§ 94.11 [Amended]

3. In § 94.11, paragraph (a), the first sentence would be amended by adding, in alphabetical order, the word ''Japan,''.

Done in Washington, DC, this 28th day of August 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 20, and 50

RIN 3150–AG56

Releasing Part of a Power Reactor Site or Facility for Unrestricted Use Before the NRC Approves the License Termination Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to standardize the process for allowing a power reactor licensee to release part of its facility or site for unrestricted use before the NRC approves the license termination plan (LTP). This type of release is termed a ''partial site release.'' The proposed rule would identify the criteria and regulatory framework that a licensee would use to request NRC approval for a partial site release and provide additional assurance that residual radioactivity would meet the radiological criteria for license termination, even if parts of the site were released before a licensee submits its LTP to the NRC. Also the proposed rule would clarify that the radiological criteria for unrestricted use apply to a partial site release.

DATES: The comment period expires on November 19, 2001. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

You also may provide comments via the NRC's interactive rulemaking Website (http://ruleforum.llnl.gov). This site provides the capability to upload comments as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Website, contact Ms. Carol Gallagher, (301) 415–5905, e-mail: *cag@nrc.gov.*

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site (the Electronic Reading Room), *www.nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. W. Mike Ripley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1112; or by Internet electronic mail to wmr@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Compliance with the decommissioning and license termination rules of 10 CFR parts 20, and 50 ensures adequate protection to the public and the environment from any radioactivity remaining in the facility and site when the reactor license is terminated. The NRC staff makes its determination that the licensee has met the license termination criteria using information submitted by the licensee in its LTP and final radiation survey. The LTP is not required until 2 years before the anticipated date of license termination. The license termination radiation survey is not required until after the licensee completes its decontamination activities. These requirements were based on the NRC's anticipation that reactor licensees would permanently cease operations and then perform the decommissioning and license termination of the site as one large project. However, in 1999, a licensee informed the staff that it intended to sell parts of its facility and site before it permanently ceased operations. It was not clear whether NRC approval was required for the sale. As a result, the staff was faced with the need to evaluate the adequacy of the licensee's proposed action before the licensee was required to submit the information required by the LTP and the final radiation survey.

In evaluating the staff's response to the proposed sale of parts of the licensee's facility and site, a number of actions specific to the case were taken to ensure that the property would meet the radiological release criteria for unrestricted use of 10 CFR part 20, subpart E.

However, the NRC recognized that the current regulations in 10 CFR part 50 do not address the release of part of a reactor facility or site for unrestricted use, or require a licensee to obtain NRC approval of a partial site release. Thus, there is not a specific requirement to meet the release criteria under 10 CFR part 20, subpart E, for a partial site release. The NRC also noted that for purposes of Subpart E, the boundary of a site is defined in 10 CFR 20.1003 as ''that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.'' One could argue as a consequence of this definition that the ''site,'' which is licensed under 10 CFR part 50 and is subject to the license termination and decommissioning requirements of 10 CFR 50.82 and 10 CFR part 20, subpart E, can be changed by selling the property.

The purpose of the License Termination Rule (LTR) (61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997) and 10 CFR 50.82 is to ensure that the residual radioactivity for the licensed activity is within the criteria of the LTR. To avoid licensees taking a piecemeal approach to license termination, the LTP must consider the entire site as defined in the original license, along with subsequent modifications to the site boundary, to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E, at the time the license is terminated. Therefore, the purpose of the LTR is to consider the whole site for application of the release criteria. That is, any site area controlled during the term of the license must be considered. The proposed rule would clarify this purpose and not establish new policies or standards. Although no further surveys of previously released areas are anticipated, the dose assessment in the LTP must account for possible dose contributions associated with previously released areas in order to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E, (0.25 mSv/yr [25 mrem/yr] reduced to as low as reasonably achievable [ALARA]) at the time the license is terminated. The proposed requirement that licensees maintain records of property line changes and the radiological conditions of partial site releases ensures that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to assist licensees in

identifying and accounting for these potential dose contributions is currently being developed, and will be available before publishing the final rule.

The proposed rule would, therefore, provide adequate assurance that residual radioactivity from licensed activities that remains in areas released for unrestricted use will meet the radiological criteria for license termination. It should increase public confidence in decisions to release parts of reactor sites and make more efficient use of NRC and licensee resources.

The NRC staff has obtained preliminary input from stakeholders at several public workshops. The suggested approach to handling requests for partial site release for unrestricted use was presented to the attendees for comment. Utility and nuclear industry representatives indicated that licensees need a method to allow them to release parts of a site before NRC approves the LTP. Utility representatives stated that formal NRC action would be desirable to provide finality and legal closure after part of a reactor site or facility is released. Although there were no negative comments received from representatives of public interest groups attending the workshops, a number of questions were raised on the implementation of the proposed rule. These questions have been addressed below, or added to the Issues for Public Comment section in order to solicit further public comment. Depending on the comments received on this proposed rule, the NRC may hold additional workshops or other public meetings before issuance of the final rule in order to solicit further stakeholder input.

