

rule 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 action is based and the effective date necessary to effectuate the declared purposes of the Act. Washington-Oregon fresh prune handlers have been apprised of the new requirement and its effective date, and this action relieves restrictions on the handling of fresh prunes grown in Washington and Oregon. It is found that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 924

Marketing agreements and orders, Prunes, Washington, Oregon.

PART 924—[AMENDED]

Therefore, § 924.319 is revised by amending that part of paragraph (a)(1) which precedes the first proviso as follows:

§ 924.319 Prune Regulation 19.

(a) * * *

(1) Such prunes grade at least U.S. No. 1, except that at least two-thirds of the surface of the prune is required to be purplish in color, and such prunes measure not less than 1 1/4 inches in diameter as measured by a rigid ring: * * *

(Secs. 1-19, 48 Stat. 31, as Amended: 7 U.S.C. 601-674)

Dated: June 29, 1984.

Thomas R. Clark,

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

[FR Doc. 84-17890 Filed 7-5-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Pro Air Services

Correction

In FR Doc. 84-17052 beginning on page 26203 in the issue of Wednesday, June 27, 1984, make the following corrections on page 26204: In the first column, in the eighth line, "Naturalization" should read "Nationality"; and in the tenth line, "facilities" should read "facilitates".

BILLING CODE 1505-01-M

8 CFR Part 238

Contracts With Transportation Lines; Addition of Gull Air, Inc.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends the listing of carriers which have entered into agreements with the Service for the preinspection of their passengers and crews at locations outside the United States by adding the name of Gull Air, Inc.

EFFECTIVE DATE: June 25, 1984.

FOR FURTHER INFORMATION CONTACT:

Loretta J. Shogren, Director Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION:

The Commissioner of Immigration and Naturalization entered into an agreement with Gull Air, Inc. on June 25, 1984 to provide for the preinspection of its passengers and crews as provided by section 238(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1228(b)). Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely adds an air carrier's name to the present listing and is editorial in nature.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Air carriers, Airlines, Aliens, Government contracts, Inspections.

PART 238—CONTRACTS WITH TRANSPORTATION LINES

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

§ 238.4 [Amended]

Section 238.4 is amended by adding the name "Gull Air, Inc." under "At Freeport".

(Secs. 103 and 238 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1228))

Dated: June 29, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84-17941 Filed 7-5-84; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 309, 310, and 318

[Docket No. 84-010N]

Sulfonamide and Antibiotic Residues in Young Veal Calves; Reporting and Recordkeeping Requirements

June 22, 1984.

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: OMB reporting and recordkeeping requirements; conformation of effective date.

SUMMARY: This notice announces the approval by the Office of Management and Budget (OMB) of the reporting and recordkeeping requirements set forth in the emergency interim rule published on June 7, 1984 (49 FR 23602), concerning sulfonamide and antibiotic residues in young veal calves. The interim rule was effective on June 4, 1984, except for those provisions containing reporting and recordkeeping requirements because OMB approval of such requirements had not yet been obtained. Those requirements are hereby effective.

EFFECTIVE DATE: July 6, 1984.

FOR FURTHER INFORMATION CONTACT:

Dr. W.S. Horne, Assistant Deputy Administrator, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3697.

SUPPLEMENTARY INFORMATION: As a result of increased levels of sulfonamide and antibiotic residues in young veal calves, the Food Safety and Inspection Service (FSIS) undertook emergency rulemaking to decrease the likelihood that adulterated meat will enter into human food channels. The interim rule intensifies implant testing procedures for detecting violative levels of sulfonamides and antibiotics in young calves up to 3 weeks in age or 159 pounds in weight. Furthermore, the interim rule provides a voluntary certification program for producers of young calves which provides for less intensified testing for such certified calves. Under the certification program,

the producer of the calves certifies that the calves have not been treated with any animal drugs or, if so, that the prescribed withdrawal period for such drugs has passed allowing the drug residues in the animals to be in compliance with tolerances approved by the Food and Drug Administration.

The interim rule was effective on June 4, 1984, except for § 309.16(d) (2)(i) and (3) which contain reporting and recordkeeping requirements. Such requirements were not to be effective until OMB approval had been obtained. The interim rule stated that when OMB had approved the reporting and recordkeeping requirements, FSIS would publish a notice of the effective date of these requirements.

