

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, "Nuclear Criticality Safety Standards for Fuels and Material Facilities," is temporarily identified by its task number, DG-3030, which should be referenced in all related correspondence. DG-3030 is proposed Revision 2 of Regulatory Guide 3.71, dated October 2005.

Draft regulatory guide DG-3030 provides applicants, licensees and certificate holders with updated guidance concerning criticality safety standards that the U.S. Nuclear Regulatory Commission (NRC) has endorsed for use with nuclear fuels and material facilities. As such, DG-3030 describes methods that the NRC staff considers acceptable for complying with the NRC's regulations in Title 10, of the *Code of Federal Regulations*, parts 70, "Domestic Licensing of Special Nuclear Material," and 76, "Certification of Gaseous Diffusion Plants" (10 CFR parts 70 and 76).

Pursuant to 10 CFR 70.20, a specific license is required to acquire, deliver, receive, possess, use, transfer, import, or export special nuclear material, and applications for such licenses must, pursuant to 10 CFR 70.22(a)(8), include proposed procedures to avoid nuclear criticality accidents. Similarly, 10 CFR part 76 certificate holders are required by 10 CFR 76.87(c) to include in their technical safety requirements procedures and/or equipment that address criticality prevention.

The NRC staff has developed DG-3030 to provide guidance on complying with these portions of the NRC's regulations. DG-3030 describes procedures for preventing nuclear criticality accidents in operations that involve handling, processing, storing, and/or transporting special nuclear material at fuel and material facilities.

DG-3030 endorses specific nuclear criticality safety standards developed by the American Nuclear Society's Standards Subcommittee 8 (ANS-8), "Operations with Fissionable Materials Outside Reactors." DG-3030 is not intended for use by nuclear reactor licensees.

**II. Further Information**

The NRC staff is soliciting comments on DG-3030. Comments may be accompanied by relevant information or supporting data and should mention DG-3030 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments by any of the following methods:

1. *Mail comments to:* Rules, Announcements, and Directives Branch, Mail Stop: TWB-05-B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

2. *Federal e-Rulemaking Portal:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID [NRC-2010-0265]. Address questions about NRC dockets to Carol Gallagher, 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

3. *Fax comments to:* Rules, Announcements, and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492-3446.

Comments would be most helpful if received by September 29, 2010. Comments received after that 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. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Requests for technical information about DG-3030 may be directed to the NRC contact, Tamara D. Powell at (301) 492-3211 or e-mail [Tamara.Powell@nrc.gov](mailto:Tamara.Powell@nrc.gov).

Electronic copies of DG-3030 are available through the NRC's public Web site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession No. ML100950065. The regulatory analysis may be found in ADAMS under Accession No. ML101440446.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

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Dated at Rockville, Maryland, this 22nd day of July 2010.

For the Nuclear Regulatory Commission.

**Harriet Karagiannis,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2010-18883 Filed 7-30-10; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2010-0267]

**Notice of Public Workshop on a Potential Rulemaking for Spent Nuclear Fuel Reprocessing Facilities**

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of Public Workshop.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) plans to conduct two public workshops to solicit public input on major issues associated with the development of a regulatory basis document that, if necessary, will form the basis of a potential rulemaking for spent nuclear fuel reprocessing facilities. The public workshops are intended to solicit the views of representatives of interests that may be affected by a potential rulemaking for reprocessing facilities. Members of the public are invited to provide written

comments on the issues presented in this notice and to attend the workshops to provide feedback on the issues associated with the development of a regulatory basis for a potential rulemaking. The public workshops will be held in Rockville, Maryland on September 7–8, 2010 and in Albuquerque, New Mexico, during the week of October 4, 2010.

