 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) National Security Information is protected under the requirements and sanctions of Executive Order 12356.

(c) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of the Atomic Energy Act of 1954, as amended, for which no criminal penalty is specifically provided or any regulation or order prescribed or issued under subsections 161 i or o of the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law. Regulations issued under the Act include regulations issued under subsections 161 i and o and cited within the authority citation at the beginning of this part for the purposes of section 223.

PART 95—SECURITY FACILITY APPROVAL AND SAFEGUARDING OF NATIONAL SECURITY INFORMATION AND RESTRICTED DATA

8. The authority citation for Part 95 is revised as follows:

Authority: Secs. 145, 161, 68 Stat. 942, 948, as amended (42 U.S.C. 2165, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 10865, as amended, 3 CFR 1959–1963 COMP., p. 398 (50 U.S.C. 401, note); E.O. 12356, 47 FR 14874, April 6, 1982.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 95.13, 95.15(a), 95.25, 95.27, 95.29(b), 95.31, 95.33, 95.35, 95.37, 95.39, 95.41, 95.43, 95.45, 95.47, 95.51, 95.53, and 95.57 are also issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i))

9. In § 95.5, the definitions of "Classified Matter," "National Security," and "National Security Information" are revised to read as follows:

§ 95.5 Definitions.

* * * * *

"Classified Matter" means documents or material containing classified information.

* * * * *

"National Security" means the national defense or foreign relations of the United States.

"National Security Information" means information that has been determined pursuant to Executive Order 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

* * * * *

10. In § 95.15, paragraph (d) is added to read as follows:

§ 95.15 Approval for processing licensees and others for security facility approval.

* * * * *

(d) A licensee or other person may make a change in an NRC approved facility security plan for the safeguarding of National Security Information and/or Restricted Data without prior NRC approval, if the change does not decrease the effectiveness of the plan. A report containing a description of each change must be furnished to the NRC, Director of Security, Office of Administration, Washington, DC 20555, with a copy to the Regional Administrator of the appropriate NRC Regional Office listed in Appendix A, 10 CFR Part 73, within two months after the change.

11. In § 95.36, paragraph (c) is revised to read as follows:

§ 95.36 Access by representatives of the International Atomic Energy Agency.

* * * * *

(c) In accordance with the specific disclosure authorization provided by the Division of Security, licensees are authorized to release (i.e., transfer possession of) copies of documents which contain National Security Information directly to IAEA inspectors and other representatives officially designated by IAEA to request and receive classified National Security Information documents. These documents shall be marked specifically for release to IAEA in accordance with instructions contained in NRC's disclosure authorization letter. Licensees may also forward these documents through NRC to IAEA representatives at IAEA headquarters in accordance with the NRC disclosure authorization. Licensees are not authorized to reproduce documents containing National Security Information except as provided in § 95.43 of this part.

* * * * *

12. In § 95.37, paragraphs (c) and (h) are revised and new paragraph (k) is added to read as follows:

§ 95.37 Classification and preparation of documents.

* * * * *

(c) *Markings required on face of classified documents.* Each classified document must contain on its face:

(1) For National Security Information documents:

(i) Identity of classifier. The identity of the classifier must be shown by completion of the "CLASSIFIED BY" line. The completion of the "CLASSIFIED BY" line must show the guide or guidance responsible for the classification and the signature of the classifier applying the guidance to the document.

(ii) Date of classification and office of origin. The date on a document at the time of its origination may be considered the date of classification if the document is marked as classified on the same day it is originated. If the document is marked on a day subsequent to its origination, the actual date of marking must be shown on the "Classified By" line.

(iii) Classification designation (e.g., Secret, Confidential) and National Security Information.

(iv) Date or event for declassification. Completion of the "Declassify On" line will satisfy this requirement. If the information is not to be declassified automatically on a specific date or upon occurrence of an event, the "Declassify On" line must read as "Declassify On: Originating Agency's Determination Required."