This notice announces that OMB has approved the reporting and recordkeeping requirements set forth in § 309.16(d) (2)(i) and (3) of the interim rule, and that such requirements are hereby effective.

Done at Washington, DC, on June 29, 1984.
Donald L. Houston,
Administrator, Food Safety and Inspection Service.

[FR Doc. 84-17891 Filed 7-5-84; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to relax the frequency of participation by State and local governmental authorities in emergency preparedness exercises at nuclear power reactor sites. This relaxation reflects experience gained in observing and evaluating over 150 emergency preparedness exercises since 1980.

EFFECTIVE DATE: August 6, 1984.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Accident Source Term Program Office, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7615.

SUPPLEMENTARY INFORMATION: On July 21, 1983, the Commission published in the *Federal Register* a proposed rule relating to emergency preparedness exercises (48 FR 33307). The proposed rule retained the presently required annual, full-participation exercise with a

proviso that, if all major elements in the emergency plan are performed in a satisfactory manner during the annual exercise, FEMA may recommend and the NRC may find that another exercise with State and local government participation is not required for up to 2 years. The proposed rule did not relax in any manner the annual requirement for onsite exercises that each licensee is required to conduct which include exercising the control room, technical support center, and emergency operation facility functions.

Immediately after the Commission approved publication of the proposed rule, the Director of FEMA wrote to NRC Chairman Palladino, urging the Commission to " * * * adopt biennial exercise frequency language * * *" in 10 CFR Part 50, Appendix E to assure consistency in the regulations.

FEMA's final regulation, 44 CFR 350, published in the *Federal Register* on September 28, 1983 (48 FR 44332), reduced State and local participation in emergency preparedness exercises to a frequency of once every 2 years. The FEMA final rule is not consistent with the position taken by the Commission in the NRC proposed rule (an annual frequency with a specific NRC finding necessary for relaxation). This difference was a source of some concern to both agencies and to some of the commenters on the NRC proposed rule. The FEMA regulation requires that a State within the plume exposure pathway EPZ fully participate in an exercise every 2 years with no requirement on the return frequency at a specific site. Typically, therefore, a State with two sites might be expected to fully participate in an exercise at a specific site at least every 4 years, a State with three sites, every 6 years; four sites, every 8 years; five sites, every 10 years, etc. Whereas, the enclosed NRC rule change stipulates that a State within the plume exposure pathway EPZ fully participate in an exercise every 2 years with a return frequency of at least once every 7 years at a specific site. Both rules require a multi-site State, when not fully participating in an exercise at a specific site, to partially participate every 2 years at that specific site in order to support the participation of the appropriate local governments.

The Commission has selected a return frequency of 7 years because presently no State has more than 7 operating and/or planned reactors and States with that number of sites or less would not be required to exercise in a full participation mode more often than about once a year.

Public Comments

The NRC proposed rule was published in the *Federal Register* with a 60-day comment period on July 21, 1983 (48 FR 33307). Seventy-one comment letters were received and evaluated by the NRC staff.

Those commenters (55) favoring relaxing the frequency of State and local governmental participation in emergency preparedness exercises were utilities, consulting firms representing utilities, two State Governors, State and local governmental agencies, FEMA and private citizens.

Those commenters (14) opposing relaxing the frequency of State and local governmental participation in emergency preparedness exercises were an information service, environmental groups, a State Governor, State and local governmental agencies, EPA and private citizens.

The comments raised several significant issues, to which the Commission responds as follows:

Issue No. 1

Should the Commission adopt a biennial exercise frequency for State and local government participation with a proviso for remedial exercises for the correction of serious deficiencies rather than the exercise frequency contained in the proposed rule?

Discussion: This issue was addressed by many State and local governmental comment letters whose concerns are generally characterized by the following quote from the FEMA comment letter:

The NRC proposal will be difficult to administer. For example, objective criteria will need to be developed for use in determining whether State and local governments have performed in a satisfactory enough manner to warrant an exemption from the succeeding year's exercise. It will be difficult to apply such criteria to the satisfaction of State and local governments. The NRC proposal would create complex situations such as what to do if some jurisdictions perform in an unsatisfactory manner and the others in a satisfactory manner. Would all jurisdictions have to exercise the next year or only the unsatisfactory ones? If only the unsatisfactory ones, an unworkable condition would result wherein some jurisdictions would be on annual and others on biennial frequency. Inequities would result. Further, the time involved for evaluating exercise results, including getting commitments from State and local governments to take corrective actions, has proved time consuming in the past. If we add time for the NRC to make a finding after FEMA's recommendation, a good portion of a year could be consumed. This would cause uncertainty and instability in State and local governments, which should be avoided.

