

Request for OMB Review

"AE39-2"
"PDR"

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.

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

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 1320, skip Part II, complete Part III and sign the paperwork certification.

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 Rajender Auluck		Telephone number (301) 492-3794
4. Title of information collection or rulemaking Reactor Operator and Senior Reactor Operator Licensing Training and Requalification Programs		
5. Legal authority for information collection or rule (cite United States Code, Public Law, or Executive Order) 42 USC 2201 (b) or		
6. Affected public (check all that apply)		
1 <input type="checkbox"/> Individuals or households	3 <input type="checkbox"/> Farms	5 <input type="checkbox"/> Federal agencies or employees
2 <input type="checkbox"/> State or local governments	4 <input checked="" type="checkbox"/> Businesses or other for-profit	6 <input type="checkbox"/> Non-profit institutions
		7 <input type="checkbox"/> Small businesses or organizations

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

7. Regulation Identifier Number (RIN) _____ or, None assigned

8. Type of submission (check one in each category)

Classification	Stage of development	Type of review requested
1 <input type="checkbox"/> Major	1 <input type="checkbox"/> Proposed or draft	1 <input type="checkbox"/> Standard
2 <input type="checkbox"/> Nonmajor	2 <input type="checkbox"/> Final or interim final, with prior proposal	2 <input type="checkbox"/> Pending
	3 <input type="checkbox"/> Final or interim final, without prior proposal	3 <input type="checkbox"/> Emergency
		4 <input type="checkbox"/> Statutory or judicial deadline

9. CFR section affected
_____ CFR _____

10. Does this regulation contain reporting or recordkeeping requirements that require OMB approval under the Paperwork Reduction Act and 5 CFR 1320? Yes No

11. If a major rule, is there a regulatory impact analysis attached?
If "No," did OMB waive the analysis? Yes No Yes No

Certification for Regulatory Submissions

In submitting this request for OMB review, the authorized regulatory contact and the program official certify that the requirements of E.O. 12291 and any applicable policy directives have been complied with.

Signature of program official	Date
Signature of authorized regulatory contact	Date

12. (OMB use only)

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55 59FR5934 PDR

SUPPORTING STATEMENT
FOR
10 CFR PART 55, OPERATORS' LICENSES, PROPOSED RULE

(OMB Clearance No. 3150-0018 and 3150-0101)

DESCRIPTION OF INFORMATION COLLECTION

The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to delete the requirement at 55.57(b)(2)(iv) that each licensed operator pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal. The proposed amendment at 55.59(c) will require facility licensees to submit copies of each annual operating test or comprehensive written examination used for operator requalification for review by the Commission at least 30 days prior to conducting the examination or the test. In addition, the proposed rule will amend the "Scope" provisions of the regulations pertaining to operators' licenses to include facility licensees.

The NRC intends to conduct selected portions of requalification examinations pursuant to 55.59(a)(2)(iii) for approximately 17% of the facility licensee requalification programs each year. Although the provisions of 55.59(a)(2)(iii) are in the current regulation, they have not been used for information collection. In eliminating 55.57(b)(2)(iv), the NRC will use the provisions of 55.59(a)(2)(iii) to meet the requirements of Section 306 of the Nuclear Waste Policy Act (NWPA) of 1982 for NRC administration of requalification examinations, and to assure that licensed operators are being adequately trained and examined in the facility licensee requalification programs. Facility licensees will be requested to provide approximately 50% less examination development material for each of these examinations than is currently requested to conduct the examinations required under 55.57(b)(2)(iv).

Currently, facility licensees assist in developing and coordinating the NRC-conducted requalification examinations. The assistance includes providing to the NRC the training material used for development of the written examinations and operating tests and providing facility personnel to work with the NRC during the development and conduct of the examinations. The proposed rule would: (1) reduce the regulatory burden on the facility licensees by reducing the effort expended by the facility licensees to assist the NRC in developing and conducting NRC requalification examinations for licensed operators, and (2) increase the regulatory burden on the facility licensees by requiring them to submit all requalification examinations at least 30 days prior to conducting the examinations. The revision of the "Scope" of Part 55 is not expected to change any burden because it only eliminates currently existing ambiguities between the regulations of Parts 50 and 55. Part 50, in sections 50.54(i) through (m), already imposes Part 55 requirements on facility licensees, and Part 55 already specifies requirements for facility licensees.

The requirements in this 10 CFR Part 55 rulemaking (OMB clearance number 3150-0018) are covered under a separate clearance package, "Reactor Operator and Senior Reactor Operator Licensing, Training and Requalification Programs," OMB clearance number 3150-0101.

There are 75 power reactor and 42 non-power reactor facility licensees affected by these requirements. These licensees will submit copies of comprehensive requalification written examinations approximately once every two years and copies of requalification operating tests annually. In addition, each year approximately 13 power reactor and 7 non-power reactor facility licensees will submit material for NRC to prepare selected portions of requalification examinations. Since NRC will only be conducting partial examinations, usually only part of the simulator portion of the operating test, the burden for these submittals is expected to be reduced by 50% from the current burden for those facility licensees required to submit material.

