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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1435

RIN 0560-AC96

Sugar

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations with respect to the Sugar Price Support Program which is conducted by the Commodity Credit Corporation (CCC) in accordance with section 206 of The Agricultural Act of 1949 (the 1949 Act), as amended. The national (weighted-average) loan rate for 1992-crop raw cane sugar will be 18.00 cents per pound. The national (weighted-average) loan rate for 1992-crop refined beet sugar will be 23.33 cents per pound.

DATES: July 29, 1992.

FOR FURTHER INFORMATION CONTACT: Timothy R. Murray, Sweeteners Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA) P.O. Box 2415, Washington, DC 20013, telephone 202-690-1891.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and it has been determined to be "major" since this action may have an annual effect on the economy of \$100 million or more. A regulatory impact analysis is available from the above-mentioned contact.

The title and number of the federal assistance program, as found in the catalogue of Federal Domestic

Assistance, to which this final rule applies are Commodity Loans and Purchases—10.051.

It has been determined that the Regulatory Flexibility Act is not applicable because the CCC 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.

An Environmental Evaluation with respect to the price-support loan program has been completed. It has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, land use, and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, and 48 FR 29115 (June 24, 1983).

The amendments to 7 CFR part 1435 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule: Preempt state laws to the extent such laws are consistent with the provisions of this final rule; are not retroactive; and are not subject to administrative appeal remedies.

Background

This final rule amends 7 CFR part 1435 to set forth the 1992 national price support levels for use in administering CCC sugar price support programs.

Section 206 of the 1949 Act provides that the Secretary of Agriculture is required to support the price of the 1991 through 1995 crops of sugar beets and sugarcane through nonrecourse loans. Section 206 further provides that the Secretary shall support the price of domestically grown sugarcane at such level as the Secretary determines appropriate, but not less than 18.00 cents per pound, raw value, and the price of domestically grown sugar beets at such level as will reflect the ratio of sugar beet grower returns to the returns of sugarcane growers.

List of Subjects in 7 CFR Part 1435

Loan programs-agriculture, Price support programs, Reporting and recordkeeping requirements, Sugar.

Accordingly, 7 CFR part 1435 is amended as follows:

PART 1435—SUGAR

1. The authority citation for 7 CFR part 1435 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1446g; 15 U.S.C. 714b and 714c.

2. In § 1435.4, paragraph (b) is revised to read as follows:

§ 1435.4 Method of support and loan rates.

* * * * *

(b) The basic (weighted average) loan rates for the 1992 crops of domestically grown:

(1) Sugarcane shall be 18 cents per pound of raw cane sugar; and

(2) Sugar beets shall be 23.33 cents per pound.

* * * * *

Signed July 23, 1992, in Washington, DC.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92-17847 Filed 7-28-92; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 1369-92]

Adding Orlando, Florida to the List of Ports of Entry To Accept Application for Direct Transit Without Visas

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Orlando, Florida, to the list of ports of entry at 8 CFR 214.2(c)(1) where, except for transit from one part of foreign contiguous territory to another part of the same territory, an alien must make application for admission to the United States as a direct transit without visa. This change is necessary to accommodate the

increase in international commerce serving Orlando, Florida.

EFFECTIVE DATE: July 29, 1992.

FOR FURTHER INFORMATION CONTACT:

Richard Gottlieb, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, telephone (202) 514-2680.

SUPPLEMENTARY INFORMATION: This final rule adds Orlando, Florida, to the list of ports designated at 8 CFR 214.2(c)(1) as ports where, except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without visa must be made. The Orlando International Airport in Orlando, Florida, has added international passenger service, specifically arrivals transiting between Western Europe and Central and South America. In the context of the increase in international activity at Orlando, the airport authority wants to ensure that they can accommodate these commercial air passengers.

Compliance with the provisions of 5 U.S.C. 553 for notice of proposed rulemaking and delayed effective date is unnecessary, because this rule relates to agency management. See 5 U.S.C. 553(a)(2).

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Passports and visas, Ports of entry, Travel restrictions.

Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a, 8 CFR part 2.