(2) For Restricted Data documents:

(i) Identity of the classifier. The identity of the classifier must be shown by completion of the "Derivative Classifier" line. The "Derivative Classifier" line must show the name of the person classifying the document and the basis for the classification. Dates for downgrading or declassification do not apply.

(ii) Classification designation (e.g., Secret, Confidential) and Restricted Data.

* * * * *

(h) *Transmittal document.* If a document transmitting National Security Information and/or Restricted Data contains no classified information or the classification level of the transmittal document is not as high as the highest classification level of its enclosures, then it must be marked at the top and bottom with a classification at least as high as its highest classified enclosure. The classification may be higher if the enclosures, when combined, warrant a higher classification than any individual enclosure. When the contents of the transmittal document warrant a lower classification than the highest classified enclosure(s) or combination of enclosures or requires no classification, a stamp or marking such as the following must also be used on the letter:

UPON REMOVAL OF ATTACHMENTS THIS DOCUMENT IS:

(Classification level of transmittal document standing alone or the word "UNCLASSIFIED" if the transmittal document contains no classified information.)

* * * * *

(k) *Drafts and working papers.* Drafts of documents and working papers which contain or which the originator believes contain classified information must be marked on the top and bottom of each page with the highest level of classification contained, or believed to be contained, with the National Security Information or Restricted Data marking. It is not required that other markings specified in § 95.37(c) can be applied or that an NRC Form 790 be prepared as indicated in § 95.57(c) for drafts and working papers, provided they are not disseminated outside the facility. Prior to any dissemination outside of the facility, drafts and working papers must be reviewed by an authorized derivative classifier, final and complete classification markings applied, and an NRC Form 790 prepared and submitted to the NRC Division of Security, Washington, D.C. 20555. If classified Secret, the document must be recorded in the accountability record in accordance with § 95.41.

13. In § 95.39, paragraph (d) is revised to read as follows:

§ 95.39 External transmission of documents and material.

* * * * *

(d) *Telecommunication of Classified Information.* There must be no telecommunication of National Security Information or Restricted Data unless the telecommunication system has been approved by the NRC Division of Security. Licensees or other persons who may require a secure telecommunication system shall submit a telecommunication plan as part of their request for NRC security facility approval, as outlined in § 95.15, or as an amendment to their existing security plan for the protection of National Security Information or Restricted Data.

§ 95.41 [Amended]

14. Section 95.41 is amended by capitalizing the word "secret," which precedes National Security Information.

15. Section 95.43 is revised to read as follows:

§ 95.43 Authority to reproduce.

Secret National Security Information and/or Restricted Data must not be reproduced without the written permission of the originator, the originator's successor, or higher authority. Confidential National Security Information and/or Confidential Restricted Data may be reproduced, unless restricted by the originating agency, to the extent required by operational needs.

16. In § 95.45, paragraph (a) is revised to read as follows:

§ 95.45 Changes in classification.

(a) Documents containing National Security Information and/or Restricted Data must be downgraded or declassified as authorized by NRC classification guides or as determined by NRC. Requests for downgrading or declassifying any National Security Information and/or Restricted Data should be forwarded to the NRC Division of Security, Office of Administration, Washington, DC 20555. Requests for downgrading or declassifying of Restricted Data will be coordinated as appropriate by the NRC Division of Security with the Department of Energy.

* * * * *

17. Section 95.49 is revised to read as follows:

§ 95.49 Security of automatic data processing (ADP) systems.

Classified data or information must not be processed or produced on an ADP system unless the system and procedures to protect the classified data or information have been approved by the NRC Division of Security. Approval of the ADP system and procedures is based on a satisfactory ADP security proposal submitted as part of the licensee's or other person's request for NRC security facility approval outlined in § 95.15 or submitted as an amendment to its existing security plan for the protection of National Security Information or Restricted Data.