The "Requalification Examination Feedback Form" covered under OMB Clearance 3150-0159 will no longer be required after the effective date of the final rule implementing the proposed amendments. The reason for this is that the amount of information and the frequency of its collection would no longer be sufficient to provide useful feedback.

A. JUSTIFICATION

1. Need for Collection of Information

The proposed change to 55.2, "Scope," is not expected to result in the collection of any new information.

The proposed change to 55.57(b)(2)(iv) is expected to significantly reduce the amount of information collected for the development and conduct of NRC requalification examinations. Rather than conducting requalification examinations for license renewal for all licensed operators, the NRC intends to conduct selected portions of requalification examinations pursuant to 55.59(a)(2)(iii) at each facility at least every 6 years.

The information required by the proposed change to 55.59(c) is needed to determine if the facility licensees' requalification examinations conform with 55.59(a)(2)(i) & (ii) and to determine the scope of on-site inspections of facility requalification programs.

2. Agency Use of Information

The new information required by the proposed 55.59(c) (i.e., copies of each comprehensive requalification written examination or annual operating test) will be used to determine if the facility licensees' requalification examinations conform with 55.59(a)(2)(i) & (ii) and to determine the scope of on-site inspections of facility requalification programs. If the requested information is not collected, the NRC could not determine if the facility licensees' requalification examinations conform with 55.59(a)(2)(i) & (ii) or properly determine the scope of on-site inspections of facility requalification programs.

3. Reduction of Burden Through Information Technology

There is no legal obstacle to the use of information technology. Moreover, NRC encourages its use.

4. Effort to Identify Duplication

This information does not duplicate nor overlap other information collections made by the NRC or other government agencies. The information requested is unique to the organization and is of importance only to the NRC.

5. Effort to Use Similar Information

This information is available only from the facility.

6. Effort to Reduce Small Business Burden

This information collection does not involve any small businesses.

7. Consequences of Less Frequent Collection

Copies of each comprehensive requalification written examination or requalification annual operating test will be required to be submitted to the NRC for review 30 days prior to the conduct of such examination or test in order for the NRC to assure that the examinations and tests are comprehensive and meet the requirements of 55.59(a)(2)(i) & (ii) and to properly determine the scope of on-site inspections of facility requalification programs. Each facility will submit copies of comprehensive requalification written examinations approximately once every two years and requalification operating tests annually. Additionally, the NRC intends to collect requalification examination development information to conduct selected portions of requalification examinations pursuant to 55.59(a)(2)(iii) at each facility approximately once every 6 years. Less frequent submission of the information would not assure that the NRC would continue to meet the requirements of Section 306 of the Nuclear Waste Policy Act (NWPA) of 1982 for NRC administration of requalification examinations, and would not assure the NRC that licensed operators are being adequately trained and examined in the facility licensee requalification programs.

8. Circumstances Which Justify Variations from OMB Guidelines

This request does not vary from OMB guidelines.

9. Consultations Outside the NRC

There have been no formal consultations outside the NRC. The proposed rule will be published for public comment.

10. Confidentiality of Information

The information is not available for public inspection. Some information is proprietary in nature.

11. Justification for Sensitive Questions

No sensitive information is requested.

12. Estimated Annualized Cost to the Federal Government

✓ NRC review of written examination and operating tests: ✓

<u>Licensees Affected</u>	<u>Hours per Licensee</u>	<u>Total Burden</u>	<u>Government Cost at \$123/Hr</u>
Power Reactor: 75 ²	32	2,400 ⁶⁴	\$295,200 ^{\$7372}
Non-power: 42 ¹	16	672 ¹⁶	\$82,656 ^{\$1968}

✓ NRC preparation of portions of examinations:

<u>Licensees Affected</u>	<u>Hours per Licensee</u>	<u>Total Burden</u>	<u>Government Cost at \$123/Hr</u>
Power Reactor: 13 ⁰	160 ⁰	2,080 ⁰	\$255,840 ⁰
Non-power: 7 ⁰	120 ⁰	840 ⁰	\$103,320 ⁰

Totals (annualized):

<u>Licensees Affected</u>	<u>Hours per Licensee</u>	<u>Total Burden</u>	<u>Government Cost at \$123/Hr</u>
Power Reactor: 88 ²	51 ³²	4,480 ⁶⁴	\$551,040 ^{\$7372}
Non-power: 49 ¹	31 ¹⁶	1,512 ¹⁶	\$185,976 ^{\$1968}
		5,992 ⁸⁰	\$737,016 ^{\$9340}

This represents a savings of \$276,504 when compared to the current cost to the Government to administer requalification examinations.

