

criteria rule (59 FR 43200; August, 22, 1994). Proposed § 51.53(b) (and correspondingly, under proposed § 51.95 for NRC staff requirements) states that environmental considerations of the decommissioning activities must be explicitly considered during the licensee's request for decommissioning plan or license termination plan approval. Proposed § 50.51(b) states that a license that has expired is not terminated until the Commission notifies the licensee in writing that the license is terminated. The proposed requirement further states that during any period of continued effectiveness beyond the licensee's stated expiration date, the licensee: (1) Is prohibited from operating the production or utilization facility; (2) Must limit activities to actions necessary to decommission and decontaminate the facility, or actions necessary to maintain the facility, including the storage, control and maintenance of the spent fuel in a safe condition and; (3) Must conduct activities in accordance with all other restrictions applicable to the facility in NRC regulations and provisions of the specific part 50 license for the facility. This provision is consistent with NRC requirements for other licensees and avoids any gaps in the licensing of regulated facilities. This same rationale applies to both power and non-power reactors. Accordingly, this clarification would also pertain to non-power reactors. Finally, proposed § 50.36(c)(6) and (e) clarify that for reactors that are not authorized to operate, existing technical specifications will remain effective until removed or modified by license amendment.

III. Clarification of Applicability of 10 CFR Part 50 to Permanently Shutdown Nuclear Power Plants

Once a decision has been made to permanently cease operations of a nuclear power reactor, the proposed rule would require that the licensee must notify the NRC, by certification, that the nuclear power reactor has ceased operations and that fuel has been permanently removed from the reactor vessel. Then, by NRC regulation, the licensee's authority to operate the reactor or to maintain or place fuel in the reactor would be removed, as specified in proposed § 50.82(a). This non-operating status would provide a basis to remove regulatory requirements that are no longer necessary to protect the public health and safety.

Licensees have historically pursued relief from these requirements by means of obtaining license amendments and exemptions. This process has placed significant resource burdens on both

licensees and the Commission. After a nuclear power reactor is permanently shutdown and awaiting or undergoing decommissioning, certain regulations, which are based on power operation, are no longer necessary. Other regulations may have limited applicability but require modification to appropriately address the concerns associated with the permanently shut down condition. The Commission proposes to amend a number of the regulations contained in 10 CFR part 50 to clarify their applicability to permanently shutdown nuclear power reactors.

The following paragraphs discuss technical requirements that have been determined to have limited or no applicability and require clarification or modification of their applicability to permanently shutdown nuclear power reactors. Once the technical review is completed, future rulemaking may be forthcoming to address the applicability of additional technical requirements to non-operating reactors.

A. Technical Specifications

The requirements for technical specifications are found in 10 CFR 50.36. The applicability of 10 CFR 50.36 to the operational phase of a nuclear reactor is clearly understood. However, the existing regulation has caused uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power reactor. The Commission is proposing to amend 10 CFR 50.36 to clearly indicate that the controls, limits, and requirements established by the technical specifications are a continuing part of the license in the permanently shutdown and decommissioning phase of a nuclear reactor. The Commission recognizes that technical specifications pertinent to the operational phase will need to be revised and amended to reflect plant conditions and safety concerns associated with permanent cessation of operations and permanent removal of the fuel from the reactor vessel. Existing technical specifications will remain effective until removed or modified by license amendment.

B. Technical Specifications for Effluents

Effluent technical specifications are found in 10 CFR 50.36a and Appendix I. The applicability of 10 CFR 50.36a and Appendix I to the operational phase of a nuclear power plant is clearly understood. However, the existing regulation has caused uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power plant. The Commission is proposing to amend 10 CFR 50.36a and Appendix I to clearly

indicate that the controls, limits, and requirements for controlling radiological effluents are also required during the permanently shut down and decommissioning phase of a nuclear power plant.

C. Environmental Conditions

Requirements associated with environmental conditions are found in 10 CFR 50.36b. The applicability of 10 CFR 50.36b to the operational phase of a nuclear power plant is clearly understood. However, the existing regulation has caused uncertainty as to its applicability to the permanently shutdown and decommissioning phase of a nuclear power plant. The Commission is proposing to amend 10 CFR 50.36b to clearly indicate that conditions to protect the environment remain a part of the license and are required during the permanently shutdown and decommissioning phase of a nuclear power plant.

D. Combustible Gas Control

The combustible gas control requirements are found in 10 CFR 50.44. These requirements were instituted to improve hydrogen management in light water reactor (LWR) facilities and to provide specific design and other requirements to mitigate the consequences of accidents resulting in a degraded core. The requirements focus on the capability for measuring hydrogen concentration, ensuring a mixed atmosphere, and controlling combustible gas mixtures following a loss of coolant accident (LOCA). The concern for hydrogen generation during a LOCA does not exist with the permanently shutdown power reactor. A nuclear power plant that has permanently ceased operations and permanently removed all of its fuel outside of primary containment no longer presents challenges to the reactor pressure vessel and primary containment from accident-generated combustible gases, and such concerns are no longer an issue. Therefore, the Commission is proposing to amend the requirements in 10 CFR 50.44 to indicate its nonapplicability to this situation.

E. Emergency Core Cooling Systems (ECCS) Acceptance Criteria

The acceptance criteria for ECCS for LWRs are found in 10 CFR 50.46 and in Appendix K. These regulations require that the ECCS be designed to provide for long term cooling by limiting post LOCA peak cladding temperature, clad oxidation, and hydrogen generation to specified values. Without fuel in the vessel, ECCS systems are not required