

## Request for OMB Review

DESIGNATED ORIGINAL

PDR

Reviewed By Paula Smith

## Important:

Read instructions before completing form. Do not use the same SF 83 to request both an Executive Order 12291 review and approval under the Paperwork Reduction Act.

Answer all questions in Part I. If this request is for review under E.O. 12291, complete Part II and sign the regulatory certification. If this request is for approval under the Paperwork Reduction Act and 5 CFR 32.0, skip Part II, complete Part III and sign the paperwork certification.

Send three copies of this form, the material to be reviewed, and the paperwork—three copies of the supporting statement, to:

Office of Information and Regulatory Affairs  
Office of Management and Budget  
Attention: Docket Library, Room 3201  
Washington, DC 20503

## PART I — Complete This Part for All Requests.

1. Department, agency and Bureau, office originating request

U. S. Nuclear Regulatory Commission

2. Agency code

3 1 5 0

3. Name of person who can best answer questions regarding this request

Clark Prichard

Telephone (city)

301 492-3734

4. Title of information collection or rulemaking

10 CFR 55, Operators' Licenses

5. Legal authority for information collection or rule (cite United States Code, Public Law, or Executive Order)

42 USC 2201(o)

6. Check all that apply:

1 ☐ Individuals or households3 ☐ Farms5 ☐ Federal agencies or entities2 ☐ State, county, or local governments4 ☒ Businesses or other for-profit6 ☐ Non-profit institutions7 ☐ Small businesses (under \$1 million)

## PART II — Complete This Part Only if the Request is for OMB Review Under Executive Order 12291

Regulation Identifier Number (RIN)

If "None assigned" check box

7. Check all that apply (check only in each category)

Classification

Stage of development

Type of review requested

1 ☐ Major3 ☐ Proposed or draft1 ☐ Standard2 ☐ Significant4 ☐ Final or interim final with proposal2 ☐ Pending5 ☐ Final or interim final without proposal3 ☐ Emergency

8. CFR section affected

4 ☐ Statutory or work already reviewed

9. CFR part affected

10. Check all that apply (check only in each category) (regarding information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995)

11. Check all that apply (check only in each category) (regarding regulatory impact analysis)

12. Check all that apply (check only in each category) (regarding regulatory impact analysis)

## Certification for Regulatory Submissions

I, the undersigned, hereby certify that this request for OMB review, this proposed regulatory text, and this statement of regulatory impact analysis are true and correct, and that the information provided is complete and accurate.

Signature of official certifying

Signature of authorized regulatory contact

Date

13. OMB use only

9301080253 921231  
PDR ORG EUSOMB  
PDR

14. Distribution code

53-108

Standard Form 83-Rev. 9-83  
Prescribed by GSA  
5 CFR 1320 and E.O. 13200

070032

DFO

**PART III.—Complete This Part Only if the Request is for Approval of a Collection of Information Under the Paperwork Reduction Act and 5 CFR 1320.**

13. Abstract—Describe needs, uses and affected public in 50 words or less: **"Nuclear Reactors, Operator Licenses"**

The proposed rulemaking will allow certain non-electric utility licensees meeting stringent financial standards to use self-guarantee as a financial assurance mechanism for decommissioning funding.

14. Type of information collection (check only that

information collection is not contained in rules

☐ Regular collection of information ☐ One-time collection of information

☐ Information collection which requires

☐ Existing regulations or change proposed

☐ Existing regulations without change

☐ Enter date of expected periodicity

☒ New collection of information

☐ Existing regulations

☐ Enter date of expected periodicity

☐ Information collection which requires

☐ Existing regulations

☐ Enter date of expected periodicity

15. Type of review requested (check only that)

☐ New collection

☒ Review of a currently approved collection

☐ Extension of the interest in a currently approved collection without change in the substance or administration of collection

☐ Reinstatement of a previously approved collection for which the interest has expired

☐ Existing collection in use without an OMB control number

16. Agency will comply with the Paperwork Reduction Act for the period

22. Purpose of information collection (check as many as apply)

☐ Application for benefits

☐ Program evaluation

☐ General purpose statistics

☒ Regulatory or compliance

☐ Program planning or management

☐ Research

☐ Audit

17. Annual reporting or burden estimate

1. Number of respondents 12.33

2. Number of responses per respondent 1

3. Total annual responses (line 1 times line 2) 12.33

4. Hours per response 26.28

5. Total hours (line 3 times line 4) 324

18. Annual recordkeeping burden

1. Number of recordkeepers 3,027

2. Annual hours per recordkeeper .77

3. Total recordkeeping hours (line 1 times line 2) 2,341

4. Recordkeeping retention period Life years

19. Total annual burden

1. Requested (line 17 plus line 18.3) 2,665

2. In current OMB collection 2,665

3. Difference (line 1 less line 2) 0

Explanation of difference

4. Program change

5. Adjustment

23. Frequency of recordkeeping or reporting (check all that apply)

☒ Recordkeeping

Reporting

☒ On occasion

☐ Weekly

☐ Monthly

☐ Quarterly

☐ Semi-annually

☐ Annually

☐ Biannually

☐ Other (describe)

20. Current (most recent) OMB control number or comment number

24. Respondents' obligation to comply (check the strongest obligation that applies)

☒ Voluntary

☐ Required to obtain or retain a benefit

☐ Mandatory

3150-0018

31. Required expiration date

03/31/94

25. Are the respondents primarily educational agencies or institutions or is the primary purpose of the collection related to Federal education program? ☐ No ☒ Yes

26. Does this agency use sampling to select respondents, or does this agency recommend or prescribe the use of sampling or statistical analysis by respondents? ☐ No ☒ Yes

27. Regulatory authority for the information collection

10

CFR 55

or

FR

or Other (specify)

**Paperwork Certification**

In submitting this request for OMB approval, the agency head, the senior official or an authorized representative, certifies that the requirements of 5 CFR 1320, the Privacy Act, statistical standards or directives, and any other applicable information policy directives have been complied with.