18. In § 95.57, the introductory paragraph is revised to read as follows and the undesignated paragraph following § 95.57(b) is designated as (c) and is revised to read as follows:

§ 95.57 Reports

Each licensee or other person having a security facility approval shall immediately report to the Regional Administrator of the approprate NRC Regional Office listed in Appendix A, 10 CFR Part 73:

* * * * *

(c) In addition, a licensee's or license related organization's authorized classifier shall complete a NRC Form 790 (Classification Record) whenever a document containing National Security Information and/or Restricted Data is generated, its classification is changed or it is declassified. Notification of declassification is not required for any document or material which has an automatic declassification date. Completed NRC Forms 790 should be submitted to the NRC Division of Security, Washington, DC 20555, on a monthly basis.

19. Section 95.59 is revised to read as follows:

§ 95.59 Inspections.

The Commission shall make inspections and surveys of the premises, activities, records and procedures of any person subject to the regulations in this part as the Commission deems necessary to effect the purposes of the Act, E.O. 12356, and NRC rules.

20. Section 95.61 is revised to read as follows:

§ 95.61 Violations.

(a) An injunction or other court order may be obtained to prohibit a violation of any provision of:

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) Any regulation or order issued under these Acts.

(b) National Security Information is protected pursuant to the requirements and sanctions of E.O. 12356.

(c) Whoever willfully violates, attempts to violate, or conspires to violate, any provision of the Atomic Energy Act of 1954, as amended, for which no criminal penalty is specifically provided or any regulation or order prescribed or issued under subsection 161i of the Act may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law. Regulations issued under the Act include regulations issued under subsection 161i and cited within the authority citation at the beginning of this part for the purposes of section 223.

21. In the introduction to Appendix A, the introductory text of paragraph (C), and paragraphs (E.5), (F), and (G) are revised to read as follows:

Appendix A—Classification Guide for Safeguards Information.

* * * * *

Introduction

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C. *Basic Policy.* The principle which underlies the policy for classification of safeguards information is to provide the maximum possible information to the public, while at the same time protecting against unauthorized disclosure of information which could cause damage to the national security. Such information includes:

* * * * *

E. *Definitions used in the Guide:*

* * * * *

5. *National Security Information (NSI)*—information or material collectively termed information, that is owned by, produced for or by, under the control of, or regulated by the United States Government, and that has been determined pursuant to Executive Order 12356 or prior Executive Orders to require protection against unauthorized disclosure, and that is so designated.

* * * * *

F. *Declassification—E.O. 12356.* Restricted Data is exempt from automatic declassification and does not require declassification markings. National Security Information identified in this Guide will be marked for declassification as specified by the applicable topic of this Guide. This Guide has been approved by an original Top Secret classification authority.

G. *Abbreviations.* The following abbreviations are used in this Guide

S—Secret.

C—Confidential.

U—Unclassified.

RD—Restricted Data.

NSI—National Security Information.

OADR—Originating Agency's Determination Required.

SSNM—Strategic Special Nuclear Material.

* * * * *

22. In Appendix A, the "Classification Guidance" heading following paragraph G. is designated paragraph H.; immediately beneath the paragraph H. heading "Classification Guidance," a new subheading "(a) Subject" is inserted above the left-hand column of the guidance item list; and immediately beneath the paragraph H. heading "Classification Guidance," a new subheading "(b) Requirement" is inserted above the right-hand column of the guidance item list to read as follows:

Appendix A—Classification Guide for Safeguards Information

* * * * *

H. CLASSIFICATION GUIDANCE

(a) Subject	(b) Requirement
. . .	. . .

23. In Appendix A, under the "Requirements" column (b) of paragraph H., the requirements in items 112, 123, 201, 212, 214, 221, 222, 224, 225, 226, 231, 241, 254, 261.2, 261.3, 261.4, 262.1, 262.3, 263.1, 263.2, 264.1, 264.2, 270, 283, 291, 333.1, 333.3, 334.1, 334.2, 334.3, 335, 336, 372, 373, 385, 386, 410, 411, 412, 413, 420, 422, 423.1, 423.2, 423.3, 541, and 542, are revised to read "Declassify on: Originating Agency's Determination Required (OADR)."

24. For Appendix A, the note following item 423.2 is removed.

Dated at Bethesda, Md., this 12th day of May 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

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