

investigating or prosecuting entity has been taken.

(h) *Offsets.* RHS may request offsets as described in § 3550.210 of subpart E of this part to collect amounts owed.

(i) *Escrow funds.* At liquidation all funds held in escrow or unapplied funds will be applied against the debt.

**§ 3550.253 Settlement of a debt by compromise or adjustment.**

Compromise or adjustment offers may be initiated by the debtor or by RHS. RHS will approve only those compromises and adjustments that are in the best interest of the government.

(a) *Compromise.* A compromise is an agreement by RHS to release a debtor from liability upon receipt of a specified lump sum that is less than the total amount due.

(b) *Adjustments.* An adjustment is an agreement by RHS to release a debtor from liability upon receipt of a reduced amount paid as an initial lump sum and periodic additional payments over a period of up to five years.

(c) *Timing of offers.* (1) For a settlement offer to be considered, secured debts must be fully matured under the terms of the debt instrument or must have been accelerated by RHS.

(2) Unsecured debts owed after the sale of the security property may be proposed for compromise or adjustment at any time. Debts that were never secured may be proposed for compromise or adjustment when they are due and payable.

(d) *Retention of security property.* The debtor may retain the security property if the compromise payment or the initial payment made as part of an adjustment offer is at least equal to the net recovery value, and it is in the best interest of the government to allow the debtor to retain the security property.

**§ 3550.254–3550.300 [Reserved]**

Dated: March 8, 1996.

Inga Smulkstys,

*Acting Under Secretary, Rural Economic and Community Development.*

[FR Doc. 96–8492 Filed 4–5–96; 8:45 am]

BILLING CODE 3410–07–U

**NUCLEAR REGULATORY COMMISSION**

**10 CFR Part 50**

**RIN 3150–AF41**

**Financial Assurance Requirements for Decommissioning Nuclear Power Reactors**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission is considering amending its regulations relating to financial assurance requirements for the decommissioning of nuclear power plants. Potential deregulation of the power generating industry has created uncertainty with respect to whether current NRC regulations concerning decommissioning funds and the financial mechanisms will require a modification to account for utility reorganizations not contemplated when current financial assurance requirements were promulgated. Additionally, the NRC is considering requiring power reactor licensees to periodically report on the status of their decommissioning funds. Allowing credit for earnings on decommissioning trust funds during extended storage will also be considered. This advance notice of proposed rulemaking is issued to invite public comment on issues pertaining to the form and content of the NRC's nuclear power reactor decommissioning financial assurance requirements as they relate to electric utility deregulation.

**DATES:** Submit comments by June 24, 1996. 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 comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays.

For information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

Examine copies of comments received at: The NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

Brian J. Richter, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6221, e-mail bjr@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

**Background**

Requirements pertaining to financial assurance for the decommissioning of nuclear power reactors are contained in § 50.75. Under § 50.75(e)(3), the NRC allows power reactor licensees, who are

defined as “electric utilities”<sup>1</sup> under § 50.2, to set aside funds annually over the estimated life of the reactor for decommissioning. The NRC provided more flexibility to its electric utility licensees than other licensees because electric utilities have existed in a highly structured environment regulated by State public utility commissions (PUCs) or the Federal Energy Regulatory Commission (FERC). Under § 50.75(e)(2), the NRC requires licensees other than electric utilities to set aside an external sinking fund coupled with a surety method or insurance for any unfunded balance. However, with the advent of deregulation, the distinction between electric utility licensees and other licensees will likely be reduced or eliminated. Thus, the NRC needs to clarify the definition of “electric utility” and to require additional assurance of those licensees whose power reactor costs are no longer regulated.

Typically, power reactor licensees place decommissioning funds in external trust or escrow accounts that are reserved for decommissioning activities.<sup>2</sup> Under the definition of external sinking fund, power reactor licensees must accumulate all the funds estimated to be needed for decommissioning by the time their facilities are permanently shut down. Although § 50.75(e) also allows power reactor licensees to use surety bonds, letters of credit, and prepayment to provide funding assurance, virtually all power reactor licensees use the external sinking fund method of assurance.

In addition, § 50.75(e)(3)(iv) provides that an electric utility that is a Federal Government licensee need only provide assurance in the form of a statement of intent indicating that decommissioning funds will be obtained when necessary.

