



DEPARTMENT OF THE NAVY

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Ser 31/ 4810
01 NOV '93

From: Commanding Officer, Navy Environmental Health Center

Subj: NAVY RADIOACTIVE MATERIAL PERMIT (NRMP) INFORMATION NOTICE
93-11

Ref: (a) Title 10, Code of Federal Regulations, Part 30.35(g)
(10 CFR 30.35(g))

Encl: (1) Federal Register, Vol 58, No. 141, July 26, 1993;
Decommissioning Recordkeeping and License Termination:
Documentation Additions

1. The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to decommissioning recordkeeping to require licensees to prepare and maintain additional documentation. The additional regulations are more explicit concerning documentation that must be maintained to ensure all relevant areas of possible contamination will be identified at decommissioning to allow review and possible confirmatory survey by the responsible regulatory authority. The additional requirements are contained in the notice of final rulemaking, enclosure (1).

2. Currently, reference (a) requires licensees to maintain information important to decommissioning, including:

a. Records of spills or events involving the spread of contamination when contamination remains after cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas.

b. As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination.

3. Enclosure (1) requires each command holding an NRMP for NRC licensed material to establish and maintain a list of certain areas in a single document which is updated every two years. The list must contain the following:

a. All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003.

b. All areas outside of restricted areas that require documentation under reference (a). See Paragraph 2 above.

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c. All areas outside of restricted areas which contain material that would require decontamination or special approval for disposal under 10 CFR 20.2002 upon termination of a permit.

Areas containing only sealed sources (provided the sources have not leaked or no contamination remains after cleanup of any leak) or materials with half-lives less than 65 days, or depleted uranium used only for shielding do not have to be listed. Therefore, if your NRMP only authorizes materials with half-lives less than 65 days and/or sealed sources, you may not be required to maintain the list addressed by enclosure (1).

4. Your list should go back into the history of your operations as far as possible. You should also include non-NRC licensed material, such as radium, in your evaluations. The effective date of the rule, enclosure (1), is 25 October 1993.

5. For further information, please call Mr. P. D. Tveten, Radiation Health Department (NEHC-312), at DSN 564-4657 or (804) 444-4657, Ext. 227.

G. I. Snyder
G. I. SNYDER
By direction

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DECOMMISSIONING
RECORD KEEPING - FR 7/26/93

byproduct material, source material, special nuclear material, or for independent storage of spent nuclear fuel and high-level radioactive waste prepare and maintain additional documentation that identifies all restricted areas where licensed materials and equipment were stored or used, all areas outside of restricted areas where documentation is required under current decommissioning regulations for unusual occurrences or spills, all areas outside of restricted areas where waste has been buried, and all areas outside of restricted areas containing material such that if the license were terminated, the licensee would be required to decontaminate the area or seek special approval for disposal. The final rule also requires licensees to submit specific information at the time of final decommissioning on decontaminated equipment that had been involved in the licensed activity that will remain onsite at the time of license termination. The information required by these amendments will provide greater assurance that decontamination and decommissioning of licensee facilities have been carried out in accordance with the Commission's regulations. EFFECTIVE DATE: October 25, 1993. FOR FURTHER INFORMATION CONTACT: Dr. Carl Feldman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 482-3883.

SUPPLEMENTARY INFORMATION:

Background

NRC licensees subject to the requirements of 10 CFR Parts 30, 40, 70, and 72 who wish to terminate their licenses must decontaminate all contaminated facilities and sites according to NRC requirements before the NRC can authorize the termination of the license. Therefore, the licensee's application for license termination, and other records on decommissioning available from the licensee, must contain sufficient information on the residual radioactivity levels in the licensee's facilities and sites to allow the NRC staff to make a determination on whether the licensee's facilities and sites can be released for unrestricted use.

