Rules and Regulations

Federal Register
Vol. 48, No. 137
Friday, July 15, 1983

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 245

Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools: Verification of Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule: Notice of extension of public comment period.

SUMMARY: The interim Verification of Eligibility rule, amending 7 CFR Part 245, was published in the **Federal Register** (48 FR 12505) on March 25, 1983, with a 60-day comment period which closed on May 24, 1983. This Notice extends the public comment period to November 30, 1983. This extension will provide the public the opportunity to submit additional comments subsequent to the implementation of verification requirements. The Department is anticipating that commentors will gain additional operational experience on which to make recommendations which will aid the Department in developing the final rule.

DATE: To be assured of consideration, comments must be postmarked on or before November 30, 1983.

ADDRESS: Comments should be sent to Stanley C. Garnett, Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, USDA, Alexandria, VA 22302.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley C. Garnett at the above address or phone 703-756-3620.

SUPPLEMENTARY INFORMATION:

Background

The Department published an interim rule on the verification of eligibility for free and reduced price meals which *recommends* minimum verification standards for School Year 1982-83 and *requires* these standards beginning School Year 1983-84. The Department published the verification requirements as an interim rule to allow for further refinement after implementation of the verification standards. Interested parties have requested that the Department extend the comment period to provide additional time for School Food Authorities to gain adequate operational insight on which to base their comments. Since the Department is interested in receiving comments based on experience, the Department believes that an extension of the comment period will best serve the public.

The Department will continue to accept comments postmarked on or before November 30, 1983. Commentors who have already submitted comments are welcome to submit additional recommendations if they wish to address new subjects or revise previous remarks. Otherwise, the comments previously submitted will be considered in the comment analysis.

Signed on: July 12, 1983.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 83-19148 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 790

[Amdt. 4]

Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Rule.

SUMMARY: This action adopts as a final rule an interim rule published in the **Federal Register** October 22, 1982 (47 FR 46999) which provided for miscellaneous amendments to the regulations governing incomplete performance based upon action or advice of an authorized representative of the Secretary.

EFFECTIVE DATE: July 15, 1983.

FOR FURTHER INFORMATION CONTACT: H. Woodrow Jones, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013, (202) 447-3472.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Secretary's Memorandum 1512 and Executive Order 12291, and has been classified as not "major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more: (2) major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Programs that this final rule applies to are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Dairy Indemnity Payments, 10.053; Emergency Conservaton Program, 10.054; Feed Grain Producton Stabilization, 10.05; Storage Facilities and Equipment Loans, 10.056; Wheat Stabilization, 10.058; National Wool Act Payments, 10.059; Water Bank Program, 10.062; Agricultural Conservation Program, 10.064; Rice Production Stabilization, 10.065; Emergency Feed Program, 10.066; Grain Reserve Program, 10.067; and, Rural Clean Water Program, 10.068, as found in the catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Agricultural Stabilizaton and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

On October 22, 1982, there was published in the **Federal Register** (47 FR 46999) an interim rule amending the regulations set forth at 7 CFR PART 790 which govern incomplete performance based upon action of an authorized representative of the Secretary under the programs administered by the Agricultural Stabilization and

Conservation Service (ASCS). The interim rule: (1) Changed a title designation to Deputy Administrator, State and County Operations, and (2) increased the authority of the State ASC Committee to provide equitable relief under Part 790. Comments were solicited for a period of 60 days after publication of the document. No comments were received during the comment period.

List of Subjects in 7 CFR Part 790

Price support programs.

Final Rule

PART 790—INCOMPLETE PERFORMANCE BASED UPON ACTION OR ADVICE OR AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY

Accordingly, it has been determined that the interim rule published at 47 FR 46999 amending 7 CFR Part 790 is hereby adopted as a final rule without change.

Signed at Washington, D.C. on July 5, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-18941 Filed 7-14-83; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 420]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period July 17–23, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: July 17, 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 final 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 the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on July 12, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the delcared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.720 is added as follows:

§ 910.720 Lemon regulation 420.