Signature of program official

Date

Gerard A. Sanford, DSO Information Resources Management

12/31/92

OMB SUPPORTING STATEMENT  
PARTS 30, 40, 50, 70, and 72  
Proposed Rulemaking  
Self-Guarantee as an Additional Financial Assurance Mechanism

I. Description of Information Collection/Need for Information

In response to a petition for rulemaking submitted by licensees, NRC is proposing to allow certain non-electric utility licensees who meet stringent financial standards to use self-guarantee as a financial assurance mechanism for decommissioning funding. The use of self-guarantee would reduce licensee costs because licensees qualifying to use self-guarantee would not have to purchase third-party financial assurance (e.g., letters of credit, surety bonds). However, use of self-guarantee is strictly optional; licensees do not have to use this method of providing financial assurance. Therefore, any information requested by NRC in this proposed rule is only required if licensees choose to use self-guarantee in place of one of the already allowed financial assurance mechanisms.

The proposed rule would amend the financial assurance sections of Parts 30, 40, 50, 70, and 72. Specific sections which are affected by the proposed rule are:

30.35(f)(2)---Allows self-guarantee as financial assurance mechanism for Part 30 licensees meeting criteria in Part 30, Appendix B.

Part 30- Appendix B. This appendix specifies criteria for those licensees choosing to use self-guarantee.

A.- Requires the licensee to submit data on tangible net worth, sum of cost estimates for decommissioning activities for which the company is responsible, data on U.S. located assets, and bond rating. This information is needed to establish the licensee's financial status.

B. Requires verification of financial test data by independent certified public accountant. This information is needed to verify the licensee's financial status.

B.(2) Requires the licensee to inform NRC within 90 days if he believes that the financial test data should be adjusted or can no longer be met. This information is needed to inform NRC of the licensee's financial status. This requirement is currently approved under 10 CFR Part 30, Appendix A.II.B.

B.(3) Requires the licensee to repeat passage of the test within 90 days after the close of each succeeding fiscal year. This information is needed to update a licensee's financial status. This requirement is currently approved under 10 CFR Part 30, Appendix A.II.C.

B.III.A. Requires the licensee to send notice of guarantee cancellation by certified mail to the Commission. This information is needed to inform NRC of licensee intent to discontinue guarantee. This requirement is currently approved under 10 CFR Part 30, Appendix A.II.C.2.

B.III.B. Requires the licensee to provide alternative financial assurance within 90 days following Commission receipt of a notice of cancellation of the guarantee. This information is needed to assure NRC of an alternative form of financial assurance should a licensee discontinue the guarantee. This requirement is currently approved under 10 CFR Part 30, Appendix A.II.C. The time interval required for notification has been changed from the current requirement but will not result in any additional burden.

B.III.C. Requires the licensee to submit to the Commission and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission. This information is needed to update a licensee's financial status.

B.III.E. Requires that if the licensee's bond issuance ceases to be "A" rated, the licensee will provide notification in writing within 20 days after publication of the change by the rating service. This information is needed to inform NRC of a licensee's financial status.

40.36(e)(2)---Allows self-guarantee as financial assurance mechanism for Part 40 licensees meeting criteria in Part 30, Appendix B.

50.75(e)(2)(iii)---Allows self-guarantee as financial assurance mechanism for Part 50 licensees meeting criteria in Part 30, Appendix B.

70.25(f)(2)---Allows self-guarantee as financial assurance mechanism for Part 70

licensees meeting criteria in Part 30, Appendix B.

72.30(c)(2)---Allows self-guarantee as financial assurance mechanism for Part 72 licensees meeting criteria in Part 30, Appendix B.

JUSTIFICATION:

Need for the Collection of Information.

The information requested at 30.35(f)(2), 40.36(e)(2), 50.75(e)(2)(iii), 70.25(f)(2), and 72.30(c)(2) is necessary to assure that sufficient funding will be available to decommission the facility in a safe and timely manner. NRC must have the information requested in order to review the financial status of the licensees using self-guarantee.

Agency Use of Information

The information will be used by NRC staff to review and verify licensees' financial condition and qualification to use self-guarantee. If the information were not collected, NRC would have no way of verifying the financial condition of licensees using, or seeking to use, self-guarantee.

Reduction of Burden Through Information Technology

NRC will seek to use efficient information technology in obtaining the requested information. For example, electronic copies of SEC filings will be considered. There are no known legal obstacles to reducing the collection burden by this means.

Effort to Identify Duplication

This information does not duplicate information currently submitted to NRC.

Effort to Use Similar Information

The information collection in this proposed rule makes use of similar information to the maximum extent possible. Most of the information requested is already available, and can be easily modified for NRC use. For example, the

proposed rule uses financial concepts such as tangible net worth which are already part of a public corporation's financial statements and SEC submissions.

#### Effort to Reduce Small Business Burden

The self-guarantee would be available only to very large firms. There would be no impact upon small business.

