

L. Monitoring the Effectiveness of Maintenance

The applicability of 10 CFR 50.65 to the operational phase of a nuclear power plant is well understood. However, to eliminate any 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 50.65 to clearly indicate that the licensee must monitor the performance or condition of all structures, systems, and components associated with the storage, control, and maintenance of spent fuel in a safe condition during the permanently shutdown and decommissioning phase of a nuclear power plant subject to the requirements of § 50.82(a).

M. Maintenance of Records and the Making of Reports

The requirements for licensees to periodically update the Final Safety Analysis Report (FSAR) are contained in 10 CFR 50.71. The regulation requires that "persons licensed to operate a nuclear power reactor" update the facility FSAR annually or after each refueling outage with intervals not to exceed 24 months. In order to ensure that applicable sections of facility FSARs continue to be updated, the Commission is proposing to amend this regulation to make it applicable to licensees that have permanently ceased operations, pursuant to § 50.82(a)(1). The Commission is also proposing that the decommissioning plan for non-power reactors be made a part of the facility FSAR or equivalent. These changes will permit licensees to update their FSARs and decommissioning planning documents without prior NRC approval.

IV. Criminal Penalties Provisions

The existing provisions of 10 CFR 50.82 are treated as nonsubstantive and are not subject to criminal enforcement. Under the Commission's proposed amendments to 10 CFR 50.82, licensees would be required to take certain actions which the Commission believes are essential in initiating the decommissioning process; e.g., certifying to permanent cessation of operations and permanent removal of fuel from the reactor vessel, and submitting a PSDAR. Thus, the Commission believes that the amended provisions of 10 CFR 50.82 should be considered as substantive and issued under sections 161b, 161i, or 161o of the Atomic Energy Act of 1954, as amended. Accordingly, the Commission is proposing to amend 10 CFR 50.111(b) to

remove the exemption for § 50.82 from the criminal penalty provisions.

Finding of No Significant Environmental Impact Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The proposed rule would clarify current decommissioning requirements for nuclear power reactors in 10 CFR Part 50, and set forth a more efficient, uniform, and understandable process. The Commission has already analyzed the major environmental impacts associated with decommissioning in the Generic Environmental Impact Statement (GEIS), NUREG-0586, August 1988, published in conjunction with the Commission's final decommissioning rule (53 FR 24018, June 27, 1988). The NRC has sent a copy of the Environmental Assessment and this proposed rule to every State Liaison Officer and requested their comments on the Environmental Assessment. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection and photocopying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Carl Feldman, U.S. NRC, Washington DC 20555, (301) 415-6194.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Because the rule will relax existing information collection requirements, the public burden for this collection of information is expected to be reduced by 12,202 hours per licensee. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the estimated burden reduction or any other aspect of this collection of information, including suggestions for further reducing this

burden, to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0011), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis of this proposed regulation. The analysis qualitatively examines the costs and benefits of the alternatives considered by the NRC. The draft regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555. Single copies of the analysis may be obtained from Dr. Carl Feldman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6194.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would impose requirements for timely decommissioning of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of small entities as given in the Regulatory Flexibility Act or the Small Business Size Standards promulgated in regulations issued by the Small Business Administration (13 U.S.C. Part 121).

Backfit Analysis

The Commission is proposing not to apply the backfit rule, 10 CFR 50.109, to these proposed amendments, and therefore, a backfit analysis has not been prepared for this rule. The scope of the backfit provision in 10 CFR 50.109 is limited to construction and operation of reactors. These proposed amendments would only apply to reactors which have permanently ceased operations and, as such, would not constitute backfits under 10 CFR 50.109.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information,