The quantity of lemons grown in California and Arizona which may be handled during the period July 17, 1983, through July 23, 1983, is established at 320,000 cartons.

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

Dated: July 14, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-19405 Filed 7-14-83; 11:48 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, and 70

Amendments Specifying Licensee Responsibility for Nuclear Materials and Procedures for Termination of Specific Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to specify procedures for the termination of specific licenses authorizing possession and use of nuclear materials. The amendments clarify a licensee's authority and responsibility for nuclear materials and allow for orderly termination of specific licenses. The rule specifies that a license remains in effect, with respect to possession of residual nuclear materials present as contamination, until the Commission notifies the licensee, in writing, that the license is terminated. The rule is necessary to establish clear procedures for the termination of licenses and to establish a more coherent regulatory framework.

EFFECTIVE DATE: August 15, 1983.

FOR FURTHER INFORMATION CONTACT: K. G. Steyer, Chief, Chemical Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443–5910.

SUPPLEMENTARY INFORMATION:

Background

On October 26, 1982, the Nuclear Regulatory Commission published in the **Federal Register** (47 FR 47400) a notice of proposed amendments to 10 CFR Parts 30, 40, and 70. The notice set forth procedures that a licensee would follow in terminating a specific nuclear materials license and clarified a licensee's responsibility for nuclear materials.

Discussion

Need for the rule. Previously, the Commission's regulations required licensees under 10 CFR Parts 30, 40, and 70 to notify the Commission, in writing, when the licensee decided to terminate operations. This requirement is continued in the final rule. Licensees were not required by regulation to describe the disposition of nuclear materials authorized under the license or to characterize radiological conditions at the time of license termination. The Commission has requested information concerning disposition of nuclear materials and decontamination on an individual-case-basis. Information concerning residual radioactive contamination has been requested only where it was suspected of being a problem. The rule is necessary to establish clear procedures for termination of licenses and to establish a more coherent regulatory framework. It will enable the Commission to determine that there is no significant risk to public health and safety before a licensee's responsibility for nuclear materials is terminated.

Requirements established by the rule. The rule requires each licensee, who does not apply for license renewal, to submit appropriate information concerning the disposal of licensed nuclear materials and on the absence or presence of residual radioactive contamination. If radiation levels are suitable for release, the Commission will notify the licensee, in writing, that the license is terminated.

If significant residual radioactive contamination is detected, the license continues in force, beyond the expiration date if necessary, with respect to possession of and responsibility for the residual radioactive contamination. The licensee must continue decontamination and control of contaminated areas until radiation levels are suitable for release and the Commission notifies the licensee, in writing, that the license is terminated. In addition, the licensee must submit a plan for decontamination and a final radiation survey report.

Analysis of Public Comments

The **Federal Register** notice provided a 60-day period for public comment. Letters containing a total of 21 comments were received from 12 commenters. Six letters were from electric power and utility companies (10 CFR Part 50 licensees), one from a nuclear fuel cycle licensee, three from consultant groups, and two from State and Federal agencies. Three comments specifically expressed support for the proposed rule and the remainder (18) suggested revisions, additions, and clarification. No comments specifically opposed the proposed rulemaking action. Copies of the comments may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, DC. The NRC response to the comments is presented below.

1. *Comment.* Many comments were directed at residual radioactivity levels. One commenter said that the rule requires a licensee to certify that no detectable radioactive contamination was found and that without specification of a lower level of detection the no detectable criteria standard is meaningless. Another commenter said that the word "detectable" should be replaced with the word "significant" [the commenter suggested that "significant" be defined as: Beta-gama exposure rates which are greater than twice background and/or soil concentrations of natural uranium greater than 40 picocuries per gram or radium-226 concentrations greater than 20 picocuries per gram]. Another commenter suggested that the rule changes should define the release criteria or "de minimis" radioactivity below which no further licensee control or decontamination is necessary, and referenced and NRC Inspection and Enforcement bulletin for criteria. Another commenter said that an upper level for nondetectable radioactive contamination needs to be established and that the statement "suitable for release for unrestricted use" needs clarification.

