

proposes to require, under § 50.75(f), that a preliminary decommissioning plan be submitted 2 years rather than the current 5 years before permanent cessation of operations because this is a more realistic timing requirement for non-power reactors.) Once the NRC has received the licensee's certification of permanent cessation of operations, decommissioning trust funds could be used by the licensee. However, the withdrawal of funds would be subject to the following criteria: (1) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2; (2) The expenditure would not reduce the value of the decommissioning trust below an amount necessary to place and maintain the licensee's reactor in a safe storage condition if unforeseen conditions or expenses arise and; (3) The withdrawals would not inhibit the ability of the licensee to complete funding of any shortfalls in the decommissioning trust needed to ensure the availability of funds to ultimately release the site and terminate the license.

The proposed rule would permit, under § 50.82(a)(7), that 3 percent of the generic decommissioning cost amount, specified in § 50.75, could be used by the licensee initially for decommissioning planning. Following the 90-day waiting period after the NRC has received the licensee's PSDAR and upon certification of permanent removal of fuel from the reactor vessel, an additional 20 percent could be used to commence major decommissioning activities. Finally, the proposed rule would require a site-specific cost analysis to be submitted to the NRC prior to the licensee being permitted to use any funding in excess of 23 percent of the generic cost estimate, and, in any case, within 2 years of permanent cessation of operations.

After an optional period of storage (Phase II of the decommissioning process), § 50.82(a)(8) of the proposed rule would require the licensee to complete decommissioning by submitting an application to terminate the license along with a license termination plan. This would initiate Phase III of the decommissioning process. This process is similar to the requirements in the current rule for a power reactor licensee that has permanently ceased operations and decides to go into a storage mode. The current rule allows a less detailed decommissioning plan initially, with the more detailed plan nearer to the completion of decommissioning because more accurate planning can be accomplished. The termination plan

would contain similar elements for consideration as the current rule requires. In particular, the proposed rule would require that the termination plan contain a site characterization, a description of remaining dismantlement activities (if any), plans for site remediation, detailed plans for the final radiation survey, a description of the end use of the site (if restricted), an updated site-specific analysis of remaining decommissioning costs, and a supplement to the environmental report, as required by § 51.53, that describes any new information or significant environmental change associated with the licensee's proposed decommissioning activities.

The NRC would notice receipt of the license termination plan as a license amendment, conduct a public meeting in the vicinity of the site, and provide opportunity for a 10 CFR part 2, subpart L, hearing, as specified in § 2.1201(a)(3), if the spent fuel had been removed from the 10 CFR part 50 licensed site and transferred to an authorized facility. Otherwise, there would be opportunity for a 10 CFR part 2, subpart G, hearing, as provided for in the current rules. The license could not be terminated if fuel were located on the site covered by the 10 CFR part 50 license. The Subpart L hearing is appropriate for the nature of a permanently shutdown facility where the spent fuel has been removed from the 10 CFR part 50 site and transferred to an authorized facility, since the defueled site is analogous to materials licensees that typically use Subpart L hearings for license amendments. Appropriate conforming amendments have been proposed for 10 CFR 2.1205 and 50.91 to reflect the application of subpart L hearings to 10 CFR part 50 license amendments following removal of the fuel from the 10 CFR part 50 licensed site and transfer to an authorized facility. Section 50.82(a)(9) would specify that the Commission would approve the termination plan and the plan would become part of the FSAR. (Similarly, for non-power reactors, the decommissioning plan would become part of the FSAR or equivalent.) As in the current rule, the licensee would then execute the plan and, after this was accomplished and verified by the NRC, the Commission would terminate the license.

In order to clear up various ambiguities in the current rule regarding power reactors, definitions of permanent cessation of operations, permanent removal of fuel from the reactor vessel, major decommissioning activity, major radioactive components and certified fuel handler, would be codified in § 50.2. Because a licensee

could choose to undertake major decommissioning activities at the reactor facility 90-days after the NRC receives the PSDAR, it is important to define what "major decommissioning activity" means. The definition chosen is, for a nuclear power reactor, any activity that results in permanent removal of major radioactive components, permanently modifies the structure of the containment, or results in dismantling components for shipment containing greater than class C waste. Accordingly, "major radioactive components" would be defined for a nuclear power reactor to comprise the reactor vessel and internals, steam generators, pressurizers, large bore reactor coolant system piping, and other large components that are radioactive.

Written communication requirements for licensee permanent cessation of operations and permanent removal of fuel from the reactor vessel would be specified in §§ 50.4(b) (8) and (9). The licensee would be required to state the date on which operations will cease, or have ceased, in its certification of permanent cessation of operations. The licensee, in its certification regarding permanent removal of fuel from the reactor vessel, would state the date on which the fuel assemblies were removed and their disposition.

Because of previous case-specific requests the NRC has received from licenses for exemptions from operating requirements in recognition of the permanent shutdown of the facility and permanent removal of fuel from the reactor vessel, the Commission has undertaken an analysis to determine the appropriateness of applying certain 10 CFR part 50 requirements during the post-shutdown period of the facility. The results of a portion of that study are presented in Section III of this rule.

This proposed rulemaking primarily addresses power reactor facilities because, unlike non-power reactor facilities, a delay of up to 60 years between the time of permanent cessation of operations and license termination can occur. Such a situation, especially under circumstances of premature closure, requires special regulatory consideration to deal with licensee decommissioning activities in a timely, efficient, and uniform manner. However, there are three aspects of these proposed regulatory changes that can affect both power and non-power reactor facilities. These aspects are addressed in the proposed rule for purposes of clarification. The proposed rule includes requirements for conditional release situations, as discussed in the proposed decommissioning residual radioactivity