§ 214.2 [Amended]

2. As designated in § 214.2 paragraph (c)(1), the listing of ports of entry authorized to accept transit without visa applications is amended by adding "Orlando, FL," in alphabetical sequence immediately after "Norfolk, VA."

Dated: June 23, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-17849 Filed 7-28-92; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70, 72, 73, and 75

RIN 3150-AD03

Minor Amendments to the Physical Protection Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations that cover the physical protection of special nuclear material. These amendments will (1) supplement the definitions section, (2) delete action dates that no longer apply, (3) correct outdated terms and cross references, (4) clarify wording that is susceptible to differing interpretations, (5) correct typographical errors, and (6) make other minor changes. The amendments are the result of a systematic review of NRC's safeguards regulations.

EFFECTIVE DATE: August 28, 1992.

FOR FURTHER INFORMATION CONTACT:

Stanley P. Turel, Regulation Development Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-3739; Priscilla Dwyer, Domestic Safeguards Branch, Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504-2478; or Donald M. Carlson, Reactor Safeguards Branch, Division of Reactor Inspection and Safeguards, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504-3212.

SUPPLEMENTARY INFORMATION: The NRC Safeguards Interoffice Review Group has conducted a systematic review of the Agency's safeguards regulations and guidance documents to identify areas in the regulations that are out of date, inconsistent, or susceptible to differing interpretations. In doing so, the review group identified other areas in the regulations where minor changes are warranted. The NRC published in the *Federal Register* on August 15, 1989 (54

FR 33570), proposed amendments consisting of minor corrections and changes to its regulations identified by the review group that cover the physical protection of special nuclear material. The comment period ended on September 29, 1989. The changes are summarized here with a brief discussion.

1. The substance of paragraphs (b), (c), and (d) of 10 CFR 73.40 has been moved to appendix C of 10 CFR part 73 and combined with the safeguards contingency plan specifications already there. The requirement for having a safeguards contingency plan is included in each of the sections of the regulations covering security requirements for the specific class of licensee (i.e., §§ 73.20, 73.25, 73.26, 73.40, 73.46, 73.55, 73.60).

2. To avoid possible confusion, definitions of the commonly used terms Category I, Category II, and Category III have been added to the definitions sections of 10 CFR parts 70 and 73.

A formula quantity of strategic special nuclear material is sometimes referred to as a Category I quantity of material; special nuclear material of moderate strategic significance is sometimes referred to as a Category II quantity of material; and special nuclear material of low strategic significance is sometimes referred to as a Category III quantity of material. The current regulations do not include these category designations, although they are sometimes used.

3. Inconsistencies among the general auditing requirements have been removed for the safeguards contingency plans and physical security programs of transportation and fuel cycle licensees who possess Category I material.

Inconsistencies in both the content of the audits and resultant follow-up actions have been eliminated. The record retention period for results of these audits is being made consistent at 3 years.

4. A definition for the term "contiguous sites" has been added to 10 CFR parts 70 and 73. In the final definition, the words " * * * means locations subject to the control of a licensee, * * * " have been grammatically changed to read " * * * means licensee controlled locations, * * * " In addition, the words " * * * and for the possession, use, or storage of special nuclear material * * * " have been deleted from the definition since they generally appear in the introductory language of applicable regulations. Action dates that have passed have been eliminated. The outdated term "industrial sabotage" has been replaced by the current term "radiological sabotage." Incorrect

references to parts of the regulations that have been moved or deleted have been corrected. Paragraph designations in references, in other parts of the regulations, to definitions in § 70.4 have been removed because those designations were deleted in an amendment published in the *Federal Register* on April 28, 1989 (54 FR 14051). Several areas in the regulations have been clarified where the wording was susceptible to differing interpretations. The notification requirement for changes to the safeguards contingency plan that do not decrease the plan's effectiveness has been revised to require that the original be sent to the NRC headquarters office with a copy to the regional office, instead of vice versa. Finally, several typographical errors have been corrected.