A General Accounting Office (GAO) report, "NRC Decommissioning Procedures and Criteria Need to Be Strengthened" (GAO/RCED-89-119, May 26, 1989), indicated incomplete recordkeeping as a potential problem. The issue was also discussed by the NRC at the hearing before the Energy and Environment Subcommittee of the House Committee on Interior and

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 70, and 72-

RIN 3150-AD86

Decommissioning Recordkeeping and License Termination: Documentation Additions

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to require holders of a specific license for possession of certain

Insular Affairs, chaired by Congressman Mike Synar of Oklahoma (Synar Subcommittee) on August 3, 1988. Both the GAO report and the Synar Subcommittee were concerned that, because of poor or insufficient knowledge as to the location within a licensee's site where licensee activities were conducted, the NRC could terminate a license and release facilities and sites for unrestricted use which may remain partially contaminated at levels which would be unacceptable. Currently, NRC's rules on decommissioning recordkeeping (10 CFR 30.35(g), 40.36(f), 70.25(g), and 72.30(d)) specifically require licensees to keep certain records important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Commission. These records include drawings of structures and equipment in restricted areas where radioactive materials were used or stored, documentation identifying the location of inaccessible residual contamination, and detailed descriptions of unusual occurrences or spills of radioactive materials that can affect decommissioning. In addition, NRC's rules (10 CFR 20.2108) require licensees to maintain records on the location and radionuclide content of waste burial areas until license termination. However, these rules are not sufficiently explicit to ensure that all relevant areas of possible contamination will be identified at the actual time of decommissioning. For example, the licensee is not specifically required to list (1) all areas designated and formerly designated as restricted areas; (2) all areas outside of restricted areas that require documentation under the current decommissioning rules; (3) all areas outside of restricted areas where radioactive waste has been buried and require documentation under the current rules; (4) all areas outside of restricted areas which contain radioactive material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval of disposal (e.g. tailings piles); and (5) the location and description of equipment to remain onsite after license termination that was considered to be radioactively contaminated when final decommissioning was initiated. Yet the NRC will need to know of the existence and location of these areas and equipment in order to perform its confirmatory survey.

On October 7, 1991 (56 FR 30524), the NRC published a notice of proposed

rulemaking in the Federal Register. The purpose of this proposed rulemaking was to clarify and make more explicit the recordkeeping and documentation requirements specified in the recently enacted decommissioning amendments (June 27, 1988, 53 FR 24018). The proposed rule would have required licensees to maintain in a single document and certify for completeness and accuracy, a list of the following:

(1) All onsite areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003;

(2) All onsite areas, other than restricted areas, where radioactive materials in quantities greater than amounts listed in Appendix C to §§ 20.1001-20.2401 of 10 CFR part 20 are or have been used, possessed or stored;

(3) All onsite areas, other than restricted areas, where spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site have occurred that required reporting pursuant to § 30.50 (b)(1) or (b)(4), including areas where subsequent cleanup procedures have removed the contamination; and

(4) All known locations and radionuclide contents of previous and current burial areas within the site.

Areas that contained byproduct material having half-lives of 10 days or less, or depleted uranium used only for shielding or as penetrators in unused munitions, or sealed sources authorized to be used at "temporary job sites" outside of the licensee's permanent facility and site boundary as specified in the license would not have had to be listed.

The proposed rule also would have required licensees who are required to submit a decommissioning plan, to submit this list as part of their plan. Finally, the proposed rule would have required that the above list include the location and description of all equipment, involved in the licensed operation, that is to remain onsite after license termination.

The comment period on the proposed rule expired December 23, 1991. Public comments were received on the proposed rule and are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW. (Lower Level), Washington, DC.

The NRC received nine comment letters in response to the proposed rule. The commenters consist of a broad institutional licensee, a medical licensee, State agencies, a Federal Government laboratory, several material

licensees, and a nuclear power utility. In a number of cases, letters from different commenters addressed similar issues. The NRC has identified and responded to 12 separate issues that include all of the significant points raised by the commenters. The comments and NRC responses are presented below.

Summary and Analysis of Public Comments

1. Comment. The listing requirement under the expiration and termination of license which states that "Upon approval of the decommissioning plan by the Commission, the licensee shall . . . include a list of the location and description of all equipment involved in licensed operations that is to remain onsite at the time of license termination" is too broad. For example, as one commenter argued, under the proposed requirement, even a typewriter can be considered as a piece of "equipment involved in licensed operations" because the typewriter was used to generate reports concerning the licensed activities. Another commenter stated that "old" equipment decontaminated and returned to inventory for others to use should not be tracked until the termination of the license.

