

consultation that the restriction appears to be appropriate, he shall publish a notice of the proposed restriction in the **Federal Register** together with a summary of the information on which the restriction is based. Following a 30-day comment period, he shall publish a final notice.

(vi) The Regional Director may rescind any restriction if he determines that the basis for the restriction no longer exists.

(vii) Any notice of restriction shall operate as a condition imposed on the permit issued to the foreign vessels involved in the fishery.

* * * * *

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

3. The authority citation for 50 CFR part 655 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. Section 655.22 is amended by revising paragraphs (a), (b), (c), and (d), redesignating paragraph (f) as paragraph (g), and adding a new paragraph (f) to read as follows:

§ 655.22 Procedures for determining initial annual amounts and adjustments.

(a) On or about October 15 of each year, the Council will prepare and submit recommendations to the Regional Director of the initial annual amounts for the fishing year beginning January 1, or the continuing validity of annual specifications for the upcoming fishing year established under paragraph (f) of this section, based on

information gathered from sources specified in paragraph (e) of this section. The Council may also recommend, in order to facilitate development of the U.S. fishery, special conditions on joint ventures and foreign directed fishing activities. Such conditions may include certain ratios of TALFF to purchases of domestic-harvested fish and/or domestic-processed fish in relation to the initial annual amounts.

(b) On or about November 1 of each year, unless annual specifications have been established under paragraph (f)(1) of this section, the Secretary will publish a notice in the **Federal Register** that specifies preliminary initial amounts of OY, DAH, DAP, JVP, TALFF, and reserve (if any) for each species. The amounts will be based on information submitted by the Council and from the sources specified in paragraph (e) of this section. In the absence of a Council report, the amounts will be based on information gathered from sources specified in paragraph (e) of this section and other information considered appropriate by the Regional Director. If the preliminary initial amounts differ from those recommended by the Council, the notice must clearly state the reason(s) for the difference(s) and specify how the revised specifications satisfy the 9 criteria set forth above for the species affected. The **Federal Register** notice will provide for a 30-day comment period.

(c) The Council's recommendation and the information listed in paragraph (e) of this section will be available in aggregate form for inspection at the

office of the Regional Director during the public comment period. The Council's report on specifications established under paragraph (f)(1) of this section will also be available for inspection at the office of the Regional Director upon receipt from the Council.

(d) On or about December 15 of each year, unless annual specifications have been established under paragraph (f)(1) of this section, the Secretary will make a final determination of the initial amounts for each species, considering all relevant data and any public comments, and will publish a notice of the final determination and response to public comments in the **Federal Register**. If the final amounts differ from those recommended by the Council, the notice must clearly state the reason(s) for the difference(s) and specify how the revised specifications satisfy the 9 criteria set forth above for the species affected.

* * * * *

(f)(1) In accordance with the procedures set forth in this section, the Council may prepare recommendations for initial annual amounts for 3 consecutive fishing years.

(2) The Secretary may adjust these annual amounts upward or downward to produce the greatest overall benefit to the United States at any time prior to or during the fishing years for which the annual specifications were set, by publishing a notice and providing for a 30-day comment period, followed by publication of a final notice.

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Proposed Rules

Federal Register

Vol. 57, No. 4

Tuesday, January 7, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

RIN 3150-AD80

Training and Qualification of Nuclear Power Plant Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to require each applicant for and each holder of a license to operate a nuclear power plant to establish, implement, and maintain a training program for nuclear power plant personnel based on a systems approach to training. The proposed rule would require that the training program provide qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The rule is being proposed to meet the directives of section 306 of the Nuclear Waste Policy Act of 1982. The proposed rule generally reflects current industry practice.