Response. Residual and "de minimis" radioactivity levels are outside the scope of this rule. The issue of residual radioactivity levels suitable for release for unrestricted use will be considered in a separate rulemaking action. Meanwhile, NRC will continue to provide guidance, on an individual-case-basis, on suitable levels of residual contamination for unrestricted release.

The rule requires that radiation survey reports be submitted unless the licensee can demonstrate the absence of residual radioactive contamination in some other manner. Further, the rule requires that survey instruments used in making radiation surveys be identified. Using these data the staff can determine a lower level of detection for the specific radionuclide involved and the validity of a radiation survey. There is no requirement to define lower level of detection in this rule. The reason for using the criterion of detectability is that a large number of small licensees (e.g., licensees with sealed sources and small possession limits) can demonstrate absence of residual radioactive contamination with minimal effort and expense.

2. *Comment.* A comment indicated that there should be standards for NRC's decision on whether a radiation survey report is required or not.

Response. The standard used by the staff in this determination is whether or not there may be significant amounts of residual radioactive contamination. In a large number of cases (e.g., where only sealed sources were used, or where short half-life and relatively small quantities of nuclear materials are possessed) a radiation survey report will not be necessary. Clarification is believed to be desirable and the rule is revised to indicate that submittal of a radiation survey report is not necessary if the licensee can demonstrate the absence of residual radioactive contamination without conducting a special radiation survey.

3. *Comment.* A comment stated that NRC should establish standards for determining when a decontamination plan is to be submitted.

Response. The *Regulatory Flexibility Act* section in the preamble of the proposed rule discussed this matter. It said that in some cases detectable residual contamination may be present, but the level may be suitable for release. In these cases, the licensee would not be required to submit a plan for decontamination. As indicated in the response to comment number 1, the NRC will provide guidance concerning suitable levels for release on an individual-case-basis.

4. *Comments.* Two comments were received concerning the statement in the preamble that read, "Prescribed fees for licensing services rendered by NRC would continue to be applicable until a license is terminated." One comment stated that NRC regulations do not contain prescribed fees for license termination services rendered by NRC. It said further that since NRC services rendered during termination of a license would not be comparable to services rendered during license renewal, it is not appropriate to charge the same fees. The comment suggested that NRC estimated, in the same manner used to derive the figures in 10 CFR Part 170, the time involved in terminating a license and establish a corresponding limit on the fees to be charged to a licensee for license termination. The other comment stated that the fees prescribed for licensing services associated with residual nuclear materials should be significantly less than those prescribed for the originally-licensed facility.

Response. It is present Commission policy not to charge fees for Parts 30, 40, and 70 applications requesting termination of licenses. The language questioned by these comments was intended to mean that if any routine inspection was conducted before or after the expiration date of the license but before the license was terminated, the Commission would assess a fee for the inspection since the license was valid at the time the inspection was conducted. Under the current fee schedule, any nonroutine (close-out) inspection is not charged to the licensee.

5. *Comment.* One comment stated that the word "immediately" [in §§ 30.36(b), 40.42(b), and 70.38(b) in regard to written notification when a licensee decides to terminate operations] should be clarified or defined. This comment suggested that licensees should notify the Commission 90 days prior to vacating the premises.

Response. A licensee may decontaminate and terminate projects at any time under an active license. However, license termination procedures can be most expeditiously followed if a licensee notifies the Commission as soon as the licensee decides to terminate operations. The intent of the rule is that decontamination should be accomplished and the license terminated as soon as practical, after the licensee decides to terminate operations.

6. *Comment.* One comment suggested that licensees should be allowed to continue some or all normal activities while decontamination activities are conducted.