Response. The supplementary information to the proposed rule stated that, ". . . equipment to be left onsite at the time of license termination are appropriate for listing since these may be potential sources of exposure." It is not the intent of the Commission that licensees should list and track equipment such as a typewriter which never was contaminated or "old" equipment decontaminated to unrestricted area release levels and returned to inventory until the time of license termination; existing requirements in §§ 20.401 and 20.2103 require records of surveys made to confirm that equipment is suitable for unrestricted before it is removed from the site. Rather, the intention of this recordkeeping requirement is to ensure that any (contaminated) equipment that was decontaminated during decommissioning and is to be left onsite after license termination is identified. This would assist the NRC in performing a confirmatory survey. Therefore, the rule has been modified to clarify that contaminated equipment that has been or will be sent offsite to authorized radioactive waste disposal sites or decontaminated and released from the site to some other location and use need not be listed. A licensee is not required to identify this equipment prior to conducting the decontamination

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and decommissioning operations. Specifically, §§ 30.35(c)(3), 40.42(c)(3), 70.38(c)(3), and 72.54(e)(2) will now read as follows:

... and shall include a list containing the location and description of all equipment to remain onsite after license termination that was contaminated when final decommissioning was initiated."

2. Comment. Extend the exemption to all sealed sources on or offsite provided there has been no damage to or leakage from the sources. Commenters supported NRC's assessment that the risk of "contamination" from any sealed source "authorized to operate at temporary job sites" is minimal under normal use conditions. One commenter questioned the impact of the proposed rule on the uses of brachytherapy sources. Another commenter suggested that all sealed sources on or off the site should be exempted from the proposed rule provided there has been no damage or leakage from the sources.

Response. The NRC agrees that areas containing only sealed sources, both on or off the site, need not be listed provided the sealed sources have not leaked, or no contamination remains after any leak. Sections 30.35(g)(3) and 70.25(g)(3) have been amended to reflect this decision.

3. Comment. Will the proposed requirements be retroactive?

Response. The NRC does not intend for the requirements to be retroactive. However, the list should be as complete as possible and licensees should go back into the history of their licensed operation as far as possible to develop their initial list. After the initial list is generated, it would need to be updated at least every 2 years. Therefore, §§ 30.35(g)(3), 40.36(f), 70.25(g)(3), and 72.30(d)(3) have been amended to reflect this position.

4. Comment. Aside from exempting radioactive materials that possess half-lives of 10 days or less, an exemption should also be given for those radioactive materials that through time of possession have also decayed to very low levels.

Response. In principle it seems reasonable to exempt radioactive materials with half-lives greater than 10 days if during their time of possession they have decayed to very low levels. However, in practice this would be difficult to implement because the NRC would need to define, at that time, what NRC considers to be "very low levels." In addition, most licensees cannot predict the exact time of their license termination. However, the NRC agrees that the 10-day half-life is too restrictive. Moreover, materials with

less than 65-day half-lives are already authorized by the Commission for decay-in-storage, for example, under 10 CFR 25.92. Therefore, a 65-day half-life appears to be a more reasonable and consistent limit. The rule has been modified accordingly. It is important to note that the purpose of this recordkeeping rule is to prevent contaminated areas and equipment from being overlooked at the time of license termination, because of inadequate recordkeeping. Any large amount of licensed material, no matter how short the half-life, should be properly controlled, surveyed, inventoried, and documented at all times. At the time of license termination, if the licensee possesses a sufficient amount of short half-life materials to affect decommissioning, the Commission would expect that the licensee would be able to identify the areas where these materials are used and/or stored.

5. Comment. The proposed rule is unduly burdensome and will not ensure that the stated aim is met. Therefore, the proposed rule should be withdrawn and problems that have been identified should be solved by existing methods, such as during routine inspections, under the current requirements, such as decommissioning regulations (10 CFR part 30.35) and 10 CFR part 20, subpart M, and through real time inspection and enforcement programs. At some large research institutions, the burdens created by the proposed regulation would be very significant because activities with small amounts of radioactive materials are conducted in numerous rooms and buildings.