**DATES:** Members of the public may provide feedback at the transcribed public workshops or may submit written comments on the issues discussed. The comment period closes on November 5, 2010. NRC plans to consider these stakeholder views in the development of a regulatory basis for a potential rulemaking on reprocessing. Written comments may be sent to the address listed in the **ADDRESSES** section. Questions about participation in the round table discussion at the public workshops should be directed to the facilitator at the address listed in the **ADDRESSES** section. Members of the public planning to attend the workshops are invited to RSVP at least ten (10) days prior to each workshop. Replies should be directed to the points of contact listed in the **FOR FURTHER INFORMATION CONTACT** section. The public workshops will be held in Rockville, Maryland on September 7–8, 2010, from 9 a.m. to 5 p.m. and in Albuquerque, New Mexico, on the week of October 4, 2010, from 9 a.m. to 5 p.m. The September 7–8, 2010 workshop will be held at the Hilton Washington DC/Rockville Hotel & Executive Meeting Center, located at 1750 Rockville Pike, Rockville, Maryland. The exact dates and location for the October 2010 workshop in Albuquerque, NM will be noticed no fewer than ten (10) days prior to the workshop on the NRC's electronic public workshop schedule at <http://www.nrc.gov/publicinvolve/public-meetings/index.cfm>. In addition, the final agenda for both public workshops will also be noticed at the above referenced website address. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the issues proposed for discussion at the public workshops.

**ADDRESSES:** Submit written comments to the Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Mail Stop TWB 5B01M, Washington, DC 20555–0001, and cite the publication date and page number of this **Federal Register** notice, or by fax at 301–492–3446. Comments may also be submitted electronically at <http://www.regulations.gov> and search

for documents filed under Docket ID NRC–2010–0267. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Questions regarding participation in the roundtable discussions should be submitted to the facilitator, Francis Cameron, by telephone at 240–205–2091, or by e-mail at [fxcameo@gmail.com](mailto:fxcameo@gmail.com).

**FOR FURTHER INFORMATION CONTACT:** Jose Cuadrado, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–492–3287; e-mail [Jose.Cuadrado@nrc.gov](mailto:Jose.Cuadrado@nrc.gov), or Jeannette Arce, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–492–3411; e-mail [Jeannette.Arce@nrc.gov](mailto:Jeannette.Arce@nrc.gov).

The public may examine and have copied for a fee, publicly available documents at the Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Publicly available documents created or received at NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agency-wide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS, contact the Public Document Room at 1–800–397–4209, 301–415–4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **1.0 Background**

The NRC has the authority under the Atomic Energy Act to license commercial spent fuel reprocessing facilities. Currently, 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," provides the licensing framework for production and

utilization facilities. Although a reprocessing facility is one type of production facility, its industrial processes are more akin to fuel cycle processes. This framework was established in the 1970's to license the first US reprocessing facilities. The policy decision by the Carter Administration to cease reprocessing initiatives was based, in part, on the proliferation risks posed by the early reprocessing technology. This policy ultimately halted NRC licensing activities for commercial reprocessing facilities. While that policy was reversed during the Reagan Administration, there was no longer any commercial interest in reprocessing and thus no need to update the existing reprocessing regulatory framework in Part 50.

Although commercial reprocessing interest waned, the Department of Energy (DOE) continued to pursue reprocessing technology development through the National Laboratories. DOE has sought to decrease proliferation risk and spent fuel high level waste through developing more sophisticated reprocessing technology.

During the Bush Administration, the Global Nuclear Energy Partnership (GNEP) rekindled the interest in commercial reprocessing. GNEP sought to expand the use of civilian nuclear power globally and close the nuclear fuel cycle through reprocessing spent fuel and deploying fast reactors to burn long-lived actinides. In response to these initiatives, the Commission, in Staff Requirements Memorandum (SRM) to SECY–07–0081, "Regulatory Options for Licensing Facilities Associated with the Global Nuclear Energy Partnership," dated June 27, 2007 (ADAMS ML071800084), directed the staff to complete an analysis of 10 CFR Chapter I to identify regulatory gaps for licensing an advanced reprocessing facility and recycling reactor.

In mid-2008, two nuclear industry companies informed the agency of their intent to seek a license for a reprocessing facility in the U.S. An additional company expressed its support for updating the regulatory framework for reprocessing, but stopped short of stating its intent to seek a license for such a facility. At the time, NRC staff also noted that progress on some Global Nuclear Energy Partnership (GNEP) initiatives had waned and it appeared appropriate to shift the focus of the staff's efforts from specific GNEP-facility regulations to a more broadly applicable framework for commercial reprocessing facilities.