Summary of Public Comments

Three letters of comment were received: Two from nuclear power plant licensees and one from NUMARC, an umbrella organization of the nuclear power industry whose membership includes every utility responsible for constructing or operating a commercial nuclear power plant in the United States. Copies of comment letters are available for public inspection and copying for a fee at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

All three commenters addressed only the amendment that would restore the sentence inadvertently omitted, while amending the physical protection requirements in 1988, from § 73.55(d), Access Requirements. It reads:

"Access to vital areas for the purpose of general familiarization and other nonwork-related activities may not be authorized except for good cause shown to the licensee." This sentence follows the requirement in § 73.55(d)(7)(i) that the licensee "Establish an access authorization system to limit unescorted access to vital areas during non-emergency conditions to individuals who require access in order to perform their duties."

The first commenter stated that the restrictions, presumably made explicit by the inserted sentence, should be withdrawn to allow tours with the provision of appropriate security measures to ensure plant safety and that "This change would limit access to nuclear plant vital areas even when under escort." Another commenter asserted that the inserted sentence "needs clarification" but did not specify what additional clarification was required. The third commenter stated that it would be beneficial if a definition of "good cause" were provided by the

Commission in the rule and if additional guidance were provided as to what constitutes nonwork-related activities.

The NRC agrees that the subject sentence is not clear, particularly with respect to how it applies to escorted persons, and has decided not to reinsert the sentence. As stated in item 5 of the Supplementary Information published with the proposed rule, the NRC was concerned that the inadvertent omission of the sentence would be construed as a "'signal' that vital areas could be 'opened up' to 'public sightseeing tours' or 'open house visits' without close licensee oversight." The NRC continues to be concerned about unnecessary escorted personnel traffic in vital areas, especially the control room, but considers that licensee security plans generally provide an adequate basis for the control of such practice. The NRC concludes that licensee security plans, in implementing 10 CFR 73.55(d)(7), would not permit licensees to grant access to persons, either unescorted or escorted, who have no legitimate purpose for such access. Further, prior to granting escorted access, licensees would consider the number of visitors each escort would be allowed to monitor and other controls. Means of achieving the purpose of the visit without entering vital areas also would be considered (e.g., touring the control room simulator rather than the control room). Examples of legitimate small tours, which might include brief access to vital areas, are visits by government officials, the press, or local science teachers. In summary, visitors should not be permitted access to vital areas at operating sites unless there is a good reason and due consideration is given to plant and personnel safety and radiological concerns.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved under the Office of Management and Budget approval number 3150-0009 for part 70, approval number 3150-0132 for part 72, approval number 3150-0002 for part 73, and approval number 3150-0055 for part 75.

Regulatory Analysis

These minor amendments impose no new restrictions or requirements, and therefore, have no significant impact. Accordingly, a regulatory analysis is considered not necessary and has not been prepared.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The amendments, as promulgated, are very minor in nature and the impact on any licensee is minimal. In the matter of reporting certain changes to the security program, the amendments merely reverse who receives the original and who receives the copy. The other changes are of an administrative nature and, therefore, do not alter the current implementation of the regulations by a licensee.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because these amendments do not impose requirements on existing 10 CFR part 50 licensees. Therefore, a backfit analysis is not required for this final rule.

List of Subjects

10 CFR Part 70

Criminal penalties, Hazardous materials—Transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 73

Criminal penalties, Hazardous materials—Transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 70, 72, 73, and 75.¹

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation 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, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 68 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). 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. 122, 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, 70.7(g), 70.19(c), 70.21(c), 70.22(a), (b), (d)-(k), 70.24 (a) and (b), 70.32(a) (3), (5), (6), (d), and (i), 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, 161i, and 161o, 68 Stat. 948, 949, and 950, as amended (42 U.S.C. 2201(b), 2201(i) and 2201(o)); §§ 70.7, 70.20a (a) and (d), 70.20b (c) and (e), 70.21(c), 70.24(b), 70.32 (a)(6), (c), (d), (e), and (g), 70.36, 70.51 (c)-(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 §§ 70.5, 70.9, 70.20b (d) and (e), 70.38, 70.51 (b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58 (g)(4), (k) and (l), 70.59, and 70.60 (b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 70.4 is amended by adding a definition for "Contiguous sites" in proper alphabetical sequence, revising paragraph (2) of the definition "Plutonium processing and fuel fabrication plant," revising definitions "Formula quantity," "Special nuclear material of low strategic significance," and "Special nuclear material of moderate strategic significance" to read as follows:

§ 70.4 Definitions.