Response. The Commission has carefully considered the comments received and reviewed the impact of the proposed rule. The discussed changes have been made to minimize the recordkeeping burden without diminishing the effectiveness of the rule. In addition, aside from the required list of previous and current restricted areas designated in the proposed rule, the final rule requires only the list of areas outside of restricted areas that require documentation (records) in the existing rule under §§ 30.35(g)(1), 40.36(f)(1), 70.25(g)(1), and 72.25(g)(1) for spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. Further, those records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas. The NRC regards remaining contamination as anything above the NRC's most current residual

radioactivity criteria for allowing release for unrestricted use; see 57 FR 13382, April 18, 1992, for case specific guidance on this issue.

Rulemaking activities for specifying residual radioactivity limits for site cleanup are presently underway. As a result of these changes, only those areas and equipment that need to be surveyed by the NRC prior to license termination are now required to be listed. One comment from a large research institution noted that licensed activities and work locations changed on a frequent basis, and over time, rooms were renumbered or even disappeared. Although this rule only requires a list of previously restricted areas, it is prudent for all licensees to retain records of general historical information to support decisions by the licensee and the Commission on what decommissioning actions are necessary to release a facility for unrestricted use. Detailed records required by the regulations and other general information is often needed to determine how closely various areas must be surveyed to verify that they are suitable for unrestricted use. This information also may be needed to respond to allegations that certain decommissioning actions may not have been adequate to protect public health and safety. Therefore, in addition to the specific records required by this rule, all licensees are encouraged to maintain records of general information that will allow them to produce an accurate historical account of all licensed activities conducted during the life of the facility.

As a practical matter, the current regulations do not provide the assurance that all areas that need to be surveyed will be identified. This rule provides that assurance. As now modified, this rule applies to those areas of actual or potential contamination, whether restricted areas or areas outside of restricted areas, that the licensee would be expected to identify.

6. Comment. The requirement to list, in a single document, is redundant and too restrictive. Listing should allow reference to other records.

Commenters stated that licensees already have the required information under existing NRC regulations and license conditions. Although not in a specific listing, the information can be obtained from the licensee's existing records. Commenters also stated that the proposed requirement for a single document is too restrictive and that the current NRC decommissioning recordkeeping requirement (e.g., 10 CFR 70.25(g)) already requires licensees to keep decommissioning records "in an identified location." Certain documents

kept by the licensee at various locations for decommissioning purposes (e.g., as-built drawings submitted with original license application, results of wipe tests, etc.) need not be duplicated by the licensee at the central location but only referenced to their locations from a central location. These commenters further stated that to require that records be maintained in a single document will impose an unnecessary burden on licensees who must create a new document containing information found in other documents.

Response. Although the required information may be redundant because the information contained in the "single document" may exist in other licensee records, this information may not be in a form either readily available for inspection, or more important, to facilitate a confirmatory survey prior to license termination. In addition, information needed in the "single document" can be lost over a period of time because there is consequently no specific requirement for the licensee to create or maintain such a record until the end of the license. This was one of the points made at the hearing before the Energy and Environment Subcommittee of the House Committee on Interior and Insular Affairs, chaired by Congressman Mike Synar of

Oklahoma (held on August 3, 1989). Thus, to assure that the needed information both exists and is available, the NRC is requiring the subject list and that it be a single document. Guidance explicitly specifying the level of detail expected in the list is being developed and included in a Regulatory Guide on material facilities decommissioning recordkeeping requirements.

7. Comment. The proposed 10 CFR 30.35(g)(3)(i) which requires a listing of "all onsite areas designated or formerly designated as restricted areas" should include an indication of the type of material used in each of these areas.

Response. The Commission does not believe that it is necessary to include this information in the list required by this rule. The documentation requirements currently contained at 10 CFR 30.35(g)(1) and corresponding sections under 10 CFR parts 40, 70, and 72, already require the information for situations the NRC considers appropriate, including spills and unusual occurrences.

8. Comment. The proposed requirement under 10 CFR 30.35(g)(3)(ii) is inconsistent because licensees are required to list all onsite areas, other than restricted areas, for radioactive materials in quantities greater than a certain threshold amount, i.e., new part 20 appendix C values), or

yet this same amount for certain materials (e.g., I-125) can be exempt under 10 CFR 30.71, Schedule B. Therefore, to reduce the size of the "single document" and to be consistent with current requirements, it was proposed that the threshold amount be increased 10 (or 100) times.