DATES: The comment period expires March 9, 1992. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Mail written comments to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of the draft regulatory analysis, as well as copies of the comments received on the proposed rule, may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Morton Fleishman, Office of Nuclear Regulatory Research, telephone: (301) 492-3794 or Mary Ann Biamonte, Office of Nuclear Reactor Regulation, telephone: (301) 504-1073, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

Nuclear Waste Policy Act of 1982

In section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), Public Law 97-425, the NRC was "directed to promulgate regulations, or other appropriate Commission regulatory guidance for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians and other operating personnel. Such regulations or guidance shall establish . . . instructional requirements for civilian nuclear power plant licensee personnel training programs." In order to meet this directive, on March 20, 1985 (50 FR 11147), the Commission published a Policy Statement on Training and Qualification of Nuclear Power Plant Personnel. The policy statement endorsed a training accreditation program managed by the Institute of Nuclear Power Operations (INPO) in that it encompassed the elements of effective performance-based training and provided the basis to ensure that personnel have qualifications commensurate with the performance requirements of their jobs.

In addition to endorsing the INPO-managed training accreditation program, the 1985 Policy Statement also recognized the INPO-managed accreditation of utility training for the following training programs:

- (1) Non-licensed operator.
- (2) Control room operator.
- (3) Senior control room operator/shift supervisor.
- (4) Shift technical advisor.
- (5) Instrument and control technician.
- (6) Electrical maintenance personnel.
- (7) Mechanical maintenance personnel.
- (8) Radiological protection technician.
- (9) Chemistry technician.
- (10) On-site technical staff and managers.

While issuing the policy statement, the Commission decided to defer rulemaking in this area for a minimum of two years in order to allow the industry

to continue its initiatives to upgrade training programs through the INPO-managed training accreditation program. Following issuance of the policy statement, the NRC evaluated the INPO-managed training accreditation program over a two-year period and concluded that it was an effective program. On November 18, 1988, the NRC published an amended policy statement in order to (1) provide additional information regarding the NRC's experience with industry accreditation, (2) change the policy regarding enforcement to eliminate discretion in inspection and enforcement in the areas covered by the 1985 Policy Statement, and (3) reflect current Commission and industry guidance. The NRC staff continues to perform training inspections at different utilities with accredited training programs to ensure that these programs remain effective.

U.S. Court of Appeals Decision

On April 17, 1990, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the Commission's Policy Statement did not meet the intent of the Congressional directive to create mandatory requirements for personnel training programs at civilian nuclear power plants. The Court remanded the issue back to the NRC for action consistent with the Court's findings. *Public Citizen v. NRC*, 901 F.2d 147 (D.C. Cir.). The Commission requested a rehearing by the full court of the decision. The request was denied on June 19, 1990. On November 26, 1990, the Supreme Court denied a petition for certiorari by the Nuclear Utility Management and Resource Council. 59 U.S.L.W. 3392 (November 26, 1990).

Actions Proposed in Response to the Court Decision

The NRC is proposing to amend 10 CFR part 50 to require each applicant for and each holder of a license to operate a nuclear power plant to establish, implement, and maintain a training program for nuclear power plant personnel that provides qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The rule is being proposed to meet the directives contained in section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), Pub. L. 97-425, as interpreted by the U.S. Court of Appeals for the District of Columbia Circuit.

The proposed rule would amend 10 CFR part 50 to require training programs to be derived from a systematic analysis of job performance requirements. Current industry programs have been developed consistent with this approach. From the NRC's monitoring of industry training programs since the 1985 policy statement went into effect, the NRC has concluded that these programs have been generally effective in ensuring that personnel have qualifications commensurate with the performance requirements of their jobs.

Discussion

The safety of nuclear power plant operations and the assurance of general public health and safety depend on personnel performing at adequate performance levels. The systematic determination of qualifications and the provision of effective initial training and periodic retraining will enhance confidence that workers can perform at adequate performance levels. Qualifications in the context of this rule means that nuclear power plant personnel have completed the training program, or parts thereof, as evidenced by meeting the job performance requirements, and are permitted to independently perform specific activities. The Commission has taken an approach in this proposed rule that would specify the process to be implemented by applicants and licensees by which job performance criteria and associated personnel training would be derived. This approach provides for flexibility and site-specific adaptations in the training programs. No additional cost is anticipated with this approach for licensees with accredited programs because the proposed rule is believed to be consistent with existing industry practice for personnel training.