Contiguous sites means licensee controlled locations, deemed by the Commission to be in close enough proximity to each other, that the special

nuclear material must be considered in the aggregate for the purpose of physical protection.

Formula quantity means strategic special nuclear material in any combination in a quantity of 5000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium). This class of material is sometimes referred to as a Category I quantity of material.

Plutonium processing and fuel fabrication plant * * *

(2) Research and development activities involving any of the operations described in paragraph (1) of this definition except for research and development activities utilizing unsubstantial amounts of plutonium.

Special nuclear material of low strategic significance means:

(1) Less than an amount of special nuclear material of moderate strategic significance as defined in paragraph (1) of the definition of strategic nuclear material of moderate strategic significance in this section, but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in U-235 isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = (grams contained U-235) + (grams plutonium) + (grams U-233); or

(2) Less than 10,000 grams but more than 1,000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope); or

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

This class of material is sometimes referred to as a Category III quantity of material.

Special nuclear material of moderate strategic significance means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium, or in a combined quantity of more than 1,000 grams when computed by the equation, grams = (grams contained U-235) + 2 (grams U-233 + grams plutonium); or

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

This class of material is sometimes referred to as a Category II quantity of material.

3. In § 70.19, paragraph (a)(2) is revised to read as follows:

§ 70.19 General license for calibration or reference sources.

(a) * * *

(2) Any Government agency as defined in § 70.4 that holds a specific license issued by the Commission that authorizes it to receive, possess, use, or transfer byproduct material, source material, or special nuclear material; and

4. In § 70.22, paragraphs (h)(1) and (k) are revised to read as follows:

§ 70.22 Contents of applications.

(h)(1) Each application for a license to possess or use at any site or contiguous sites subject to licensee control, a formula quantity of strategic special nuclear material as defined in § 70.4, other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to part 50 of this chapter, must include a physical security plan consisting of two parts. Part I must address vital equipment, vital areas, and isolation zones, and must demonstrate how the applicant plans to meet the requirements of §§ 73.20, 73.40, 73.45, 73.46, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed, including the identification and description of jobs as required by 10 CFR 11.11(a). Part II must list tests, inspections, and other means to demonstrate compliance with such requirements.

(k) Each application for a license to possess or use at any site or contiguous sites subject to licensee control, special nuclear material of moderate strategic significance or 10 kg or more of special nuclear material of low strategic significance as defined under § 70.4, other than a license for possession or use of this material in the operation of a nuclear power reactor licensed pursuant to part 50 of this chapter, must include a physical security plan that demonstrates how the applicant plans to meet the requirements of paragraphs (d), (e), (f), and (g) of § 73.67 of this chapter, as appropriate. The licensee shall retain a copy of this physical security plan as a record for the period during which the licensee possesses the appropriate type and quantity of special nuclear material under each license, and if any portion of

the plan is superseded, retain that superseded portion of the plan for 3 years after the effective date of the change.

5. In § 70.32, paragraph (g) is revised to read as follows:

§ 70.32 Conditions of licenses.

(g) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with appendix C to part 73 of this chapter for bringing about the actions and decisions contained in the Responsibility Matrix of its safeguards contingency plan. The licensee shall retain the current safeguards contingency plan procedures as a record for the entire period during which the licensee possesses the appropriate type and quantity of special nuclear material under each license for which the procedures were developed and, if any portion of the plan is superseded, retain that superseded portion for 3 years after the effective date of the change. The licensee shall not make a change that would decrease the safeguards effectiveness of the first four categories of information (i.e., Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§ 70.22(g), 70.22(j), 72.184, 73.20(c), 73.26(e)(1), 73.46(h)(1), or 73.50(g)(1) of this chapter without the prior approval of the NRC. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to § 70.34. The licensee may make changes to the licensee safeguards contingency plan without prior NRC approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee must maintain each change to the plan made without prior approval as a record during the period for which possession of a formula quantity of special nuclear material is authorized under a license and retain the superseded portion for 3 years after the effective date of the change and shall furnish a report containing a description of each change within 60 days after the change is made to the Director of Nuclear Material Safety and Safeguards, with a copy to the Regional Administrator of the appropriate NRC Regional Office as specified in appendix A to part 73 of this chapter.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

6. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 72.6, 72.22, 72.24, 72.26, 72.28(d), 72.30, 72.32, 72.44(a), (b)(1), (4), (5), (c), (d)(1), (2), (e), (f), 72.48(a), 72.50(a), 72.52(b), 72.72 (b), (c), 72.74 (a), (b), 72.76, 72.78, 72.104, 72.106, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.140(b), (c), 72.148, 72.154, 72.156, 72.160, 72.166, 72.168, 72.170, 72.172, 72.176, 72.180, 72.184, 72.186, are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 72.10(a), (e), 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.44, (a), (b)(1), (4), (5), (c), (d)(1), (2), (e), (f), 72.48(a), 72.50(a), 72.52(b), 72.90(a)-(d), (f), 72.92, 72.94, 72.98, 72.100, 72.102 (c), (d), (f), 72.104, 72.106, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.140 (b), (c), 72.142, 72.144, 72.146, 72.148, 72.150, 72.152, 72.154, 72.156, 72.158, 72.160, 72.162, 72.164, 72.166, 72.168, 72.170, 72.172, 72.176, 72.180, 72.182, 72.184, 72.186, 72.190, 72.192, 72.194 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 72.10(e), 72.11, 72.16, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.44(b) (3), (c)(5), (d)(3), (e), (f), 72.48(b), (c), 72.50(b), 72.54(a), (b), (c), 72.56, 72.70, 72.72, 72.74(a), (b), 72.76(a), 72.78(a), 72.80, 72.82, 72.82(b), 72.94(b), 72.140 (b), (c), (d), 72.144(a), 72.146, 72.148, 72.150, 72.152, 72.154 (a), (b), 72.156, 72.160, 72.162, 72.168, 72.170, 72.172, 72.174, 72.176, 72.180, 72.184, 72.186, 72.192, 72.212(b), 72.216, 72.218, 72.230, 72.234(e) and (g) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

7. In § 72.184, paragraph (a) is revised to read as follows:

§ 72.184 Safeguards contingency plan.

(a) The requirements of the licensee's safeguards contingency plan for responding to threats and radiological sabotage must be as defined in appendix C to part 73 of this chapter. This plan must include Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix, the first four categories of information relating to nuclear facilities licensed under part 50 of this chapter. (The fifth and last category of information, Procedures, does not have to be submitted for approval.)

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

8. The authority citation for part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); secs. 201 as amended 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241, (42 U.S.C. 10155, 10161). Section 73.37(f) is also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26(b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37(f), 73.40(b) and (d), 73.46(g)(8) and (h)(2), 73.50(g)(2), (3)(iii)(B), and (h), 73.55(h)(2) and (4)(iii)(B), 73.57, 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

9. Section 73.2 is amended by adding a definition for "Contiguous sites" in proper alphabetical sequence, and revising the definitions of "Formula quantity," "Special nuclear material of moderate strategic significance," and "Special nuclear material of low strategic significance" to read as follows:

§ 73.2 Definitions.

Contiguous sites means licensee controlled locations, deemed by the Commission to be in close enough proximity to each other, that the special nuclear material must be considered in

the aggregate for the purpose of physical protection.

Formula quantity means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium). This class of material is sometimes referred to as a Category I quantity of material.

Special nuclear material of low strategic significance means:

(1) Less than an amount of special nuclear material of moderate strategic significance as defined in paragraph (1) of the definition of strategic nuclear material of moderate strategic significance in this section, but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in U-235 isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = (grams contained U-235) + (grams plutonium) + (grams U-233); or

(2) Less than 10,000 grams but more than 1,000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U-235 isotope); or

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

This class of material is sometimes referred to as a Category III quantity of material.