Discussion of Proposed Rule

The strategy for developing the proposed rule is to narrow its applicability to power reactor licensees to be responsive to current industry needs while also protecting the health and safety of the public. A separate rulemaking would be needed to address the wide variety of materials sites, many of which are technically more complex from a decommissioning perspective than reactor sites, to provide a uniform and consistent agency approach to partial site release. The proposed rule would require NRC approval for a partial site release at a reactor site before NRC approval of the licensee's LTP.

The approval process by which the property is released depends on the potential for residual radioactivity from plant operations remaining in the area to be released. First, for proposed release areas classified as *non-impacted* and, therefore, having no reasonable potential for residual radioactivity, the licensee would be allowed to submit a letter request for approval of the release containing specific information for NRC approval. In these cases, as there is no reasonable potential for residual radioactivity, NRC would approve the release of the property by letter upon determining that the licensee has otherwise met the criteria of the proposed rule and no change to a license or technical specifications description of the site is necessary. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG–1575, Revision 1, ''Multi-agency Radiation Survey and Site Investigation Manual (MARSSIM).'' NRC would generally not perform radiological surveys and sampling of a non-impacted area. However, should NRC determine surveys and sampling were needed, such would be done as part of NRC's inspection process. Second, for areas classified as impacted and, therefore, having some potential for residual radioactivity, the licensee would submit the required information in the form of a license amendment for NRC approval. The proposed amendment also would include the licensee's demonstration of compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Regulatory guidance for performing this demonstration is contained in NUREG–1727, ''NMSS Decommissioning Standard Review Plan.'' In both cases, public participation requirements and additional recordkeeping would be addressed.

This approval approach is a departure from that presented to the Commission in the NRC staff's rulemaking plan (SECY–00–0023, February 2, 2000). At that time, it was thought that if a licensee could demonstrate that the radioactivity associated with any residual material remaining after remediation of impacted areas was no longer distinguishable from the background radioactivity, the approval could be treated in the same manner as a non-impacted area, and the release area could be approved by letter as opposed to a license amendment. However, in light of the variability in background and the limitation of survey instruments, the approach would require the definition of some minimum dose or concentration above mean background against which to compare survey results. Because the NRC has not established such value, the NRC is no longer considering the use of background as a release criterion. The proposed release area's classification as either impacted or non-impacted will determine whether the release may be approved by letter, or whether a license amendment is required. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG–1575, Revision 1.

Subpart K of 10 CFR Part 20 provides in § 20.2002 that a licensee may request NRC approval of a proposed disposal method that is not otherwise authorized by NRC regulations. Some have argued that a partial site release should be covered by § 20.2002; however, a partial site release leaving residual radioactivity at a site that meets the release criteria for unrestricted use of 10 CFR 20.1402 is not considered a disposal. In any case, the proposed rule, if adopted, would authorize partial site releases, thereby removing the argument that a partial site release is within the scope of § 20.2002. Additionally, any disposals made under § 20.2002 on those portions of the site proposed for release will be considered impacted areas.

In contrast to the license termination process, the proposed rule does not require a license amendment to release property for unrestricted use in all cases. The NRC believes this difference is justified for the following reasons. First, the license termination process was created to deal with the facility or site as a whole, which inevitably involves handling residual radioactivity, such as that found in plant systems. The proposed rule preserves the license amendment approach for those cases in which the potential exists for residual radioactivity and requires that the area meets the radiological criteria for unrestricted use. Second, for cases in which the change does not adversely affect reactor safety and it is demonstrated that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity, a license amendment is not required to adequately protect public health and safety. The proposed rule with its clearly defined criteria would be sufficient. The NRC's oversight role is to ensure that the licensee meets the criteria.

The proposed rule would amend 10 CFR Part 2 to provide an opportunity for a Subpart L hearing on the amendment. The hearing, if conducted, must be completed before the property is released for use. However, for cases where it is demonstrated that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity, a license amendment is not required by the proposed rulemaking. A review of a licensee's proposed partial site release in such cases is essentially a compliance review

to determine if the release would otherwise meet the defined criteria of the regulation. Assuming the partial site release does not result in a change to an existing license, the approval of the partial site release under these circumstances does not require a license amendment (see *Cleveland Electric Illuminating, et al.* (Perry Nuclear Power Plant, Unit 1), CLI–96–13, 44 NRC 315, 328 (1996)). In these cases, the required public meeting held before the release approval is granted will serve as a forum for public comments on the proposed release.

In some cases, a reactor or site-specific Independent Spent Fuel Storage Installation (ISFSI) license may contain license conditions or Technical Specifications that define the site boundary in detail, such as a site map. In these cases (because the site boundary would change), a reactor licensee would be required to submit a license amendment application for a partial site release regardless of the potential for residual radioactivity in the area to be released. However, under current regulations, a licensee could amend its license to remove the definition of site boundary, without reference to a partial site release, and then proceed to perform the release, without obtaining NRC approval. The proposed rule would require NRC approval for a partial site release regardless of the amount of detail defining the site in the operating license.

The proposed rule provides for public participation. The NRC would notice receipt of a licensee's proposal for a partial site release, regardless of the potential for residual radioactivity, and make it available for public comment. In addition to the opportunity for a hearing on a license amendment, the NRC also would hold a public meeting in the vicinity of the site to discuss the licensee's request for approval or license amendment application, as applicable, and obtain comments before approving the release.