Response. Normal operating activities can be continued during decontamination as long as the license has not expired. But, unless the licensee makes timely application for license renewal, nuclear materials must be transferred or disposed of before the license expiration date. Only activities related to decontamination and control of nuclear materials are permitted beyond the license expiration date, unless a timely license renewal application has been submitted (i.e., 30 days or more before the license expiration date).

7. *Comment.* A concern of several public utility companies (10 CFR Part 50 licensees) is how the new rule affects them in relation to licenses issued to possess and use nuclear materials under 10 CFR Parts 30, 40, and 70.

Response. Production and utilization facility licensees (10 CFR Part 50 licensees) may be issued licenses to possess and use byproduct, source, and/or special nuclear material, before they receive an Operating License for the facility. If the license to possess and use nuclear materials expires before an Operating License is issued, it must be renewed or terminated. Renewal is usually accomplished by amending the nuclear materials license to extend the expiration date, which is done by license condition. If the holder of a Construction Permit decides to terminate a nuclear materials license, e.g., a new fuel license issued under Part 70, before a Part 50 Operating License is issued, the requirements of this rule apply. When a Part 50 Operating license is issued, the nuclear materials license is automatically terminated. Requirements for posssession and use of nuclear materials are contained in the Part 50 Operating License and the requirements of this rule do not apply. No revision to the rule is necessary to accommodate these comments.

8. *Comment.* One comment stated that the substance of Form 314 was not made part of the rule nor the explanation of the proposed rule. The comment suggested it be made part the final rule.

Response. NRC Form 314, "Certification of Disposition of Materials," is sent to each NRC materials licensee 90 days before expiration of the license. This form requests information as to whether or not nuclear materials have been procured. It also requests information concerning disposal of nuclear materials, such as transfer to an NRC licensee, transfer to an Agreement State licensee, or disposal in some other manner. NRC Form-314 is used to obtain information concerning termination of specific licenses. OMB recently approved this form under approval number 3150-0028. As part of the approval process it was determined that this form, and the information required by it, is the best method of obtaining this information. Because the information required by the form is not a subject of this rulemaking action, it is not necessary to include the contents of the form in the rule.

9. *Comment.* One comment stated that there was no mention in the proposed rule as to the effective date of the amendments and whether licensees who have submitted requests for decommissioning or license termination prior to the passage of the rule are exempt.

Response. These amendments will codify procedures that are currently being used on an individual-case-basis. This rule does not significantly alter existing procedures. It is intended that the rule changes be made effective in the usual manner, that is 30 days following notice of final rulemaking published in the **Federal Register**. The provisions of the rule are applicable to any licensee who decides to terminate a license after this date.

Changes from proposed rule. There have been no significant revisions to the proposed rule as a result of public comments or reviews during final rulemaking procedures. However, several changes of a clarifying or editorial nature have been made. The changes are as follows:

1. Editorial changes have been made in §§ 30.36(b) and (e), 40.42(b) and (e), and 70.38(b) and (e).

2. It was apparently not clear in the proposed rule that licensees may decontaminate affected facilities prior to the license expiration date. Changes have been made in §§ 30.36(d)(1) and (3), 40.42(d)(1) and (3), and 70.38(d)(1) and (3) to clarify that licensees are authorized to conduct decontamination activities, in fact must decontaminate to the extent practicable, before the license expires.

3. Changes have been made in §§ 30.36(d)(1)(v)(A) and (B), 40.42(d)(1)(v)(A) and (B), and 70.38(d)(1)(v)(A) and (B) to (1) clarify that submittal of a radiation survey report is not necessary if a licensee can demonstrate absence radioactive contamination without conducting a survey, (2) add units for reporting radioactive contamination in water and indicate that not all of the units listed are appropriate for all licensees, and (3) specify that instruments used in radiation surveys must be working properly.

Environmental Impact

These amendments clarify requirements for termination of a licensee's responsibility for nuclear materials. The amendments do not add substantive requirements from an environmental viewpoint. Environmentally they are nonsubstantive and insignificant. No environmental impact statement, appraisal, or negative declaration needs to be prepared under 10 CFR 51.5(d)(3).

