advantage of this growing market, and to improve returns to producers, the committee recommended these changes. According to committee funded research, retailers consider vine-ripe tomatoes to be the tomato type of the future. This has been a market that has been expanding and it is a market where the Florida tomato industry has room to grow and expand its market share. The committee believes that producer field-packed tomato will increase the volume of vine-ripe tomatoes available from Florida. The committee also believes that it will allow producers to harvest tomatoes that might otherwise have been left in the field. There is also an indication that handlers will be willing to pay a higher price for producer field-packed tomatoes. The committee believes that the higher prices combined with additional tomato sales should increase returns to producers.

There are some additional costs associated with packing in the field. Picking, grading, and sizing by hand is more time consuming and costly than by machine. However, there are indications that producer field-packed tomatoes will command a higher price. Also, the regulated industry is not required to use this exemption. Therefore, the additional costs are voluntary.

These changes are intended to provide additional flexibility for all those covered under the order. The opportunities and benefits of this rule are expected to be equally available to all tomato handlers and growers regardless of their size of operation. This action will have a beneficial impact on producers and handlers since it will allow tomato handlers to make additional supplies of tomatoes available to meet consumer needs consistent with crop and market conditions.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the committee's meeting was widely publicized throughout the tomato industry and all interested persons were invited to attend the meeting and participate in committee deliberations. Like all committee meetings, the September 11, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

After consideration of all relevant material presented, including the committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This rule invites comments on a change to the handling requirements currently prescribed under the Florida tomato marketing order. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This change is a relaxation of current requirements; (2) the Florida tomato season begins October 10; (3) the committee unanimously recommended these changes at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 966.323 is amended by revising paragraph (d)(1) and the first sentence in paragraph (g) to read as follows:

§ 966.323 Handling regulations

* * * * *

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top, and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes. Specialty packed red ripe tomatoes, yellow meated tomatoes, and single layer and two layer place packed tomatoes are exempt from the container net weight requirements specified in paragraph (a)(3)(i) of this section, and the requirement that each container or lid shall be marked to indicate the designated net weight as specified in paragraph (a)(3)(ii) of this section, but must meet the other requirements of this section. Producer field-packed tomatoes are also exempt from the container net weight requirements specified in paragraph (a)(3)(i) of this section, the requirement that each container or lid shall be marked to indicate the designated net weight as specified in paragraph (a)(3)(ii) of this section, and the requirement that all containers must be packed at the registered handler's facilities as specified in paragraph (a)(3)(ii) of this section, but must meet the other requirements of this section.

* * * * *

(g) *Definitions. Hydroponic tomatoes* means tomatoes grown in solution without soil; *greenhouse tomatoes* means tomatoes grown indoors; *specialty packed red ripe tomatoes* means tomatoes which at the time of inspection are #5 or #6 color (according to color classification requirements in the U.S. tomato standards) with their calyx ends and stems attached and cell packed in a single layer container; and *producer field-packed tomatoes* means tomatoes which at the time of inspection are #3 color or higher (according to color classification requirements in the U.S. tomato standards), that are picked and place packed in new containers in the field by a producer as defined in § 966.150 and transferred to a registered handler's facilities for final preparation for market. * * *

Dated: October 8, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–27518 Filed 10–9–98; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AF84

Minor Revision of Design Basis Accident Dose Limits for Independent Spent Fuel Storage and Monitored Retrievable Storage Installations

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations governing the dose limits and the dose calculational methodology used in design basis accident analyses for Independent Spent Fuel Storage Installations (ISFSIs) and Monitored Retrievable Storage Installations (MRS). This final rule amends ISFSI and MRS design basis accident dose limits to conform to the dose calculational methodology currently used in the regulations that specify standards for protection against radiation and make a minor change to match the Environmental Protection Agency's (EPA) regulations. This action will ensure that limits for design basis accidents at ISFSI and MRS installations are consistent with the dose methodology specified in NRC radiation protection regulations, and will allow licensees the flexibility provided by that dose methodology when performing design basis accident analyses.

