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## DEPARTMENT OF AGRICULTURE

### Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Farm Service Agency

#### 7 CFR Chapter XVIII

RIN 0560-AE52

#### Agency Name Change

**AGENCY:** Farm Service Agency, Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations to change the name of the Consolidated Farm Service Agency to the Farm Service Agency as a result of the Department of Agriculture reorganization.

**EFFECTIVE DATE:** January 16, 1996.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Witzig, Farm Service Agency, P.O. Box 2415, room 0339-S, Washington, D.C. 20013, telephone 202-205-5851.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Secretary of Agriculture announced that the agency previously referred to as the Consolidated Farm Service Agency (CFSA) is to be named the Farm Service Agency (FSA). On November 8, 1995, USDA published in the Federal Register (60 FR 56392) a final rule that contained redelegations of authority for the Department of Agriculture and changed the name of CFSA to FSA. This rule includes amendments to 7 CFR chapter XVIII that are necessary to bring agency regulations into alignment with the departmental reorganization.

Accordingly, 7 CFR Chapter XVIII is amended as follows:

1. The heading of 7 CFR chapter XVIII is revised to read as follows:

CHAPTER XVIII—RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE, RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE, RURAL UTILITIES SERVICE, AND FARM SERVICE AGENCY, DEPARTMENT OF AGRICULTURE

2. In 7 CFR chapter XVIII, all references to "Consolidated Farm Service Agency" are revised to read "Farm Service Agency", and all references to "CFSA" are revised to read "FSA".

Signed at Washington, D.C. on December 26, 1995.

Eugene Moos,

*Under Secretary for Farm and Foreign Agricultural Services.*

[FR Doc. 96-327 Filed 1-11-96; 2:00 pm]

BILLING CODE 3410-05-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Parts 30, 40, and 70

RIN 3150-AF38

#### One-Time Extension of Certain Byproduct, Source, and Special Nuclear Materials Licenses

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations to implement, on a one-time basis, a five-year extension of certain byproduct, source, and special nuclear materials licenses. The provisions of the licenses under extension provide the same authorizations and limits on licensee activities as they do now. The final rule specifies the licenses that are not extended.

**EFFECTIVE DATE:** February 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** John M. Pelchat, NRC, Region II, 101 Marietta Street, N.W., Suite 2900, Atlanta, GA 30323, telephone (404) 331-5083; or C. W. Nilsen, Office of Nuclear Regulatory Research, NRC, Washington, DC 20555, telephone (301) 415-6209.

#### SUPPLEMENTARY INFORMATION:

##### Background

The NRC has completed the preliminary phases of an effort to

redesign the process for licensing medical, academic, and industrial users of byproduct materials as well as some small scope users of source and special nuclear materials. To make resources available to expedite the development, design, and testing of the new materials licensing process, the Commission is extending certain specific materials licenses ("licenses") by five years from the current expiration dates of those licenses. Resources that would have otherwise been used to renew these licenses will be devoted to the redesign project. The extension will be a one-time occurrence. The Commission does not envision that any similar extensions will be granted in the future.

The extension granted by this rulemaking does not apply to the licenses for power and non-power reactors, uranium milling and processing facilities, or fuel production facilities. The extended licenses are not considered to be the equivalent of a renewed license because they provide the same authorizations and limits on licensee activities as are currently applicable to each licensee.

Accordingly, the extended licenses will not be based on nor reference pending renewal applications, including requests, if any, in those renewal applications, for NRC approval of changes in current operations. The frequency of licensee inspections will not change as a result of this final rule.

The Commission concludes that it may take this action because no legislative mandate requires that materials licenses have a five-year term. Many years ago, materials licenses were issued for two-year periods. As the uses of radioactive materials became more stable and predictable, the typical duration of licenses was changed to five years. The Commission has concluded that certain specific materials licenses may be extended once by rule for an additional five years beyond their stated expiration date without the normal renewal review and without adverse effect on public health and safety. The Commission's conclusion is based upon three factors. First, certain specific licenses for which the Commission believes that a renewal review should not be delayed five years will not be affected by this rule. Licenses that may present, in the Commission's view, a greater potential risk from a health and safety standpoint will not be generically

extended by this rulemaking. Second, the extended licenses will not change the authorized activities nor regulatory requirements. Third, the NRC will continue its normal inspection program of licensed activities, including inspections of those licenses that will be extended by this final rule. Significant inspection findings will be resolved through the issuance of Notices of Violations that require written responses describing corrective actions, Confirmatory Action Letters (CALs), or Orders that would modify, suspend, or revoke the license and that would impose civil penalties, as appropriate. Accordingly, the Commission has concluded that there would be reasonable assurance of public health and safety under this rule.