13. Estimate of Industry Burden and Cost

✓ Submittal of written examination and operating tests:

<u>Licensees Affected</u>	<u>Hours per Licensee</u>	<u>Total Burden</u>	<u>Licensee Cost at \$123/Hr</u>
Power Reactor: 75 ²	4	300 ⁸	\$36,900 ^{\$984}
Non-power: 42 ¹	0.5	21 ^{0.5}	\$2,583 ^{\$62}

Additional copying and mailing cost for power reactor licensees: \$7,500 (at \$100 per licensee)

*note: * increases the possibility of nuclear industry requalification program inspection results.*

Additional copying and mailing cost for non-power reactor licensees:
~~\$420~~ (at \$10 per licensee)

TOTAL LICENSEE COST: ^{#1256} \$47,403

Submittal of material for NRC preparation of portions of examinations:

<u>Licensees Affected</u>	<u>Hours per Licensee</u>	<u>Total Burden</u>	<u>Licensee Cost at \$123/Hr</u>
Power Reactor: 13	4	52	\$6,396
Non-power: 7	2	14	\$1,722

Additional copying and mailing cost for power reactor licensees:
~~\$2,275~~ (at \$175 per licensee)

Additional copying and mailing cost for non-power reactor licensees:
~~\$350~~ (at \$50 per licensee)

TOTAL LICENSEE COST: ⁻⁰⁻ \$10,743

Totals (annualized):

<u>Licensees Affected</u>	<u>Hours per Licensee</u>	<u>Total Burden</u>	<u>Licensee Cost at \$123/Hr</u>
Power Reactor: 88 ²	4	352	\$43,296
Non-power: 49 ¹	0.7	35	\$4,305
		<u>387</u>	\$47,601

Total additional copying and mailing costs:

Power Reactors: \$9,775
 Non-power: \$770
 \$10,545

TOTAL LICENSEE COST FOR ALL REQUIREMENTS: ^{#1256} \$58,146

14. Reasons for Change in Burden

For power reactor facilities, the burden estimated here represents no change in burden hours and a reduction of \$2,325 in reproduction effort. For non-power reactor facilities, the burden here represents a decrease of 5 burden hours and \$230 in reproduction effort. Therefore, the additional burden of the requirement for facility licensees to submit copies of each comprehensive requalification written examination or annual operating test will be offset by the reduction in the time required to collect and submit material for NRC to prepare and conduct the requalification examinations. The change to the "Scope" of Part 55 is not expected to change any burden.

15. Publications for Statistical Use

This information is not published for statistical use.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used in this information collection.

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

RIN 3150-AE39

Operators' Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to delete the requirement that each licensed operator at power, test and research reactors pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal. The proposed amendment will require facility licensees to submit copies of each annual operating test or comprehensive written examination used for operator requalification for review by the Commission at least 30 days prior to conducting the examination or the test. In addition, the proposed rule will amend the "Scope" provisions of the regulations pertaining to operators' licenses to include facility licensees.

DATES: The comment period expires (60 days from date of 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: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm 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: Dr. Rajender Auluck, P.E., Office of Nuclear Regulatory Research, telephone: (301) 492-3794, or David Lange, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-3171.

SUPPLEMENTARY INFORMATION:

Background

Section 306 of the Nuclear Waste Policy Act (NWPA) of 1982 authorized and directed the NRC "to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians and other

appropriate operating personnel." The regulations or guidance were to "establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs." On March 25, 1987 (52 FR 9453), the Commission accomplished the objectives of the NWSA that were related to licensed operators by publishing a final rule in the Federal Register that amended 10 CFR Part 55, effective May 26, 1987. The amendment revised the licensed operator requalification program by establishing (1) simulator training requirements, (2) requirements for operating tests at simulators, and (3) instructional requirements for the program (formerly Appendix A to 10 CFR Part 55). The final rule also stipulated that in lieu of the Commission accepting certification by the facility licensee that the licensee has passed written examinations and operating tests given by the facility licensee within its Commission approved program developed by using a systems approach to training (SAT), the Commission may give a comprehensive requalification written examination and an annual operating test. In addition, the amended regulations required each licensed operator to pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal.

Following the 1987 amendment to Part 55, the NRC began conducting operator requalification examinations for the purpose of license renewal. As a result of conducting these examinations, the NRC determined that nearly all

facility requalification programs met the Commission's expectations and that the NRC examiners were largely duplicating tasks that were already required of, and routinely performed by, the facility licensees.

The NRC revised its requalification examination procedures in 1988 to focus on performance-based evaluation criteria that closely paralleled the training and evaluation process used for a SAT based training program. This revision to the NRC requalification examination process enabled the NRC to conduct comprehensive examinations for the purpose of renewing an individual's license and, at the same time, use the results of the examinations to determine the adequacy of the facility licensee's requalification training program.