Approaches to the rulemaking other than that proposed, which establishes requirements consistent with the programs already largely developed and implemented by the industry, were not evaluated in detail. There is no evidence that any other approach would provide greater protection of the public's health and safety than the site-specific training programs called for in the proposed rule. At the same time, other approaches would involve greater costs to the industry and the NRC.

Summary of Proposed Rule

Each applicant for and each holder of an operating license for a nuclear power plant would be required to—

(1) Establish a training program for certain nuclear power plant personnel

who perform operating, maintenance, and technical support activities;

(2) Use a systems approach to training;

(3) Incorporate instructional requirements to provide qualified personnel who can safely operate the facility in all modes of operation;

(4) Periodically review, evaluate and revise the training program; and

(5) Maintain and keep available for NRC inspection sufficient records to verify the adequacy of the training program.

Although no written response would be required, licensees would be expected to review their license and other commitments for consistency with the new rule.

The Commission has also developed conforming amendments to 10 CFR parts 50 and 52 to accompany the proposed rule. Two changes, to parts 50 and 52, would update information collection requirements for OMB approval and are considered minor. The other change to part 52 is more substantive and has been developed to ensure that applicants for a combined license (construction and operation) will establish, implement, and maintain a training program in accordance with the requirements in 10 CFR 50.120. The proposed rule is not intended to preclude vendor training programs developed in conjunction with standardization of design.

Discussion of Proposed Rule

A new section, § 50.120, would be added to 10 CFR part 50, entitled "Training and qualification of nuclear power plant personnel."

The proposed rule would establish the requirements for and the essential elements of the process to be used by applicants and licensees to—

(1) Determine training and qualification requirements for all appropriate personnel; (2) develop corresponding personnel training programs to ensure that qualified personnel are available to operate and maintain the facility in a safe manner; and (3) implement and maintain these programs effectively on a continuing basis.

Paragraph (a), "Applicability," indicates that the proposed rule would apply to each applicant for and each holder of an operating license for a nuclear power plant.

Paragraph (b), "Requirements," would require that each applicant and licensee establish, implement, and maintain a program for training nuclear power plant personnel which addresses all modes of operation and is derived from a systems approach to training (SAT). The SAT

was selected because it has the following characteristics:

(1) Training content and design are derived from job performance requirements;

(2) Training is evaluated and revised in terms of the job performance requirements and observed results on the job;

(3) Trainee success in training can predict satisfactory on-the-job performance; and

(4) Training and associated programs can be readily audited because they involve clearly delineated process steps and documentation.

The SAT process contains five major elements and is intended to require a training system that will ensure successful performance on the job by trained individuals. The elements are—

(1) Analysis of job performance requirements and training needs;

(2) Derivation of learning objectives;

(3) Design and implementation of the training programs;

(4) Trainee evaluation;

(5) Program evaluation and revision.

The SAT process also provides a sequential method of generating the type of documentation needed for training review. Use of SAT will obviate the need for additional documentation for NRC review.

The SAT process is a generic process, and its application is not limited to a certain subject matter or to specific licensee personnel. Training programs based on job performance requirements have been successfully used by the military for over 20 years, and by the nuclear industry for much of the past decade. Furthermore, the Commission has recognized the appropriateness of using this approach to training in its requirements for operator licensing prescribed in § 55.31(a)(4), and for operator requalification prescribed in § 55.59(c).

The rule would provide for the training and qualification of the following nuclear power plant personnel:

- (1) Non-licensed operator.
- (2) Shift supervisor or equivalent.
- (3) Shift technical advisor.
- (4) Instrument and control technician.
- (5) Electrical maintenance personnel.
- (6) Mechanical maintenance personnel.
- (7) Radiological protection technician.
- (8) Chemistry technician.
- (9) On-site technical staff and managers. Licensed operators, such as control room operators and senior control room operators, are not covered by this rule. They will continue to be covered by 10 CFR part 55 for both

initial and requalification training. Because some senior control room operators may also be shift supervisors, only those aspects of training related to their shift supervisor function would be covered by the proposed rule.