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. 3510, et. seq.). These requirements were approved by the Office of Management and Budget under approval numbers: Part 30-3150-0017; Part 40-3150-0020; and Part 70-3150-0009.

Regulatory Analysis

The NRC has prepared a regulatory analysis on this regulation. The analysis examines the benefits and costs of the alternatives considered by the staff. Interested parties may examine a copy of the regulatory analysis at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from W. R. Pearson, Chemical Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-5910.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, the Executive Director for Operations certifies that this action will not have a significant economic impact on a substantial number of small entities.

The rule applies to the Commission's approximately 8,100 materials licensees under 10 CFR Parts 30–35, 40, and 70. These licensees include about 5,000 byproduct material licenses under Parts 30, 32, 33, and 34, 2,000 medical licenses under Part 35, 400 source material licenses under Part 40, and 700 special nuclear material licenses under Part 70. The rule affects about 200 NRC licensees per year who wish to terminate operations.

The NRC estimates that about 90% of the affected licensees would be considered small entities under the criteria set out in the size standards of the Small Business Administration in 13 CFR Part 121 (e.g., most licensees with less than 500 employees, hospitals with less than 150 beds, other medical licenses with less than $1.5 million annual gross receipts). In developing the rule, the NRC specifically considered the potential problems that would face a small entity under these requirements. The NRC has attempted to structure the requirements to mitigate the economic effect of the rule on small entities to the extent possible considering the Commission's responsibility for public health and safety. Although there is not an absolute correlation between the size of a licensee and the requirements of the regulation, in general, the regulation will have minimal incremental impact on most small licensees.

This rule specifies the procedures to be followed when a licensee desires to terminate a materials license. Each licensee is required to—

1. Submit a form NRC-314 that describes the disposal of licensed materials;

2. Submit a final radiation survey, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner; and either:

3. Submit a certification that residual radioactive contamination attributable to activities conducted under the license is not detectable; or

4. Where residual radioactive contamination is present, submit a radiation survey report and a plan for decontamination, if required. In some cases, detectable residual contamination may be present, but the level may be suitable for release. In these cases, the licensee will not be required to submit a plan for decontamination.

The NRC believes that about 99% of the small entities affected by the rule will be able to comply with the requirements by following the simplest procedure. These licensees would submit a form NRC-314 and certify that no residual contamination attributable to activities conducted under the license is present. Data collection for form NRC-314 is similar to actions performed during regular operations. Some clerical and management time is required to complete the form and submit it. The average impact on small licensees, as a result of requiring submittal of a form NRC-314, is estimated to be less than an hour at an approximate cost of $20. Submittal of a certification letter would require only clerical and management personnel. Preparation and submittal of this letter would probably require about an hour at an approximate cost of $20. NRC Form-314, as approved by OMB, has been revised to contain provisions for certification, which will reduce this cost. It is estimated that the total impact on small licensees under the simple procedure will be about one-half person-day of effort at an approximate cost of $80. Some licensees will also be required to submit a final radiation survey report. However, many licensees will not, in particular licensees with sealed sources and byproduct licensees with small license possession limits and short half-life materials. A radiation survey must be conducted by qualified personnel (usually a health physics technician), the report assembled, and submitted. In cases involving extensive contaminated areas some land surveying, sample drilling, and special analyses may be involved. These actions involve health physics, management, clerical, and possibly other types of personnel. On the average for small licensees the impact of submitting radiation survey reports is estimated to be less than one-half person-day at a cost of approximately $80. For some larger licensees the average is estimated to be about two person-days at a cost of approximately $320.

The NRC believes that less than 1% of the affected small licensees will be required to submit a decontamination plan. This action will require the average small licensee to expend about one-half person-day of effort at an approximate cost of $80. A comparable effort might require the average larger licensee to expend about four person-days of effort at approximate cost of $640. Preparation and submittal of a decontamination plan requires use of technical, management, clerical, and possibly other types of personnel. Preparation of this plan would be facilitated by using technical and management personnel familiar with the operations.

