

methodology. The State of New York suggested that the rule give the States the latitude to accomplish the rule's intent by other means such as licensing actions. The State of Washington suggested that the rule should be made Division 3 compatibility because the rule is addressing financing, not health and safety; the rule overlooks other mechanisms for protecting the public, such as whatever means necessary to effect decommissioning; and the specific changes are applicable to NRC licensees and not Washington licensees. The States of Nebraska and Maryland suggested that the rule remain Division 2 compatibility.

The NRC has reviewed the definitions of divisions of Agreement State compatibility and has considered the comments from the States and has determined that the rule should be a matter of Division 2 compatibility between the Federal and State because these requirements are the minimum requirements necessary to ensure adequate protection of the public health and safety. Under this level of compatibility, the Agreement States would be expected to adopt decommissioning funding assurance requirements that are as stringent as NRC's, but would be permitted flexibility to apply more stringent requirements if deemed appropriate by the State.

IV. Implementation

This rule will become effective 120 days after publication in the **Federal Register**. Thus, licensees who do not currently have sufficient financial assurance for decommissioning, but who currently have submitted decommissioning plans or are in timely renewal, have 120 days to revise and submit to NRC their financial arrangements for funding decommissioning.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment was prepared for this rule.

VI. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). These requirements were approved by the Office of Management and Budget

approval numbers 3150-0009, -0017, -0020, and -0132.

The public reporting burden for this collection of information is estimated to average 6 hours per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestion for reducing the burden, to the Information Records and 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, (3150-0017, 3150-0020, 3150-0009, and 3150-0132), Office of Management and Budget, Washington, DC 20503.

VII. Regulatory Analysis

The Commission has prepared this regulation to clarify its decommissioning funding requirements for persons licensed under Parts 30, 40, 70, and 72. Although it does alter existing requirements, the regulatory analyses developed in support of prior decommissioning regulations remain valid and appropriate for this rulemaking because these analyses assumed that all licensees would submit a certification of financial assurance to the NRC of a rule prescribed amount, or licensee estimated and NRC approved amount, necessary to provide adequate funds to decommission the licensed facility and that licensees would have complied with the decommissioning funding requirements prior to ceasing operations and commencing decommissioning. These prior analyses, developed for the rules on expiration and termination of licenses and financial assurances for decommissioning, remain available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. This discussion constitutes the regulatory analysis for this rule.

VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC carefully considered the effect on small entities in developing the final rule on decommissioning funding and scaled the requirements to reduce the impact on small entities to the extent possible while adequately protecting health and safety. Because this action imposes no new financial burden, it is not expected to have an impact on

licensees not already considered in the regulatory flexibility analysis for the decommissioning funding rule as published in the **Federal Register** on June 27, 1988 (53 FR 24018).

Accordingly, the Commission certifies that this rule will not have any additional significant economic impact upon a substantial number of small entities.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, a backfit analysis is not required for this rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials - transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

Criminal penalties, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers. Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, and Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 30, 40, 70, and 72.