Members of the public have expressed concern that a licensee could use a series of partial site releases to avoid applying the criteria of the license termination rule. Members of the public are concerned that the lack of specific regulation for partial site releases could result in inconsistent application of safety standards and insufficient regulatory oversight of licensee actions. They also note that the public participation requirements of the license termination rule do not specifically apply to a partial site release. The proposed rule would address these concerns.

The proposed rule would not provide for a partial site release under restricted conditions, nor has any reactor licensee expressed interest in releasing property for restricted use.

The proposed rule would apply only to cases in which a reactor licensee intends to perform a partial site release before the NRC approves its LTP. When an LTP is submitted, a licensee can propose releasing its site in stages if it so desires. The NRC staff will evaluate the licensee's plan and approve it, if it is adequate, by license amendment. Once the LTP is approved, there is no longer any need for a separate regulatory mechanism for partial site releases.

In addition, the provisions of the ''timeliness in decommissioning'' rule for materials facilities in 10 CFR 30.36, 40.42, 70.38, and 72.54 do not apply to a partial site release at a power reactor site. These rules were issued to avoid long periods of delay in decommissioning materials facilities following cessation of operations. Unlike reactor facilities, where a period of safe storage can result in reduced occupational radiation exposure for decommissioning, materials facilities do not always realize much dose reduction benefit from an extended period of storage.

Sections 30.36, 40.42, 70.38, and 72.54 require decommissioning to begin within 24 months of cessation of principal activities, even if only a part of the site is not used, and whether or not a licensee declares an end to operations. In contrast, 10 CFR 50.82, the license termination rule for reactors, requires a licensee to certify the permanent cessation of operations before the decommissioning time clock starts. A reactor licensee has the option to begin decommissioning at any time following the submittal of certain certifications and reports, as long as decommissioning is completed within 60 years following permanent shutdown. This option allows for a period of safe storage that results in reduced occupational exposure.

The partial site release proposed rule would make the following changes to 10 CFR part 50:

- Add a new section, separate from the license termination process of § 50.82, to address the release of part of a reactor facility or site for unrestricted use before the LTP is approved.
- Specify criteria for the licensee to fulfill to obtain NRC approval of a partial site release.
- Allow a written request for release approval and not require a license amendment for releases of property if the licensee demonstrates that the area is non-impacted and, therefore, there is no reasonable potential for residual radioactivity in the area to be released. The release would be approved if all the proposed criteria are met.
- Require a license amendment that contains the licensee's demonstration of compliance with the radiological criteria for unrestricted use (0.25 mSv/yr [25 mrem/yr] and ALARA) for releases of property in which the area is classified as impacted and, therefore, a reasonable potential for residual radioactivity in the area to be released exists.
- Revise the LTP requirements to account for property that was released before a licensee received approval of its LTP.
- Require the NRC to hold a public meeting to inform the public of the partial site release request and receive public comments before acting on the request.
- Require additional recordkeeping of the acquisition and disposition of property included in the site.
- Add supporting definitions of key terms.

The partial site release proposed rule would make the following changes to 10 CFR part 20:

- Include releasing part of a facility or site for unrestricted use within the scope of the radiological criteria for license termination.
- Include releasing part of a facility or site for unrestricted use within the scope of the criteria by which the NRC may require additional cleanup on receiving new information following the release.

The partial site release rulemaking would make the following change to 10 CFR part 2:

- Provide for informal hearings in accordance with Subpart L for amendments associated with partial site releases.

Section-by-Section Analysis

10 CFR Part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings''

Informal hearing procedures are specified in 10 CFR part 2, subpart L. Section 2.1201(a)(1) applies to materials licenses under parts 30, 40, and 70. Section 2.1201(a)(3) applies to requests for a hearing for amendments to a part 50 license for licensees that have certified permanent cessation of operations and permanent removal of fuel from the reactor and permanently removed fuel from the part 50 facility. It applies to decommissioning reactors that have either removed spent fuel from the site, or have placed it in an

independent spent fuel storage installation licensed under part 72.

The NRC believes that conditions in a part of a reactor facility or site released for unrestricted use are equivalent to the conditions specified in § 2.1201(a)(3). The proposed amendment underlying the hearing request would principally address the transfer of land, and not reactor operations. The issues would also be similar to the materials licensing issues that are currently subject to subpart L under § 2.1201(a)(1).

An amendment to 10 CFR part 2, subpart L, is required to permit use of these informal hearing procedures for amendments associated with partial site releases at nuclear power reactors. It should be noted that the proposed rule does not provide for license amendments to authorize partial site releases where there is no reasonable potential for residual radioactivity in the area to be released. As there are no license amendments in these cases, there are no corresponding opportunities for hearings. However, public meetings will be noticed in these cases to obtain comments before NRC action on the release.

10 CFR Part 20, ''Standards for Protection Against Radiation''

In 10 CFR part 20, the NRC provides standards for protection against radiation. These standards are applicable to reactor licensees as long as they hold a license. The subparts relevant to the partial site release issue are Subpart D (''Radiation Dose Limits for Individual Members of the Public'') and Subpart E (''Radiological Criteria for License Termination'').