The rule would require that training programs be periodically evaluated and revised as appropriate, and also be periodically reviewed by management for effectiveness. Current industry criteria in this regard involve the evaluation by management of individual training programs on a continuing or periodic basis to identify program strengths, weaknesses, and effectiveness. These evaluations are normally completed within a three to six month period following completion of the training programs. The sum of these evaluations results in a comprehensive review. Periodic evaluations of the overall training programs are being done within the four-year industry accreditation cycle. The Commission expects the above practices to continue in conformance with this rule.

Determination of job performance requirements and training needs is part of analysis in the SAT process and is reflected in qualification requirements. It will be the responsibility of the facility applicant or licensee to ensure that all personnel, licensee and contractor, within the scope of the proposed rule have qualifications commensurate with job performance requirements for those tasks for which they are assigned. Initial and continuing training, as appropriate, is expected to be provided to job incumbents in positions covered by the proposed rule.

Each applicant and licensee would be required to maintain and keep available for NRC review and inspection the materials used to establish and implement required training programs for the affected personnel. Current industry criteria in this regard involve retention of those records necessary to support management information needs and to provide required historical data. In general, these include records of program development, evaluation, and revision related to the existing training program. The NRC inspection of training programs has found that sufficient records are being retained for periods that are adequate for regulatory purposes. The Commission believes that no additional guidance for recordkeeping is necessary.

No written response is required by the proposed rule. However, applicants and licensees would be expected to compare their current training commitments and licensing bases with the requirements of the proposed rule. Licensees should use the results of this comparison to

evaluate and revise, as appropriate, existing technical specifications (e.g. perhaps deleting Standard Technical Specification Section 6.4—Training) and/or previous commitments. This approach will ensure a common understanding of training commitments (between applicants and licensees and the NRC staff) when future inspections are conducted.

Impact of the Rule on Existing Industry Training Programs

The rule, if adopted, would supersede the Policy Statement on Training and Qualification of Nuclear Power Plant Personnel. The Commission believes that the rule would not result in any change to accredited training programs. Inspections by the NRC have found the programs to be generally acceptable. The Commission concludes that those training programs accredited and implemented consistent with the industry program objectives and criteria would be in compliance with the requirement of this regulation. This conclusion is based both on inspections by the staff which have found the programs to be generally acceptable, and the staff's review of documents which provide the industry program objectives and criteria. An applicant or licensee could also comply with the requirements of the proposed rule without being accredited.

An existing Memorandum of Agreement between INPO and the NRC assures that the NRC will be aware of any modifications or updates to the industry's program objectives and criteria documents which would warrant any modification in the NRC's position expressed above. The NRC will continue to monitor the industry accreditation process by—

(a) Nominating individuals who are not on the NRC staff to serve as members of the National Nuclear Accrediting Board with full voting privileges;

(b) Having an NRC staff member attend and observe selected National Nuclear Accrediting Board meetings with the INPO staff and/or the utility representatives;

(c) Having NRC employees observe INPO accreditation team site visits;

(d) Reviewing any modifications in the program objectives and criteria as currently described in the National Academy for Nuclear Training document "The Objectives and Criteria for Accreditation of Training in the Nuclear Power Industry" (ACAD 91-015); and

(e) Verifying licensee programs through the NRC inspection process.

As noted above, the NRC has the ability to verify compliance with this regulation through the inspection program and will do so as appropriate. In their inspections the NRC staff will use Inspection Procedure 41500, "Training and Qualification Effectiveness," which references the guidance in NUREG-1220,¹ "Training Review Criteria and Procedures." Based on NRC inspections conducted to date, the Commission believes that the criteria and procedures in NUREG-1220 provide sufficiently clear guidance to allow applicants and licensees to implement effective training programs in compliance with the rule. Therefore, the Commission does not believe it is necessary to issue a regulatory guide to provide additional guidance for complying with the rule.