In SECY–08–0134, titled, "Regulatory Structure for Spent Fuel Reprocessing,"

dated September 12, 2008 (ADAMS ML082110363), the staff discussed the shift in its approach to developing the regulatory framework development for commercial reprocessing facilities. The staff noted that it would defer additional work on regulatory framework development efforts for advanced recycling reactors and focus on the framework revisions necessary to license a potential application for commercial reprocessing. As a result of this shift, the staff indicated that an additional review of the initial gap analysis was warranted.

NRC staff performed a regulatory gap analysis and summarized it in SECY-09-0082, "Update on Reprocessing Regulatory Framework—Summary of Gap Analysis," dated May 28, 2009 (ADAMS ML091520243). The staff's gap analysis identified 14 "high" priority gaps that must be resolved to establish an effective and efficient regulatory framework. The regulatory gaps broadly cover four main areas: (1) Reprocessing waste-related issues, (2) physical protection and material control and accounting, (3) risk, and (4) licensing issues. The NRC staff's regulatory gap analysis considered several documents in its analysis, including: NUREG-1909, a white paper authored by the Advisory Committee on Nuclear Waste and Materials (ACNW&M) titled "Background, Status and Issues Related to the Regulation of Advanced Spent Nuclear Fuel Recycle Facilities," issued June 2008; correspondence from the Union of Concerned Scientists titled, "Revising the Rules for Materials Protection, Control and Accounting;" and an NEI white paper titled, "Regulatory Framework for an NRC Licensed Recycling Facility."

Building on the gap analysis, efforts are currently underway to develop a regulatory (technical) basis to pursue rulemaking that would enable the effective licensing and regulation of reprocessing facilities. The status of the regulatory basis development and estimated schedule for completing the reprocessing regulatory development are summarized in a May 14, 2010, memorandum to the Commission (ADAMS ML101110444).

In advance of NRC staff's development of the regulatory basis document for reprocessing facility licensing, and, if necessary, a possible rulemaking, the NRC will conduct public workshops inviting representatives of interested stakeholders in a "roundtable" format. At these workshops, NRC plans to discuss with stakeholders the issues to be considered in the development of the regulatory basis document for

reprocessing facility licensing, which, in turn, will serve as the basis for possible rulemaking. NRC plans to consider these stakeholder views in the development of the regulatory basis document. In order to have a manageable discussion, the number of participants around the table will be limited. The NRC, through the workshop facilitator, will attempt to ensure broad participation by the spectrum of interests affected by the rulemaking, including citizen and environmental groups, nuclear industry interests, state, and local governments, and experts from academia and other federal agencies. Other members of the public are welcome to attend. Those not seated at the tables, including individual members of the public, will have the opportunity to provide feedback on each of the issues slated for discussion by the roundtable participants. Questions about participation in the roundtable discussion may be directed to the facilitator.

Section 2.0 describes issues associated with the regulatory gaps in SECY-09-0082 and will broadly cover four main areas: (1) Reprocessing waste-related issues, (2) physical protection and material control and accounting, (3) risk, and (4) licensing issues.

## 2.0 Issues for Discussion

During the public workshops, the NRC plans to solicit stakeholder comments and feedback during four separate discussion sessions. During each session, the NRC plans to discuss one of the four major categories of regulatory gaps for reprocessing facilities, as discussed in SECY-09-0082 (ADAMS ML091520243). The NRC will use a roundtable discussion format for all four discussion sessions. The four main categories of regulatory gaps are: (1) Reprocessing waste related gaps, (2) physical protection and material control and accounting gaps, (3) risk gaps, and (4) licensing gaps. Below is a brief discussion of the individual gaps in each category.

### I. Reprocessing Waste Related Gaps

#### a. Gap 2—Independent Storage of High-Level Waste

No independent waste storage options are available under 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste," to accommodate interim, commercial independent storage of solidified high-level waste (HLW) from reprocessing facilities. NRC staff is

developing a technical basis to establish the regulatory framework necessary for both the onsite storage and commercial independent storage of solidified HLW. Without this basis, there are no viable regulatory options for interim storage of solidified HLW from reprocessing facilities.