10 CFR Part 20, Subpart D, ''Radiation Dose Limits for Individual Members of the Public''

The radiation dose limits specified in 10 CFR part 20, subpart D, set the annual limit for an individual member of the public at 1.0 mSv/yr (100 mrem/yr). However, there are a number of more stringent dose standards applicable to power reactor licensees that must also be considered. These standards include the Environmental Protection Agency (EPA) environmental radiation standard incorporated in § 20.1301(d), the Subpart D compliance standards in § 20.1302(b), the radiological effluent release objectives to maintain effluents ALARA in Appendix I to 10 CFR part 50, and any dose standards which may be established by special license conditions.

A licensee performing a partial site release must continue to comply with the public dose limits and standards as they pertain to the area remaining under the license. In addition, the licensee must comply with the public dose limits for effluents, etc., entering the released portion of the site. As a practical matter, a licensee must demonstrate that moving its site boundary closer to the operating facility would not result in a dose to a member of the public that exceeds these criteria. If residual radioactivity exists in the area to be released for unrestricted use, the dose caused by the release must be considered along with that from the licensee's facility, as well as, for the case of the EPA's standard incorporated in § 20.1301(d), that from any other uranium fuel cycle operation in the area, for example a facility licensed under 10 CFR part 72, to determine compliance with the above standards. As a consequence, a partial site release for unrestricted use that contains residual radioactivity may have to meet a standard lower than the radiological criteria of 10 CFR part 20, subpart E, discussed below because the combined dose from the partial site release and the dose from these other sources must meet the public dose limits and standards described above.

10 CFR Part 20, Subpart E, ''Radiological Criteria for License Termination''

The scope of subpart E applies to decommissioning reactor facilities. However, as currently written, it does not specifically apply to operating reactors. The reactor remains ''operating'' until a licensee submits the certifications of permanent cessation of operations specified in § 50.82(a)(1), when it begins ''decommissioning.''

Radiological criteria for license termination contained in 10 CFR part 20, subpart E, limit radiation exposure to the ''average member of the critical group.'' The limit applicable to release for unrestricted use is 0.25 mSv/yr (25 mrem/yr) total effective dose equivalent (TEDE), with additional reductions consistent with the ALARA principle. The determination of ALARA in these cases explicitly requires balancing reduction in radiation risk with the increase from other health and safety risks resulting from the work done to decontaminate a site, such as adverse health impacts from transportation accidents that might occur if larger amounts of waste soil are shipped for disposal. The standard applies to doses resulting from ''residual radioactivity distinguishable from background radiation'' and includes dose from groundwater sources of drinking water. The standard for unrestricted use in 10 CFR part 20, subpart E, does not include dose from effluents or direct radiation from continuing operations. However, as noted in the above section on public dose limits, the dose from these sources must be considered when demonstrating compliance with the radiological release criteria.

Section 20.1401(c) limits additional cleanup following the NRC's termination of the license. Additional cleanup would only be required if new information reveals that the requirements of subpart E were not met and a significant threat to public health and safety remains from residual radioactivity. Similarly, the proposed rule would include the portions of the site released for unrestricted use within the scope of the criteria by which the Commission may require additional cleanup on the basis of new information received following the release.

The proposed rulemaking is intended to apply subpart E to power reactor licensees, both operating and decommissioning, that have not received approval of the LTP. Because an LTP is required for license termination under restricted conditions (§ 20.1403(d)) or alternate criteria (§ 20.1404(a)(4)), only the ''unrestricted use'' option would be available to licensees for a partial site release before receiving approval of the LTP.

The proposed rule would not require an analysis to demonstrate that the area to be released meets the criteria of § 20.1402 for cases in which the licensee is able to demonstrate that there is no reasonable potential for residual radioactivity in the area to be released. In these cases, compliance with § 20.1402 is demonstrated by providing documentation of an evaluation of the site to identify areas of potential or known sources of radioactive material that concludes that the area is non-impacted and there is, therefore, no reasonable potential for residual radioactivity. Acceptable guidance describing the performance of this demonstration is contained in NUREG–1575, Revision 1.

For areas classified as impacted, the proposed rule would require a license amendment that includes a demonstration of compliance with § 20.1402 for the area that is released for unrestricted use. Guidance for performing this classification is contained in NUREG–1727. This guidance can be used to support a license amendment request for partial site release.

An amendment to part 20, subpart E, that revises § 20.1401(a) and § 20.1401(c) would add the release of part of a facility or site for unrestricted

use to the provisions and scope of 10 CFR part 20, subpart E.

10 CFR 50.2, ''Definitions''

The NRC issued technical guidance after the decommissioning rules of § 50.82 were amended in 1996. Those documents included NUREG–1575 which defined terms (historical site assessment, impacted, and non-impacted) that are critical to implementing the amended regulations. In order for a licensee to adequately demonstrate compliance with the radiological criteria for license termination in 10 CFR part 20, subpart E, the licensee must evaluate its site to identify areas of potential or known sources of radioactive material and classify those areas according to the potential for radioactive contamination. The evaluation is known as a *historical site assessment.* The historical site assessment is an investigation to collect information describing a site's complete history from the start of site activities to the present time. Information collected will typically include site files, monitoring data, and event investigations, as well as interviews with current or previous employees to collect firsthand information. The assessment results in classifying areas according to the potential for containing residual radioactivity. Areas that have no reasonable potential for residual radioactivity in excess of natural background or fallout levels are classified as *non-impacted areas.* Areas with some potential for residual radioactivity in excess of natural background or fallout levels are classified as *impacted areas.* Further discussion regarding the meaning and use of these terms is contained in NUREG–1575.