Vendor-Developed Programs

In 10 CFR part 52, the Commission articulated the goal of safety through standardization of design. The Commission believes that the benefits of standardization could involve the standardization of some types of training associated with the 10 CFR part 52 design certification. Therefore, nothing in the proposed rule is intended to preclude standard training programs being developed or implemented by a vendor. For example, the initial training for instrument and control technicians related to a particular standard design may be conducted by a vendor. As a result, there could be a pool of technicians trained by the vendor on the certified design available for hire at a nuclear power plant site. The personnel, however, would need to complete site-specific training related to the administrative and operating philosophy of the site as well as any other specific requirements of the licensee.

Thus, the requirements for personnel training programs prescribed by § 50.120 do not prevent a vendor from training personnel or from developing a training process. However, it is important to note that vendor training programs are not governed by the proposed rule and that the licensee is ultimately responsible for ensuring that personnel are qualified.

¹ Copies of NUREG-1220 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW., Lower Level of the Gelman Building, Washington, DC.

Applicants for a Combined License

Part 52 is being amended to require that applicants for combined licenses establish, implement, and maintain training programs in accordance with the requirements in 10 CFR 50.120.

Invitation To Comment

Comments concerning the scope and content and the implementation of the proposed amendments are encouraged. Comments are especially solicited on (1) the personnel to be covered, (2) the impact of the proposed amendments on industry training programs, (3) the relationship of the industry's accreditation process to the proposed rule, and (4) the time periods chosen for implementation of the requirements. Suggestions for alternatives to those rulemaking methods described in this notice and estimates of cost for implementation are encouraged.

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 major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. Numerous studies have shown that in complex, man-machine systems, human error has often been the overriding contributor to actual or potential system failures that may be precursors to accidents. With this rulemaking, the NRC is emphasizing the need to ensure that industry personnel training programs are based upon job performance requirements. Personnel who are subjected to training based on job performance requirements should be able to perform their job more effectively, and with few errors. Therefore, the environmental effect of implementing this rule would, if anything, be positive because of the reduction in human error. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Morton Fleishman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-3794.

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.

Public reporting burden for this collection of information is estimated to average 780 hours per response, including the time of 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 (MNB-7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-3019, (3150-0011), 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 values (benefits) and impacts (costs) of implementing the proposed regulation for personnel training and qualification. 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 analysis may be obtained from Morton Fleishman (see **ADDRESSES** heading).

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

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1989, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. This proposed rule primarily affects the companies that own and operate light-water nuclear power reactors and the vendors of those reactors. The companies that own and operate these reactors do not fall within the scope of the definition of "small entity" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR part 121. Because these companies are dominant

in their service areas, this proposed rule does not fall within the purview of the Act.

However, because there may be now or in the future small entities that will provide personnel to nuclear power plants on a contractual basis, the NRC is specifically seeking comment as to how the regulation will affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on them while still adequately protecting the public health and safety. Those small entities who offer comments on how the regulation could be modified to take into account the differing needs of small entities should specifically discuss the following items:

(a) The size of their business and how the proposed regulation would result in a significant economic burden upon them as compared to larger organizations in the same business community.

(b) How the proposed regulation could be modified to take into account their differing needs or capabilities.

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation was modified as suggested by the commenter.

(d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individuals or groups.

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety.

The comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 59.109, does not apply to this proposed rule because these amendments are mandated by section 306 of the Nuclear Waste Policy Act of 1982, 42 U.S.C. 10226. Therefore, a backfit analysis is not required for this proposed rule.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria,

Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

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, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50 and 52 as follows:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for 10 CFR part 50 is revised 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, 68 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). Sections 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). Section 50.120 is also issued under section 306 of the NWPA of 1982, 42 U.S.C. 10226. 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); §§ 50.46 (a) and (b), 50.54(c) and 50.120 are issued under sec. 161b, 161i and 161o, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 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 1 (a), (i), (j)(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(c), 50.64(b), and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and

§§ 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. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. 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, 50.71, 50.72, 50.80, 50.82, 50.90, 50.91, 50.120, and appendixes A, B, E, G, H, I, J, K, M, N, O, Q, and R.