#### Summary of Requirements and Analysis of Public Comments

The NRC is amending Parts 30, 40, and 70 of its regulations to extend, on a one-time basis, certain byproduct, source, and special nuclear materials licenses. These regulations specify the licenses that are not extended by this rulemaking. The NRC received 28 letters of public comment: twenty-one from licensees; one from an Agreement State; none from non-Agreement States; two from consulting firms; two from private citizens; and two from trade associations. Eighteen commenters supported the proposed rule and one was opposed. Eight commenters supported the rulemaking to varying degrees, but offered suggestions for modification of the rules. One comment addressed issues to be considered by the NRC should the rulemaking be implemented, without stating support or opposition for the proposed rule.

Commenters supporting the proposed rule cited the cost savings to taxpayers, affected licensees, and the general public. Some of these commenters also supported the redesign effort of the materials licensing process.

One commenter supported the proposed rule and suggested that the rulemaking be amended to include the Quality Assurance program requirements in 10 CFR Part 71. The suggested amendment is outside of the scope of the proposed rulemaking.

Another commenter supported the proposed rule but noted there was no mention of specific cost reductions to the licensee as a result of this extension and stated that this point should be addressed. The NRC recognizes that, on a one-time basis, many licensees will save the renewal fee required by 10 CFR 170.31 as well as the costs associated with the preparation of the renewal application. The NRC staff did not

attempt to quantify these costs, recognizing the significant variability among licensees as to the effort required to prepare license renewal applications. In addition, the NRC staff believes these savings will be offset to some extent by the need for those licensees to prepare and submit license amendment requests (and associated fees) to request necessary changes in their programs that may have been included in the license renewal application.

Another commenter supported the proposed rulemaking but also suggested that the NRC reevaluate its fee structure. The fees structure and questions relating to the assessment of fees are outside the scope of this rulemaking.

Another commenter expressed general support for the effort to redesign the licensing process and stated that the renewal process was redundant, and served no useful purpose that could not otherwise be achieved more effectively through the license amendment and inspection processes. The commenter urged the NRC to reconsider the proposed rule and remove the license renewal process from the regulations. The issue of deleting the license renewal process from the regulations is beyond the scope of this rulemaking. However, this comment will be considered as part of the Office of Nuclear Material Safety and Safeguards' (NMSS') initiative to review the appropriate duration of the licenses and the certificates that it issues. In addition, for uranium recovery facilities, the Commission staff is currently analyzing the possibility of extending the duration of licenses for that class of licensees. Once the staff has completed its analysis and consulted with the Commission, the NRC will determine what, if any action it will take in extending the duration of uranium recovery facility licenses. This final rule extends certain materials licenses on a one-time basis and NMSS' consideration of the appropriate duration of materials licenses is a separate issue being considered by the NRC.

A commenter who objected to the proposed rulemaking stated that the renewal process is valuable because it forces licensees to examine their programs and bring records up to date. The commenter also noted that the proposed rulemaking was indicative of the NRC's " \* \* \* arrogant, deficient attitude toward safety." In response to the comment, the NRC staff notes that 10 CFR 20.1101 requires all specific licensees to develop, document, and implement a radiation protection program commensurate with the scope and extent of licensed activities. The regulation further requires that licensees

periodically (at least annually) review the content and the implementation of the radiation protection program. The Commission believes that this requirement, the criteria set out in this rulemaking, and the NRC's ongoing inspection program are sufficient to ensure that licensees develop and implement radiation programs and periodically review them to assess the program's effectiveness. It must also be recognized that the NRC is not eliminating the need to file for a renewal but is only changing the time frame for renewal of licenses affected by this rulemaking.

An Agreement State submitted a comment concerning provisions that the NRC should have available to ensure that persons could determine that a specific license was extended as a result of this rulemaking. The NRC staff is developing procedures to implement this rule, including providing prompt notification to licensees whose licenses have been extended by the final rule.