Since the NRC began conducting operator requalification examinations, the facility program and individual pass rates have improved from 81 to 90 percent and from 83 to 91 percent, respectively, through fiscal year 1991. The NRC has also observed a general improvement in the quality of the facility licensees' testing materials and in the performance of their operating test evaluators. Of the first 79 program evaluations conducted, ten (10) programs were evaluated as unsatisfactory. The NRC issued Information Notice No. 90-54, "Summary of Requalification Program Deficiencies," dated August 28, 1990, to describe the technical deficiencies that contributed to the first 10 program failures. Since that time only six programs, of 120 subsequent program evaluations, have been evaluated as unsatisfactory.

Pilot requalification examinations were conducted in August through December of 1991. The pilot test procedure directed the NRC examiners to focus on the evaluation of crews, rather than individuals, in the simulator portion of the operating test. In conducting the pilot examinations, the NRC

examiners and the facility evaluators independently evaluated the crews and compared their results. The results were found to be in total agreement. Furthermore, the NRC examiners noted that the facility evaluators were competent at evaluating crews and individuals and were aggressive in finding deficiencies and recommending remediation for operators who exhibited weaknesses. The performance of the facilities' evaluators during the pilot examinations further confirmed that the facility licensees can find deficiencies, and remediate and retest their licensed operators' appropriately.

Discussion

In accordance with § 55.57(b)(2)(iii), licensed operators are required to pass facility requalification examinations and annual operating tests. In § 55.57(b)(2)(iv), licensed operators are also required to pass a comprehensive requalification written examination and operating test conducted by the NRC during the term of a 6-year license. These regulations establish requirements which impose a dual responsibility on both the facility licensee which assists in developing and conducting its own as well as NRC requalification examinations, and the NRC which supervises both the facility licensee requalification program as well as conducting a comprehensive requalification examination during the term of an operator's 6-year license.

The NRC believes operational safety at each facility will continue to be ensured, and, in fact, will be improved, if NRC resources are directed towards inspecting and overseeing the facility requalification programs rather than continuing to conduct individual operator requalification examinations. The

NRC's experience since the beginning of the requalification program indicates that weaknesses in the implementation of the facility program are generally the root cause of deficiencies in the performance of operators. The NRC could more effectively allocate its resources to perform on-site inspections of facility requalification examination and training programs in accordance with indicated programmatic performance rather than scheduling examiners in accordance with the number of individuals requiring license renewal. The NRC expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs.

As of October 9, 1992, the NRC had conducted requalification examinations at 11 research and test reactor facilities for a total of 34 operators being examined. No failures were identified. For research and test reactors, this sample provides the NRC with little data to support the same rationale that is discussed above with respect to power reactors. However, the NRC believes that the flexibility to allocate resources based on indicated programmatic performance rather than on the number of individuals requiring license renewal would also improve operational safety at research and test reactors. In addition, the proposed rule does not prevent the NRC from conducting requalification examinations at research and test reactor facilities.

Currently, facility licensees assist in the development and conduct of the NRC requalification examinations. The assistance includes providing to the NRC (1) the training material used for development of the written and operating examinations and (2) facility personnel to work with the NRC during the development and conduct of the examinations. The proposed amendments would reduce the regulatory burden on the facility licensees by reducing the

effort expended by the facility to assist the NRC in developing and conducting NRC requalification examinations for licensed operators.

As part of the proposed rule change, the facility licensees would be required to submit to the NRC each annual operating test or comprehensive written examination used for operator requalification at least 30 days prior to giving the test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would also review other information already available to the staff to determine the scope of an on-site inspection of the facility requalification program. The NRC would continue to expect each facility to meet all of the conditions required for conducting a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility-conducted requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license as a condition of license renewal.

The "Scope" of Part 55, § 55.2, will be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of Parts 50 and 55. Part 50, in § 50.54(i) through (m), already imposes Part 55 requirements on facility licensees, and Part 55 already specifies requirements for facility licensees.

The proposed amendments would meet the requirements of Section 306 of the NHPA without the requirement that each licensed individual pass a requalification examination conducted by the NRC during the 6-year term of the individual's license. The requirements of the NHPA would be met as follows:

- 1) the regulations would continue to require facilities to have requalification programs and conduct requalification examinations;
- 2) the NRC would provide oversight (i.e., administration) for these programs and examinations through inspections;
- and 3) § 55.59(a)(2)(iii) provides that the NRC may conduct requalification examinations in lieu of accepting the facility licensee's certification that a licensed individual has passed the facility requalification examination. The NRC will use this option if warranted after an on-site inspection of the facility's requalification program. The proposed amendments would not affect the regulatory or other appropriate guidance required by Section 306 of the NHPA and established in § 55.59(a)(2)(iii) for the NRC to conduct requalification examinations in lieu of an examination given by the facility.

Invitation To Comment

Comments concerning the scope, content, and implementation of the proposed amendments are encouraged. Comments are solicited on the burden created by the requirement that each facility licensee submit and the NRC review all annual operating tests or comprehensive written examinations at least thirty days prior to conducting such tests or exams. In addition, comments on the applicability of the proposed amendments to research and test

reactor facilities are especially solicited, as are suggestions for alternatives to those rulemaking methods described in this notice.