3. Section 50.120 is added to read as follows:

§ 50.120 Training and qualification of nuclear power plant personnel.

(a) Applicability. The requirements of this section apply to each applicant for (applicant) and each holder of an operating license (licensee) for a nuclear power plant of the type specified in § 50.21(b) or § 50.22.

(b) Requirements. Each nuclear power plant applicant, by (180 days after the effective date of the rule) or 18 months prior to fuel load, whichever is later, and each nuclear power plant licensee, by (180 days after the effective date of the rule), shall establish, implement, and maintain a training program derived from a systems approach to training as defined in 10 CFR 55.4. The training program must provide for the training and qualification of the following nuclear power plant personnel:

- (1) Non-licensed operator.
- (2) Shift supervisor.
- (3) Shift technical advisor.
- (4) Instrument and control technician.
- (5) Electrical maintenance personnel.
- (6) Mechanical maintenance personnel.
- (7) Radiological protection technician.
- (8) Chemistry technician.
- (9) On-site technical staff and managers.

The training program must incorporate the instructional requirements necessary to provide qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The training program must be developed so as to be in compliance with the facility license, including all technical specifications and applicable regulations. The training program must be periodically evaluated and revised as appropriate to reflect industry experience as well as changes to the

facility, procedures, regulations, and quality assurance requirements. The training program must be periodically reviewed by licensee management for effectiveness. Sufficient records must be maintained and kept available for NRC inspection to verify the adequacy of the program.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

4. The authority citation for 10 CFR part 52 continues to read as follows:

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

5. In § 52.8, paragraph (b) is revised to read as follows:

§ 52.8 Information collection requirements: OMB approval.

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.45, 52.47, 52.57, 52.75, 52.77, 52.78, and 52.79.

6. Section 52.78 is added to read as follows:

§ 52.78 Contents of applications; training and qualification of nuclear power plant personnel.

(a) Applicability. The requirements of this section apply only to the personnel associated with the operating phase of the combined licenses.

(b) The application must demonstrate compliance with the requirements for training programs established in § 50.120 of this chapter.

Dated at Rockville, MD, this 31st day of December, 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92-247 Filed 1-6-92; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Petroleum Refining Industry

AGENCY: Small Business Administration.

ACTION: Notice of intent to revise the size standard for the Petroleum Refining Industry.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is considering a revision to a

proposed rule establishing the size standard for a small business in the Petroleum Refining Industry. The size standard is currently no more than 1,500 employees and no more than a 50,000 barrels per day (BPD) refining capacity. On May 3, 1991 the SBA published a notice of proposed rulemaking in the *Federal Register* (56 FR 20382) to eliminate the current 50,000 BPD component of the size standard and retain the 1,500 employee size limit. The comments received from that proposal indicated the need to retain or increase the capacity component to the petroleum refiners size standard. The SBA is considering an increase of that component to 75,000 BPD and the public is invited to comment on the merits of such a revision.

DATES: Comments must be submitted on or before February 6, 1992.

ADDRESSES: Written comments should be sent to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 409 3rd Street SW.—suite 8150, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Norman S. Salenger, Economist, Size Standards Staff, Tel: (202) 205-6618.

SUPPLEMENTARY INFORMATION: On May 3, 1991 the SBA published in the *Federal Register* (56 FR 20382) a notice of proposed rulemaking to change the size standard for the Petroleum Refining Industry (Standard Industrial Classification code 2911) from no more than 1,500 employees and no more than 50,000 barrels per day (BPD) refining capacity to no more than 1,500 employees. By eliminating the refining capacity component of the size standard the SBA intended to simplify the size standard and make it compatible with the single size criterion used for all other industries. In addition, this change would allow refining firms now slightly below the capacity limit to expand their refining facilities without losing their small business status.