Response. Upon consideration of this comment, the NRC has concluded that only areas outside of the licensee's restricted areas that actually have been contaminated by these materials in a way that affects decommissioning need be listed. Any areas contaminated above the NRC unrestricted area release criteria outside of the licensee's restricted areas and covered under 10 CFR 30.35(g)(1) and corresponding sections of 10 CFR parts 40, 70, and 72 would require inclusion in the list as discussed earlier under Comment 5.

The NRC notes that the small quantities of material listed in 10 CFR 30.71, Schedule B, can only be distributed for certain uses by a licensee holding a distribution license pursuant to 10 CFR 32.18. Persons possessing such material are exempt from the regulations pursuant to 10 CFR 30.18. Distribution licenses under 10 CFR 32.18 authorize distribution of exempt materials in approved chemical/physical forms for specified purposes only. Manufacturers of byproduct materials are strictly prohibited under 10 CFR 30.18, from distributing radioactive materials to the general public, no matter how small the quantity, without the NRC approving the intended application of the material on a case-by-case basis.

9. Comment. The proposed requirements under 10 CFR 30.35(g)(3)(iii) are inconsistent with other regulatory requirements because licensees would be required to keep records of all incidents requiring reports as specified in 10 CFR 30.50(b)(1) or (4), and yet under current 10 CFR 30.35(g)(1), records of spills or other unusual occurrences in restricted areas may be "limited to instances when contamination remains after any cleanup procedures . . ."

Response. The NRC agrees that there was an inconsistency between the proposed requirements and current regulations under 10 CFR 30.35(g)(1). The intent of the proposed §§ 30.35(g)(3)(iii) was to ensure that at the time of actual decommissioning, all areas (i.e., restricted areas as well as unrestricted areas) that may still have contamination resulting from spills or other unusual occurrences are identified. The NRC agrees with the commenter that the current requirement under 10 CFR 30.35(g)(1) is sufficient to

handle this concern because it covers all onsite areas. Therefore, proposed §§ 30.35(g)(3)(iii) has been deleted from the final rule, as have proposed §§ 40.36(f)(3)(iii) and 70.25(g)(3)(iii).

10. Comment. Listing of buried waste should include offsite as well as onsite specification if such waste has not been disposed of in a licensed disposal facility.

Response. The Commission agrees with this comment. However, 10 CFR 20.2108, "Records of Waste Disposal," already requires that these records be kept "until the Commission terminates each pertinent license requiring the record." Therefore, the proposed requirement to list "all known locations and radionuclide contents of previous and current burial areas within the site" is modified in the final rule to list all areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108, since the purpose of this rule is to consolidate all necessary information in one list.

However, the Commission is concerned that there may be areas outside of the licensee's restricted area containing radioactive materials which have radioactive concentrations greater than levels authorized by the Commission for unrestricted release, which are not considered to be spills or unusual occurrences, and which are currently not documented under 10 CFR 20.2108 because the licensee either does not consider these materials currently to be waste, or plans to dispose of these materials before the license is terminated. The Commission is concerned that these areas, if forgotten at the time of license termination, may become de facto areas of onsite disposal of radioactive waste. Onsite disposal would have to be authorized by the NRC per licensee application under 10 CFR 20.2002, subpart K and documented. Therefore, to clarify the original intent of this proposed requirement,

§§ 30.35(g)(3)(iii), 40.36(f)(3)(iii), and 70.25(g)(3)(iii) of the proposed rule have been changed to include in the list "All areas outside of restricted areas which contain material so that, if the license expired the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.302 or 20.2002."

See the response to Comment 5 for NRC case specific guidance concerning residual radioactivity limits for site cleanup. The NRC does not believe that similar requirements are necessary for part 72 licensees, because these licensees are not likely to have conduct of operations which would result in

contaminated areas arising from situations other than unusual occurrences or spills, which are already covered.

11. Comment. Proposed requirements under 10 CFR part 72 should allow independent spent fuel storage facilities that had previously held a part 50 license to use their part 50 records (i.e., 50.75(g)) to satisfy the listing requirements.