The Commission also sought public comments on the issue of license duration. Ten of the persons who commented on the one-time extension also provided specific comments regarding the appropriate duration of material licenses. Several commenters suggested that a license term of ten years would be appropriate. One commenter specifically suggested that medical licenses be issued for seven years. Three commenters suggested licenses have a term of twenty years. Another commenter suggested that a license be initially issued for two to four years, to allow a new licensee to demonstrate its stability. The terms of subsequent license renewals could then be extended for up to twenty years. The NRC will consider these comments in the development of its policy concerning the duration of material licenses.

Other comments addressed specific components of the proposed rule. Those comments and their resolutions are discussed below and, to the extent possible, are arranged under the identified section of the rule to which they are related. For the purpose of clarity, the common elements of the comment discussion will be grouped by the nature of the requirements, because the new regulatory requirements in 10 CFR Parts 30, 40, and 70 closely parallel each other.

#### Description of Rulemaking and Analysis of Specific Public Comments

The final rule was based on and mainly derived from the current provisions in 10 CFR Parts 30, 40, and 70. Parts 30, 40, and 70 contain the

general requirements used by the Commission to license the possession and use of byproduct, source, and special nuclear materials. Specific sections being added or amended by this final rulemaking include the following:

*10 CFR 30.36(a)(2), 40.42(a)(2), and 70.38(a)(2)*

These paragraphs state that each specific license that has an expiration date after July 1, 1995, has an expiration date that is 5 years after the expiration date stated in the current license, unless it is specifically excluded by the final amendments contained in this rule. This extends all licenses, that are not otherwise disqualified by the regulations, by five years without the requirement for the licensee to prepare and submit a license renewal application 30 days before the expiration date in the current license. Licensees holding licenses that are extended by this rule would not be required to take any action to renew the license until 30 days before the end of the extension which will end five years after the date currently specified on the license.

Licensees who hold licenses that are not extended by this rule will continue to be required to either file for license renewal 30 days before the expiration date currently specified in the license or comply with the applicable license termination requirements specified in 10 CFR 30.36, 40.42, and 70.38.

No specific comments were received on these paragraphs.

*Paragraphs 30.36(a)(3)(i), 40.42(a)(3)(j), and 70.38(a)(3)(i)*

These paragraphs delineate the specific licenses that are not extended by the final rule because an evaluation or an emergency plan is required in accordance with 10 CFR 30.32(i), 40.31(j), or 70.22(i), respectively. This excludes those licenses that require an evaluation or an emergency plan, because these licenses authorize activities involving large quantities of unsealed licensed materials that the Commission believes may pose a significant potential for release of radioactive materials that may result in potential exposure to the public and contamination of the environment. Therefore, the Commission believes that it would be prudent to review these licenses individually during the renewal process before making a determination to extend these licenses.

One commenter took exception to the NRC's statements, in the proposed rule, which it believed implied that its member organizations, many of whom

are ineligible for the one-time extension based on the size and the scope of their licensed programs and the regulatory requirement for an emergency plan, pose relatively greater safety risks. The commenter indicated that it did not believe these licensees have a significant potential for release of licensed material and public exposure. The commenter further noted that there have been no incidents where members of the public received significant exposures from licensed materials, that the licensees' controls were sufficient to contain licensed materials, and that maximum credible release scenarios showed insignificant offsite impacts.

In developing its criteria to disqualify certain material licenses from the extension, the NRC staff considered its licensees' operations on a scale of *relative* hazard. The NRC used previously-established criteria (i.e., the need to have emergency plans, the need to have adequate financial assurance to fund decommissioning, etc.) to determine which licensed operations were *relatively* more hazardous, thus deserving closer NRC oversight. The NRC believes that licenses authorizing possession and use of large quantities of unsealed high-activity radionuclides pose a greater potential for hazard than do licenses authorizing use of sealed sources with engineered safety features or licenses authorizing smaller quantities of lower activity radionuclides. The NRC did not state or suggest that this group of licensees has released licensed materials, exposed the public, or contaminated the environment. The NRC only indicated that the scope of activities carried out by this group of licensees, using previously established standards, has the *potential* for such releases and, accordingly, should not be generically extended by this rule. The NRC believes that a licensee possessing sufficient quantities of licensed materials to be subject to the requirements of 10 CFR 30.32(i), 40.31(j), or 70.22(i) should file renewal applications so the NRC staff can review the licensee's overall operations before granting an extended license term.