Commissioner Rogers' separate views.

Commissioner Rogers believes that the staff should be allowed the discretion to administer exams as they feel necessary, i.e., other than for cause, without receiving prior Commission approval. Reasons for allowing the staff to administer discretionary exams include:

1. Providing an additional incentive to licensees to maintain the quality of their operator training programs.
2. Providing a benchmark with good performing plants by which to judge the adequacy of the licensees' operator training programs.
3. Providing a basis to determine whether or not licensee examiner standards need to be revised.
4. Providing an independent check of the quality of the licensees' operator training programs.
5. Providing the NRC staff the opportunity to maintain its examination expertise.

6. Ensuring that the latest, state-of-the-art testing and assessment techniques are being used.

Commissioner Curtiss' separate views.

The staff has proposed that they be allowed to administer requalification examinations in two situations: (i) where cause exists for administering such examinations; and (ii) on a periodic basis, at a specified frequency of once every six years at each facility. There is no disagreement within the Commission over allowing the staff to administer "for cause" examinations. The dispute arises over whether the staff should be afforded the discretion to administer examinations in situations other than where "cause" exists, without first coming to the Commission for advance approval. The staff has recommended that they be allowed the flexibility to administer such examinations at their discretion and, with one minor exception, I agree with the staff's recommendation. [I do not believe it wise or essential to specify a set periodicity for such examinations of once every six years, and, on this point, I concur in the majority view].

The majority, as I understand it, would limit the staff to administering examinations solely "for cause", and would not allow the staff to administer examinations in any other situation absent formal approval by the Commission (i.e., where, in the staff's discretion, the staff deems it appropriate to do so). There are compelling reasons, in my judgment, for allowing the staff the flexibility to administer such "discretionary" examinations on its own accord. In this regard, Commissioner Rogers has set forth the reasons for allowing the

staff to administer such examinations, and I concur in the reasons that he has articulated so persuasively.

Given the significant changes in the agency's operator requalification program that the staff has proposed in SECY-92-430 (and in which I generally concur), I would have preferred a more cautious transition, wherein the effectiveness of the new regulatory approach could be confirmed through such discretionary examinations, before placing reliance on "for cause" examinations and an unproven inspection regime. This is particularly important given the continuing identification of weaknesses in licensee training programs uncovered by our current examination process. Accordingly, I believe that it would be a prudent step to allow the staff this flexibility. In my judgment, the majority's insistence upon requiring the staff to come to the Commission for advance approval in every such instance is, as a practical matter, likely to discourage the staff from administering such examinations where they may indeed be warranted.

For the foregoing reasons, I disagree with the decision of the majority to foreclose the staff from administering examinations in such circumstances, absent formal approval by the Commission. I also associate myself with Commissioner Rogers' comments.

Additional comments of the Chairman, and Commissioners Remick and de Planque.

The Chairman and Commissioners Remick and de Planque believe that all of the objectives listed by Commissioner Rogers and endorsed by Commissioner* Curtiss can be met, and are being met, through various alternatives to administering requalification tests and exams periodically. For example, the staff will continue to administer an estimated 700-800 initial operator license examinations per year; it will conduct examinations for cause using the flexible authority already provided by the regulations, and as otherwise approved by the Commission; it will observe the administration of examinations by the licensees as part of both the NRC's inspection program activities and INPO's and the National Academy of Nuclear Training's accreditation and assessment activities, permitted by the NRC/INPO MOU; and the staff will have the benefit of continuous observation by Resident Inspectors.

These existing alternatives provide considerable opportunity for the staff to assess the effectiveness of licensee training programs. Indeed, the proposed Statement of Considerations says that the agency "expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs," (p. 6, our emphasis.) If the staff identifies weaknesses in licensee training programs, the staff may then exercise the flexible authority of 10 CFR 55.59 (a)(2)(iii) to administer requalification tests and exams for cause.

Staff expertise needed to administer requalification tests and examinations can also be maintained by participation in training courses, just as staff

expertise such as that needed by IIT members is maintained. Innovative concepts like administering examinations and tests to instructors and appropriate operator licensing personnel on the simulators at the Technical Training Center is another way of maintaining this kind of staff expertise.

If the staff finds that with experience there is, in fact, a basis for administering periodic exams or any other alternatives, they are at liberty to provide the rationale and plan for Commission consideration. However, the information the staff has presented does not convince us of any necessity for administering periodic exams.

Finding of No Significant Environmental Impact: Availability

The NRC has determined that the proposed amendments, if adopted, are the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

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 4 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, (3150-0018 and 3150-0101), 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 licensed operator requalification. 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 Rajender Auluck (see 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 will not have a significant economic impact upon a substantial number of small entities. This rule primarily affects the companies that own and operate light-water nuclear power 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. Since these companies are dominant in their service areas, this rule does not fall within the purview of its Act.