Response. Current part 50 licensees will have to apply to the NRC for a separate license if they wish to establish an independent spent fuel storage installation (ISFSI) under 10 CFR part 72. Whether the part 72 licensee was formerly a part 50 licensee is immaterial to the NRC in determining whether the applicant should get a part 72 license. The recordkeeping requirement for a part 72 license (72.18(d)) is similar to that for a part 50 license (50.75(g)); nevertheless, for the reasons explained in response to Comment 6, this does not allow for an exemption from the provisions of the listing requirement. Therefore, regardless of whether the part 72 licensee is also a holder of a part 50 license, the part 72 licensee should still provide the required listing.

12. Comment. A discussion needs to be included about the degree of compatibility this rule will require with respect to the Agreement States.

Response. The NRC agrees. In this case, the Commission believes that there is no reason for strict compatibility, and that while the Agreement States should have requirements similar to those being adopted in this final rule, they should be permitted flexibility to apply more stringent requirements if the States deem them appropriate. Therefore, the Commission proposed a Division 2 matter of compatibility and provided the Agreement States an opportunity to comment. The Agreement States generally agreed that such a level of compatibility was reasonable.

Summary of Final Rule Provisions

A. The final rule contains new requirements applicable to the licensed possession and use of source, byproduct, and special nuclear materials, and independent storage of spent nuclear fuel and high-level radioactive waste during ongoing facility operations.

Sections 30.35(g)(3), 40.36(f)(3), and 70.25(g)(3). Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after cleanup of any leak) or byproduct materials having only half-lives of less than 65 days, or depleted uranium used only for shielding or as penetrators in unused

munitions, licensees will be required to establish and maintain a list, contained in a single document. This list must be updated every 2 years, and include the following:

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003;

(ii) All areas outside of restricted areas that require documentation under § 30.35(g)(1) or 40.36(f)(1) or 70.25(g)(1);

(iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108; and

(iv) All areas outside of restricted areas which contain material that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.302 or 20.2002.

Section 72.30(d): A list contained in a single document. The list must be updated every 2 years and include the following:

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003;

(ii) All areas outside of restricted areas that require documentation under § 72.30(d)(1).

B. For those licensees who are required to submit a decommissioning plan, new requirements are applicable at the plan submittal and license termination stage.

Sections 30.36(c)(2)(iii)(D), 40.42(c)(2)(ii)(D), 70.38(c)(2)(iii)(D), and 72.54(b)(4). The information required in section A (the list of areas) above and any other information not required by section A that is considered necessary to support the adequacy of the decommissioning plan for approval.

Sections 30.36(c)(3), 40.42(c)(3), 70.38(c)(3), and 72.58(e)(2). " * * * and shall include a list containing the location and description of all equipment to remain onsite after license termination that was contaminated when final decommissioning was initiated."

Environmental Impact—Categorical Exclusion

The NRC has determined that this regulation is the type of action described in categorical exclusion 10, CFR 51.22(c)(3) (ii) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject

to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval numbers 3150-0017, 3150-0020, 3150-0009, and 3150-0132.

Public reporting burden for this collection of information is estimated to average 5 hours per licensee response, including the time required reviewing instructions, searching existing data sources, gathering and maintaining the data needed and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB-7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NE08-3019, (3150-0017, 3150-0020, 3150-0009, and 3150-0132), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a final regulatory analysis for this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The Commission requested public comment on the draft regulatory analysis, but no comments were received. However, because of comments on the proposed rule amendments, significant changes were made to the final rule amendments which considerably lessen the impact on licensees. Therefore, the draft regulatory analysis was changed to reflect the modified final rule and its subsequent reduced regulatory impact. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant impact upon a substantial number of small entities. The final rule, contrary to the proposed rule, will only affect a small number of small entities because licensees will not be required to list either sealed sources that do not leak or unsealed licensed materials with half-lives of less than 65 days. Even for affected small entity licensees, the added requirements would require only a small effort not exceeding approximately 5 hours to compile the information and create the required list which essentially documents

information the licensee already has or will have. In fact, licensee costs may be reduced to the extent that these requirements allow the licensee to be terminated more expeditiously.