Commission Response: The Commission recognizes the implementation difficulties with the proposed NRC approach (annual frequency with a finding to relax). This was pointed out by the NRC emergency preparedness regional inspectors, a majority of the comment letters, the general thrust in two petitions for rulemaking,¹ and the ACRS.

Issue No. 2

Will less frequent exercises result in making personnel and equipment less effective or reliable and therefore reduce the level of safety?

Discussion: A few commenters, primarily citizens and governmental organizations, addressed this issue by pointing out that State and local emergency response organizations must frequently respond to various natural and man-made emergencies. This continuum of real life emergencies exercises personnel, equipment, communication networks and organizational structures on a frequent basis.

The following quote from a comment letter summarizes this concern:

While an emergency situation at a nuclear power plant may call for some procedures that are different from those used under other emergency situations, many of the response and evacuation measures will be similar, if not identical. A myriad of major and minor emergencies demand the maintenance of a force of personnel trained in these procedures. By responding to other emergency situations such as chemical spills, the emergency response personnel will be rehearsing many of the procedures they would use in the event of an emergency situation at a nuclear power plant. Some examples of these procedures would include notification of appropriate local authorities, establishing communication links between local, regional and state emergency response personnel, and evacuating or finding shelter for the affected population.

Commission Response: Because emergency response personnel at the State and local government level continuously respond to actual emergencies, the Commission does not consider that relaxing the frequency of State and local government participation in emergency preparedness exercises would adversely affect the health and safety of the public.

A provision has been added in the final rule to permit State or local

government participation in the licensee's annual exercise. A State or local government may consider its response capability to be less than optimal because of an unusually large personnel turnover or because there have been limited responses to real emergencies in the community. The final rule requires the licensee to provide for State or local government participation if they indicate such a desire.

Issue No. 3

Will the deletion of NUREG-0654² as a footnote adversely affect the interface between offsite emergency plans and the licensee's emergency plans?

Discussion: The proposed rule included a provision to delete references to NUREG-0654 throughout the regulations. NUREG-0654 provides specific criteria for the evaluation of the standards in § 50.47 and is titled, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Plants." A few commenters, primarily a utility and a state governmental official, felt that the deletion of the NUREG-0654 footnote in the regulations would preclude its use by reviewers in determining the adequacy of emergency preparedness.

Commission Response: The delegation of a reference to NUREG-0654 will not affect its use as a guidance document for emergency planning. In the 1980 rulemaking, the Commission included this reference as a means of formally approving the use of NUREG-0654. See 45 FR 55402, 55408 (August 19, 1980). NUREG-0654 is endorsed by Regulatory Guide 1.101,³ and will continue to be used by reviewers in evaluating the adequacy of emergency preparedness at nuclear power reactor sites.

Issue No. 4

Do adequate procedures exist for NRC and FEMA to evaluate whether major elements are performed satisfactorily during an exercise?

Discussion: Many commenters, primarily State and local governmental authorities as well as utilities, pointed out that there is a need for uniform evaluation of exercise performance.

Commission Response: The Commission concurs with the commenters. In order to provide for uniform evaluation of emergency

preparedness exercises, FEMA has developed and now uses a document titled "Procedural Policy on Radiological Emergency Preparedness Plan Reviews, Exercise Observations and Evaluations and Interim Findings."⁴ These procedures were forwarded to the FEMA regions for use on August 5, 1983.

Having considered all comments received, experience gained since 1980, input from emergency preparedness regional inspectors, the general thrust of two petitions for rulemaking, and ACRS comments, the Commission has concluded that the requirements for frequency of participation by State and local governmental authorities in emergency preparedness exercises around nuclear power reactors should be relaxed. The Commission therefore is promulgating a final rule which:

1. Continues to require licensees to conduct an annual onsite emergency preparedness exercise;
2. Requires that State and local governments participate in emergency preparedness exercises every 2 years with a provision for remedial exercises to assure that deficiencies are corrected;
3. Provides that at least once every 7 years, all States within the plume exposure pathway EPZ of a given site must fully participate in an offsite exercise for that site;
4. Requires licensees to provide an opportunity for State and local government participation in the licensee's annual emergency preparedness exercise; and
5. Requires FEMA to determine the need for and extent of remedial exercises.