Backfit Analysis

Currently, facility licensees assist in developing and coordinating the NRC-conducted requalification examinations. The assistance includes providing to the NRC the training material used for development of the written examinations and operating tests and providing facility personnel to work with the NRC during the development and conduct of the examinations. The Commission has concluded on the basis of the documented evaluation required by 10 CFR Part 50.109(a)(4), that complying with the requirement of this proposed rule would: (1) reduce the regulatory burden on the facility licensees by reducing the effort expended by the facility licensees to assist the NRC in developing and conducting NRC requalification examinations for licensed operators, and (2) increase the regulatory burden on the facility licensees by requiring them to submit all requalification examinations at least 30 days prior to conducting the examinations.

As part of the proposed amendments, the facility licensees would be required to submit to the appropriate Regional Administrator each annual requalification operating test or comprehensive written requalification examination at least 30 days prior to conducting such test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would conduct this review and review other

information already available to the NRC to determine the scope of an on-site inspection of the facility requalification program. The NRC would continue to expect each facility to meet all of the conditions required of a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would be expected to continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license, in addition to passing the facility licensee's requalification examinations, as a condition of license renewal.

The "Scope" of Part 55, 10 CFR 55.2, would be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of Parts 50 and 55. Part 50, in sections 50.54(i) through (m), already imposes Part 55 requirements on facility licensees, and Part 55 already specifies requirements for facility licensees.

The Commission believes that licensed operators are one of the main components and possibly the most critical component of continued safe reactor operation, especially with respect to mitigating the consequences of emergency conditions. Two-thirds of the requalification programs that have been evaluated as "unsatisfactory" had significant problems in the quality or implementation of the plant's emergency operating procedures (EOPs). In some of these cases, the facility licensees did not train their operators on

challenging simulator scenarios or did not retrain their operators after the EOPs were revised. The Commission believes that it could have identified these problems sooner by reviewing facility requalification examinations and operating tests and inspecting facility requalification training and examination programs. Facility licensees could have then corrected these problems and improved overall operator job performance sooner.

This proposed rule is intended to improve operational safety by providing the means to find and correct weaknesses in facility licensee requalification programs more rapidly than provided for under the current regulations. The experience gained from conducting NRC requalification examinations indicates that the NRC is largely duplicating the efforts of the facility licensees. The NRC could more effectively use its resources to oversee facility licensee requalification programs rather than conducting individual operator requalification examinations for all licensed operators. During fiscal year (FY) 1991, the NRC expended approximately 15 full-time staff equivalents (FTE) and \$1.8 million in contractor assistance funds (which equates to almost 10 additional FTE), for a total of 25 FTE, to conduct requalification examinations. However, the staff expects to conduct about 20 percent fewer requalification examinations during FY 1993 through FY 1997 because the staff's examination efforts to date have greatly reduced the number of operators who require an NRC conducted examination for license renewal during this 4-year period. Consequently, if the NRC continues conducting requalification examinations for all licensed operators, the staff estimates that it would require approximately 20 FTE each year. Therefore, implementing the proposed requalification inspection program would save the

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equivalent of about 7 FTE (or \$1.3 million) each year over conducting
requalification examinations at the reduced rate for the long term.

Each facility licensee would continue in its present manner of conducting its licensed operator requalification program. However, this proposed rule would reduce the burden on the facility licensees because each facility licensee would have its administrative and technical staff expend fewer hours than are now needed to assist in developing and conducting the NRC requalification examinations. Facility licensees are expected to realize a combined annual operational cost savings of approximately \$820K.

In summary, the proposed rule is expected to result in improved operational safety by providing more timely identification of weaknesses in facility licensees' requalification programs. In addition, the proposed rule would also reduce the resources expended by both the NRC and the licensees. The Commission has, therefore, concluded that the proposed rule meets the requirements of 10 CFR 50.109, that there would be a substantial increase in the overall protection of public health and safety and the cost of implementation are justified.

List of Subjects 10 CFR Part 55

Criminal penalty, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

Text of Final Regulation

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 Part 55 as follows:

PART 55 - OPERATORS' LICENSES

1. The authority citation for 10 CFR Part 55 continues to read as follows:

AUTHORITY: Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97-425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

2. In § 55.2, paragraph (c) is added to read as follows:

§ 55.2 Scope

* * * * *

(c) Any facility licensee.

§ 55.57 [Amended]

3. Section 55.57(b)(2)(iv) is amended by removing paragraph (b)(2)(iv).

4. In § 55.59 the introductory text of paragraph (c) is revised to read as follows:

§ 55.59 Requalification.

* * * * *

(c) *Requalification program requirements.* A facility licensee shall have a requalification program reviewed and approved by the Commission and shall submit a copy of each comprehensive requalification written examination or annual operating test to the appropriate Regional Administrator at least 30 days prior to conducting such examination or test. The requalification program must meet the requirements of paragraphs (c)(1) through (7) of this section. In lieu of paragraphs (c)(2), (3), and (4) of this section, the Commission may approve a program developed by using a systems approach to training.

