

amendment process which would otherwise be necessary.

On August 22, 1994 (59 FR 43200), the NRC published a proposed rule on radiological criteria for decommissioning for comment. Section 20.1406(b) of the proposed rule would require that a Site Specific Advisory Board (SSAB) be convened in cases where a licensee proposes to request restricted release of the site. On December 6–8, 1994, a workshop on this issue was held in Washington, DC. The objective of the workshop was to conduct a discussion among affected interests on the implementation of the SSAB requirement. The current rule is not primarily intended to address the comments on the radiological criteria rule for decommissioning. However, the staff was cognizant of the comments made in that workshop and the language contained in this proposed rule does address the concern for early public information and participation raised in that forum. The staff will more directly address the workshop comments in the development of the final rule on the radiological criteria for decommissioning. If finalization of the radiological criteria rule requires any modifications to the current proposed rule, those modifications will be made as part of the radiological criteria rule development process.

II. Existing Regulatory Framework and Need for the Amendments

The Commission has examined the present regulatory framework for decommissioning, largely contained within 10 CFR 50.82, with additional requirements in 10 CFR 50.75, 51.53, and 51.95, as well as the 10 CFR 50 technical requirements, to ascertain the appropriate regulatory path to take that would ameliorate current licensing concerns without compromising health and safety.

The current rule requires a licensee to submit a preliminary decommissioning plan 5 years before permanent cessation of operations, with a site-specific cost estimate, and an adjustment of financial assurance funds. A detailed decommissioning plan must be submitted to the NRC within 2 years after permanent cessation of operations. At that time, a supplemental environmental report must also be submitted to the NRC describing any substantive environmental impacts that are anticipated but not already covered in other environmental impacts documents. The detailed decommissioning plan contains an updated site-specific cost estimate with decommissioning funds adjusted in an external trust to make up for any

shortfall. Currently, prior to approval of the decommissioning plan by the Commission, no decommissioning trust funds can be used (although case-specific exceptions have been made). Finally, aside from the licensee voluntarily informing the public about decommissioning activities, very limited public input or participation is formally required in the current rules. However, public meetings and informal hearings have been held for plants undergoing decommissioning for case-specific situations.

The proposed rule would preserve the substantive elements of the current regulations, provide for greater public participation in the decommissioning process, and allow the licensee to perform decommissioning activities provided certain constraints are met. The proposed rule would make the decommissioning process more responsive to current licensing needs and improve the process in the areas of understandability, efficiency, and uniformity.

During the Phase I process, proposed § 50.82(a) provides that, within 2 years of permanently ceasing operations, a post-shutdown decommissioning activities report (PSDAR) must be submitted to the NRC. The PSDAR would include a description of the licensee's planned decommissioning activities and a schedule for their accomplishment, an estimate of expected costs, and a discussion addressing whether or not the environmental impacts associated with site-specific decommissioning activities will be bounded by existing environmental impact statements. Upon receipt of the PSDAR, the NRC will announce in the **Federal Register** receipt of the report, make the PSDAR available for public comment, and announce the location and time of a public meeting to be held in the vicinity of the reactor facility site to discuss the licensee's plans.² Section 50.82(a) further states that after the NRC receives certification of permanent removal of the fuel from the reactor vessel and 90 days after the NRC receives the PSDAR, the licensee may begin to perform major decommissioning activities if the activities meet the requirements in § 50.59. This would generally occur 30 days after the public meeting.

The provisions of § 50.59 presently allow the licensee to make changes to the facility during operation without express NRC approval if these changes

meet the conditions listed in § 50.59, and the licensee prepares and maintains a written safety evaluation that provides the basis for their determination that the planned changes meet the criteria specified in the regulation. The NRC inspects these evaluations periodically to ensure that the licensee is complying with the regulation. To ensure that licensees adequately address the unique circumstances associated with decommissioning activities, the Commission is proposing to include additional criteria for the use of § 50.59 during decommissioning. The criteria would apply to both power and non-power reactors, although non-power reactor licensees could not perform major decommissioning activities until they had an approved decommissioning plan—as in the current rule. The Commission proposes that in using the § 50.59 process for post-shutdown activities the licensee must meet the following criteria which provide that the proposed activities must not: (1) Foreclose release of the site for possible unrestricted use, (2) significantly increase decommissioning costs, (3) cause any significant environmental impact not previously reviewed, or (4) violate the terms of the licensee's existing license. To undertake any activity that would not meet these criteria, the licensee must submit a license amendment request, as is currently the requirement under § 50.59(c).

The Commission proposes to codify the position embodied in the draft policy statement "Use of Decommissioning Trust Funds Before Decommissioning Plan Approval" (59 FR 5216; February 3, 1994) that the licensee should be allowed to use decommissioning trust funds subject to certain criteria. The criteria presented in the draft policy statement have been modified in the proposed rule in response to public comments. The Commission recognizes the need for the licensee to provide adequate financial assurance to complete decommissioning at any time during operation, up to and including the termination of license, and is proposing criteria, along with criteria that specify when and how much of these trust funds can be used, to ensure that licensees maintain adequate funds to complete decommissioning. In accordance with the current rule, the Commission proposes to retain, under § 50.75(f), the requirement for site-specific cost estimates 5 years before and within 2 years after the licensee's declaration of permanent cessation of operations. (For non-power reactors, the Commission

² There is nothing that prevents a licensee from developing and submitting the PSDAR and the NRC from holding the public meeting prior to the permanent cessation of operations.