An amendment to § 50.2 would add the definitions for ''Historical Site Assessment,'' ''Impacted Areas,'' and ''Non-impacted Areas.''

10 CFR 50.75, ''Reporting and Recordkeeping for Decommissioning Planning''

In § 50.75(c), the NRC defines the amount of financial assurance required for decommissioning power reactors. There is no provision to adjust the amount to account for the costs of a partial site release. One point of view argues that a partial site release would reduce the cost of decommissioning for the remainder of the site. However, the NRC does not recommend reducing the required amount for the following reasons. Costs incurred for purposes other than reduction of residual radioactivity to permit release of the property and termination of the license are not included in the amount required for decommissioning financial assurance. A partial site release may incur costs that do not fit the definition of decommissioning. Therefore, an evaluation of the costs would be necessary to determine what adjustment, if any, was appropriate. In addition, the cost of a partial site release is expected to be a small fraction of the cost of decommissioning. Such a small adjustment can be considered within the uncertainty range of the amount specified in § 50.75(c) and does not provide a compelling reason to undertake the technical justification of adding a generically applicable adjustment factor to the requirement.

In § 50.75(g), the NRC requires keeping records of information important to decommissioning. Currently, there are three categories of information required: (1) Spills resulting in significant contamination after cleanup; (2) as-built drawings of structures and equipment in restricted areas; and (3) cost estimates and funding methods. Information on structures and land that were included as part of the site is also important to decommissioning in order to ensure that the dose effects from partial releases are adequately accounted for when the license is terminated.

Records relevant to decommissioning must be retained until the license is terminated. The proposed rule would require a licensee to identify its facility and site, as defined in the original license, to include a map, and to record any additions to or deletions from the site since original licensing, along with records of the radiological conditions of any partial site releases. These records will ensure that potential dose contributions associated with partial site releases can be adequately considered at the time of any subsequent partial releases and at the time of license termination. The proposed recordkeeping is made effective when the rule becomes effective.

The purpose of the License Termination Rule (LTR) (61 FR 39301; July 29, 1996, as amended at 62 FR 39091; July 21, 1997) and 10 CFR 50.82 is to ensure that any residual radioactivity associated with licensed activity is within the radiological release requirements of 10 CFR part 20, subpart E, at the time the license is terminated. Although not previously codified, the requirement to maintain records of the entire site as defined in the original license, along with subsequent modifications to the site boundary, clarifies the intent of the LTR and is necessary to ensure that potential dose contributions from the entire area can be adequately considered in demonstrating compliance with the release criteria. The proposed recordkeeping, therefore, applies to all licensees, including those who modify the site boundary by releasing a part of their site prior to NRC approval of their LTP. It is expected that licensees are already maintaining property records in order to comply with the LTR at the time of license termination and, therefore, the proposed recordkeeping does not establish new policies, standards, or requirements not already inherent to compliance with the radiological release criteria of the LTR.

10 CFR 50.82, ''Termination of License''

Section 50.82(a)(9) requires the submittal of an application for license termination that includes an LTP. Section 50.82(a)(11) requires that the NRC make a determination that the final survey and associated documentation provided by a licensee demonstrate that the site is suitable for release at the time the license is terminated. These sections codify the NRC's views that (1) certain information is required to evaluate the adequacy of a licensee's compliance with the radiological criteria for license termination in 10 CFR part 20, subpart E, and (2) the license termination criteria are applicable to the entire site. However, because the LTP is not required until 2 years before the anticipated date of license termination, a licensee may perform a partial site release before it submits the necessary information. The information required when the LTP is submitted refers to the ''site.'' It is not clear that a licensee could be required to include the areas released because they no longer are part of the ''site.'' The NRC is concerned that a licensee could adopt partial site release as a piecemeal approach to relinquish responsibility for a part of its site without going through the license termination process and without ensuring that the release criteria of 10 CFR part 20, subpart E, are met.

A new paragraph, § 50.82(a)(9)(ii)(H), would include the identification of parts of the site released for unrestricted use before approval of the LTP with the information listed in the LTP.

An amendment to § 50.82(a)(11)(ii) would require that the final radiation survey and associated LTP documentation, demonstrating that the site is suitable for release in accordance with the criteria in 10 CFR part 20, subpart E, include any parts released for use before approval of the LTP. Although no further surveys of previously released areas are anticipated, the dose assessment in the

LTP must account for possible dose contributions associated with previous releases in order to ensure that the entire area meets the radiological release requirements of 10 CFR part 20, subpart E (0.25 mSv/yr [25 mrem/yr] reduced to ALARA) at the time the license is terminated. The proposed requirement that records of property line changes and the radiological conditions of partial site releases be maintained by licensees would ensure that these potential dose contributions can be adequately considered at the time of any subsequent partial releases and at the time of license termination. Specific guidance to assist licensees in identifying and accounting for these potential dose contributions is currently being developed.

10 CFR 50.83, ''Release of Part of a Facility or Site for Unrestricted Use''

The proposed rule would add a new § 50.83, separate from the current decommissioning and license termination rules, that identifies the criteria and regulatory framework for power reactor licensees that seek to release part of a facility or site for unrestricted use at any time before receiving approval of an LTP.