<sup>1</sup> “Electric utility means any entity that generates or distributes electricity and which recovers the cost of this electricity, either directly or indirectly, through rates established by the entity itself or by a separate regulatory authority. Investor-owned utilities, including generation or distribution subsidiaries, public utility districts, municipalities, rural electric cooperatives, and State and Federal agencies, including associations of any of the foregoing, are included within the meaning of “electric utility.”

<sup>2</sup> Many licensees that have established decommissioning trust funds for their power reactors are making deposits into their trust accounts both for decommissioning costs as defined under § 50.2 and for other decommissioning-associated costs such as interim spent fuel management and storage and “green field” costs. The NRC allows licensees to deposit funds in the same trust account as long as the trust has sub-accounts that clearly delineate the purposes of the sub-account. A trust or sub-account established to provide assurance of NRC-defined decommissioning costs should be stipulated to cover NRC-defined decommissioning costs before any other purpose.

The intent of § 50.75 is to provide reasonable assurance that funds for decommissioning will be available when necessary. The inability of the licensee to provide funding for decommissioning may adversely affect protection of public health and safety. Also, a lack of decommissioning funds is a financial risk to taxpayers (i.e., if the licensee cannot pay for decommissioning, taxpayers would ultimately pay the bill).

In a related issue, when the Commission issued the decommissioning rule, the Commission believed that, for a regulated electric utility, an external reserve account collected over the estimated remaining reactor life would provide the necessary reasonable assurance. However, as a conservatism built into the rule, the NRC decided not to allow licensees to take credit for earnings on their trust funds while their reactors were in extended safe storage. Rather, the NRC assumed that during safe storage the rate of return on external decommissioning trust funds would equal the decommissioning cost escalation rate. Thus, the after-tax, after-inflation earnings rate effectively would be zero.

When the NRC promulgated the 1988 decommissioning rule, it did not require licensees to report periodically on the status of their decommissioning funds. NRC viewed licensee compliance with the funding assurance requirements as a matter to be determined through the inspection process when necessary. Also, the NRC recognized in the 1988 decommissioning rule, the PUCs' and FERC's authority to set annual contribution rates to decommissioning funds and to establish investment and other management criteria for the funds. The PUCs and FERC also actively monitor these decommissioning funds as part of their rate regulatory responsibility. Moreover, the Financial Accounting Standards Board (FASB), a national organization that sets accounting standards, recently initiated a review of reporting of decommissioning obligations on electric utility financial statements. Although FASB has not established a final standard, it appears that it will increase the level of detail on power reactor licensees' financial statements. If adopted, this standard would likely give the NRC and others additional information on the status of decommissioning funds. However, the advent of deregulation, and consequently less oversight by FERC or by PUCs, makes it imperative that the NRC have a source of information to monitor the status of decommissioning funds.

### Specific Proposal

The Commission is considering amending §§ 50.2, 50.75, and 50.82 to require that electric utility reactor licensees provide assurance that the full estimated cost of decommissioning will be available through an acceptable guarantee mechanism if the licensees are no longer subject to rate regulation by PUCs or FERC, and do not have a guaranteed source of income. The amendment would also allow licensees to assume a positive real rate of return on decommissioning funds during the safe storage period. Lastly, a periodic reporting requirement would be established.

### Specific Considerations

Advice and recommendations on a proposed rule reflecting the foregoing and any other points considered pertinent are invited from all interested persons. Comments and supporting reasons are particularly requested on the following questions arranged by topic:

#### A. *Timing and Extent of Electric Utility Industry Deregulation*

A.1. What is the likely timetable for industry restructuring and deregulation?

A.2. Will the electric utility industry go through several phases as it responds to deregulation and other competitive pressures? If so, what will be the likely major changes in business structure that may occur in each phase? Will rates remain regulated at the retail distribution level, with deregulation occurring for generation and transmission? Will retail wheeling become widespread and lead to deregulation of all sectors of the electric utility industry? Or will rates remain regulated at the retail distribution level, with deregulation occurring within the generation and transmission sectors? What will likely be the final structure of the electric utility industry, assuming either partial or full deregulation?

A.3. Some States appear to oppose deregulation. Will they be able to maintain their opposition if neighboring States deregulate? What will be the industry structure if some States deregulate more than others? Can a "hybrid" system exist effectively?