The final rule is not totally consistent with FEMA's final regulation (44 CFR 350). This inconsistency lies in the area of return frequency for multiple-site states as previously discussed. The FEMA position on return frequency is a significant departure from the NRC's proposed regulation (48 FR 33307) dated July 21, 1983. The Commission believes that more study is needed before deletion of the return frequency requirement can be justified.

The Commission is adopting a biennial exercise frequency for State and local government participation with a proviso for remedial exercises to assure the correction of serious deficiencies. These changes to the emergency preparedness regulations are being made because:

- a. Experience in observing and evaluating over 150 exercises has shown that a disproportionate amount of

⁴ Guidance for determining the need for, and extent of, remedial exercises is being developed.

¹ On March 17, 1982, the Commission received a petition for rulemaking (PRM-50-33) from National Emergency Management Association. On August 30, 1982, the Commission received a petition for rulemaking (PRM-50-34) from the Adjutant General of the State of South Carolina. The general thrust of both petitions urged the relaxation of the frequency of emergency preparedness exercises.

² Copies of these documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of these documents may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

Federal, State and local government and licensee resources are being expended in order to conduct and evaluate annual emergency preparedness exercises. As a result of the substantial expenditure of resources for these exercises, fewer resources are available to establish and maintain the essential day-to-day upgraded state of emergency preparedness.

b. State and local governments respond to a variety of actual emergencies on a continuing basis, thus frequently exercising their emergency preparedness capabilities.

c. The flexibility provided for in a biennial frequency will be an incentive for State and local governments to perform in a satisfactory manner in order to avoid conducting remedial exercises.

And lastly, the Commission notes that FEMA has had almost 3 years of experience with evaluating State and local government radiological emergency planning and preparedness. With few exceptions, this experience has revealed a significant increase in the level of State and local government radiological preparedness as demonstrated in joint exercises. FEMA has evaluated approximately 150 exercises. In only five instances did FEMA determine that State and local governments did not demonstrate adequate preparedness. The Commission believes that this enhanced level of preparedness should be recognized by allowing State and local governments to exercise jointly with utilities on a biennial frequency.

On March 17, 1982, the Commission received a petition for rulemaking (PRM-50-33) from National Emergency Management Association. On August 30, 1982, the Commission received a petition for rulemaking (PRM-50-34) from the Adjutant General of the State of South Carolina. The petition from the National Emergency Management Association requested the NRC to relax the frequency of full participation by State and local governments in emergency preparedness exercises from annually to biennially. The petition from South Carolina requested that the NRC reduce the frequency with which local governments must participate in a full scale emergency preparedness exercise.

The promulgation of this final rule relaxes the frequency of full participation by State and local governments in emergency preparedness exercises from annually to biennially. This rule completes NRC action by granting both petitions for rulemaking.

Finding of No Significant Environmental Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. See 10 CFR 51.20(a)(1). Moreover, the Commission has determined, pursuant to 10 CFR 51.32, that the final rule has no significant environmental impact. This determination has been made because the Commission cannot identify any impact on the human environment associated with reducing the frequency of full participation of State and local governments in emergency preparedness exercises from annually to biennially.

The alternative approaches that were considered in this rulemaking proceedings were:

1. To retain the annual full participation exercise with a provision to enable relaxation to every 2 years.
2. To incorporate by reference into the NRC's regulations, the FEMA regulations governing the frequency of full participation of State and local governments in emergency preparedness exercises.
3. To relax the frequency of full participation of State and local governments in emergency preparedness exercises from annually to biennially.

There were no environmental impacts identified from any of the alternatives considered.

Because FEMA is directly involved in the evaluation of offsite emergency preparedness exercises and is affected by the promulgation of these amendments, the NRC consulted extensively with FEMA during the development of this rule.