EFFECTIVE DATE: November 12, 1998.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Nuclear Material Safety and Safeguards, U.S Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6103, E-mail: INTERNET:NST@nrc.gov

SUPPLEMENTARY INFORMATION:

Background

Paragraph (b) of § 72.106 establishes the dose limit for a design basis accident at an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS). The dose limit in § 72.106(b) is based on the dose calculational methodology contained in International Commission on Radiological Protection Publication Number 2 (ICRP–2, 1959). The ICRP–2 methodology was subsequently revised in ICRP Publication Number 26 (ICRP–26, 1977), and was incorporated into 10 CFR part 20 when part 20 was revised in 1991.

The calculational methodology in the revised part 20 no longer quantifies dose in terms of whole body dose and individual organ dose. Instead, the dose is quantified as a risk equivalent dose. In this manner, the doses absorbed by the whole body and the individual organs can be summed to a single quantity relating to risk.

Under the part 20 calculational methodology, *deep-dose equivalent* (H_d), which applies to the external whole-body exposure, is defined in 10 CFR 20.1003 as the dose equivalent at a tissue depth of 1 cm (1000 mg/cm^2). The committed dose equivalent (CDE)($H_{T,50}$) is defined in 10 CFR 20.1003 to mean the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake. The *committed effective dose equivalent* (CEDE) ($H_{E,50}$) is defined in 10 CFR 20.1003 as the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues ($H_{E,50} = \Sigma W_T H_{T,50}$). The *total effective dose equivalent* (TEDE) is the sum of the deep-dose equivalent (for external exposure) and the committed effective dose equivalent (for internal exposures).

The ICRP–26 methodology was not incorporated into part 72 at the time part 20 was revised. Part 72 contains two regulations setting dose limits: § 72.104, which sets dose limits during normal operations and anticipated occurrences; and § 72.106, which sets dose limits for design basis accidents.

The main objective of this final rule is to revise § 72.106(b) to incorporate the part 20 methodology. A second objective of the rule is to make a minor word change to § 72.104(a) to match the language used by EPA in 40 CFR 191.03(a).

On March 19, 1998 (63 FR 13372), the NRC published the notice of proposed rulemaking that would amend ISFSI and MRS design basis accident dose limits to conform to the dose calculational methodology currently used in 10 CFR part 20, and to make a minor change to § 72.104(a) to match EPA's regulation in 40 CFR 191.03(a). The public comment period expired May 4, 1998.

Discussion

At present, § 72.106, Controlled area of an ISFSI or MRS in part provides:

(b) Any individual located on or beyond the nearest boundary of the controlled area shall not receive a dose greater than 5 rem to the whole body or any organ from any design basis accident. The minimum distance from the spent fuel or high-level radioactive waste handling and storage facilities to the nearest boundary of the controlled area shall be at least 100 meters.

This 0.05 Sv (5 rem) limit to the whole body or any organ is amended in the final rule to conform with the part 20 dose calculational methodology. The amended limit becomes the more limiting of the TEDE of 0.05 Sv (5 rem), or the sum of the deep dose equivalent and the committed dose equivalent to any individual organ or tissue (other than the lens of the eye) of 0.5 Sv (50 rem). The amendment also includes a separate dose limit for the lens of the eye of 0.15 Sv (15 rem); and for the skin or any extremity, a shallow dose equivalent of 0.5 Sv (50 rem). The use of separate dose limits for the lens of the eye, skin, and extremities will conform with the dose calculational methodology used in part 20 and will ensure that no observable effects (e.g., induction of cataracts in the lens of the eye) will occur as a result of any accidental radiation exposure.

This final rule makes § 72.106 consistent with part 20 dose calculational methodology. This rule also provides part 72 licensees flexibility when performing design basis accident analyses because they would be able to use organ weighting factors to calculate the dose to the maximally exposed organ. In addition, part 72 licensees will no longer need to comply with one calculational methodology for their radiation protection programs (i.e., the revised part 20 methodology) and another methodology for their design basis accident analyses.