List of Subjects

10 CFR Part 30

Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Government contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

Final Rulemaking

The NRC is adopting the following amendments to 10 CFR Parts 30, 40, and 70 under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.34 (b) and (c), 30.41 (a) and (c) and 30.53 are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); and §§ 30.36, 30.51, 30.52, and

30.55 issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Remove the authority citations following:

Sections 30.3, 30.4, 30.5, 30.11, 30.12, 30.13, 30.14, 30.15, 30.16, 30.18, 30.19, 30.20, 30.31, 30.32, 30.33, 30.34, 30.39, 30.41, 30.51, 30.53, 30.55, 30.61, and 30.71.

§ 30.34 [Amended]

3. Section 30.34 is amended by removing and reserving paragraph (f).

4. Section 30.36 is revised to read as follows:

§ 30.36 Expiration and termination of licenses.

(a) Except as provided in § 30.37(b) and paragraph (d)(3) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall notify the Commission immediately, in writing under § 30.6, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1) (iv) and (v) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license, the licensee shall either—

(1) Submit an application for license renewal under § 30.37; or

(2) Notify the Commission, in writing under § 30.6, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 30.37, the licensee shall, on or before the expiration date specified in the license—

(i) Terminate use of byproduct material;

(ii) Remove radioactive contamination to the extent practicable;

(iii) Properly dispose of byproduct material;

(iv) Submit a completed form NRC-314; and

(v) Submit a radiation survey report to confirm the absence of radioactive materials or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iv) and (v) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3)(i) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual byproduct material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee is subject to the provisions of paragraph (e) of this section.

(ii) In addition to the information submitted under paragraphs (d)(1) (iv) and (v) of this section the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(e) Each licensee who possesses residual byproduct material under paragraph (d)(3) of this section, following the expiration date specified in the license shall—

(1) Limit actions involving byproduct material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); secs. 274, Pub. L 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)-(3), 40.35(a)-(d), 40.41 (b) and (c), 40.46, 40.51 (a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended, (42 U.S.C. 2201(b)); and §§ 40.25 (c) and (d)(3) and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64 and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

6. Remove the authority citations following:

Sections 40.1, 40.2a, 40.3, 40.4, 40.11, 40.13, 40.14, 40.21, 40.22, 40.25, 40.26, 40.31, 40.32, 40.34, 40.35, 40.41, 40.45, 40.51, 40.61, 40.62, 40.63, 40.64, 40.65, 40.71, and Appendix A.

§ 40.41 [Amended]

7. Section 40.41 is amended by removing paragraph (f).

8. Section 40.42 is revised to read as follows:

§ 40.42 Expiration and termination of licenses.

(a) Except as provided in § 40.43(b) and paragraph (d)(3) of this section, each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall notify the Commission immediately, in writing under § 40.5, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1)(iv) and (b) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license the licensee shall either—

(1) Submit an application for license renewal under § 40.43; or

(2) Notify the Commission, in writing under § 40.5, if the licensee decides not to renew the license.

(d)(1) If a licensee does not submit an application for license renewal under § 40.43, the licensee shall, on or before the expiration date specified in the license—

(i) Terminate use of source material;

(ii) Remove radioactive contamination to the extent practicable;

(iii) Properly dispose of source material;

(iv) Submit a completed form NRC-314; and

(v) Submit a radiation survey report to confirm the absence of radioactive materials or to establish the levels of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaiminated solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iv) and (v) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3)(i) If detectable levels of residual radioactive contamination attributable to activities conducted under a license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual source material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of paragraph (e) of this section.