Paperwork Reduction Act Statement

The final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

The Commission has prepared a regulatory analysis of this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis is available for inspection and copying, for a fee, at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from Michael

T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 443-7615.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this final rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The final rule clarifies certain elements and findings necessary for the issuance of an operating license for a nuclear power plant licensed pursuant to sections 103 and 104b of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2133, 2134b. The electric utility companies which own and operate nuclear power plants are dominant in their service areas and do not fall within the definition of a small business found in Section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121. Accordingly, there is no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 50 is published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs., 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Sec. 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Secs. 50.57(d) 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Sec. 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Secs. 50.80-50.81 also issued under sec. 184,

68 Stat. 954, as amended (42 U.S.C. 2234). Secs. 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 50.47 [Amended]

2. In § 50.47, Footnote 1 is removed.
3. In Appendix E, section IV.F is revised to read as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities

IV. * * *

F. Training.

The program to provide for (1) the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties, and (2) the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

- a. Directors and/or coordinators of the plant emergency organization;
- b. Personnel responsible for accident assessment, including control room shift personnel;
- c. Radiological monitoring teams;
- d. Fire control teams (fire brigades);
- e. Repair and damage control teams;
- f. First aid and rescue teams;
- g. Medical support personnel;
- h. Licensee's headquarters support personnel;
- i. Security personnel.

In addition, a radiological orientation training program shall be made available to local services personnel; e.g., local emergency services/Civil Defense, local law enforcement personnel, local news media persons.

The plan shall describe provisions for the conduct of emergency preparedness exercises as follows: Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communications networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties.³

1. A full participation⁴ exercise which tests as much of the licensee, State and local

emergency plans as is reasonably achievable without mandatory public participation shall be conducted for each site at which a power reactor is located for which the first operating license for that site is issued after July 13, 1982. This exercise shall be conducted within 1 year before the issuance of the first operating license for full power and prior to operation above 5% of rated power of the first reactor, and shall include participation by each State and local government within the plume exposure pathway EPZ and each State within the ingestion exposure pathway EPZ.

2. Each licensee at each site shall annually exercise its emergency plan.

3. Each licensee at each site shall exercise with offsite authorities such that the State and local government emergency plans for each operating reactor site are exercised biennially, with full or partial participation⁵ by States and local governments, within the plume exposure pathway EPZ. State and local governments that have fully participated in a joint exercise since October 1, 1982, are eligible to fully participate in emergency preparedness exercises on a biennial frequency. The level of participation shall be as follows:

- (a) A State shall at least partially participate in each offsite exercise at each site.
- (b) A State shall fully participate in at least one offsite exercise every 2 years.
- (c) At least once every 7 years, all States within the plume exposure pathway EPZ for a given site must fully participate in an offsite exercise for that site. This exercise must also involve full participation by local governments within the plume exposure pathway EPZ.
- (d) Partial participation by a local government during an offsite exercise for a site is acceptable only when the local government is fully participating in a biennial exercise at another site.
- (e) Each State within any ingestion exposure pathway EPZ shall exercise its plans and preparedness related to ingestion exposure pathway measures at least once every 5 years.
- (f) Licensees shall enable any State or local government located within the plume exposure pathway EPZ to participate in annual exercises when requested by such State or local government.

4. Remedial exercises will be required if the emergency plan is not satisfactorily tested during the biennial exercise, such that NRC, in consultation with FEMA, cannot find reasonable assurance that adequate protective measures can be taken in the event to a radiological emergency. The extent of State and local participation in remedial exercises must be sufficient to show that appropriate corrective measures have been taken regarding the elements of the plan not properly tested in the previous exercises.

5. All training, including exercises, shall provide for formal critiques in order to identify weak or deficient areas that need

correction. Any weaknesses or deficiencies that are identified shall be corrected.

4. In Appendix E, footnotes 1 and 4 are removed; footnotes 2 and 3 are renumbered as footnotes 1 and 2; and new footnotes 3, 4, and 5 are added to read as follows:

³ Use of site specific simulators or computers is acceptable for any exercise.

⁴ "Full participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite local and State authorities and licensee personnel physically and actively take part in testing their integrated capability to adequately access and respond to an accident at a commercial nuclear power plant. "Full participation" includes testing the major observable portions of the onsite and offsite emergency plans and mobilization of State, local and licensee personnel and other resources in sufficient numbers to verify the capability to respond to the accident scenario.

⁵ "Partial participation" when used in conjunction with emergency preparedness exercises for a particular site means appropriate offsite authorities shall actively take part in the exercise sufficient to test direction and control functions; i.e., (a) protective action decision making related to emergency action levels, and (b) communication capabilities among affected State and local authorities and the licensee.

Dated at Washington, D.C. this 29th day of June 1984.