Backfit Analysis

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

List of Subjects

10 CFR Part 30

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

10 CFR Part 40

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

10 CFR Part 70

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

10 CFR Part 72

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

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 30, 40, 70, and 72.

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

2. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, as amended; 234, 235 Stat. 444, as amended (42 U.S.C. 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2201, 2232, 2233, 2234, 2235, 2236, 2237).

secs. 207, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246. (42 U.S.C. 5841, 5842, 5846).

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

2. Section 30.8 is amended by revising paragraph (b) to read as follows:

§ 30.8 Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§ 30.9, 30.11, 30.15, 30.19, 30.20, 30.32, 30.34, 30.35, 30.36, 30.37, 30.38, 30.41, 30.50, 30.51, 30.55, and Appendix A.

3. Section 30.35 is amended by redesignating paragraph (g)(3) as paragraph (g)(4) and adding a new paragraph (g)(3) to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

(g) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after any leak) or byproduct materials having only half-lives of less than 65 days, a list contained in a single document and updated every 2 years, of the following:

- (i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003;
- (ii) All areas outside of restricted areas that require documentation under § 30.35(g)(1).
- (iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2106; and
- (iv) All areas outside of restricted areas which contain material such that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR 20.302 or 20.2002.

4. Section 30.38 is amended by redesignating paragraph (c)(2)(iii)(D) as (c)(2)(iii)(E), adding a new paragraph (c)(2)(iii)(D), and revising paragraph (c)(3) to read as follows:

§ 30.38 Expiration and termination of licenses.

(c) (2) (iii) (D) (2)

(iii) * * *

(D) The information required in § 30.35(g)(3) and any other information required by § 30.35(g) that is considered necessary to support the adequacy of the decommissioning plan for approval;

(3) Upon approval of the decommissioning plan by the Commission, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in paragraph (c)(1)(v) of this section, shall certify the disposition of accumulated wastes from decommissioning, and shall include a list containing the location and description of all equipment to remain onsite after license termination that was contaminated when final decommissioning was initiated.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for part 40 continues to read as follows:

Authority: Secs. 62, 63, 84, 85, 81, 181, 182, 183, 188, 68 Stat. 932, 933, 934, 942, 953, 954, 955, as amended, sec. 116(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), 2082, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 98-373, 73 Stat. 688 (42 U.S.C. 2071); sec. 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. 97-416, 98 Stat. 2087 (42 U.S.C. 2022).

Section 40.7 also issued Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2182). 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).

6. Section 40.8 is amended by revising paragraph (b) to read as follows:

§ 40.8 Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§ 40.25, 40.26, 40.31, 40.35, 40.36, 40.42, 40.43, 40.44, 40.60, 40.61, 40.84, 40.85, and Appendix A.

7. Section 40.36 is amended by redesignating paragraph (d)(3) as paragraph (d)(4) and adding a new paragraph (d)(3) to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

(3) Except for areas containing depleted uranium used only for shielding or as penetrators in unused munitions, a list contained in a single document and updated every 2 years, of the following:

- (i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003;
- (ii) All areas outside of restricted areas that require documentation under § 40.36(f)(1);
- (iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108; and
- (iv) All areas outside of restricted areas which contain material so that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR Part 20.302 or 20.2002.

8. Section 40.42 is amended by redesignating paragraph (c)(2)(iii)(D) as paragraph (c)(2)(iii)(E), adding a new paragraph (c)(2)(iii)(D), and revising paragraph (c)(3) to read as follows:

§ 40.42 Expiration and termination of licenses.

- (c)
- (2)
- (iii)

(D) The information required in § 40.36(f)(3) and any other information necessary to support the adequacy of the decommissioning plan for approval:

(3) Upon approval of the decommissioning plan by the Commission, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in paragraph (c)(1)(v) of this section, shall certify the disposition of accumulated wastes from decommissioning, and shall include a list containing the location and description of all equipment to remain onsite after license termination that was contaminated when final decommissioning was initiated.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

9. The authority citation for part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 162, 183, 68 Stat. 928, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); sec. 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 70.20(a)(b) also issued under sec. 125, 141, Pub. L. 97-425, 98 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-801, sec. 10, 92 Stat. 2951 (42 U.S.C. 2157). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.21 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.81 also issued under sec. 186, 187, 68 Stat. 955 (42 U.S.C. 2238, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

10. Section 70.8 is amended by revising paragraph (b) to read as follows:

§ 70.8 Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§ 70.19, 70.20a, 70.20b, 70.21, 70.22, 70.24, 70.25, 70.32, 70.33, 70.34, 70.38, 70.39, 70.42, 70.50, 70.51, 70.52, 70.53, 70.57, 70.58, 70.59, and 70.60.