#### b. Gap 3—Waste Incidental to Reprocessing

The NRC lacks regulations defining certain waste streams resulting from spent fuel reprocessing as waste incidental to reprocessing, or incidental waste, rather than HLW. If the NRC does not develop an incidental waste rule, then an applicant for a reprocessing facility would face regulatory uncertainty with regard to differentiating HLW from incidental wastes produced at its facility.

#### c. Gap 16—Waste Classification

The waste classification tables in 10 CFR 61.55 include many radionuclides that would be associated with reprocessing waste streams. However, a few waste streams that contain radionuclides (e.g., krypton-85 separated from gaseous effluent, noble metals and some lanthanides) were not considered in the development of 10 CFR 61.55, and are not listed in either Table 1 or Table 2. If the gap is not addressed, some wastes associated with reprocessing facilities could be classified as Class A, but they may not be suitable for near-surface disposal at some sites.

#### d. Gap 15—Waste Confidence

The waste confidence decision published in the **Federal Register** on August 31, 1984 (49 FR 34658) discusses waste from reprocessing facilities in the first and third finding. The generic waste confidence rule in 10 CFR 51.23, "Temporary Storage of Spent Fuel after Cessation of Reactor Operation—Generic Determination of No Significant Environmental Impact," applies only to waste from reactor facilities. Therefore, in their environmental report, applicants for reprocessing facility licenses will need to address long-term storage of their waste. If the regulatory basis supports expansion of the waste confidence rule to include HLW, and if the rule is amended, then consideration of the environmental impacts of interim HLW storage will be considered generically. If, on the other hand, the waste confidence rule is not amended to include HLW generated from spent fuel reprocessing facilities, then the environmental impacts of interim HLW storage will need to be analyzed on a

site-specific basis (by the applicant in its environmental report and then by the staff in its National Environmental Policy Act environmental analysis).

## II. Physical Protection and Material Control and Accounting Gaps

### a. Gap 4—Exclusion of Irradiated Fuel Reprocessing Facilities in 10 CFR 74.51

The regulation in 10 CFR 74.51, “Nuclear Material Control and Accounting for Strategic Special Nuclear Material,” currently excludes irradiated fuel reprocessing facilities from Category I material control and accounting (MC&A) requirements. Category I reprocessing facilities would not have the same MC&A requirements as other Category I facilities if the exclusion is not removed, yet comparable requirements may be needed to protect against theft and diversion of separated special nuclear material and other materials. Accordingly, it is necessary to remove this exclusion to ensure the security of material in any proposed Category I reprocessing facility.

### b. Gap 8—Risk-Informing 10 CFR Part 73 and 10 CFR Part 74

The current type and quantity-based categorization scheme in the existing regulations may pose an undue regulatory burden in operating a reprocessing facility. Current requirements for facility processes and reprocessed fuel assemblies may result in excessive security and safeguards measures for relatively unattractive materials. Risk-informing 10 CFR Part 73, “Physical Protection of Plants and Materials,” and 10 CFR Part 74, “Material Control and Accounting of Special Nuclear Material,” is needed to prevent unintended consequences associated with a type and quantity-based material categorization scheme for potential materials resulting from a reprocessing operation.

### c. Gap 17—Diversion Path Analysis Requirements

There are no existing regulations for a diversion path analysis requirement under 10 CFR Part 74. Establishing diversion path analysis requirements would make 10 CFR Part 74 more risk-informed and would provide an effective detection and response program to mitigate potential safeguards vulnerabilities and system weaknesses. Under this requirement, affected reprocessing facilities would develop a more risk-informed safeguards program that considers a wide range of malevolent activities that might involve overt or covert adversaries. A burden

would be imposed upon such facilities to conduct a diversion path analysis and address any identified vulnerability.

### d. Gap 18—Approaches Toward Material Accounting Management

NRC staff is considering different changes and improvements to material inventory requirements for reprocessing facilities. Currently, 10 CFR 74.59(f) gives predefined quantity limits and timeliness requirements for Category I facilities, which must perform physical inventories every 6 months. Predefined limits on inventory difference determinations and the restriction on inventory periods could pose a regulatory challenge for reprocessing facilities, due to their large throughputs and inventories. Modern technology that has been developed or is being developed will help reprocessing facilities to meet the existing timeliness and quantity goals. Improved technology, such as near real time accounting, has been used at certain overseas reprocessing plants. This and other technologies can provide a more frequent inventory analysis without a facility shut-down, and will facilitate meeting the current timeliness and quantity goals. Additionally, incorporating a material holdup management program requirement into 10 CFR Part 74 to minimize the impact of material holdup could facilitate more accurate inventory accounting.