#### Consequences of Less Frequent Collection

NRC is proposing an annual certification of this information. NRC must have up-to-date information on the financial condition of licensees using self-guarantee. Less frequent collection would permit a licensee's financial condition to deteriorate without NRC knowledge. This could jeopardize decommissioning funding.

#### Consultations Outside the NRC

The NRC published a notice of receipt of a petition for rulemaking in September, 1991 (56 FR 48445). The notice asked for public comments. Five comment letters were received, but none directly addressed information collection burdens. The proposed rule will be published in the Federal Register for comment.

#### Confidentiality of Information

NRC treats the information received as proprietary information. This information is protected from public disclosures under the Privacy Act of 1974, and is handled in accordance with routine uses specified in the Privacy Act statement.

#### Justification for Sensitive Questions

No sensitive questions are involved.

Estimates of Burden on Federal Government:

TABLE 1

ESTIMATED ANNUAL COST TO THE FEDERAL GOVERNMENT

	number of responses	hrs. per response	total hours	cost @\$123/hr.
1. Reviewing Financial Test Information	20	2	40	\$4,920
2. Reviewing Comparison of Financial Test Data and Year-End Financial Statement	20	1	20	\$2,460
3. Reviewing SEC Reports, Notifications	20	8	160	\$19,680
<u>Total</u>			<u>220</u>	<u>\$27,060</u>

Federal cost for review of 10 CFR Part 30 is estimated at \$16,236 (12 responses X 11 hrs. = 132 hrs. X \$123); Part 40, at \$8,118 (6 responses X 11 hrs. = 66 hrs. X \$123); Part 70, at \$2,706 (2 responses X 11 hrs. = 22 hrs. X \$123). No responses are expected to be received for Part 50 and Part 72.

Estimates of burden on affected public:

TABLE 2

ESTIMATED ANNUAL BURDEN TO AFFECTED PUBLIC  
10 CFR PART 30  
Section 30.35 (f)(2)

REPORTING

	number of responses	hours per response	total hours	cost @\$123/hr.
1. Preparing Financial Test Information	12	9	108	\$13,284
2. Preparing Comparison of Financial Test Data and Year-End Financial Statement	12	6	72	\$8,856
3. Notification of Failure to Meet Financial Test or Bond Rating Downgrade	*	*	*	*

RECORDKEEPING

3. Maintaining SEC Reports and Other Recordkeeping	12	4	48	\$5,904
<u>Total</u>			<u>228</u>	<u>\$28,044</u>

\* negligible on an annual basis

ESTIMATED ANNUAL BURDEN TO AFFECTED PUBLIC

10 CFR PART 40

Section 40.36 (e)(2)

REPORTING

	number of responses	hours per response	total hours	cost @\$123/hr.
1. Preparing Financial Test Information	6	9	54	\$6,642
2. Preparing Comparison of Financial Test Data and Year-End Financial Statement	6	6	36	\$4,428
3. Notification of Failure to Meet Financial Test or Bond Rating Downgrade	*	*	*	*

RECORDKEEPING

3. Maintaining SEC Reports and Other Recordkeeping	6	4	24	\$2,952
<u>Total</u>			<u>114</u>	<u>\$14,022</u>

\* negligible on an annual basis

# ESTIMATED ANNUAL BURDEN TO AFFECTED PUBLIC

10 CFR PART 70

Section 70.25(f)(2)

## REPORTING

	number of responses	hours per response	total hours	cost @\$123/hr.
1. Preparing Financial Test Information	2	9	18	\$2,214
2. Preparing Comparison of Financial Test Data and Year-End Financial Statement	2	6	12	\$1,476
3. Notification of Failure to Meet Financial Test or Bond Rating Downgrade	*	*	*	*

## RECORDKEEPING

3. Maintaining SEC Reports and Other Recordkeeping	2	4	8	\$984
<u>Total</u>			<u>38</u>	<u>\$4,674</u>

\* negligible on an annual basis

Note: It is estimated that approximately 20 licensees would qualify to use self-guarantee. At present, no Part 50 or Part 72 licensees are estimated to be able to qualify to use self-guarantee. The burden is the same regardless of what Part the license falls under. The burden per response would be the same for any potential Part 50 or Part 72 licensees that could qualify to use self-guarantee.

The existing information collection burden is nominal, consisting of furnishing certain information to the financial institution providing third party financial assurance, and furnishing NRC with evidence of financial assurance coverage.

#### Reasons for the Change in Burden

The NRC is proposing to allow certain licensees who meet stringent financial criteria to use self-guarantee instead of third party mechanisms as a means of providing financial assurance for decommissioning. This is aimed at reducing costs to licensees of providing financial assurance. Self-guarantee would be optional.

A licensee choosing to provide financial assurance in the form of a third party instrument, such as a surety bond, would not be required to provide NRC with the detailed information on financial condition required by the proposed self-guarantee. However, a qualifying licensee may choose to save the cost of third party financial assurance by using the self-guarantee option.

#### Publication for Statistical Use

This information will not be published for statistical use.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 50, 70, 72

RIN 3150-AE16

Self-Guarantee As An Additional Financial Assurance Mechanism

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations for decommissioning licensed facilities to allow certain non-electric utility licensees to use self-guarantee as a means of financial assurance. The proposed rule would reduce the cost burden of financial assurance while providing NRC with sufficient assurance that decommissioning costs will be funded. This proposed rule responds to a petition for rulemaking (PRM-30-59) from General Electric Company and Westinghouse Electric Corporation.

DATE: Comment period expires ( insert date 75 days after publication).  
Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm Federal workdays.