This final rule does not revise § 72.104(a) to incorporate ICRP–26 methodology because doing so would render this regulation incompatible with the EPA's regulation at 40 CFR 191.03(a) which is applicable to ISFSI and MRS licensees. However, 40 CFR 191.03(a) phrases the standard in terms of dose limits to the whole body and any critical organ; whereas, § 72.104(a) phrases the standard in terms of dose limits to the whole body and any organ. This final rule makes § 72.104(a) more consistent with 40 CFR 191.03(a) by inserting the word critical before the word organ. The critical organ (listed in Table 1 of ICRP–2) associated with an intake of radioactive material is considered to be that organ of the body whose damage by the radiation results in the greatest damage to the body.

This final rule adopts the term ''Lens dose equivalent'' in § 72.106 which replaces the term ''Eye dose equivalent''. This new term was added to part 20 in an NRC final rule published on July 23, 1998 (63 FR 39477).

Public Comments on the Proposed Rule

The NRC received two public comments: one from the Nuclear Energy Institute (NEI), an organization that represents the nuclear energy industry, and the other from TSW Enterprises, a private company. Both commenters supported the proposed rule. NEI, while expressing disappointment that NRC was not amending § 72.104(a) because this would create incompatibility with EPA's regulation, urged the NRC to

proceed with the revisions as proposed. TSW Enterprises also supported the proposed rule and suggested that in § 72.104(a) the radiation exposure limits be expressed in metric units as well as English units in accord with the Commission's policy on the use of metric units (61 FR 31169). The Commission agrees with this suggestion and this change is made in the final rule.

Criminal Penalties

For purposes of section 223 of the Atomic Energy Act (AEA), the Commission is issuing the final rule under one or more of sections 161b, 161: or 161o of the AEA. Willful violations of the rule will be subject to criminal enforcement.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

If 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

To determine whether the amendments to 10 CFR part 72 are appropriate, the NRC staff considered the following two alternatives:

1. *The No-Action Alternative.* This alternative is not acceptable to the NRC for the following reasons. Section 72.106(b) would continue to be inconsistent with part 20. Part 72 licensees would demonstrate compliance with the dose limits in part 20 using the 1977 dose calculational methodology of ICRP–26 for their radiation protection programs as required by §§ 72.24(e) and 72.44(d). However, part 72 licensees would continue to use the 1959 dose calculational methodology of ICRP–2 in addressing radiation dose from a design basis accident as required in § 72.106(b). Thus, licensees would not be able to take advantage of the flexibility provided by the dose calculational methodology used in part 20 when performing design basis accident analyses. Therefore, this alternative was not pursued.

2. *Amendments of 10 CFR part 72.* In this option, the staff considered preparing a proposed rule to amend the dose limiting design objective in § 72.106(b) to 5 rem TEDE. This is consistent with the intent of the existing § 72.106(b), and updates the dose calculational methodology to that which is used for demonstration of compliance with part 20. Updating the dose calculational methodology also would increase the organ dose limit, CDE, from 5 rem to 50 rem; allow for the use of risk-based weighting factors for each organ or tissue to determine the 50-year CEDE; and provide licensees with additional flexibility in conducting and submitting design basis accident analyses to demonstrate compliance with the requirements in § 72.106(b).

In addition to the increased flexibility provided to licensees, they would no longer need to comply with one calculational methodology for their radiation protection programs (i.e., the revised part 20 methodology) and another methodology for their design basis accident analyses.

Moreover, design basis accident analyses for ISFSIs and MRS installations would use the same dose calculational methodology as design basis accident analyses for a geologic repository operations area (§ 60.136(b)). This alternative was chosen by the NRC.

This constitutes the regulatory analysis for this final rule. As discussed above, this rule does not impose any new requirements. Therefore, there will be no additional cost burden to part 72 licensees or the Federal Government.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. The final rule will provide licensees with additional flexibility in conducting and submitting design basis accident analyses to demonstrate compliance with the requirements in § 72.106(b). In addition, the licensees would no longer need to comply with one calculational methodology for their radiation protection programs (i.e., the revised part 20 methodology) and another methodology for their design basis accident analyses.