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

[FR Doc. 84-17784 Filed 7-5-84; 8:45 am]
BILLING CODE 7590-01-M

10 CFR Part 50

Reduction of Risk From Anticipated Transients Without Scram (ATWS) Events for Light-Water-Cooled Nuclear Powerplants

Correction

In FR Doc. 84-16839 beginning on page 26036 in the issue of Tuesday, June 26, 1984, make the following corrections:

1. On page 26045, second column, tenth line "outrage" should have read "outage".
2. On page 26042, in the table reading "Guidance Regarding System and Equipment Specifications", the first column was only partially printed, and the table should have read as follows:

GUIDANCE REGARDING SYSTEM AND EQUIPMENT SPECIFICATIONS

System Guidance	Diverse Reactor Trip System	Mitigating Systems (Recirculation Pump Trip and Automatic SLCS actuation for BWRs: Auxiliary Feedwater Actuation and Turbine Trip for PWRs)*
Safety Related (IEEE-279)	Not required, but the implementation must be such that the existing protection system continues to meet all applicable safety related criteria.	Not required, but the implementation must be such that the existing protection system continues to meet all applicable safety related criteria.
Redundancy	Not required.	Not required.

* Existing recirculation pump trip equipment installed in BWRs in accordance with previous staff requirements for the mitigation of anticipated transients without scram need not be modified.

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

10 CFR Part 1045

National Security Information

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: Executive Order 12356, "National Security Information," April 2, 1982, prescribes a uniform system for classifying, declassifying, and safeguarding National Security Information. In accordance with section 5.3(b) of that Executive Order, this rule contains those regulations that establish Department of Energy information security policy to the extent that they affect members of the public.

EFFECTIVE DATE: July 6, 1984.

FOR FURTHER INFORMATION CONTACT:

Robert T. Duff, Director, Office of Classification (DP-32), U.S. Department of Energy, Washington, DC 20545, (301) 353-3521
 Leon Silverstrom, Assistant General Counsel for International Development and Defense Programs (GC-32), U.S. Department of Energy, Washington, DC 20585, (202) 252-6975.

SUPPLEMENTARY INFORMATION:

I. Discussion

II. Procedural Requirements

I. Discussion

Section 5.3(b) of Executive Order 12356, "National Security Information," requires that agencies that originate or handle classified information shall promulgate implementing regulations. Any unclassified regulations that establish agency information security policy shall be published in the **Federal Register** to the extent that these regulations affect members of the public. According to 32 CFR 2001.60, those portions of implementing regulations that affect members of the public shall include, at a minimum, information relating to the agency's mandatory declassification review program and instructions for submitting suggestions or complaints regarding the agency's information security program.

These regulations were submitted to the Information Security Oversight Office for review in accordance with section 5.2(b)(3) of Executive Order 12356. These regulations also revoke Subpart B of 10 CFR Chapter X, Part 1045, which is now invalid in that it was issued to fulfill the requirements of Executive Order 12065 revoked on August 1, 1982.

II. Procedural Requirements

A. Administrative Procedures Act

These regulations are exempt from 5 U.S.C. 553 because they involve a "military or foreign affairs function of the United States" and a "matter relating to agency management." Therefore, notice or hearing is not required.

B. Section 501 of the DOE Organization Act

If the Secretary determines under section 501(c) of the Department of Energy Organization Act (42 U.S.C. 7191) that no substantial issue of fact or law exists and that the regulations in question are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or small businesses, the regulations are exempt from the requirements of subsections (b), (c), and (d) of section 501 of that Act with respect to the promulgation of regulations. Where the Secretary determines that no substantial issue or impact exists, regulations may be promulgated in accordance with section 553 of Title 5 of the United States Code.

The Secretary has determined that this rule does not raise substantial issues of law or fact and will not have a

substantial impact on the Nation's economy or large numbers of individuals or small businesses. Therefore, no public hearing on these regulations is required under section 501. For the reasons stated in II.A., section 553 of Title 5 is not applicable to these regulations.

C. National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), requires Federal agencies to prepare detailed statements on proposals for major Federal actions significantly affecting the quality of the human environment. The DOE has determined that these regulations do not significantly affect the quality of the human environment; therefore, the preparation of an Environmental Impact Statement is not required.