Copies of the regulatory analysis and comments received may be examined at: The NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Clark Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3734.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 25, 1991 (56 FR 48445), the NRC published a notice of receipt of a petition for rulemaking from the General Electric Company (GE) and the Westinghouse Electric Corporation (Westinghouse). The petitioners requested that the NRC amend its decommissioning regulations contained in 10 CFR Parts 30, 40, 50, 70, and 72 to provide a means for self-guarantee of decommissioning funding costs by certain NRC licensees who meet stringent financial standards and related reporting and oversight requirements. The petitioners proposed that electric utility reactor licensees under 10 CFR Part 50 not be affected by the proposals in the petition.

On June 27, 1988 (53 FR 24018), the NRC published a final rule that established general requirements for decommissioning nuclear facilities. These requirements provide assurance that licensed facilities will be decommissioned in a safe and timely manner and that adequate funds will be available for decommissioning. Under the present decommissioning regulations, licensees are permitted to provide financial assurance for decommissioning funding through prepayment, insurance, a surety bond, a letter of credit, a parent company guarantee, or for electric utilities, the establishment of an external sinking fund.

In 1990, GE and Westinghouse requested exemptions from the financial assurance requirements for decommissioning. The requested exemptions would have permitted GE and Westinghouse to demonstrate financial assurance for decommissioning by submitting a self-guarantee that otherwise met or exceeded the criteria for qualifying parent company guarantees under Appendix A to 10 CFR Part 30. The Commission denied the requests for exemption. Later in 1990, GE and Westinghouse each submitted a petition for reconsideration of their requests for exemption. These requests for reconsideration were also denied. However, in informing GE and Westinghouse of the denial, the Commission indicated a willingness to consider a petition for rulemaking from GE and Westinghouse.

The GE/Westinghouse petition was docketed on July 11, 1991 (PRM-30-59). The petition requested that Parts 30, 40, 50, 70, and 72 be amended to allow corporate self-guarantee as an additional method of complying with financial assurance for decommissioning requirements in those parts. The petition proposed criteria for corporate self-guarantee which would assure that only

very strong financial entities could qualify. The financial criteria which were proposed are:

- (1) Tangible net worth of at least \$1 billion.
- (2) Tangible net worth at least 10 times the current decommissioning cost estimate, or the current amount required if certification is used.
- (3) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the current decommissioning cost estimate, or the current amount required if certification is used.
- (4) A current bond rating of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys.

A number of procedural requirements were also proposed:

- (1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.
- (2) The company will provide the Commission with copies of all reports filed with the Securities and Exchange Commission under Section 13 of the Securities Exchange Act of 1934.
- (3) The company's independent certified public accountant must compare the data used by the company in the financial test with the company's independently audited yearend financial statements.
- (4) The company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.
- (5) The company must notify NRC within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

The self-guarantee would be available only for an applicant or licensee having no parent company holding majority control of its voting stock.

#### Basis for Petition

The petitioners believed that they have been adversely and unreasonably affected by limitations in the current decommissioning regulations. Companies such as the petitioners are unable to guarantee decommissioning funding if they themselves are the licensee. However, relatively weaker financial institutions, such as banks, insurance companies, and savings and loans, are permitted to guarantee decommissioning funding for licensees without providing any evidence of financial strength.

Furthermore, licensees without the financial strength of the petitioners may provide qualifying parent company guarantees solely because these parent companies are legal entities distinct from the subsidiary licensees whose decommissioning funding they guarantee.

The petitioners asserted that the lack of an internal decommissioning funding method imposes unwarranted compliance costs upon them. The current regulations compel the petitioners to either restructure their licensed activities into less financially secure subsidiaries for which they could then provide a parent company guarantee, or to purchase outside financial assurance.

## Public Comments

The Commission received five comment letters in response to the publication of the notice of receipt of the petition. Most of the letters supported a revision of the Commission's regulations to allow self guarantee. Three large materials licensees supported self guarantee, although they favored less stringent financial criteria for self guarantee so that a wider range of licensees could qualify to use self guarantee. One large materials licensee prefers that the tangible net worth requirement should be ten times the estimated decommissioning costs, or in the case of licensees with multiple facilities requiring decommissioning, \$500 million to \$1 billion depending on the number of such facilities. Another large materials licensee suggests that NRC use the same financial requirements now applicable to parent company guarantees. It does not see any need to make the tangible net worth criterion any higher than \$50 million. The minimum bond rating requirement should be BBB or Baa, the lowest rating still considered investment grade. Also, in their opinion, the financial ratio tests in Appendix A to 10 CFR Part 30 should be retained as an alternative to the bond rating criterion. Finally, this commenter does not believe that the more restrictive tangible net worth/decommissioning cost ratio proposed in the petition is justified. Another large materials licensee asserts that there is no rational basis for establishing criteria for a company self-guarantee which differ significantly from existing criteria for the parent company guarantee. In either instance, the adequacy of the financial assurance requirement provided is based on the value of the assets securing the decommissioning obligation. According to this commenter, if the assets are held in two separate pools, each technically

owned by a different but related company, the level of financial security provided does not increase in any significant measure. In virtually all instances where the parent guarantee is utilized, the subsidiaries are wholly or substantially owned by the parent such that the financial and other elements of the two entities are substantially the same. As an alternative, this commenter recommends that the NRC adopt the petitioners' proposal, modified by reducing the minimum tangible net worth requirement to at most \$100 million, and requiring a bond rating not lower than BBB or Baa.