### e. Gap 20—Advanced Fuel Cycles and Transuranic Special Nuclear Material (SNM) Classification

Certain fissile elements such as americium (Am), neptunium (Np), and others, which are constituents of spent nuclear fuel, are currently not regulated or treated as other fissile or SNM material. Some advanced fuel cycle separation methods have the ability to separate these actinides, resulting in separated and pure fissile products. However, existing regulations do not address security risks for these types of fissile material. Although such advanced fuel cycle separation methods are not industrially mature and are still being researched, if advanced fuel cycles that separate these fissile elements receive commercial interest, the Commission may consider revisiting its policy of excluding these elements as SNM.

## III. Risk Gaps

### a. Gap 5—Risk Considerations for a Production Facility Licensed Under 10 CFR Part 70

Reprocessing facilities handle larger amounts of radioactive material than

other fuel cycle facilities. These higher amounts increase the relative risk of these facilities. The NRC revised 10 CFR Part 70 in 2000 based on a limited number of lower risk fuel cycle facilities, and the revision did not consider higher risk reprocessing facilities. These higher risks are not adequately addressed in the methodology established in 10 CFR Part 70. Therefore, if left unchanged, the requirements for reprocessing facilities licensed under 10 CFR Part 70 will be the same as those for the lower risk fuel cycle facilities. The NRC is considering various qualitative and quantitative approaches for establishing new risk assessment requirements for reprocessing facilities.

### b. Gap 9—Baseline Design Criteria (BDC)/General Design Criteria (GDC)

The existing baseline design criteria (BDC) in 10 CFR Part 70 do not comprehensively address hazards posed by the operation of a reprocessing facility. Although Appendix A, “General Design Criteria for Nuclear Power Plants,” to 10 CFR Part 50 provides general design criteria (GDC) for nuclear power plants, none of these GDC are specific to reprocessing facilities. The regulations in 10 CFR Part 70 have a few BDC directed more toward lower risk fuel cycle facilities. The NRC will consider multiple sources in establishing appropriate BDC or GDC for reprocessing facilities. The NRC will use the terms BDC and GDC interchangeably during its discussions.

### c. Gap 11—Technical Specifications

The provisions of 10 CFR Part 50 require technical specifications for reprocessing facilities. Such requirements may not be compatible with 10 CFR Part 70. For incorporation into 10 CFR Part 70, revisions will be needed to clarify the division between items relied on for safety (IROFS), which are derived from an integrated safety analysis (ISA), and technical specifications. Additionally, changes to technical specifications would require a license amendment, whereas similar changes under 10 CFR Part 70 licensed facilities could proceed under the facility change process in 10 CFR 70.72, “Facility Changes and Change Process,” if the changes meet these requirements.

### d. Gap 7—Licensed Operators and Criteria for Testing and Licensing Operators

Section 107 of the Atomic Energy Act of 1954, as amended, (AEA) requires production facilities to have licensed operators. However, the current criteria in 10 CFR Part 55, “Operators”

Licenses,” are not applicable, in whole, to operators of reprocessing facilities. The NRC needs to develop criteria in 10 CFR Part 55, “Operators’ Licenses,” or in a reprocessing-specific regulation in a revised 10 CFR Part 70 or new Part 7X, for testing and licensing operators of reprocessing facilities.

e. Gap 19—Effluent Controls and Monitoring

The requirements of 10 CFR Part 70 do not sufficiently address effluent controls and monitoring for reprocessing facilities [e.g., implementation of EPA regulations in 40 CFR Part 190, as required by 10 CFR 20.1301(e)]. Additional requirements for effluent controls and monitoring may be needed for reprocessing facilities because of the amounts of radioactive material that are handled in them and greater potential for emissions. Although the regulations in 10 CFR 50.34a, “Design Objectives for Equipment To Control Releases of Radioactive Material in Effluents—Nuclear Power Plants,” and 10 CFR 50.36a, “Technical Specifications on Effluents from Nuclear Power Reactors,” specify requirements for utilization facilities, these would require modification to address reprocessing and recycling facilities.