Special nuclear material of moderate strategic significance means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope) or more than 500 grams of uranium-233 or plutonium, or in a combined quantity of more than 1,000 grams when computed by the equation, grams = (grams contained U-235) + 2 (grams U-233 + grams plutonium); or

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

This class of material is sometimes referred to as a Category II quantity of material.

10. In § 73.20, paragraph (b)(3) is redesignated as paragraph (b)(4), a new paragraph (b)(3) is added, and paragraphs (b)(2) and (c) are revised to read as follows:

§ 73.20 General performance objective and requirements.

(b) (2) Is designed with sufficient redundancy and diversity to ensure maintenance of the capabilities described in §§ 73.25 and 73.45;

(3) Includes a safeguards contingency capability that can meet the criteria in appendix C to this part "Licensee Safeguards Contingency Plans;" and

(c) Each licensee subject to the requirements of paragraphs (a) and (b) of this section shall establish, maintain, and follow NRC-approved safeguards physical protection and safeguards contingency plans that describe how the licensee will comply with the requirements of paragraphs (a) and (b) of this section.

11. In § 73.26, paragraph (h)(6) is revised to read as follows:

§ 73.26 Transportation physical protection systems, subsystems, components, and procedures.

(h) *Test and Maintenance Programs.*

(6) The transportation security program must be reviewed at least every 12 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of transportation security procedures and practices, an evaluation of the effectiveness of the transportation physical protection system, an audit of the transportation physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the review, management's findings on whether the transportation security program is currently effective, and any actions taken as a result of recommendations from prior reviews, must be documented in a report to the responsible organization management and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection for a period of 3 years.

§ 73.40 [Amended]

12. In § 73.40, paragraphs (b), including footnote 1, (c), and (d) and the designation (a) are removed.

13. In § 73.46, paragraphs (g)(6) and (h)(1) are revised to read as follows:

§ 73.46 Fixed site physical protection systems, subsystems, components, and procedures.

(g) *Test and Maintenance Programs.*

(6) The security program must be reviewed at least every 12 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, and any actions taken, must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operations. These reports must be maintained in an auditable form, available for inspection for a period of 3 years.

(h) *Contingency and response plans and procedures.* (1) The licensee shall establish, maintain, and follow an NRC-approved safeguards contingency plan for responding to threats, thefts, and radiological sabotage related to the strategic special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in appendix C to this part, "Licensee Safeguards Contingency Plans." Contingency plans must include, but not limited to, the response requirements listed in paragraphs (h)(2) through (h)(5) of this section. The licensee shall retain the current safeguards contingency plan as a record until the Commission terminates the license and, if any portion of the plan is superseded, retain that superseded portion for 3 years after the effective date of change.

14. In § 73.50, paragraphs (g)(1) and (h) are revised to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

(g) *Response requirement.* (1) The licensee shall establish, maintain, and follow an NRC-approved safeguards contingency plan for responding to threats, thefts, and radiological sabotage related to the special nuclear material

and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in appendix C to this part, "Licensee Safeguards Contingency Plans." The licensee shall retain the current safeguards contingency plan as a record until the Commission terminates the license and, if any portion of the plan is superseded, retain the superseded portion for 3 years after the effective date of the change.

(h) Each licensee shall establish, maintain, and follow an NRC-approved training and qualifications plan outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to ensure that these individuals meet the requirements of paragraph (a)(4) of this section.

15. In § 73.55, paragraphs (b)(4)(ii), (g)(4), and (h)(1) are revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

(b) * * *

(4) * * *

(ii) Each licensee shall establish, maintain, and follow an NRC-approved training and qualifications plan outlining the processes by which guards, watchmen, armed response persons, and other members of the security organization will be selected, trained, equipped, tested, and qualified to ensure that these individuals meet the requirements of this paragraph. The licensee shall maintain the current training and qualifications plan as a record until the Commission terminates the license for which the plan was developed and, if any portion of the plan is superseded, retain that superseded portion for 3 years after the effective date of the change. The training and qualifications plan must include a schedule to show how all security personnel will be qualified 2 years after the submitted plan is approved. The training and qualifications plan must be followed by the licensee 60 days after the submitted plan is approved by the NRC.