D. Review Under Executive Order 12291

This Final Rule was reviewed under Executive Order 12291, 46 FR 12193, February 27, 1981. DOE has concluded that the rule is not a "major rule" under the Executive Order, because it will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs of prices for consumers, individual industries, State, Federal, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this rule was submitted to the Director of OMB for a 10-day review. The Director has concluded his review under that Executive Order.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*), requires, in part, that an agency prepare a final regulatory flexibility analysis for any final rule promulgated under section 553 of Title 5, after being required by that section or any other law to publish a general notice of proposed rulemaking. As stated in II. A. and B., DOE is not required by 5 U.S.C. 553 or section 501 of the DOE Organization Act to publish a general notice of proposed rulemaking in this matter. In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the *Federal Register*. This rule involves procedures for control of National Security Information. Its economic impact on small business is negligible. Accordingly, pursuant to

section 605(b) of the Regulatory Flexibility Act, DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 10 CFR Part 1045

Classified information.

For the reasons set out in the preamble, Subpart B of 10 CFR Chapter X, Part 1045, is removed, and Subpart A of 10 CFR Chapter X, Part 1045, is revised as set forth below.

Issued in Washington, D.C. on June 25, 1984.

Robert L. Morgan,

Deputy Assistant Secretary for Defense Programs.

Part 1045 of 10 CFR Chapter X is amended by removing Subpart B and revising Subpart A to read as follows:

PART 1045—NATIONAL SECURITY INFORMATION

Subpart A—Classification and Declassification

Sec.

- 1045.1 Purpose.
- 1045.2 Scope.
- 1045.3 Definitions.
- 1045.4 Responsibilities and authorities.
- 1045.5 Policy.
- 1045.6 Mandatory review for declassification.
- 1045.7 Suggestions or complaints.

Authority: E.O. 12356 (47 FR 14874) April 6, 1982; Information Security Oversight Office Directive No. 1 (47 FR 27836) June 25, 1982.

Subpart A—Classification and Declassification

§ 1045.1 Purpose.

This part establishes policy and procedures to be followed within the Department of Energy (DOE) for the classification and declassification of National Security Information (NSI) to the extent that they affect members of the public. Procedures are established for the submission of mandatory declassification review requests to the DOE made pursuant to section 3.4 of Executive Order (E.O.) 12356, "National Security Information," April 2, 1982. Instructions for submitting suggestions or complaints regarding the DOE's information security program are given.

§ 1045.2 Scope.

This part applies to the original classification and declassification of NSI and the derivative classification and declassification of documents or other material containing or revealing NSI within the DOE and its contractor and subcontractor organizations. Accordingly, Restricted Data and

Formerly Restricted Data classified pursuant to the Atomic Energy Act of 1954, as amended, are outside the scope of this part.

§ 1045.3 Definitions.

(a) "Declassification" means a determination that previously classified information, documents, or other material that contain or reveal such information no longer require protection against unauthorized disclosure in the interest of national security.

(b) "Document" means any recorded information regardless of its physical form or characteristics.

(c) "Information" means any knowledge or facts, distinct from its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(d) "Material" means any product or substance on or in which information is embodied.

(e) "National Security Information" (NSI) means information that has been determined pursuant to E.O. 12356 or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(f) "Original classification" means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

§ 1045.4 Responsibilities and authorities.

(a) The Assistant Secretary for Defense Programs is responsible for making final determinations on appeals submitted by individuals who have been denied all or part of documents or other material containing or revealing NSI requested under the Mandatory Review for Declassification provisions of this regulation.

(b) The Director of Classification is designated as the Senior Agency Official to direct and administer the Department's information security program, as required by section 5.3(a) of E.O. 12356. In addition, the Director of Classification is responsible for making initial denials of requests submitted by eligible individuals for documents or other material containing or revealing NSI requested under the Mandatory Review for Declassification provisions of this regulation.

§ 1045.5 Policy.

(a) It is DOE policy to classify as NSI in accordance with the provisions of E.O. 12356, information concerning the national defense and foreign relations of

the United States which, in the interests of the United States and its citizens, must be protected against unauthorized disclosure.

(b) It is DOE policy that only individuals specifically authorized to do so by the Secretary of Energy or his designee may originally classify or declassify information or derivatively classify or declassify documents or other material. Those who possess such authority must ensure that their determinations are made upon proper authority, are in compliance with E.O. 12356 and its implementing directives, appropriate statutes, and Departmental regulations, and are consistent with approved classification policy and guidance.

§ 1045.6 Mandatory review for declassification.

