purpose that does implicate safety issues. There is a need for DOE to describe the materials inventory and recordkeeping program that is designed to assure protection of public health and safety during operations of the GROA and after permanent closure. Such information is important, for example, for purposes of performance confirmation, potential retrieval, and archival documentation. Section 60.21(c) would accordingly be revised to reflect this focus.

The proposed amendment to § 72.180 would provide requirements for the storage of spent nuclear fuel or HLW under a specific license by referring applicants to the same new section, § 73.51. The proposed amendment to § 72.212 would allow the licensee or applicant the option of either using § 73.51 for the storage of spent nuclear fuel under a general license or continuing to use § 73.55 with the additional conditions and exceptions provided in § 72.212(b)(5).

In licensing the storage of spent nuclear fuel or HLW at an ISFSI or a power reactor that has permanently ceased reactor operations, the NRC staff has had to sort through the many safeguards requirements of Part 73 to choose appropriate safeguards requirements, and impose those requirements through license conditions. As a result of this experience, however, a set of principles has evolved that reflects both the nature of potential threats and the hazardous radioactive characteristics of the materials. Accordingly, the proposed amendments in § 73.51 would codify safeguards requirements currently imposed on spent nuclear fuel storage licensees and would provide a consistent set of requirements for future licensing. Specifically, this new section would have the objective of ensuring that the following basic physical protection performance capabilities are

- Spent nuclear fuel or HLW is stored only within a protected area;
- (2) Only authorized individuals are granted access to the protected area;
- (3) Unauthorized penetrations of or activities within the protected area are detected and assessed;
- (4) Communication with a designated response force, whenever necessary, is conducted in a timely fashion; and
- (5) The physical security organization is managed properly.

These amendments would not apply to spent nuclear fuel storage pools at operating nuclear power plants. In addition, because these proposed safeguards requirements would codify the existing regulatory practice, there

would not be any additional burden placed on current licensees. Further, the industry would benefit from a reduction of current regulatory uncertainties. The public would benefit from a greater level of assurance that appropriate safeguards requirements are being imposed on spent nuclear fuel and HLW storage licensees through public review and comment on the proposed rule. The DOE would benefit from the proposed amendments by having a clear statement of the safeguards measures the Commission plans to require at the GROA. Also, NRC would benefit as a result of a more efficient licensing

In addition, the current reporting requirements in § 73.71 would be amended to specifically include facilities that are subject to this rulemaking. However, because the amended reporting requirements are equivalent to current practice, no additional burden will be placed on current licensees as a result of these amended reporting requirements.

Specific Considerations

Comments with supporting rationale are particularly requested on the following questions:

- 1. Would the proposed amendments impose any significant additional costs for safeguards of currently stored spent nuclear fuel beyond what is now incurred for that purpose?
- 2. Is there reason to expect the costs to future licensees to differ substantially from those of current licensees?
- 3. Are the cost estimates in Table III of the Draft Regulatory Analysis representative of current industry experience? Are there significant costs that have not been included in the table?
- 4. Are the costs justified by the benefits that would be afforded by the proposed amendments? Are there alternatives that would afford essentially the same benefits, but be more cost effective?
- 5. Are the proposed amendments in 10 CFR 73.51 appropriate for an MRS or geologic repository operated by the U.S. Department of Energy?

Criminal Penalties

The Commission notes that these proposed amendments are issued under Sections 161b and i of the Atomic Energy Act of 1954, as amended. Therefore, violation of these regulations may subject a person to criminal sanctions under Section 223 of the Atomic Energy Act.

Environmental Impact: Categorical Exclusion

The Commission has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22 (c)(3)(i) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement that is subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0002, –0127, and –0132.

Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis for this proposed rule. The draft analysis examines the benefits and impacts of the alternatives considered by the Commission. The draft regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The draft regulatory analysis also is available for viewing and downloading from the NRC's rulemaking bulletin board as discussed above under ADDRESSES.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect operators of ISFSIs, power reactors that have permanently ceased operation, and DOE as the operator of the MRS and GROA. The affected licensees do not fall within the scope of the definition of "small entities" set forth in Section 601(3) of