The proposed rule would require NRC approval for a partial site release. The approval process by which the property is released would depend on the potential for residual radioactivity from plant operations remaining in the area to be released. First, for proposed release areas classified as non-impacted and, therefore, having no reasonable potential for residual radioactivity, the licensee would be allowed to submit a letter request for approval of the release containing specific information for NRC approval. Because there is no reasonable potential for residual radioactivity in these cases, NRC would approve the release of the property by letter after determining that the licensee has met the criteria of the proposed rule. Guidance for demonstrating that a proposed release area is non-impacted is contained in NUREG–1575, Revision 1. NRC would generally not perform radiological surveys and sampling of a non-impacted area. However, should NRC determine surveys and sampling were needed, such would be done as part of NRC's inspection process. Second, for areas classified as impacted and, therefore, that do have some potential for residual radioactivity, the licensee would submit the required information in the form of a license amendment for NRC approval. The proposed amendment also would include the licensee's demonstration of compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Regulatory guidance for performing this demonstration is contained in NUREG–1727.

Licensees may find it beneficial to review their survey plans and design with the NRC staff before performing the surveys. As warranted, NRC will conduct parallel and/or confirmatory radiation surveys and sampling to ensure that the licensee's conclusions are adequate.

The proposed rule is intended to apply 10 CFR part 20, subpart E, to reactor licensees that have not received approval of the LTP. Because an LTP is required for license termination under restricted conditions (§ 20.1403(d)) or alternate criteria (§ 20.1404(a)(4)), only the ''unrestricted use'' option would be available to licensees for a partial site release before receiving approval of the LTP.

The proposed rule also would require a licensee to evaluate the effect of releasing the property to ensure that it would continue to comply with all other applicable statutory and regulatory requirements that may be impacted by the release of property and changes to the site boundary. This would include, for example, regulations in 10 CFR parts 20, 50, 72, and 100. In those instances involving license amendments, licensees also would be required to provide a supplement to the existing environmental report to address the planned release. This requirement is similar to the requirement of 10 CFR 50.82(a)(9)(ii)(G).

The proposed rule provides for public participation. The NRC will notice receipt of a licensee's proposal for a partial site release, regardless of the amount of residual radioactivity involved, and make it available for public comment. The NRC also will hold a public meeting in the vicinity of the site to discuss the licensee's release approval request or license amendment application, as applicable.

Issues for Public Comment

The NRC encourages comments concerning the content, level of detail specified, and the implementation of the proposed amendments. Suggestions or alternatives other than those described in this document and estimates of cost for implementation are encouraged. The NRC is particularly interested in receiving comments on the following issues related to this proposed rule:

1. Are there rulemaking alternatives to this proposed rule that were not considered in the regulatory analysis for this proposed rule?

2. Are the proposed definitions in § 50.2 clear?

3. Is public involvement adequately considered?

4. Should the license amendment process be required for all partial site release approvals, regardless of whether the site has been classified as non-impacted?

5. Does the proposed rule make it adequately clear that when performing partial site releases and when releasing the entire site at license termination, licensees must consider potential dose contributions from previous partial releases in demonstrating compliance with the radiological release criteria?

6. Is there reason to limit the size or number of partial site releases?

7. Are there other potential impacts on continued operation or decommissioning activities as a result of partial site releases that should specifically be considered in the rule?

Referenced Documents

Copies of NUREG–1575, NUREG–1727, and SECY–00–0023 may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. These documents are also accessible on the NRC Web site at *www.nrc.gov.*

Plain Language

The Presidential memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing'' directed that the Government's writing be in plain language. This memorandum was published on June 10, 1998 (63 FR 31883). In complying with this directive, editorial changes have been made in this proposed rule to improve readability of the existing language of those provisions being revised. These types of changes are not discussed further in this document. The NRC requests comment on the proposed rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the **ADDRESSES** heading.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standard bodies unless the use of such a standard is inconsistent with applicable law or is otherwise impractical. In this proposed rule, the NRC proposes to standardize the process for allowing a licensee to release part of its reactor facility or site for unrestricted use before NRC approves the LTP. This proposed rule would not

constitute the establishment of a standard that establishes generally applicable requirements, and the use of a voluntary consensus standard is not applicable.

Finding of No Significant Environmental Impact: Availability

The Commission has determined that under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51 that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

There are no significant radiological environmental impacts associated with the proposed action. The proposed action does not involve non-radiological plant effluents and has no other environmental impact. Therefore, NRC expects that no significant environmental impact would result from the proposed rule.

The determination of the environmental assessment is that there would be no significant offsite impact to the public from this action. However, the general public should note that the NRC is seeking public participation. Comments on any aspect of the environmental assessment may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The NRC has sent a copy of the environmental assessment and this proposed rule to every State Liaison Officer and requested their comments on the environmental assessment.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget (OMB) for review and approval of the information collection requirements.

The burden to the public for this information collection is estimated to average 582 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. The U.S. Nuclear Regulatory Commission is seeking public comment on the potential impact of the information collections contained in the proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed information collection, including suggestions for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at *bjs1@nrc.gov;* and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the information collections or on the above issues should be submitted by October 4, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The Commission requests public comment on the regulatory analysis. Comments on the analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. This proposed rule would affect only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in 10 CFR 2.810.