As explained in the proposed rule, SBA believes small refiners should be allowed to expand beyond 50,000 BPD. Since the current size standard was established in 1975, the number small refiners as well as their share of the industry's refining capacity have steadily diminished. Since 1975, most refineries with less than a 10,000 BPD refining capacity and almost half of the refineries with between 10,000 and 50,000 BPD capacity are no longer operating. During this 16-year period the trend has been an increase in refineries with over 100,000 BPD refining capacity. In 1975, small refiners accounted for 7.8 percent of the U.S. refining capacity while by 1989, this share had decreased

to 6.7 percent. New environmental compliance requirements may further diminish the small business share of industry capacity. A heavy investment is expected to be needed to change refining processing equipment and some small firms may not be able to meet the investment requirements.

The public had 30 days to comment on the May 3, 1991 proposal. This comment period was extended an additional 30 days to July 3, 1991 at the request of eight commenters, including three industry associations. The SBA also invited comments on alternatives to the current and proposed size standard. In response, SBA received 24 comments. Two comments supported the proposal as presented. However, one of two commenters also suggested that SBA consider increasing the BPD capacity limit to 175,000. The remaining 22 comments opposed the proposed change with 8 comments recommending alternatives. The major issues raised by the commenters and the SBA's position are discussed below.

Twenty-two commenters recommended that SBA retain the barrel per day capacity component of the size standard. Eight commenters felt that there was no meaningful relationship between barrel capacity and the number of refinery employees. Thus, eliminating the BPD requirement would not accurately reflect a small petroleum refiner. This was due to a widely varying degree of automation among refineries as well as the extent to which firms are engaged in nonrefining activities, such as operating petroleum retail outlets. In conjunction with these comments, the capacity level was cited as a better measure of refinery size than employees. The SBA is persuaded that there is a tenuous relationship between employees and capacity and the previous position to eliminate the barrel per day component of the size standard for petroleum refining should not be adopted.

Ten comments from firms recommended no change to the current size standards without offering or discussing alternatives. The five large firms taking this position argued that employees do not measure true size of a refining firm and that bona fide small refiners would be hurt if large firms were included as small business. The small firms desiring to maintain the current size standard argued that a barrel limitation is necessary to reflect the capital intensive structure of the industry. The small firms commented that they would be placed at a competitive disadvantage with refiners which would be considered small under the proposal because eliminating the

BPD requirement would qualify firms with capacity as much as three times the current size limit. Further, integrated refiners, as opposed to businesses which are primarily refiners, would derive substantial benefits. The Defense Fuel Supply Center commented that the proposal would not benefit small firms as intended. The SBA agrees that the change proposed on May 3, 1991 could have had a negative impact on small firms. However, a change to 75,000 BPD is expected not to impact negatively on the small business sector of the Petroleum Refining Industry. The structural changes in the industry warrant an upward adjustment of the capacity component of the size standard. The reasons for this are explained in greater detail after the discussion of the comments.

Five firms recommended that SBA increase the employee component of the size standard for petroleum refiners to 2,000 employees along with an increase in the capacity level. Their position was that this would permit small refiners with widespread retail operations to be small business. The SBA does not believe an increase in the employee component is supportable. Refining firms with 1,500 to 2,000 employees are substantially engaged in nonrefining activities. This observation indicates that refiners with more than 1,500 employees are strong enough to expand beyond their primary business base and do not need assistance from small business programs.

The SBA's concept of what is considered a small petroleum refiner within the industry evolved from the comments. An association representing small refiners said it does not consider a refiner with a capacity in excess of 100,000 BPD a small refiner. A large refiner said that a refiner in the 100,000 BPD to 150,000 BPD range would not be a small refiner. A small refiner said that under the May 3, 1991 proposal a 175,000 BPD refiner could qualify, but no firm with that capacity could be deemed small. A larger refiner that would become small under the proposed change said that at 175,000 BPD the change from small to large occurs. Although these views differ, the general indication is that a firm with over 100,000 BPD refining capacity is not viewed by the industry as a small refiner.