An electric utility licensee opposes the petition's exclusion of the electric utility reactor licensees under 10 CFR Part 50. Its position is that decommissioning regulations should apply to all licensees equally and that compliance alternatives contingent on licensee financial status and size should also be available to utilities.

A commenter opposed self-guarantee, citing the potential for takeover and breakup of large corporations. This would mean that a company initially allowed to use a self guarantee by meeting the criteria, subsequently could be substantially weakened through restructuring. The ability of the restructured company to meet decommissioning costs could be in doubt.

#### Response to Comments

Several commenters favored the self guarantee concept but argued for less stringent financial criteria. The Commission is interested in alternative financial criteria which would permit more licensees to use the proposed self-guarantee, yet would maintain a high level of financial

assurance. The Commission is asking for public comments on a possible alternative to the proposed financial criteria (see Alternative Criteria).

Regarding the comment concerning the exclusion of electric utilities from the scope of the proposed self-guarantee, the Commission allows electric utilities to accumulate decommissioning funds in an external sinking fund. Unlike other licensees subject to financial assurance requirements, electric utilities do not have to provide financial assurance "up front." Thus, electric utilities already are permitted a cost-reducing financial assurance mechanism.

In response to the comment that self-guarantee should not be allowed because of the potential for takeover and breakup of large companies, the Commission believes that the requirements for annual re-certification, combined with timely bond rating reviews, will be adequate to maintain the level of financial assurance of the proposed self-guarantee.

#### Basis for the Commission's Decision

The Commission has carefully reviewed the arguments in the petition, as well as the public comments. For the reasons outlined below, it has decided to initiate this rulemaking, which, if promulgated as final, would grant the petition.

#### Stringent Financial Criteria

The financial criteria proposed for self-guarantee are exceptionally stringent. The Commission is confident that licensees able to meet the

financial criteria provide the necessary reasonable assurance that funding will be available to meet decommissioning costs. The regulatory analysis estimates that only approximately 20 present NRC licensees could meet the criteria.

The criterion for tangible net worth, \$1 billion, far exceeds that required for the NRC parent company guarantee (\$10 million). In addition to the \$1 billion tangible net worth requirement, the proposed rule would require that a licensee must have tangible net worth at least ten times the total current decommissioning cost estimate for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor, or the current amount required if certification is used. To assure that assets are within reach of the Commission's authority, 90 percent of total assets or at least ten times total decommissioning cost estimates for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor, or the current amount if certification is used, would need to be in the United States.

In addition to tangible net worth criteria, the financial criteria include a bond rating of A or above. This bond rating is above that required to classify debt securities as "investment grade." The principal debt rating services, Moodys and Standard and Poors, classify bonds with a rating of Baa and BBB respectively, as "investment grade" as opposed to bonds with a lesser rating which are classified as "speculative grade." Bond ratings are reviewed often, and changed in response to changes in the issuer's financial condition. A bond rating of A or better assures that the financial strength of a licensee offering a self-guarantee has been independently reviewed and affirmed. It provides an excellent guide to the ability of a company to meet its

obligations. According to Moodys, default rates associated with companies whose bonds are rated A or above in 1 of the 3 years prior to default are 0.13 percent annually.<sup>1</sup>

There could be concern that a self-guaranteeing licensee's financial condition could deteriorate over time, jeopardizing decommissioning funding. The proposed rule has the following safeguards against this possibility: (1) A licensee using self-guarantee would need to be re-certified each year as meeting the financial criteria, (2) Copies of all current financial reports filed with the Securities and Exchange Commission would also need to be provided to the Commission, (3) The company would need to notify NRC within 90 days of any matters which could prevent the company from any longer passing the financial criteria, and (4) The company would need to notify NRC within 20 days if its bonds are no longer rated A or better.

#### Cost Savings

The objective of this proposed rule is to reduce the licensee's cost burden without adverse effects on public health and safety. The draft regulatory analysis developed for this proposed rule estimates that annual total cost savings would be approximately \$600,000 for all licensees using the self-guarantee. This estimate is based on rather conservative assumptions (i.e., \$750,000 total decommissioning cost per license); the actual cost savings may be considerably greater. Both the petition for rulemaking and several public comment letters assert much greater cost savings.

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<sup>1</sup>Corporate Bond Defaults and Default Rates, Moody's Special Report, January 1991, p. 32.

The cost savings would result from the elimination of the cost of third party financial assurance for licensees qualifying to use the proposed self-guarantee. Annual fees for letters of credit, surety bonds, and other forms of third party financial assurance typically are approximately 1.5 percent of the amount of financial assurance provided.

#### Comparison with Parent Guarantee

The NRC currently allows licensees to comply with its financial assurance regulations by means of a parent company guarantee. The parent company of a licensee, if it meets the financial criteria in 10 CFR Part 30, Appendix A, may guarantee that funds will be available to decommission the facility of its subsidiary licensee. The parent company guarantee allowed in NRC regulations does not provide a greater degree of financial assurance than self-guarantee for a company meeting the criteria proposed here. Under current regulations, there is no explicit regulatory requirement that licensees using the parent company guarantee: (1) be wholly independent of the parent company who provides the guarantee and (2) demonstrate financial qualifications in itself that are comparable to those required of a parent company guarantor under current regulations or those proposed for self-guarantee in the petition.

A company which meets the financial criteria for the proposed rule could readily pass the financial test in 10 CFR Part 30, Appendix A, and would thus be eligible to provide a parent company guarantee for a subsidiary. It is anomalous for NRC regulations to permit a large, financially strong company to provide a parent company guarantee, but not allow that same company to provide

a self-guarantee. Moreover, a large, financially strong company could carry out a corporate restructuring to create a licensee subsidiary which could then be covered by a parent company guarantee.