IV. Licensing Gaps

a. Gap 1—Regulatory Framework Options, Part 50 or Part 70

Currently, licensing a reprocessing facility under 10 CFR Part 50 would pose a significant hindrance to effective and efficient licensing. The regulations in 10 CFR Part 70, as currently written, do not provide a regulatory framework to license a reprocessing facility. Therefore, the staff is evaluating options for either revising Part 50 or Part 70, or develop regulations in a new Part 5X, or Part 7X.

b. Gap 6—Definition for Reprocessing Related Terms

There are currently no definitions of the terms “reprocessing,” “recycling,” and “vitrification.” Existing regulations in 10 CFR Parts 20, 50, 51, 60, 63, 70 and 72 use the term “reprocessing” without a definition. Accordingly, such definitions will need to be developed to describe both reprocessing and reprocessing facilities for 10 CFR Chapter I.

c. Gap 10—One-Step Licensing and Inspection, Testing and Acceptance Criteria (ITAAC) Requirements

Currently, regulations for one-step licensing of reprocessing facilities do not exist. One-step licensing

necessitates requirements to verify that the constructed facility conforms to the approved, licensed design. For reactors, 10 CFR Part 52 identifies these requirements as ITAAC. The regulations in 10 CFR Part 52 do not apply to reprocessing or other production facilities, nor do the requirements for the approval of applications set forth in 10 CFR 70.23, “Requirements for the Approval of Applications,” address reprocessing facilities. Clarity is needed in 10 CFR Part 70 to provide reasonable assurance that a reprocessing facility, undergoing a one-step licensing process, will have been constructed and will operate in conformity with the license, the AEA, and the Commission’s rules and regulations.

d. Gap 12—Financial Protection Requirements and Indemnity Agreements (10 CFR Part 140)

A reprocessing facility cannot be licensed without financial protection and indemnity agreements. Price Anderson protection and indemnity fees and amounts for reprocessing facilities are currently not included in 10 CFR Part 140, “Financial Protection Requirements and Indemnity Agreements.” Additionally, several appendices to 10 CFR Part 140 do not include forms for reprocessing facilities.

e. Gap 13—Schedule of Fees (10 CFR Part 170)

The scope of 10 CFR Part 170, “Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1954, as Amended,” does not include a production facility licensed outside 10 CFR Part 50.

f. Gap 14—Annual Fees (10 CFR Part 171)

The regulations in 10 CFR Part 171, “Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,” do not include annual fees for reprocessing facility licenses. The scope of the regulation, described in 10 CFR 171.3, does not specifically include reprocessing or production facilities.

Dated at Rockville, Maryland, this 23rd day of July 2010.

For the Nuclear Regulatory Commission.

**Marissa G. Bailey,**

*Deputy Director, Special Projects and Technical Support Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2010-18888 Filed 7-30-10; 8:45 am]

**BILLING CODE 7590-01-P**

**NUCLEAR REGULATORY COMMISSION**

[NRC-2010-0072]

**Notice of Issuance of Regulatory Guide**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance and Availability of Regulatory Guide 3.13, Revision 1, “Design, Construction, and Inspection of Embankment Retention Systems at Fuel Cycle Facilities.”

**FOR FURTHER INFORMATION CONTACT:**

Mark Orr, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 251-7495 or e-mail *Mark.Orr@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency’s “Regulatory Guide” series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 3.13, “Design, Construction, and Inspection of Embankment Retention Systems at Fuel Cycle Facilities,” was issued with a temporary identification as Draft Regulatory Guide, DG-3040. This guide describes some engineering practices and methods generally considered by the NRC to be satisfactory for the design, construction, and inspection of embankment retention systems used for retaining solid and liquid effluent from nuclear fuel cycle facility operations other than mining and milling. These practices and methods are the result of NRC review and action on a number of specific cases, and they reflect the latest general engineering approaches that are acceptable to the NRC staff. If future information results in alternative