(a) Except as provided in section 3.4(b) of E.O. 12356, all information classified under E.O. 12356 or its predecessor orders (i.e., National Security Information) is subject to a review for declassification by the originating agency, if the request:

(1) Is made by a United States citizen or permanent resident alien, a Federal agency, or a State or local government;

(2) Describes the document or material containing or revealing the NSI in question with sufficient specificity to enable it to be located with a reasonable effort; and

(3) Is sent to the Director of Classification, U.S. Department of Energy, Washington, DC 20545.

(b) Requests for mandatory declassification reviews will be processed as follows:

(1) *Invalid requests.* The requester will be notified promptly by the Office of Classification when his or her request is not valid. This notification letter will contain the reasons why the request cannot be processed and, if applicable, what additional information is needed to allow processing of the request.

(2) *Valid requests.* Upon receipt of a valid request for mandatory declassification review, the Office of Classification shall do the following:

(i) Contact all appropriate organizations within the Department requesting that their files be searched for documents and material responsive to the request.

(ii) Based on the results of the above search, determine if estimated review and coordination time required to process the request precludes a prompt declassification determination, and if so, inform the requester of the additional time needed to process the request.

(iii) Review the documents or other material responsive to the request and

determine whether or not the NSI under the purview of the Department contained in or revealed by the documents or other material can be declassified.

(iv) Coordinate with other agencies the review of documents or other material originated by the Department that are responsive to the request and that contain information under the purview of those agencies.

(v) After deletion of all NSI under the purview of the Department, forward a copy of any documents or other material originated by another agency to that agency for further processing and direct response to the requester, including a copy of the request together with recommendations for action and, after consultation with the originating agency, inform the requester of the referral.

(vi) Transmit to the requester the final determination of the Director of Classification as to whether all or part of any documents or other material responsive to the request may be released to the requester. This determination must be made within one year from the date of receipt of the request except in unusual circumstances (e.g., delays caused by coordination of the review of responsive documents or other material originated by the Department with agencies having purview over information contained in or revealed by the documents or other material).

(vii) In those cases where a fee (see 10 CFR 1004.9 for schedule of fees charged for documents or material provided to requesters) is to be charged, notify the requester of the estimated amount of the fee and await confirmation by the requester of willingness to pay the fee.

(viii) In those cases where no fee is to be charged, or where the requester has agreed to pay the fee, and consistent with other applicable law, send the requester copies of declassified documents or other material or declassified portions of classified documents or other material that constitute coherent segments.

(ix) In those cases where all or part of documents or other material responsive to a request cannot be declassified, notify the requester that he or she has the right to administratively appeal the denial within 60 days of receipt of the denial letter. The requester should be notified that the appeal shall specify why the requester believes that the information in question does not warrant classification and, if possible, should include copies of the initial request letter and the denial letter from the Director of Classification. The appeal should be sent to the Assistant Secretary for Defense Programs, U.S.

Department of Energy, Washington, DC 20545.

(c) Appeals of denials of mandatory declassification review requests.

(1) Immediately upon receipt of an appeal request, an ad hoc committee will be assembled and headed by a representative from the Office of the Assistant Secretary for Defense Programs and made up of representatives from any Department organizations that have an interest in the subject of the appeal.

(2) The Office of Classification will provide the committee all information, documents, and any other assistance pertinent to the appeal, and will advise the committee with regard to the classification of the information involved.

(3) The committee will review the basis for the denial and transmit its findings and recommendations to the Assistant Secretary for Defense Programs within 15 working days following receipt of the appeal.

(4) Based on the committee report, the Assistant Secretary for Defense Programs shall make a final determination on the appeal within 25 working days following receipt of the appeal. The head of the committee then shall notify the requester, within 30 working days following receipt of the appeal, in writing, of the final determination. Based on this determination and consistent with other applicable law, copies of declassified documents or other material or declassified portions of classified documents or other material responsive to the request will be released to the requester, upon payment of any required fees, and/or the requester will be given a statement as to why some or all of the documents or other material cannot be declassified.

§ 1045.7 Suggestions or complaints.

Any individual who has suggestions or complaints regarding the Department's information security program may direct them in writing to the Director of Classification, U.S. Department of Energy, Washington, DC 20545. Such letters should include a description of the issue or problem, the suggestion or complaint, all applicable background information, and an address to which a response may be sent. The Office of Classification will review such submissions and will respond to the originator of the suggestion or complaint letter.

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