* * * * *

Dated at Rockville, Maryland, this ____ day of _____, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[7590-01]

U.S. NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements
Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision
2. The title of the information collection: 10 CFR Part 55, Operators' Licenses, Proposed Rule
3. The form number if applicable: N/A
4. How often the collection is required: Annually
5. Who will be required or asked to report: All power and non-power reactor licensees.

6. An estimate of the number of annual responses: 88 for power reactors and 49 for non-power reactors

7. An estimate of the total number of hours needed to complete the requirement or request: 352 hours annually for power reactors (approximately 4 hours per response) and 35 hours annually for non-power reactors (approximately 0.75 hours per response)

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

9. Abstract: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to delete the prerequisite for license renewal that each licensed operator pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license. The proposed amendment will require facility licensees to submit copies of each annual operating test or comprehensive written examination used for operator requalification to the Commission for review at least 30 days prior to conducting the examination or the test. In addition, the proposed rule will amend the "Scope" provisions of the regulations pertaining to operators' licenses to include facility licensees.

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 20555.

Comments and questions should be directed to the OMB reviewer:

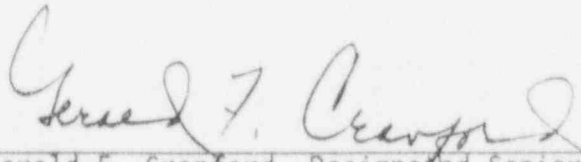
Ronald Minsk
Office of Information and Regulatory Affairs
(3150-0018 and 3150-0101)
NEOB-3019
Office of Management and Budget
Washington, DC 20503

Comments can also be submitted by telephone at (202) 395-3084.

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

Dated at Bethesda, Maryland, this 13th day of May, 1993.

For the Nuclear Regulatory Commission


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

"AE39-2"
"PDR"

Dated: May 5, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93-11996 Filed 5-19-93; 8:45 am]

BILLING CODE 3410-15-F

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

RPN 3150-AE39

Operators' Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to delete the requirement that each licensed operator at power, test and research reactors pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal. The proposed amendment will require facility licensees to submit copies of each annual operating test or comprehensive written examination used for operator requalification for review by the Commission at least 30 days prior to conducting the examination or the test. In addition, the proposed rule will amend the "Scope" provisions of the regulations pertaining to operators' licenses to include facility licensees.

DATES: The comment period expires July 19, 1993. 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: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm 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: Dr. Rajender Auluck, P.E., Office of Nuclear Regulatory Research, telephone: (301) 492-3794, or David Lange, Office of

Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-3171.

SUPPLEMENTARY INFORMATION:

Background

Section 306 of the Nuclear Waste Policy Act (NWPA) of 1982 authorized and directed the NRC "to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians and other appropriate operating personnel." The regulations or guidance were to "establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs." On March 25, 1987 (52 FR 9453), the Commission accomplished the objectives of the NWPA that were related to licensed operators by publishing a final rule in the Federal Register that amended 10 CFR part 55, effective May 26, 1987. The amendment revised the licensed operator requalification program by establishing (1) simulator training requirements, (2) requirements for operating tests at simulators, and (3) instructional requirements for the program (formerly Appendix A to 10 CFR part 55). The final rule also stipulated that in lieu of the Commission accepting certification by the facility licensees that the licensee has passed written examinations and operating tests given by the facility licensee within its Commission approved program developed by using a systems approach to training (SAT), the Commission may give a comprehensive requalification written examination and an annual operating test. In addition, the amended regulations required each licensed operator to pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal.

Following the 1987 amendment to part 55, the NRC began conducting operator requalification examinations for the purpose of license renewal. As a result of conducting these examinations, the NRC determined that nearly all facility requalification programs met the Commission's

expectations and that the NRC examiners were largely duplicating tasks that were already required of, and routinely performed by, the facility licensees.

The NRC revised its requalification examination procedures in 1988 to focus on performance-based evaluation criteria that closely paralleled the training and evaluation process used for a SAT based training program. This revision to the NRC requalification examination process enabled the NRC to conduct comprehensive examinations for the purpose of renewing an individual's license and, at the same time, use the results of the examinations to determine the adequacy of the facility licensee's requalification training program.

Since the NRC began conducting operator requalification examinations, the facility program and individual pass rates have improved from 81 to 90 percent and from 83 to 91 percent, respectively, through fiscal year 1991. The NRC has also observed a general improvement in the quality of the facility licensees' testing materials and in the performance of their operating test evaluators. Of the first 79 program evaluations conducted, ten (10) programs were evaluated as unsatisfactory. The NRC issued Information Notice No. 90-54, "Summary of Requalification Program Deficiencies," dated August 28, 1990, to describe the technical deficiencies that contributed to the first 10 program failures. Since that time only six programs, of 120 subsequent program evaluations, have been evaluated as unsatisfactory.