(g) * * *

(4) The security program must be reviewed at least every 12 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program.

The security program review must include an audit of security procedures and practices, an evaluation of the effectiveness of the physical protection system, an audit of the physical protection system testing and maintenance program, and an audit of commitments established for response by local law enforcement authorities. The results and recommendations of the security program review, management's findings on whether the security program is currently effective, and any actions taken as a result of recommendations from prior program reviews must be documented in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. These reports must be maintained in an auditable form, available for inspection, for a period of 3 years.

(h) *Response requirement.* (1) The licensee shall establish, maintain, and follow an NRC-approved safeguards contingency plan for responding to threats, thefts, and radiological sabotage related to the nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in appendix C to this part, "Licensee Safeguards Contingency Plans."

16. In § 73.60, the introductory text and paragraph (e) are revised to read as follows:

§ 73.60 Additional requirements for the physical protection of special nuclear material at nonpower reactors.

Each nonpower reactor licensee who, pursuant to the requirements of part 70 of this chapter, possesses at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the U-235 isotope), uranium-233, or plutonium, alone or in any combination in a quantity of 5000 grams or more computed by the formula, $\text{grams} = (\text{grams contained U-235}) + 2.5 (\text{grams U-233} + \text{grams plutonium})$, shall protect the special nuclear material from theft or diversion pursuant to the requirements of paragraphs 73.67 (a), (b), (c), and (d), in addition to this section, except that a licensee is exempt from the requirements of paragraphs (a), (b), (c), (d), and (e) of this section to the extent that it possesses or uses special nuclear material that is not readily separable from other radioactive material and that has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any

accessible surface without intervening shielding.

(e) *Response requirement.* Each licensee shall establish, maintain, and follow an NRC-approved safeguards contingency plan for responding to threats, thefts, and radiological sabotage related to the special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans must be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans."

17. In § 73.67, the introductory text of paragraphs (c), (d), and (f) and paragraph (c)(2) are revised to read as follows:

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

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

(2) Within 30 days after the plan submitted pursuant to paragraph (c)(1) of this section is approved, or when specified by the NRC in writing, implement the approved security plan.

(d) *Fixed site requirements for special nuclear material of moderate strategic significance.* Each licensee who possesses, stores, or uses quantities and types of special nuclear material of moderate strategic significance at a fixed site or contiguous sites, except as allowed by paragraph (b)(2) of this section and except those who are licensed to operate a nuclear power reactor pursuant to part 50, shall:

(f) *Fixed site requirements for special nuclear material of low strategic significance.* Each licensee who possesses, stores, or uses special nuclear material of low strategic significance at a fixed site or contiguous sites, except those who are licensed to operate a nuclear power reactor pursuant to part 50, shall:

18. In § 73.70, paragraph (c) is revised to read as follows:

§ 73.70 Records.

(c) A register of visitors, vendors, and other individuals not employed by the

licensee pursuant to §§ 73.46(d)(13), 73.55(d)(6), or 73.60. The licensee shall retain this register as a record, available for inspection, for 3 years after the last entry is made in the register.

19. In appendix B to part 73, the Introduction is revised to read as follows:

Appendix B to Part 73—General Criteria for Security Personnel

Introduction

Security personnel who are responsible for the protection of special nuclear material on site or in transit and for the protection of the facility or shipment vehicle against radiological sabotage should, like other elements of the physical security system, be required to meet minimum criteria to ensure that they will effectively perform their assigned security-related job duties. In order to ensure that those individuals responsible for security are properly equipped and qualified to execute the job duties prescribed for them, the NRC has developed general criteria that specify security personnel qualification requirements.

These general criteria establish requirements for the selection, training, equipping, testing, and qualification of individuals who will be responsible for protecting special nuclear materials, nuclear facilities, and nuclear shipments.