Backfit Analysis

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

The proposed rule would clarify the application of the radiological criteria of the license termination rule (LTR) [62 FR 39091 (July 21, 1997)] for partial site release and the relationship between partial site release and decommissioning of a site under 10 CFR 50.82. A backfit analysis was not required for the LTR because it did not involve reactor operations, and it was not required for 10 CFR 50.82 because that rule was imposed to ensure adequate protection of the public health and safety. Because a backfit analysis was not required for either the LTR or for 10 CFR 50.82, it does not appear that it would be needed for this rulemaking action.

Additionally, the purpose of the LTR and 10 CFR 50.82 is to ensure that the residual radioactivity from the licensed activity is within the criteria of the LTR. The LTR requires that any previously approved onsite disposals be reconsidered in determining releases under the LTR. As to previously approved offsite releases, Section F.2.3. of the Statement of Considerations for the final LTR describes a limited grandfathering of previously approved partial site releases. The NRC stated that guidance would be issued on how licensees should address previously released portions of licensed sites. Consequently, while a previously approved partial site release meeting the LTR criteria would not need to be reconsidered, absent new information in accordance with 10 CFR 20.1401(c), it was not the intent of the rule that interaction from the previously released residual radiation be excluded from consideration in the release decision for the remaining portions of the site. To read the LTR as not requiring the radiation interactions from the previously released site to be considered in making release determinations on the remaining site would permit a licensee to release a site that would otherwise not meet the LTR criteria by releasing the site by segments, each one below the criteria of the LTR. Such an approach would defeat the intent of the LTR to consider all the residual radioactivity from the licensed activity in meeting the LTR criteria. This rulemaking would

clarify the intent of the LTR and not establish new policies or standards.

Accordingly, the proposed rule's provisions do not constitute a backfit and a backfit analysis need not be performed. However, the staff has prepared a regulatory analysis that identifies the benefits and costs of the proposed rule and evaluates other options for addressing the identified issues. As such, the regulatory analysis constitutes a ''disciplined approach'' for evaluating the merits of the proposed rule and is consistent with the underlying intent of the backfit rule.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear material, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

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. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 2, 20, and 50.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs.161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat.1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10143(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183i, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 90, as amended by section 3100(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133), and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553, and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K 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). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Subpart M also issued under sec. 184 (42 U.S.C. 2234) and sec. 189, 68 stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.1201, paragraph (a)(4) is added to read as follows:

§ 2.1201 Scope of subpart.

(a) * * *

(4) The amendment of a part 50 license to release part of a power reactor facility or site for unrestricted use in accordance with § 50.83. Subpart L hearings for the partial site release plan, if conducted, must be complete before the property is released for use.

* * * * *

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

3. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

4. In § 20.1401, paragraphs (a) and (c) are revised to read as follows:

§ 20.1401 General provisions and scope.

(a) The criteria in this subpart apply to the decommissioning of facilities licensed under parts 30, 40, 50, 60, 61, 70, and 72 of this chapter, and release of part of a facility or site for unrestricted use in accordance with § 50.83 of this chapter, as well as other facilities subject to the Commission's jurisdiction under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended. For high-level and low-level waste disposal facilities (10 CFR parts 60 and 61), the criteria apply only to ancillary surface facilities that support radioactive waste disposal activities. The criteria do not apply to uranium and thorium recovery facilities already subject to appendix A to 10 CFR part 40 or to uranium solution extraction facilities.

* * * * *

(c) After a site has been decommissioned and the license terminated in accordance with the criteria in this subpart, or after part of a facility or site has been released for unrestricted use in accordance with § 50.83 of this chapter and in accordance with the criteria in this subpart, the Commission will require additional cleanup only if based on new information, it determines that the criteria of this subpart were not met and residual radioactivity remaining at the site could result in significant threat to public health and safety.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 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 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec.

122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. Section 50.2 is amended by adding ''Historical site assessment,'' ''Impacted areas,'' and ''Non-impacted areas'' in alphabetical order to read as follows:

§ 50.2 Definitions.

* * * * *

Historical site assessment means the identification of potential, likely, or known sources of radioactive material and radioactive contamination based on existing or derived information for the purpose of classifying a facility or site, or parts thereof, as impacted or non-impacted.

Impacted areas mean the areas with some reasonable potential for residual radioactivity in excess of natural background or fallout levels.

* * * * *

Non-impacted areas mean the areas with no reasonable potential for residual radioactivity in excess of natural background or fallout levels.

* * * * *

7. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.36b, 50.44, 50.46, 50.47, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.62, 50.63, 50.64, 50.65, 50.66, 50.68, 50.71, 50.72, 50.74, 50.75, 50.80, 50.82, 50.83, 50.90, 50.91, 50.120, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, R, and S to this part.

* * * * *

8. In § 50.75, paragraph (g)(4) is added to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

* * * * *

(g) * * *

(4) Licensees shall maintain property records containing the following information:

(i) Records of the site boundary, as originally licensed, which must include a site map;

(ii) Records of any acquisition or use of property outside the originally licensed site boundary for the purpose of receiving, possessing, or using licensed materials;

(iii) The licensed activities carried out on the acquired or used property; and

(iv) Records of the disposition of any property recorded in paragraphs (g)(4)(i) or (g)(4)(ii) of this section, the historical site assessment performed for the disposition, radiation surveys performed to support release of the property, submittals to the NRC made in accordance with § 50.83, and the methods employed to ensure that the property met the radiological criteria of 10 CFR part 20, subpart E, at the time the property was released.