#### EPA Precedent

The Environmental Protection Agency (EPA) allows self guarantee as a mechanism for meeting its financial assurance regulations for hazardous waste facilities (40 CFR Parts 264 and 265). The objective of EPA and NRC financial assurance regulations is the same; to ensure that adequate funds are available to safely decommission facilities. EPA has about 10 years of experience with self-guarantee to date (the final rule was promulgated on April 7, 1982, 47 FR 15033), and self-guarantee has been an effective financial assurance mechanism.

#### Alternative Criteria

The Commission notes that a majority of commenters on the petition questioned the need for the financial criteria for self-guarantee to be as stringent as proposed here. Allowing less stringent criteria would permit additional licensees to use self guarantee and thus reduce the costs of complying with the Commission's regulations. The draft regulatory analysis indicates that one approach which could widen the range of eligible licensees would be to delete the \$1 billion tangible net worth criterion. A company's tangible net worth is an important factor comprising its bond rating, and the rating itself, combined with the other criteria, may be a sufficient indicator

of financial stability. Since all firms qualifying would need an A or better bond rating, this alternative may not be riskier in terms of financial assurance than the proposed rule. The draft regulatory analysis examines the effects of deleting the \$1 billion tangible net worth requirement from the financial criteria in the proposed rule, all other criteria remaining constant. The conclusion is that this alternative, if adopted, would allow an additional 7 firms, holding 11 licenses, to use the proposed self-guarantee. The Commission is especially interested in public comments on this alternative financial criteria--the criteria in this proposed rule without the \$1 billion tangible net worth requirement.

#### Administrative Conforming Changes

Sections 30.8(b), 40.8(b) and 50.8(b) are being revised to list all the regulatory provisions of these parts that contain information collections.

#### Environmental Impact: Categorical Exclusion

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

## 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.

The public reporting burden for this collection of information is estimated to average 19 hours per response, including the time for reviewing instructions, 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 suggestions for reducing this burden, to the Information and Records Management Branch (MNBB-7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-3019, (3150-0017, -0020, -0011, -0009, -0132), Office of Management and Budget, Washington, DC 20503.

## Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from Clark W. Prichard, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555 telephone (301) 492-3734.

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, 5 U.S.C. 605(b), the Commission certifies that, if promulgated, this proposed rule will not have a significant economic impact upon a substantial number of small entities. The proposed rule would affect only entities with a tangible net worth of \$1 billion. The licensees affected by this proposed rule do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the size standards of the NRC applicable to a small business (56 FR 56671; November 6, 1991).

#### Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and, therefore, that a backfit analysis is not required for this proposed 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, Civil penalty, Government contracts, Intergovernmental relations, Isotopes, Nuclear material, Radiation protection, Reporting and recordkeeping requirements.

### 10 CFR Part 40

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

### 10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

### 10 CFR Part 70

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

## 10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, 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. 553, the NRC is proposing to adopt the following amendments to 10 CFR Parts 30, 40, 50, 70, and 72.

### PART 30 - RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for Part 30 continues to read as follows:

AUTHORITY: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 30.3, 30.10, 30.34(b), (c), (f), (g) and (i), 30.41 (a) and (c), and 30.53 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 30.10 is issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C.

2201(i)); and §§ 30.6, 30.9, 30.34(g), 30.36, 30.50, 30.51, 30.52, 30.55, and 30.56(b) and (c) are issued under sec. 1610, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 30.8 paragraph (b) is revised to read as follows:

§ 30.8 Information collection requirements: OMB approval

\* \* \* \* \*

(b) The approved information collection requirements contained in this part appear in §§ 30.15, 30.19, 30.20, 30.32, 30.34, 30.35, 30.36, 30.37, 30.38, 30.50, 30.51, 30.55, 30.56, and Appendix A and B.

\* \* \* \* \*

3. In § 30.35, the introductory text of paragraph (f)(2) is revised to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

\* \* \* \* \*

(f) \* \* \*

(1)

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A of this part. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee

and test are as contained in Appendix B of this part. A guarantee by the applicant or licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

\* \* \* \* \*

4. A new Appendix B is added to Part 30 to read as follows:

Appendix B to Part 30 - Criteria Relating to Use of Financial Tests and Self Guarantees for Providing Reasonable Assurance of Funds for Decommissioning.

I. Introduction.

An applicant or licensee may provide reasonable assurance of the availability of funds for decommissioning based on furnishing its own guarantee that funds will be available for decommissioning costs and on a demonstration that the company passes the financial test of Section II of this appendix. The terms of the self-guarantee are in Section III of this appendix. This appendix establishes criteria for passing the financial test for the self guarantee and establishes the terms for a self-guarantee.

II. Financial Test.

A. To pass the financial test, a company must meet all of the following criteria:

(1) Tangible net worth of at least \$1 billion.

(2) Tangible net worth at least 10 times the total current decommissioning cost estimate for all decommissioning activities for which the

company is responsible as self-guaranteeing licensee and as parent-guarantor, or the current amount required if certification is used.

(3) Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate for all decommissioning activities for which the company is responsible as self-guaranteeing licensee and as parent-guarantor, or the current amount required if certification is used.

(4) A current rating for its most recent bond issuance of AAA, AA, or A as issued by Standard and Poors (S&P), or Aaa, Aa, or A as issued by Moodys.