11. Section 70.25 is amended by redesignating paragraph (g)(3) as paragraph (g)(4) and adding a new paragraph (g)(3) to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

(g)

(3) Except for areas containing only sealed sources (provided the sources have not leaked or no contamination remains after cleanup of any leak), a list contained in a single document and updated every 2 years, of the following:

- (i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003;
- (ii) All areas outside of restricted areas that require documentation under § 70.25(g)(1);
- (iii) All areas outside of restricted areas where current and previous wastes have been buried as documented under 10 CFR 20.2108; and
- (iv) All areas outside of restricted areas which contain material so that, if the license expired, the licensee would be required to either decontaminate the area to unrestricted release levels or apply for approval for disposal under 10 CFR part 20.302 or 20.2002.

12. Section 70.38 is amended by redesignating paragraphs (c)(2)(iii)(D)

and (c)(2)(iii)(E) as paragraphs (c)(2)(iii)(E) and (F), adding a new paragraph (c)(2)(iii)(D), and revising paragraph (c)(3) to read as follows:

§ 70.38 Expiration and termination of licenses.

- (c)
- (2)
- (iii)

(D) The information required in § 70.25(g)(3) and any other information necessary to support the adequacy of the decommissioning plan for approval:

(3) Upon approval of the decommissioning plan by the Commission, the licensee shall complete decommissioning in accordance with the approved plan. As a final step in decommissioning, the licensee shall again submit the information required in paragraph (c)(1)(v) of this section, shall certify the disposition of accumulated wastes from decommissioning, and shall include a list containing the location and description of all equipment to remain onsite after license termination that was contaminated when final decommissioning was initiated.

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

13. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 88, 61, 161, 162, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2082, 2083, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2238, 2237, 2238, 2282); sec. 274 Pub. L. 95-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5845); Pub. L. 95-801, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102 Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 98 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under sec. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 98 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart j also issued under sec. 2(2), 2(15),

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2119), 117(a), 141(b), Pub. L. 97-425, 96 Stat. 2202, 2703, 2204, 2222, 2744, (42 U.S.C. 10107, 10137(a), 10761(h). Subparts K and L are also issued under sec. 131, 98 Stat. 2230 (42 U.S.C. 10153) and 218(a) 98 Stat. 2252 (42 U.S.C. 10198).

14. Section 72.30 is amended by revising the section heading, redesignating paragraph (d)(3) as paragraph (d)(4) and adding a new paragraph (d)(3) to read as follows:

§ 72.30 Financial assurance and recordkeeping for decommissioning.

(d) * * *

(3) A list contained in a single document and updated no less than every 2 years of the following:

(i) All areas designated and formerly designated as restricted areas as defined under 10 CFR 20.3(a)(14) or 20.1003; and

(ii) All areas outside of restricted areas that require documentation under § 72.30(d)(1).

15. Section 72.54 is amended by redesignating paragraph (b)(4) as paragraph (b)(6), adding a new paragraph (b)(4) and revising paragraph (e)(2) to read as follows:

§ 72.54 Application for termination of license.

(b) * * *

(4) The information required in § 72.30(d)(3) and any other information required by § 72.30(d) that is considered necessary to support the adequacy of the decommissioning plan for approval:

(e) * * *

(2) The terminal radiation survey and associated documentation demonstrates that the ISPSI and site are suitable for release for unrestricted use and the licensee include a list containing the location and description of all equipment to remain onsite after license termination that was contaminated when final decommissioning was initiated.

Dated at Rockville, Maryland, this 12th day of July 1993.

For the Nuclear Regulatory Commission,

James M. Taylor,

Executive Director for Operations.

[FR Doc. 93-17505 Filed 7-27-93; 8:45 am]

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