9. In § 50.82, paragraph (a)(9)(ii)(H) is added and paragraph (a)(11)(ii) is revised to read as follows:

§ 50.82 Termination of license.

* * * * *

(a) * * *

(9) * * *

(ii) * * *

(H) Identification of parts, if any, of the facility or site that were released for use before approval of the license termination plan.

* * * * *

(11) * * *

(ii) The final radiation survey and associated documentation demonstrate that the facility and site, including any parts released for use before approval of the license termination plan, are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E.

* * * * *

10. A new § 50.83 is added to read as follows:

§ 50.83 Release of part of a power reactor facility or site for unrestricted use.

(a) Prior written NRC approval is required to release part of a facility or site for unrestricted use at any time before receiving approval of a license termination plan. Section 50.75 specifies recordkeeping requirements associated with partial release. Nuclear power reactor licensees seeking NRC approval shall—

(1) Evaluate the effect of releasing the property to ensure that—

(i) The dose to individual members of the public from the portion of the facility or site remaining under the license does not exceed the limits of 10 CFR part 20, subpart D;

(ii) There is no reduction in the effectiveness of emergency planning or physical security;

(iii) Effluent releases remain within license conditions;

(iv) The environmental monitoring program and offsite dose calculation manual are revised to account for the changes;

(v) The siting criteria of 10 CFR part 100 continue to be met; and

(vi) All other applicable statutory and regulatory requirements continue to be met.

(2) Perform a historical site assessment of the part of the facility or site to be released; and

(3) Perform surveys adequate to demonstrate compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402 for impacted areas.

(b) For release of non-impacted areas, the licensee may submit a written request for NRC approval of the release if a license amendment is not otherwise required. The request submittal must include—

(1) The results of the evaluations performed in accordance with § 50.59 and paragraphs (a)(1) and (a)(2) of this section;

(2) A description of the part of the facility or site to be released;

(3) The schedule for release of the property; and

(4) A discussion that provides the reasons for concluding that the environmental impacts associated with the licensee's proposed release of the property will be bounded by appropriate previously issued environmental impact statements.

(c) After receiving an approval request from the licensee for the release of a non-impacted area, the NRC shall—

(1) Determine whether the licensee has adequately evaluated the effect of releasing the property as required by paragraph (a)(1) of this section;

(2) Determine whether the licensee's historical site assessment is adequate; and

(3) Upon determining that the licensee's submittal is adequate, inform the licensee in writing that the release is approved.

(d) For release of impacted areas, the licensee shall submit an application for amendment of its license for the release of the property. The application must include—

(1) The information specified in paragraphs (b)(1) through (3) of this section;

(2) The methods used for and results obtained from the radiation surveys required to demonstrate compliance with the radiological criteria for unrestricted use specified in 10 CFR 20.1402; and

(3) A supplement to the environmental report, pursuant to § 51.53, describing any new information or significant environmental change associated with the licensee's proposed release of the property.

(e) After receiving a license amendment application from the licensee for the release of an impacted area, the NRC shall—

(1) Determine whether the licensee has adequately evaluated the effect of

releasing the property as required by paragraph (a)(1) of this section;

(2) Determine whether the licensee's historical site assessment is adequate;

(3) Determine whether the licensee's radiation survey for an impacted area is adequate; and

(4) Upon determining that the licensee's submittal is adequate, approve the licensee's amendment application.

(f) The NRC shall notice receipt of the release approval request or license amendment application and make the approval request or license amendment application available for public comment. Before acting on an approval request or license amendment application submitted in accordance with this section, the NRC shall conduct a public meeting in the vicinity of the licensee's facility for the purpose of obtaining public comments on the proposed release of a part of the facility or site. The NRC shall publish a document in the **Federal Register** and in a forum, such as local newspapers, which is readily accessible to individuals in the vicinity of the site, announcing the date, time, and location of the meeting, along with a brief description of the purpose of the meeting.

Dated at Rockville, Maryland, this 28th day of August, 2001.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 01–22139 Filed 8–31–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–129–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes. This proposal would require installation of a backup pressure regulating valve on the oil pump of the propeller control unit (PCU) on both engines. This action is necessary to prevent a build-up of oil pressure in the oil pump of the PCU should the existing valve fail. Such failure of the pressure regulating valve could lead to oil leaks, fracture of the pump, inability to maintain engine oil pressure, and inability to feather the propeller, with consequent reduced controllability of the aircraft. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 4, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–129–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–129–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: James Delisio, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7521; fax (516) 256–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–129–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–129–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–100, –200, and –300 series airplanes. The TCCA advises that there have been two incidents of oil leaks from the oil pump on the propeller control unit (PCU), due to a failure of the existing pressure regulating valve in the fully closed (highest possible pressure) position. Such failure could lead to a build-up of oil pressure in the oil pump of the PCU, resulting in oil leaks, fracture of the pump body, inability to maintain engine oil pressure, and inability to feather the propeller, with consequent reduced controllability of the aircraft.