B. To pass the financial test, a company must meet all of the following additional requirements:

(1) The company must have at least one class of equity securities registered under the Securities Exchange Act of 1934.

(2) The company's independent certified public accountant must have compared the data used by the company in the financial test which is derived from the independently audited, yearend financial statements for the latest fiscal year, with the amounts in such financial statement. In connection with that procedure, the licensee shall inform NRC within 90 days of any matters coming to the attention of the auditor that cause the auditor to believe that the data specified in the financial test should be adjusted and that the company no longer passes the test.

(3) After the initial financial test, the company must repeat passage of the test within 90 days after the close of each succeeding fiscal year.

### III. Company Self-Guarantee.

The terms of a self-guarantee which an applicant or licensee furnishes must provide that:

A. The guarantee will remain in force unless the licensee sends notice of cancellation by certified mail to the Commission. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by the Commission, as evidenced by the return receipt.

B. The licensee will provide alternative financial assurance as specified in the Commission's regulations within 90 days following receipt by the Commission of a notice of cancellation of the guarantee.

C. The guarantee and financial test provisions must remain in effect until the Commission has terminated the license or until another financial assurance method acceptable to the Commission has been put in effect by the licensee.

D. The licensee will promptly forward to the Commission and the licensee's independent auditor all reports covering the latest fiscal year filed by the licensee with the Securities and Exchange Commission pursuant to the requirements of Section 13 of the Securities and Exchange Act of 1934.

E. If, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poors or Moodys, the licensee will provide notice in writing of such fact to the Commission within 20 days after publication of the change by the rating service.

#### PART 40 - DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for Part 40 continues to read as follows:

AUTHORITY: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68

Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2057 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)-(3), 40.35(a)-(d) and (f), 40.41(b) and (c), 40.46, 40.51(a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 40.10 is issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 40.5, 40.9, 40.25(c), (d)(3), and (4), 40.26(c)(2), 40.35(e), 40.42, 40.60, 40.61, 40.62, 40.64, and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(c)).

6. In § 40.8 paragraph (b) is revised to read as follows:

§ 40.8 Information collection requirements: OMB approval.

\* \* \* \* \*

(b) The approved information collection requirements contained in this part appear in §§ 40.25, 40.26, 40.31, 40.35, 40.36, 40.42, 40.43, 40.44, 40.60, 40.61, 40.64, 40.65, and Appendix A.

\* \* \* \* \*

7. In § 40.36 the introductory text of paragraph (e)(2) is revised to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

\* \* \* \* \*

(e) \* \* \*

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A of 10 CFR Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of 10 CFR Part 30. A guarantee by the applicant or licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

\* \* \* \* \*

## PART 50 - DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

8. The authority citation for Part 50 continues to read as follows:

AUTHORITY: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80 - 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.5, 50.46(a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.5, 50.7(a), 50.10(a)-(c), 50.34(a) and (e), 50.44(a)-(c), 50.46(a) and (b), 50.47(b), 50.48(a), (c), (d), and

(e), 50.49(a), 50.54(a), (i), (i)(1), (l)-(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a(a), (c)-(e), (g), and (h), 50.59(c), 50.60(a), 50.62(b), 50.64(b), 50.65, and 50.80(a) and (b) are issued under sec. 1611, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.9, 50.49(d), (h), and (j), 50.54(w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71(a)-(c) and (e), 50.72(a), 50.73(a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 1610, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

9. In § 50.8 paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

\* \* \* \* \*

(b) The approved information collection requirements contained in this part appear in § § 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.65, 50.71, 50.72, 50.75, 50.80, 50.82, 50.90, 50.91, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, and R.

10. In § 50.75 the introductory text of paragraph (e)(1)(iii) and paragraph (e)(2)(iii) are revised to read as follows:

§ 50.75 Reporting and recordkeeping for decommissioning planning.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

(2)                   \*       \*       \*       \*       \*

                      \*       \*       \*

(iii) A surety method, insurance, or other guarantee method. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A of 10 CFR Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of 10 CFR Part 30. A guarantee by the applicant or the licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company.

\*       \*       \*       \*       \*

#### PART 70 - DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

11. The authority citation for Part 70 continues to read as follows:

AUTHORITY: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.10, 70.19(c), 70.21(c), 70.22(a), (b), (d)-(k), 70.24(a) and (b), 70.32(a)(3), (5), (6), (d), and (i), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a) and (c), 70.56, 70.57(b), (c), and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.10, 70.20a(a) and (d), 70.20b(c) and (e), 70.21(c), 70.24(b), 70.32(a)(b), (c), (d), (e), and (g), 70.36, 70.51(c)-(g), 70.56, 70.57(b) and (d), and 70.58 (a)-(g)(3) and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.5, 70.9, 70.20b(d) and (e), 70.38, 70.50, 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k), and (l), 70.59 and 70.60(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

12. In § 70.25, the introductory text of paragraph(f)(2) is revised to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

\* \* \* \* \*

(f) \* \* \*

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A of 10 CFR Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of 10 CFR Part 30. A guarantee by the applicant or the licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

\* \* \* \* \*

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR  
FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

13. The authority citation for Part 72 continues to read as follows:

AUTHORITY: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 72.6, 72.12, 72.22, 72.24, 72.26, 72.28(d), 72.30, 72.32, 72.44(a), (b)(1), (4), (5), (c), (d)(1), (2), (e), (f), 72.48(a), 72.50(a), 72.52(b), 72.72(b), (c), 72.74(a), (b), 72.76, 72.78, 72.104, 72.106, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.140(b), (c), 72.148, 72.154, 72.156,