(ii) In addition to the information submitted under paragraphs (d)(1) (iv) and (v) of this section the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(e) Each licensee who possesses residual source material under paragraph (d)(3) of this section, following the expiration date specified in the license, shall—

(1) Limit actions involving source material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

9. Section 40.71 is amended by removing paragraph (d) and revising the section heading to read as follows:

§ 40.71 Modification and revocation of licenses.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

10. The authority section for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 12, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 70.3, 70.19(c), 70.24 (a) and (b), 70.32 (a) (3), (5), (6), and (d), 70.36, 70.39 (b) and (c), 70.41(a), 70.42 (a) and (c), 70.56, 70.57 (b), (c) and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948 as amended (42 U.S.C. 2201(b)); §§ 70.20a(d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (e) and (g), 70.56, 70.57(b) and (d), and 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.20b (d) and (e), 70.38, 70.51-71.55, 70.58 (g)(4), (k), and (l) and 70.59 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

11. Remove the authority citations following:

Sections 70.1, 70.3, 70.4, 70.11, 70.14, 70.19, 70.22, 70.23, 70.31, 70.32, 70.36, 70.39, 70.41, 70.42, 70.44, 70.51, 70.53, 70.54, 70.55, 70.57, 70.59, 70.61, 70.62, 70.71.

12. Section 70.32 is amended by removing and reserving paragraph (h) and revising the introductory text of paragraph (a) to read as follows:

§ 70.32 Conditions of licenses.

(a) Each license shall contain and be subject to the following conditions:

* * * * *

(h) [Reserved]

* * * * *

13. A new § 70.38 is added to read as follows:

§ 70.38 Expiration and termination of licenses.

(a) Except as provided in § 70.33(b) and paragraph (d)(3) of this section each specific license expires at the end of the day, in the month and year stated in the license.

(b) Each licensee shall notify the Commission immediately, in writing under § 70.5, and request termination of the license when the licensee decides to terminate all activities involving materials authorized under the license. This notification and request for termination of the license must include the reports and information specified in paragraphs (d)(1) (iv) and (v) of this section. The licensee is subject to the provisions of paragraphs (d) and (e) of this section, as applicable.

(c) No less than 30 days before the expiration date specified in a specific license the licensee shall either—

(1) Submit an application for license renewal under § 70.33; or

(2) Notify the Commission, in writing under § 70.5, if the licensee decides not to renew the license.

(d)(1) If a license does not submit an application for license renewal under § 70.33, the licensee shall, on or before the expiration date specified in the license—

(i) Terminate use of special nuclear material;

(ii) Remove residual radioactive contamination to the extent practicable;

(iii) Properly dispose of special nuclear material;

(iv) Submit a completed form NRC-314; and

(v) Submit a radiation survey report to confirm the absence of radioactive materials or to establish the level of residual radioactive contamination, unless the licensee demonstrates the absence of residual radioactive contamination in some other manner. The licensee shall, as appropriate—

(A) Report levels of radiation in units of microrads per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces and report levels of radioactivity in units of disintegrations per minute (or microcuries) per 100 square centimeters removable and fixed on surfaces, microcuries per milliliter in water, and picocuries per gram in contaminated solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(2) If no residual radioactive contamination attributable to activities conducted under the license is detected, the licensee shall submit a certification

that no detectable radioactive contamination was found. If the information submitted under this paragraph and paragraphs (d)(1) (iv) and (v) of this section is adequate, the Commission will notify the licensee in writing that the license is terminated.

(3)(i) If detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, the license continues in effect beyond the expiration date, if necessary, with respect to possession of residual special nuclear material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time the licensee is subject to the provisions of paragraph (e) of this section.

(ii) In addition to the information submitted under paragraphs (d)(1) (iv) and (v) of this section the licensee shall submit a plan for decontamination, if required, as regards residual radioactive contamination remaining at the time the license expires.

(e) Each licensee who possesses residual special nuclear material under paragraph (d)(3) of this section, following the expiration date specified in the license shall—

(1) Limit actions involving special nuclear material to those related to decontamination and other activities related to preparation for release for unrestricted use; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

Dated at Bethesda, Maryland this 24th day of June 1983.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 83-19169 Filed 7-14-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 269, 269a, 269b, and 294

[Docket No. R-0462]

Policy on Labor Relations for the Federal Reserve Banks; and Policy on Labor Relations for the Board of Governors of the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final policy statements.