Another commenter objected to the disqualification for an extension based on need for an evaluation or an emergency plan as required in 10 CFR 30.32(i), 40.31(j), or 70.22(i). The commenter suggested that the disqualifier for extension based on the need for contingency planning be structured similarly to the disqualifier based on the need for financial assurance. In other words, amend the rule to not extend any license whose holder is required to provide an evaluation or an emergency plan ". . .

and who has not submitted such a plan." The commenter indicated that the NRC acceptance of the required evaluation or emergency plan should be sufficient to allow a license to be eligible for extension. The commenter alternatively suggested that its particular situation be evaluated on a case-by-case basis.

The NRC has concluded that licensees required to submit either an evaluation or an emergency plan are authorized to possess and use sufficient quantities of licensed materials to warrant closer NRC oversight to ensure that conditions related to the evaluation have not changed or that the emergency plan continues to be appropriate and adequate with regard to the scope of the licensee's activities. The NRC believes that holders of this type of license should continue to submit this type of information in renewal applications and that these licenses should not be subject to the one-time license extension. The one-time extension of licenses is being pursued through rulemaking, rather than on a case-by-case basis, so as to free the maximum amount of NRC resources to revise the current materials licensing process. The NRC is in the process of reviewing the appropriate duration for materials licensees. After completing the case-by-case review that will take place during the renewal process for those licenses not extended by this rulemaking, the NRC may decide to grant license renewals for periods exceeding the five-year duration typical under current practice depending on the results of the ongoing review of license duration.

*Paragraphs 30.36(a)(3)(ii), 40.42(a)(3)(ii), and 70.38(a)(3)(ii)*

These paragraphs delineate the specific licenses that are not extended under the final rule because the licenses are subject to the financial assurance requirements specified in 10 CFR 30.35, 40.36, or 70.25; and either: (a) have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or (b) have not received written notice as of February 15, 1996 that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable. These licenses authorize possession of quantities and forms of licensed materials that the Commission believes pose a potential need for extensive decontamination before termination of the license and release of decommissioned facilities. Therefore, the Commission believes that renewals of these licenses should continue to be reviewed under existing procedures to

ensure that appropriate resources are available to support decommissioning activity.

No specific comments were received on these paragraphs.

*Paragraphs 30.36(a)(3)(iii), 40.42(a)(3)(iii), and 70.38(a)(3)(iii)*

These paragraphs delineate the specific licenses that are not extended under the final rule because the licenses are listed in the Site Decommissioning Management Plan (SDMP). Generally, licenses on the SDMP list are no longer actively using licensed materials. The Commission believes that it is necessary in the interest of public health and safety to review the licensee's procedures to ensure proper evaluation of site remediation activities at facilities where the licensee's radiation safety program may be inactive or scaled back.

No specific comments were received on these paragraphs.

*Paragraphs 30.36(a)(3)(iv), 40.42(a)(3)(iv), and 70.38(a)(3)(iv)*

These paragraphs delineate the specific licenses that are not extended because the issuance, amendment, or renewal of this type of license is not a categorical exclusion under 10 CFR 51.22(c)(14). This excludes licenses that include activities requiring the preparation of an environmental assessment or environmental impact statement, before the Commission's specific authorization of that activity, from the five-year extension. Generally, these licenses authorize the release of licensed materials to the environment under highly controlled conditions in conjunction with scientific research activities. The Commission has concluded that it is important to continue reviewing licenses that may have a greater potential for adversely impacting the environment before making decisions on to whether to grant these licensees' licenses with longer durations.

No specific comments were received on these paragraphs.

*Paragraphs 30.36(a)(3)(v), 40.42(a)(3)(v), and 70.38(a)(3)(v)*

These paragraphs delineate the specific licenses that are not extended under the final rule because the holders of these specific licenses have not had a prior NRC inspection as of February 15, 1996. This ensures that the Commission has verified the effectiveness of the licensees' radiation safety programs by onsite inspections of the licensees' equipment and procedures used to safely possess and use licensed materials, as a precondition to allowing five-year extensions of

licenses, under these amendments to the regulations.

No specific comments were received on these paragraphs.