72.160, 72.166, 72.168, 72.170, 72.172, 72.176, 72.180, 72.184, 72.186 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b));

§ § 72.10(a), (e), 72.12, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.44(a), (b)(1), (4), (5), (c), (d)(1), (2), (e), (f), 72.48 (a), 72.50(a), 72.52(b), 72.90(a)-(d), (f), 72.92, 72.94, 72.98, 72.100, 72.102(c), (d), (f), 72.104, 72.106, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.140(b), (c), 72.142, 72.144, 72.146, 72.148, 72.150, 72.152, 72.154, 72.156, 72.158, 72.160, 72.162, 72.164, 72.166, 72.168, 72.170, 72.172, 72.176, 72.180, 72.182, 72.184, 72.186, 72.190, 72.192, 72.194 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and § § 72.10(e), 72.11, 72.16, 72.22, 72.24, 72.26, 72.28, 72.30, 72.32, 72.44(b)(3), (c)(5), (d)(3), (e), (f), 72.48(b), (c), 72.50(b), 72.54(a), (b), (c), 72.56, 72.70, 72.72, 72.74(a), (b), 72.76(a), 72.78(a), 72.80, 72.82, 72.92(b), 72.94(b), 72.140(b), (c), (d), 72.144(a), 72.146, 72.148, 72.150, 72.152, 72.154(a), (b), 72.156, 72.160, 72.162, 72.168, 72.170, 72.172, 72.174, 72.176, 72.180, 72.184, 72.186, 72.192, 72.212(b), 72.216, 72.218, 72.230, 72.234(e) and (g) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

15. In § 72.30 the introductory text of paragraph (c)(2) is revised to read as follows:

§ 72.30 Decommissioning Planning including financing and recordkeeping.

\* \* \* \* \*

(c) \* \* \*

(2) A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, letter of credit, or line of credit. A

parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A of 10 CFR Part 30. A parent company guarantee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix B of 10 CFR Part 30. A guarantee by the applicant or the licensee may not be used in combination with any other financial methods to satisfy the requirements of this section or in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

\* \* \* \* \*

Dated at Rockville, Maryland, this\_\_\_\_ day of \_\_\_\_\_, 1992.

For the Nuclear Regulatory Commission.

\_\_\_\_\_  
Samuel J. Chilk,  
Secretary of the Commission.

NUCLEAR REGULATORY COMMISSION

PARTS 30, 40, 50, 70, and 72

Proposed Rulemaking

Self-Guarantee as an Additional Financial Assurance Mechanism

AGENCY: Nuclear Regulatory Commission (NRC)

ACTION: Notice of the Office of Management and Budget Review of Information Collection.

SUMMARY: The NRC has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission: Revision
2. Title of the information collection: "Proposed Amendments to 10 CFR Parts 30, 40, 50, 70, and 72 to Allow Self-Guarantee as an Additional Financial Assurance Mechanism"
3. The form number if applicable: None
4. How often is the collection required: Annually for most information; on

occasion for some.

5. Who will be asked to report: Large non-electric utility licensees who desire to use self-guarantee as a financial assurance mechanism.

6. An estimate of the number of responses: One report per year from 20 licensees.

7. An estimate of the total number of hours needed to complete the requirements or requests: 380 hours annually including reporting and recordkeeping.

8. The average burden per response: 19 hours per year

9. An indication of whether Section 3504(h), Pub. L. 96-511 applies: applicable.

10. Abstract: In response to a petition for rulemaking submitted by licensees, NRC is proposing to allow certain non-electric utility licensees who meet stringent financial standards to use self-guarantee as a financial assurance mechanism for decommissioning funding. The use of self-guarantee would reduce licensee costs because licensees qualifying to use self-guarantee would not have to purchase third-party financial assurance (e.g., letters of credit, surety bonds). However, use of self-guarantee is strictly optional; licensees do not have to use this method of providing financial assurance. Therefore, any information requested by NRC in this proposed rule is only required if licensees choose to use self-guarantee

in place of one of the already allowed financial assurance mechanisms. The proposed rule would amend the financial assurance sections of Parts 30, 40, 50, 70, and 72.

The information collection is needed to permit NRC to review the financial status of licensees using self-guarantee. A financial test, focusing on tangible net worth, bond rating, and the ratio of tangible net worth to decommissioning cost estimates, is required. In addition, the proposed rule has provisions for timely updating of information regarding a licensee's financial condition. For example, copies of current reports filed with the Securities and Exchange Commission must be submitted to NRC.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC

Comments and questions should be directed to the OMB reviewer:

Ronald Minsk

Office of Information and Regulatory Affairs

(3150-0017, -0020, -0011, -0009, and 0132)

NEOB-3019

Office of Management and Budget

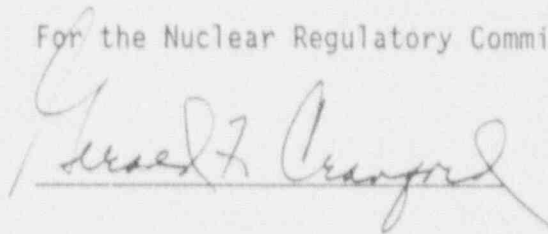
Washington, DC 20503

Comments can also be communicated by telephone to (202) 395-3084.

NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 31st day of December, 1992.

For the Nuclear Regulatory Commission.

A handwritten signature in dark ink, appearing to read "Gerald F. Cranford", is written over a horizontal line.

Gerald F. Cranford, Designated Senior  
Official for Information Resources Management