The final rule will not impose any additional obligations on entities that may fall within the definition of ''small entities'' as set forth in section 601(3) of the Regulatory Flexibility Act; or within the definition of ''small business'' as found in section 3 of the Small Business Act, 15 U.S.C. 632; or within the size standards adopted by the NRC on April 11, 1995 (60 FR 18344).

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a ''major rule'' and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Backfit Analysis

The NRC has determined that the backfit rule, § 72.62, does not apply to this final rule, and a backfit analysis is not required, because these amendments do not involve any provisions that would impose backfits as defined in § 72.62(a). This final rule does not constitute a backfit under § 72.62, because it does not require a change to existing structures, systems, components, procedures, or organization. Further, the rule will not result in a more stringent outcome than the existing rule, and therefore, current licensees who are in compliance with the existing rule will not be required to make any changes or take any action. New applicants and license renewal applications will be able to take advantage of some additional flexibility in the dose calculations that is afforded by this rule.

Agreement State Implementation Issues

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, (62 FR 46517), this rule is classified as a compatibility Category ''NRC.'' This rule is not required for compatibility and addresses areas of exclusive NRC authority. This area of regulations cannot be relinquished to Agreement States pursuant to the Atomic Energy Act and, as such, States should not adopt this regulation.

List of Subjects in 10 CFR Part 72

Criminal penalties, Manpower training programs, 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. 553, the Commission is adopting the following amendments to 10 CFR part 72.

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

1. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.104, the introductory text of paragraph (a) is revised to read as follows:

§ 72.104 Criteria for radioactive materials in effluents and direct radiation from an ISFSI or MRS.

(a) During normal operations and anticipated occurrences, the annual dose equivalent to any real individual who is located beyond the controlled area must not exceed 0.25 mSv (25 mrem) to the whole body, 0.75 mSv (75 mrem) to the thyroid and 0.25 mSv (25 mrem) to any other critical organ as a result of exposure to:

* * * * *

3. In § 72.106, paragraph (b) is revised to read as follows:

§ 72.106 Controlled area of an ISFSI or MRS.

* * * * *

(b) Any individual located on or beyond the nearest boundary of the controlled area may not receive from any design basis accident the more limiting of a total effective dose equivalent of 0.05 Sv (5 rem), or the sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue (other than the lens of the eye) of 0.5 Sv (50 rem). The lens dose equivalent shall not exceed 0.15 Sv (15 rem) and the shallow dose equivalent to skin or to any extremity shall not exceed 0.5 Sv (50 rem). The minimum distance from the spent fuel or high-level radioactive waste handling and storage facilities to the nearest boundary of the controlled area must be at least 100 meters.

* * * * *

Dated at Rockville, Maryland, this 24th day of 1998.

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations.

[FR Doc. 98–27349 Filed 10–9–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–32–AD; Amendment 39–10822; AD 98–21–13]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain British Aerospace Jetstream Model 3101 airplanes. This AD requires replacing the elevator trim servo motor with a new motor of improved design; and inspecting the cable tension and electrical operation of the elevator and trim tab for proper operation, and making any necessary adjustments. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent the elevator trim servo motor drive gear assembly from remaining engaged when the autopilot is disengaged, which could result in the pilot having to manually overpower the elevator trim control and possibly lose directional control of the airplane during critical phases of flight.

DATES: Effective November 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 20, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–32–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain British Aerospace Jetstream Model 3101 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 17, 1998 (63 FR 33018). The NPRM proposed to require replacing the elevator trim servo motor with one of improved design; and inspecting the cable tension and electrical operation of the elevator and trim tab for proper operation, and making any necessary adjustments. Accomplishment of the proposed actions as specified in the NPRM would be in accordance with Jetstream Service Bulletin 22–A–JA 860413, ORIGINAL ISSUE: April 16, 1986, and British Aerospace Alert Service Bulletin Jetstream 22–A–JA 851231, ORIGINAL ISSUE: April 9, 1986.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the