When required to have security personnel that have been trained, equipped, and qualified to perform assigned security job duties in accordance with the criteria in this appendix, the licensee must establish, maintain, and follow a plan that shows how the criteria will be met. The plan must be submitted to the NRC for approval and must be implemented within 30 days after approval by the NRC unless otherwise specified by the NRC in writing.

20. In appendix C to part 73, the Introduction is revised and a new section on Audit and Review is added to read as follows:

Appendix C to Part 73—Licensee Safeguards Contingency Plans

Introduction

A licensee safeguards contingency plan is a documented plan to give guidance to licensee personnel in order to accomplish specific defined objectives in the event of threats, thefts, or radiological sabotage relating to special nuclear material or nuclear facilities licensed under the Atomic Energy Act of 1954, as amended. An acceptable safeguards contingency plan must contain: (1) a predetermined set of decisions and actions to satisfy stated objectives, (2) an identification of the data, criteria, procedures, and mechanisms necessary to efficiently implement the decisions, and (3) a stipulation of the individual, group, or organizational entity responsible for each decision and action.

The goals of licensee safeguards contingency plans for responding to threats, thefts, and radiological sabotage are:

- (1) to organize the response effort at the licensee level,
- (2) to provide predetermined, structured responses by licensees to safeguards contingencies,
- (3) to ensure the integration of the licensee response with the responses by other entities, and
- (4) to achieve a measurable performance in response capability.

Licensee safeguards contingency planning should result in organizing the licensee's resources in such a way that the participants will be identified, their several responsibilities specified, and the responses coordinated. The responses should be timely.

It is important to note that a licensee's safeguards contingency plan is intended to be complementary to any emergency plans developed pursuant to appendix E to part 50 or to § 70.22(i) of this chapter.

Audit and Review

At intervals not to exceed 12 months, the licensee shall provide for a review of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review must include an audit of safeguards contingency procedures and practices, and an audit of commitments established for response by local law enforcement authorities.

The licensee shall document the results and the recommendations of the safeguards contingency plan review, management findings on whether the safeguards contingency plan is currently effective, and any actions taken as a result of recommendations from prior reviews in a report to the licensee's plant manager and to corporate management at least one level higher than that having responsibility for the day-to-day plant operation. The report must be maintained in an auditable form, available for inspection for a period of 3 years.

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

21. The authority citation for part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201; sec. 201, 88 Stat. 1242 as amended, (42 U.S.C. 5841). Section 75.4 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

For purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), the provisions of this part are issued under sec. 161a, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

22. In § 75.4, paragraph (f)(1) is revised to read as follows:

§ 75.4 Definitions.

- (f) *Effective Kilogram* * * *
- (1) For special nuclear material: The amount specified in § 70.4 of this chapter.

Dated at Rockville, Maryland this 14th day of July, 1992.

For the Nuclear Regulatory Commission,
James M. Taylor,
Executive Director for Operations.
[FR Doc. 92-17666 Filed 7-28-92; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 545, 561, 563, 563c, 567, and 571

[No. 92-26]

RIN 1550-AA01

Miscellaneous Capital and Capital-Related Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations by modifying or removing obsolete or incorrect references to its regulations setting minimum regulatory capital requirements for savings associations. The OTS is also correcting citation errors and adding language clarifying the provisions contained in its risk-based capital regulation and the capital distribution regulation. The final rule also clarifies the treatment of sales with recourse and maturing capital instruments for purposes of the capital regulations and removes the accounting provisions for deferred loan losses.

EFFECTIVE DATE: August 28, 1992.

FOR FURTHER INFORMATION CONTACT: John Connolly, Program Manager, (202) 906-6465, Deborah Kennedy, Program Analyst, (202) 906-7324, Policy; Theresa Stark, Senior Attorney, (202) 906-7054, Deborah Dakin, Assistant Chief Counsel, (202) 906-6445, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On November 8, 1989 the OTS published an interim final rule establishing the minimum regulatory capital requirements for savings associations as required by section 5(t) of the Home Owners' Loan Act, 12 U.S.C. 1464(t). 54