*Paragraphs 30.36(a)(3)(vi), 40.42(a)(3)(vi), and 70.38(a)(3)(vi)*

These paragraphs delineate the specific licenses that are not extended under the final rule if, as the result of the most recent inspections, the holders of these specific licenses have been:

(a) Cited for a Severity Level I, II, or III violation;

(b) Subject to an Order issued by the NRC; or

(c) Subject to a Confirmatory Action Letter (CAL) issued by the NRC.

This excludes licenses from the five-year extensions, after the NRC has identified significant safety concerns or other regulatory issues. Typically, these licensees are reinspected within six months, to verify that effective corrective actions have been taken and to ensure that the licensees' facilities, equipment, and procedures have been adequately modified to prevent a recurrence of the identified violations. The Commission expects its licensees to operate in strict compliance with its regulatory requirements. Therefore, the Commission believes that it is prudent to review license renewal applications of licensees with recent safety-significant findings so that the NRC can verify that the licensees have adequate personnel, facilities, and procedures to enable them to operate at the expected level of compliance.

A commenter objected to use of the issuance of a CAL as a disqualifier from the one-time license extension. The NRC chose to disqualify from the one-time extension those licenses that have exhibited significantly declining or poor performance with regard to compliance with the NRC regulations as documented at the time of the most recent NRC inspection. One such indicator of significantly declining or poor performance is the issuance of a CAL. NRC recognizes that licensees receiving a CAL usually take the necessary corrective actions. The NRC expects that licensees will take timely and effective corrective actions. CALs specifically state that the failure to do so may result in the NRC's issuance of an order modifying, suspending, or revoking the subject license. The NRC does not believe that it should extend these licenses without having first verified, by direct observation as well as other evaluations, during follow-up inspections, that the licensees' corrective actions were, in fact, effective.

Another commenter noted that a modest improvement in program safety can be expected as a result of this rulemaking because the rule bestows a tangible, public, and previously unexpected reward on those licensees that have maintained programs free of significant violations.

*Paragraphs 30.36(a)(3)(vii), 40.42(a)(3)(vii), and 70.38(a)(3)(vii)*

These paragraphs delineate the specific licenses that are not extended under the final rule because the Commission intends to continue to review the submissions of these licensees who have already submitted applications and paid fees for timely license renewal. Renewal requests will be granted after the NRC completes its review of those applications and determines that the applications satisfy NRC requirements. The July 1, 1995, expiration date was chosen based on resource considerations. The NRC staff has begun the review of many applications for renewal of licenses with expiration dates before July 1, 1995, and believes that it is not appropriate to waste the resources already expended in that effort. However, the NRC has not begun the review of most of the applications for renewal of licenses with expiration dates after July 1, 1995, and resources will be conserved by extending those licenses.

No specific comments were received on these paragraphs.

*Paragraph 70.38(a)(3)(viii)*

This paragraph delineates the specific licenses that are not extended under the final rule because the licenses authorize possession of sufficient quantities of special nuclear material to be subject to the criticality accident requirements of 10 CFR 70.24. This excludes those licenses from the five-year extension because the Commission believes that it is prudent to continue reviewing the licensees' existing programs before granting licenses for longer durations to ensure the adequacy of the licensees' criticality safety procedures.

No specific comments were received on this paragraph.

*Paragraphs 30.37(b), 40.43(b), and 70.33(b)*

These paragraphs specify that any pending license renewal applications for specific licenses that are extended under the final rule are automatically withdrawn. Any paid license renewal fees for withdrawn applications will be refunded.

Two comments generally supportive of the rule expressed concern about licensees who had already prepared

license renewal applications for submission to the NRC. One commenter suggested that licensees whose licenses expired after July 1, 1995, and who have prepared complete renewal applications without reference to previously submitted documents should have the option of: (1) Having their new renewal application reviewed and the license renewed; or (2) having the existing license extended. The other commenter had prepared complete license renewal applications, for its clients, that included descriptions of the radiation safety programs updated to reflect the revisions to 10 CFR part 20 that became effective January 1, 1994. The commenter suggested that these applications be reviewed and the licenses renewed, rather than extended.

The NRC believes that as many eligible licenses as possible should be extended, to achieve the maximum resource savings possible for use in redesigning the materials licensing process. However, the NRC also recognizes that some licensees may want the NRC to review part or all of their license renewal applications. Licensees whose license renewal applications are automatically withdrawn by this rulemaking but whose renewal applications contain revisions that they need to have incorporated in their licenses, should submit those changes as an amendment request accompanied by the appropriate amendment fees.