#### B. *Stranded Costs.*

B.1. How will restructuring affect large baseload plants that currently receive rate relief to cover construction costs or have a portion yet to be phased into the rate base? Specifically, what is the probability that and degree to which these costs will be recoverable should a nuclear power plant be deemed to be non-competitive because of high construction costs? What will be the

source of operating, maintenance, and capital improvement funds should such a nuclear generator decide to continue operations? What will be the source of funds to prematurely and safely shut down an uneconomic plant? Are transmission access or other surcharges to cover stranded costs likely?

#### C. *Nuclear Financial Qualifications and Decommissioning Funding Assurance*

C.1. If nuclear plants are shut down prematurely, how will licensees who can no longer pass costs through to ratepayers provide for a shortfall of decommissioning funds?

C.2. At what point does an operator of a nuclear power plant cease to be a "utility" as defined in § 50.2 of the NRC's regulations?

C.3. If an electric utility reorganizes itself, including divesting parts of itself, so that the remaining entity operating a reactor is no longer regulated by a rate-setting State or Federal body, or will cease to be regulated by a rate-setting State or Federal body if the reactor ceases operation, would it be appropriate to require financial assurance for the decommissioning costs in full prior to NRC approval of such reorganizations? Such assurance could take the form of self-guarantee, parent company guarantee, certification by the rate-regulating entity, or other financial surety mechanism to cover the unfunded decommissioning costs. Should the NRC require additional assurance for adequate funds for safe operation and decommissioning in anticipation of deregulation? Should the NRC require, as a condition of approval of certain reorganizations involving the transfer of control of a nuclear power plant, that newly created organizations or holding companies sign a binding agreement that holds them jointly liable for decommissioning costs associated with that nuclear power plant? What would be the impact of such actions?

C.4. Should the NRC require a licensee to provide a reasonable assurance of the availability of funds for decommissioning by imposing a minimum level of net worth, cash flow, or other financial measure (similar to 10 CFR Part 30, Appendices A and B)? If below the minimum levels, the licensee would no longer be allowed to accumulate decommissioning costs over remaining facility life, but would need a guarantee that funds would be available for decommissioning through various financial measures. What financial measures would be effective and reasonable?

C.5. Would PUCs and FERC be willing to certify that licensees under their jurisdictions, both electric utility and

Part 50 licensees other than electric utilities, would be allowed to collect sufficient revenues through rates to complete decommissioning funding?

C.6. What would be the impact if the NRC required licensees to accelerate collection of decommissioning funds such that decommissioning funding for all plants would be complete within 10 years (or some other time period)?

C.7. Assume that licensees have accumulated funds that are determined to be adequate based on current estimates of decommissioning costs. If these estimates turn out to be low far in the future (for example, if final dismantlement occurs after a 50-year safe storage period), how will underfunding be remedied? What measures should the NRC consider for obtaining assurance of funds for such situations? Should the NRC require larger contingency factors in estimates to cover such situations?

C.8. Would it be feasible for the nuclear industry to develop a captive insurance pool to pay for decommissioning funding shortfalls that result from premature decommissioning? Could such a pool be structured similarly to Nuclear Mutual Limited (NML) and Nuclear Electric Insurance Limited (NEIL), who currently insure on-site property damage and replacement power of member utilities?

C.9. If PUC or FERC oversight is either substantially limited or eliminated, are there any other options for financial assurance of decommissioning that the NRC should consider?

#### *D. Decommissioning Funding Assurance and a Federal Government Licensee*

D.1. Section 50.75(e)(3)(iv) provides that an electric utility which is a Federal Government licensee need only provide assurance in the form of a statement of intent indicating that decommissioning funds will be obtained when necessary. Since a Federal utility licensee will likely be confronted with many of the same new competitive pressures as non-Federal utilities, the question arises, should the regulations continue to permit the provision of a statement of intent as the method by which these licensees provide financial assurance for decommissioning. There is, for example, no Federal law which clearly provides that the Federal Government would pay the Tennessee Valley Authority's financial decommissioning obligations should TVA be unable to do so. Does this fact or any other factors militate for or against allowing Federal utility licensees to continue to use statements of intent as the method by which

financial assurance for decommissioning is provided?