SUMMARY: The Board of Governors of the Federal Reserve System has revised substantially its Policy on Unionization and Collective Bargaining for the Federal Reserve Banks, which was adopted in 1969, to provide, with certain restrictions, for the exclusive recognition of labor organizations to represent employees of the Federal Reserve Banks. The revision changes the composition of the Federal Reserve System Labor Relations Panel, which is charged with administering the matters that are subject to collective bargaining; and eliminates the current requirement that in representation elections 60 percent of eligible voters must vote in order for a labor organization to prevail. The revision also makes additional, less significant, changes in the procedures established by the Policy and clarifies some of the Policy's language. The Board has also revised its Policy on Unionization and Collective Bargaining for the Board of Governors of the Federal Reserve System, which governs labor relations for employees of the Board. The revisions to the Federal Reserve Board Policy make that Policy comparable in substance to the revised Policy governing employees of the Federal Reserve Banks.

DATE: These Policy Statements are effective July 11, 1983.

FOR FURTHER INFORMATION CONTACT: Charles W. Wood, Assistant Director, Division of Personnel (202) 452-3660, John R. Weis, Assistant Director, Division of Personnel (202) 452-3435, Richard M. Ashton, Assistant General Counsel (202) 452-3750, Legal Division, Jennifer J. Johnson, Senior Counsel (202) 452-3584, Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: Pursuant to its statutory authority to exercise general supervision over the twelve regional Federal Reserve Banks that are part of the Federal Reserve System, the Board has issued a Policy on Unionization and Collective Bargaining for the Federal Reserve Banks (the "Reserve Bank Policy"), which provides for the exclusive recognition of a labor organization, within certain restrictions, to represent employees of a Reserve Bank.

The revision effects substantial changes in three major aspects of the Reserve Bank Policy. The current Policy provides for the establishment of the Federal Reserve System Labor Relations Panel, which is authorized to issue rules to implement the Policy and to serve as the final decisional authority in disputes in individual cases that arise under the Policy. Under the present Policy, the System Panel is comprised of two members of the Board and one person chosen from the public. The revised Policy provides for a Panel consisting of two public members and one Board member. The revised Policy further provides that the public members of the Panel shall serve for a fixed term and may be removed from office only upon notice and hearing, and only for neglect of duty or malfeasance in office.

Second, the revision makes certain changes with respect to the matters that may be bargained about by a Reserve Bank and an exclusive representative. Section 269.3(b) of the current Policy requires a Reserve Bank to negotiate with a recognized labor organization concerning personnel policies and working conditions but not with respect to specific designated areas of discretion and policy of the Reserve Bank, such as its purposes and functions or the compensation of its employees. Section 269.7(a)(2) of the current Policy, governing the content of collective bargaining agreements, provides that the management of a Reserve Bank retains certain designated management rights, *e.g.*, the right to hire employees. The revised Policy incorporates the list of non-negotiable topics and designated management rights, which are also clearly non-negotiable, into a single provision expressly listing all matters concerning which negotiation is not required.

The list of non-negotiable items in the revised Policy is generally the same as the matters determined in the current Policy to be not subject to bargaining or to be management rights. The revision adds a provision stating that a Reserve Bank shall upon request discuss, but shall not be required to negotiate with respect to, the procedures followed by a Reserve Bank in exercising the management rights designated in the Policy. The revised provision allows a Reserve Bank to elect to negotiate with regard to procedures for implementing management rights.

Third, the revision modifies the required showing of support a labor organization must obtain in a representation election in order to be recognized. As currently written, the Policy provides that a labor organization is recognized if a majority of the employees in the bargaining unit vote in favor of the union and if 60 percent of employees in the unit eligible to vote actually vote. This provision is revised to adopt the usual rule in unionization elections: the labor organization is recognized if a majority of employees in the unit voting select the labor organization. The proposal also modifies the required showing necessary to revoke the recognition of a labor organization.