#### Environmental Impact: Categorical Exclusion

The NRC has determined that these regulations are the type of actions described in the categorical exclusion in 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

#### Paperwork Reduction Act

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.). Existing requirements were approved by the Office of Management and Budget (OMB) approval number 3150-0009 (Part 70) and 3150-0120 (Parts 30 and 40). The NRC may not conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### Regulatory Analysis

A regulatory analysis has not been prepared for this rule because it is not expected to have any adverse impact on licensees subject to the final rule. These

licensees will be postponing the submission of license renewal applications and the associated fees for five years.

#### Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities. These rules merely extend, on a one-time basis, certain existing byproduct, source, and special nuclear materials licenses that meet specified criteria by five years and therefore, will not result in any adverse impact.

#### Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this rulemaking because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1).

#### List of Subjects

##### 10 CFR Part 30

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

##### 10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

##### 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.

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 Nuclear Regulatory Commission is adopting the following amendments to 10 CFR Parts 30, 40, and 70.

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

1. The authority citation for 10 CFR Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In 10 CFR 30.36, paragraph (a) is revised to read as follows:

### § 30.36 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a)(1) Except as provided in paragraph (a)(2) of this section, each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under § 30.37 not less than 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph). If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph), the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(2) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in paragraph (a)(3) of this section, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(3) The following specific licenses are not subject to, or otherwise affected by, the provisions of paragraph (a)(2) of this section:

(i) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with § 30.32(i);

(ii) Specific licenses whose holders are subject to the financial assurance

requirements specified in 10 CFR 30.35, and on February 15, 1996, the holders either:

- (A) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or
- (B) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(iii) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(iv) Specific licenses whose issuance, amendment, or renewal, as of February 15, 1996, is not a categorical exclusion under 10 CFR 51.22(c)(14) and, therefore, need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 of this chapter;

(v) Specific licenses whose holders have not had at least one NRC inspection of licensed activities before February 15, 1996;

(vi) Specific licenses whose holders, as the result of the most recent NRC inspection of licensed activities conducted before February 15, 1996, have been:

(A) Cited for a Severity Level I, II, or III violation in a Notice of Violation;

(B) Subject to an Order issued by the NRC; or

(C) Subject to a Confirmatory Action Letter issued by the NRC.

\* \* \* \* \*

(vii) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under 10 CFR 30.37 of this part.

3. In 10 CFR 30.37, a new paragraph (b) is added to read as follows:

**§ 30.37 Application for renewal of licenses.**

\* \* \* \* \*

(b) If any licensee granted the extension described in 10 CFR 30.36(a)(2) has a currently pending renewal application for the extended license, that application will be considered withdrawn by the licensee and any renewal fees paid by the licensee for that application will be refunded.

**PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL**

4. The authority citation for 10 CFR Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093,

2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Public Law 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

5. In § 40.42, paragraph (a) is revised to read as follows:

**§ 40.42 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.**

(a)(1) Except as provided in paragraph (a)(2) of this section, each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under § 40.43 not less than 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph). If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph), the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(2) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in paragraph (a)(3) of this section, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(3) The following specific licenses are not subject to, or otherwise affected by, the provisions of paragraph (a)(2) of this section:

(i) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with § 40.31(j);

(ii) Specific licenses whose holders are subject to the financial assurance requirements specified in 10 CFR 40.36, and on February 15, 1996, the holders either:

(A) Have not submitted a decommissioning funding plan nor

certification of financial assurance for decommissioning; or

(B) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(iii) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(iv) Specific licenses whose issuance, amendment, or renewal, as of February 15, 1996, is not a categorical exclusion under 10 CFR 51.22(c)(14) and, therefore, need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 of this chapter;

(v) Specific licenses whose holders have not had at least one NRC inspection of licensed activities before February 15, 1996;

(vi) Specific licenses whose holders, as the result of the most recent NRC inspection of licensed activities conducted before February 15, 1996, have been:

(A) Cited for a Severity Level I, II, or III violation in a Notice of Violation;

(B) Subject to an Order issued by the NRC; or

(C) Subject to a CAL issued by the NRC.

(vii) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under 10 CFR 40.43 of this part.

