

The Commission is proposing to amend the decommissioning regulations in 10 CFR Parts 2, 50, and 51 to clarify ambiguities in the current regulations and to codify procedures and terminology that have been used in a number of specific cases. The Commission believes that the proposed amendments would enhance efficiency and uniformity in the decommissioning process for nuclear power reactors. The proposed amendments would allow for greater public participation in the decommissioning process and furnish the licensed community and the public a better understanding of the process as the operating personnel at a nuclear power reactor facility undergo the transition from an operating organization to a decommissioning organization. This rulemaking would address the process which begins with a licensee's decision to permanently cease operations at the facility and concludes with the Commission's approval of license termination. These rule revisions would reduce regulatory burden while providing greater flexibility for implementing decommissioning activities. This would result in resource savings through a more efficient and uniform regulatory process.

The conceptual approach the Commission has chosen divides power reactor decommissioning activities into phases I, II, and III. Phase I commences with the effective date of permanent cessation of operations and deals with those licensee activities that the licensee undertakes before placing the power reactor in a storage mode. Phase II deals with licensee activities during the storage period, and Phase III deals with the activities the licensee undertakes to terminate the license. The implementation of this approach comprises the following aspects. During Phase I, certifications would be provided to the NRC that the licensee has permanently ceased operations and permanently removed all fuel from the reactor vessel. At this time, the licensee would be prohibited by regulation from operating the reactor. The proposed rule would also make changes to Part 50 requirements to reflect the non-operating status of the facility during the decommissioning process. The licensing fee would also be substantially reduced because the license would not meet the definition of an "operating license" as defined in 10 CFR 171.5. Based on these proposed regulatory changes a power reactor licensee would no longer need to obtain a possession only license amendment (POLA) to obtain regulatory relief when

permanently shut down, as currently must be done. However, for non-power reactor licensees, a POLA would still be issued.

Although no major decommissioning activities, as defined in 10 CFR 50.2, would be allowed initially, limited licensee decommissioning trust funds would be made available for planning purposes and early activities. The remaining decommissioning funds would be made available after submittal to the NRC of the licensee's detailed decommissioning cost estimate. Before undertaking major decommissioning activities, the licensee would be required to provide the NRC with a post-shutdown decommissioning activities report (PSDAR) that provides a schedule of planned decommissioning activities, an estimate of the decommissioning costs expected to be incurred, and a discussion of environmental impacts of decommissioning. The NRC, within a 90 day period, would inform the public of the licensee's intent to decommission, make the PSDAR available for public comment, and hold a public meeting in the vicinity of the site to describe the planned activities and hear additional public comments. The public meeting will normally be held at least 30 days before the 90 day period of time ends. This process will allow closer NRC oversight and better public knowledge of these activities.

After this 90 day period of time, the licensee could begin major decommissioning (i.e., dismantlement) activities as allowed under the current 10 CFR 50.59, unless the NRC interposes an objection. Additional criteria would be added to § 50.59 specifically pertinent to decommissioning activities. Further, should the licensee make any significant changes to the PSDAR activities and schedules, which NRC anticipates may occur as a result of such factors as utilization of new decommissioning technology or access to low-level waste facilities, the licensee would be required to give NRC prior notice before implementing those changes.

After an optional period of storage (Phase II), Phase III would be initiated when the licensee's application to terminate the license and license termination plan were received by the NRC. At this time, a supplemental environmental report would also be required if there were the possibility of significant environmental impacts not previously covered in other environmental impact statements. The Commission would notice receipt of this information and provide opportunity for a hearing, under Subpart L of 10 CFR

2.1201, on the license termination plan.¹ The Commission would also hold a public meeting in the vicinity of the site, in a similar manner to the one held for the PSDAR. Once the licensee had completed implementation of the termination plan and the Commission had verified that the licensee had satisfactorily implemented the termination plan then, as in the existing rule, the Commission would terminate the license. Any Subpart L hearing for the license termination plan amendment must be completed prior to license termination.

Three aspects of these proposed regulatory changes that can affect both power and non-power reactor facilities are addressed in the proposed rule for purposes of clarification. The first provides that environmental requirements for conditional release situations be explicitly considered (10 CFR 51), based on the proposed decommissioning residual radioactivity criteria rule (59 FR 43200 August 22, 1994). The second clarifies that a license that has expired is not terminated until the Commission terminates it and further clarifies what conditions prevail under such circumstances. The third clarifies that existing technical specifications for reactors that are not authorized to operate will remain effective until removed or modified by license amendment.

Additionally, an aspect of these proposed regulatory changes that affects non-power reactor facilities is addressed in the proposed rule for purposes of procedural simplification. The requirement in the current rule that preliminary decommissioning plans be submitted five years prior to permanent shutdown or license expiration has been changed to 2 years to take more realistic account of the planning time periods necessary for non-power reactor facilities.

Finally, also for purposes of procedural simplification, an aspect of these proposed regulatory changes that affects both power and non-power reactor facilities is that the approved decommissioning plan for the non-power reactor facilities or the approved license termination plan for the power reactor facilities be made part of the FSAR. This affords the licensee flexibility in making certain changes to these plans without a formalized

¹ The Subpart L process will be used and the 10 CFR 50 license will be terminated only if spent fuel has been removed from the 10 CFR Part 50 licensed site to another authorized facility. If spent fuel remains on the Part 50 site at the time of license termination plan submittal, the Subpart G process will be used.