Several alternative capacity levels were recommended by the commenters. They ranged from retaining the 50,000 BPD limit to raising it to 175,000 BPD. The most frequently mentioned alternative (six comments) was 75,000 BPD. Four small firms, below a 50,000

BPD capacity, commented that a 75,000 BPD size standard was acceptable to them.

Several commenters suggested that a capacity level in excess of 100,000 BPD may be appropriate. Two firms and an industry association recommended that SBA consider a capacity size standard of 75,000 BPD per refinery with a limit of 137,500 BPD for multirefinery firms. This alternative introduces complications to the size standard. It also could raise the capacity element to almost three times its present level for a multirefinery firm. (It should be noted that a capacity level of 50,000 BPD per refinery and 137,500 BPD per firm was set by legislation for the purpose of defining a small refinery firm in meeting certain environmental requirements.)

The smallest capacity increase suggested was to 65,000 BPD. SBA believes a limited increase of this amount is not desirable because it would not permit mergers or acquisitions among some small refiners without loss of their small business status.

The SBA has decided that the capacity component to the Petroleum Refinery Industry size standard should be retained and be increased from its current 50,000 BPD level. Such a change should permit small refiners that are now close to the current limit to expand their plants or combine with other small refiners without losing their small business status. The change in the industry structure since the last size standard revision in 1975 supports an adjustment. Such a change should be based on selecting a size standard that reflects the need for assistance by firms designated as small.

SBA is, therefore, considering a revision of the barrel per day component to 75,000 BPD from 50,000 BPD and retaining the 1,500 employee component. Besides being within the industry's concept of a small refiner and facilitating a moderate expansion or combination by currently small refiners, this level is supported by the industry's structure. Firms within this standard are primarily operating as refiners rather than substantially as retail marketers or as petroleum explorers owning a refining operation. Firms with over 75,000 BPD refining capacity are integrated into petroleum activities other than refining. A 75,000 BPD level would allow a number of acquisition or merger opportunities among now small refiners without loss of their small business status. Such a combination may help to alleviate cost pressures of environmental compliance on small refining firms.

SBA is publishing this notice to elicit further information from the public prior to the issuance of a final rule. In order to facilitate such public comments SBA has provided this notice outlining its present thinking based upon comments received from the May 3, 1991 proposed rule, as well as the Agency's own study. However, SBA is not suggesting that the size standard outlined in this notice, or that set forth in the May 3, 1991 proposal, will be adopted as the final size standard for the Petroleum Refining Industry. Rather, SBA is seeking additional input from the public in the formulation of a final size standard which will reflect a more suitable definition of a small business in the Petroleum Refining Industry. As such, any final rule on this issue adopted by SBA will be logical outgrowth of Agency research in conjunction with public comment from both the proposed rule and this notice.

Dated: December 29, 1991.

Patricia Saiki,
Administrator, U.S. Small Business
Administration.

[FR Doc. 92-257 Filed 1-6-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Indiana Abandoned Mine Land Reclamation Program (hereinafter referred to as the Indiana Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231 *et seq.*, as amended.

The proposed amendment pertains to changes to SMCRA made by the AML Reclamation Act of 1990 which became effective October 1, 1991. The proposed amendment is intended to revise the Indiana Program to address the changes to SMCRA effected by the amendments.

This notice sets forth the times and locations that the Indiana Program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit

written comments on the proposed amendment, and the procedures that will be followed for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m., e.s.t. on February 6, 1992; if requested, a public hearing on the proposed amendment is scheduled for 1 p.m., e.s.t. on February 3, 1992; and requests to present oral testimony at the hearing must be received on or before 4 p.m., e.s.t. on January 22, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204. Telephone: (317) 226-6166.

Indiana Department of Natural Resources, 402 West Washington Street, room 295, Indianapolis, IN 46204. Telephone: (317) 232-1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Telephone (317) 226-6166; (FTS) 331-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, *Federal Register* (47 FR 321110). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.20, and 914.25.