\* \* \* \* \*

6. In 10 CFR 40.43, a new paragraph (b) is added to read as follows:

**§ 40.43 Renewal of licenses.**

\* \* \* \* \*

(b) If any licensee granted the extension described in 10 CFR 40.42(a)(2) has a currently pending renewal application for the extended license, that application will be considered to be withdrawn by the licensee and any renewal fees paid by the licensee for that application will be refunded.

**PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL**

7. The authority citation for 10 CFR Part 70 continues 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, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended, 202, 204, 206, 88 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, Public Law 97-425, 96 Stat. 2232, 2241 (42 U.S.C.

10155, 10161). Section 70.7 also issued under Public Law 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, Public Law 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).

8. In 10 CFR 70.38, paragraph (a) is revised to read as follows:

**§ 70.38 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.**

(a)(1) Except as provided in paragraph (a)(2) of this section, each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under § 70.33 not less than 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph). If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license (or, for those licenses subject to paragraph (a)(2) of this section, 30 days before the deemed expiration date in that paragraph), the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(2) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in paragraph (a)(3) of this section, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(3) The following specific licenses are not subject to, nor otherwise affected by, the provisions of paragraph (a)(2) of this section:

(i) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with § 70.22(i);

(ii) Specific licenses whose holders are subject to the financial assurance requirements specified in 10 CFR 70.25, and on February 15, 1996, the holders either:

(A) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(B) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(iii) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(iv) Specific licenses whose issuance, amendment or renewal, as of February 15, 1996, is not a categorical exclusion under 10 CFR 51.22(c)(14) and, therefore, need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 of this chapter;

(v) Specific licenses whose holders have not had at least one NRC inspection of licensed activities before February 15, 1996;

(vi) Specific licenses whose holders, as the result of the most recent NRC inspection of licensed activities conducted before February 15, 1996, have been:

(A) Cited for a Severity Level I, II, or III violation in a Notice of Violation;

(B) Subject to an Order issued by the NRC; or

(C) Subject to a CAL issued by the NRC.

(vii) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under 10 CFR 70.33 of this part.

(viii) Specific licenses issued pursuant to 10 CFR 70.31 that, as of February 15, 1996, are also subject to the requirements in § 70.24.

\* \* \* \* \*

9. In 10 CFR 70.33, a new paragraph (b) is added to read as follows:

**§ 70.33 Renewal of licenses.**

\* \* \* \* \*

(b) If any licensee granted the extension described in 10 CFR 70.38(a)(2) has a currently pending renewal application for that extended license, that application will be considered withdrawn by the licensee and any renewal fees paid by the licensee for that application will be refunded.

Dated at Rockville, Maryland, this 20th day of December, 1995.

For the Nuclear Regulatory Commission.  
James M. Taylor,

*Executive Director for Operations.*

[FR Doc. 96-346 Filed 1-11-96; 2:00 pm]

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**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1615**

**Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Revocation of rules.

**SUMMARY:** The Commission revokes rules prescribing requirements for labeling, advertising, and retail display of children's sleepwear in sizes 0 through 6X manufactured between July 29, 1972, and July 29, 1973. The Commission is revoking these rules because no children's sleepwear offered for sale now or in the future is or will be subject to the rules' requirements.

**EFFECTIVE DATE:** January 16, 1996.

**FOR FURTHER INFORMATION CONTACT:** Allen F. Brauninger, Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980, extension 2216.

**SUPPLEMENTARY INFORMATION:**

A. Background

*1. The Flammability Standard*

In 1971, the Department of Commerce (DOC) issued the Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X under the authority of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193). In 1972, DOC amended that standard. See the Federal Register notices of July 29, 1971 (36 FR 14062), and July 21, 1972 (37 FR 14624). The standard is codified at 16 CFR Part 1615, Subpart A, and prescribes a flammability test for children's sleepwear garments and fabrics intended for use in those garments to protect children from unreasonable risks of burn deaths and injuries.

*2. Labeling Requirements*

The amended flammability standard became effective on July 29, 1972. However, the standard allowed the manufacture of noncomplying sleepwear for one year after the standard's effective date, provided that such garments were labeled with the following statement: "Flammable (Does Not Meet U.S. Department of Commerce Standard DOC FF 3-71). Should not be worn near sources of fire." 16 CFR 1615.5(b). All children's sleepwear in sizes 0 through 6X manufactured after July 29, 1973, must comply with the standard.

In 1972, Congress enacted the Consumer Product Safety Act (CPSA)