#### *E. Status of Decommissioning Trust Funds During Safe Storage Period*

E.1. What real rate(s) of return should the NRC allow licensees to use as credit for earnings on the decommissioning trust funds during the extended safe storage period?

E.2. What time period(s) should the NRC allow licensees to use in estimating the credit for earnings on the decommissioning trust funds during the extended safe storage period?

#### *F. Reporting on the Status of Decommissioning Funds*

F.1. What information should the NRC require to be included in the periodic reporting requirements?

F.2. How often should the NRC require licensees to report on the status of decommissioning funding?

The preliminary views expressed in this notice may change in light of comments received. In any case, there will be another opportunity for additional public comment in connection with any proposed rule that may be developed by the Commission.

#### *Electronic Access*

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the advance notice of proposed rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number 1-(800) 303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321-3339, or by using Telnet via

Internet: fedworld.gov. If using (703) 321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415-5780; e-mail AXD3@nrc.gov.

## **PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES**

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 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (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 and 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).

Dated at Rockville, Maryland, this 1st day of April, 1996.

For the Nuclear Regulatory Commission.  
John C. Hoyle,  
*Secretary of the Commission.*

[FR Doc. 96-8599 Filed 4-5-96; 8:45 am]

BILLING CODE 7590-01-P

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 94-ANE-44]

#### **Airworthiness Directives; Textron Lycoming 235 Series, 290 Series, and Certain 320 and 360 Series Reciprocating Engines**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This document extends the comment period for an earlier proposed airworthiness directive (AD), applicable to all Textron Lycoming 235 Series and 290 Series, and certain 320 and 360 series reciprocating engines, that proposed to require initial and repetitive inspections of the crankshaft inner diameter (ID) for corrosion and cracks, and replacement of cracked crankshafts with a serviceable part. In addition, that AD proposed to permit operation of engines with crankshafts that are found to have corrosion pits but are free of cracks provided repetitive inspections are performed until the next engine overhaul or 5 years after the initial inspection, whichever occurs first, at which time crankshafts with corrosion pits but no cracks must be replaced with serviceable crankshafts. Since publication of that proposal, the Federal Aviation Administration (FAA) has received numerous comments on the proposed actions, and has determined there is a need to receive more information from the public. The

FAA is therefore allowing additional time for the public to comment and is republishing the AD without change. The proposed actions are intended to prevent crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

**DATES:** Comments must be received by June 7, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94-ANE-44, 12 New England Executive Park, Burlington, MA 01803-5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Textron Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327-7080, fax (717) 327-7100. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

**FOR FURTHER INFORMATION CONTACT:** Raymond Reinhardt, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth St., Valley Stream, NY 11581-1200; telephone (516) 256-7532, fax (516) 568-2716.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this

proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94-ANE-44." The postcard will be date stamped and returned to the commenter.

**Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94-ANE-44, 12 New England Executive Park, Burlington, MA 01803-5299.

**Discussion**

On October 18, 1993, the Civil Aviation Authority (CAA), which is the airworthiness authority of the United Kingdom, received a report that a Piper PA-28-161 aircraft, with a Textron Lycoming O-320-D3G reciprocating engine executed a forced landing due to an engine crankshaft failure which caused the propeller to separate from the aircraft. The cause of the crankshaft failure was determined to be due to a high cycle reverse torsional fatigue mechanism that had initiated from a number of corrosion pits in the crankshaft bore. After the cracks had progressed through a substantial proportion of the crankshaft section, the rate of advance had increased until the remaining unseparated portion had failed as a result of overload. The cracking occurred in high cycle fatigue and it had progressed over an extended period of service. At the time of the accident the engine had operated for 1,950 hours time in service (TIS) since overhaul and had accumulated 4,429 hours TIS since new over a period of 16 years. In addition, the Federal Aviation Administration (FAA) has received reports of ten additional instances of cracks or failures of the crankshaft behind the propeller flange on various Textron Lycoming reciprocating engines due to cracks initiating from corrosion pits in the crankshaft bore. This condition, if not corrected, could result in crankshaft failure, which can result in engine failure, propeller separation, forced landing, and possible damage to the aircraft.

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Textron Lycoming 235 Series and 290 Series, and certain 320 and 360 series reciprocating engines was published in the Federal Register on