Pilot requalification examinations were conducted in August through December of 1991. The pilot test procedure directed the NRC examiners to focus on the evaluation of crews, rather than individuals, in the simulator portion of the operating test. In conducting the pilot examinations, the NRC examiners and the facility evaluators independently evaluated the crews and compared their results. The results were found to be in total agreement. Furthermore, the NRC examiners noted that the facility evaluators were competent at evaluating crews and individuals and were aggressive in finding deficiencies and recommending remediation for operators who exhibited weaknesses. The performance of the facilities' evaluators during the pilot examinations further confirmed that the facility licensees can find deficiencies, and remediate and retest their licensed operators' appropriately.

Discussion

In accordance with § 55.57(b)(2)(iii), licensed operators are required to pass facility requalification examinations and annual operating tests. In § 55.57(b)(2)(iv), licensed operators are also required to pass a comprehensive requalification written examination and operating test conducted by the NRC during the term of a 6-year license. These regulations establish requirements which impose a dual responsibility on both the facility licensee which assists in developing and conducting its own as well as NRC requalification examinations, and the NRC which supervises both the facility licensee requalification program as well as conducting a comprehensive requalification examination during the term of an operator's 6-year license.

The NRC believes operational safety at each facility will continue to be ensured, and, in fact, will be improved, if NRC resources are directed towards inspecting and overseeing the facility requalification programs rather than continuing to conduct individual operator requalification examinations. The NRC's experience since the beginning of the requalification program indicates that weaknesses in the implementation of the facility program are generally the root cause of deficiencies in the performance of operators. The NRC could more effectively allocate its resources to perform on-site inspections of facility requalification examination and training programs in accordance with indicated programmatic performance rather than scheduling examiners in accordance with the number of individuals requiring license renewal. The NRC expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs.

As of October 9, 1992, the NRC had conducted requalification examinations at 11 research and test reactor facilities for a total of 34 operators being examined. No failures were identified. For research and test reactors, this sample provides the NRC with little data to support the same rationale that is discussed above with respect to power reactors. However, the NRC believes that the flexibility to allocate resources based on indicated programmatic performance rather than on the number of individuals requiring license renewal would also improve operational safety at research and test reactors. In addition, the proposed rule does not prevent the NRC from

conducting requalification examinations at research and test reactor facilities.

Currently, facility licensees assist in the development and conduct of the NRC requalification examinations. The assistance includes providing to the NRC: (1) The training material used for development of the written and operating examinations and (2) facility personnel to work with the NRC during the development and conduct of the examinations. The proposed amendments would reduce the regulatory burden on the facility licensees by reducing the effort expended by the facility to assist the NRC in developing and conducting NRC requalification examinations for licensed operators.

As part of the proposed rule change, the facility licensees would be required to submit to the NRC each annual operating test or comprehensive written examination used for operator requalification at least 30 days prior to giving the test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would also review other information already available to the staff to determine the scope of an on-site inspection of the facility requalification program. The NRC would continue to expect each facility to meet all of the conditions required for conducting a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility-conducted requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license as a condition of license renewal.

The "Scope" of part 55, § 55.2, will be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of parts 50 and 55. Part 50, in § 50.54(i) through (m), already imposes part 55 requirements on facility licensees, and part 55 already specifies requirements for facility licensees.

The proposed amendments would meet the requirements of section 306 of the NWPAA without the requirement that each licensed individual pass a

requalification examination conducted by the NRC during the 6-year term of the individual's license. The requirements of the NWPAA would be met as follows:

(1) The regulations would continue to require facilities to have requalification programs and conduct requalification examinations; (2) the NRC would provide oversight (i.e., administration) for these programs and examinations through inspections; and (3) § 55.59(a)(2)(iii) provides that the NRC may conduct requalification examinations in lieu of accepting the facility licensee's certification that a licensed individual has passed the facility requalification examination. The NRC will use this option if warranted after an on-site inspection of the facility's requalification program. The proposed amendments would not affect the regulatory or other appropriate guidance required by section 306 of the NWPAA and established in § 55.59(a)(2)(iii) for the NRC to conduct requalification examinations in lieu of an examination given by the facility.

Invitation To Comment

Comments concerning the scope, content, and implementation of the proposed amendments are encouraged. Comments are solicited on the burden created by the requirement that each facility licensee submit and the NRC review all annual operating tests or comprehensive written examinations at least thirty days prior to conducting such tests or exams. In addition, comments on the applicability of the proposed amendments to research and test reactor facilities are especially solicited, as are suggestions for alternatives to those rulemaking methods described in this notice.

Commissioner Rogers' Separate Views

Commissioner Rogers believes that the staff should be allowed the discretion to administer exams as they feel necessary, i.e., other than for cause, without receiving prior Commission approval. Reasons for allowing the staff to administer discretionary exams include:

1. Providing an additional incentive to licensees to maintain the quality of their operator training programs.
2. Providing a benchmark with good performing plants by which to judge the adequacy of the licensees' operator training programs.
3. Providing a basis to determine whether or not licensee examiner standards need to be revised.
4. Providing an independent check of the quality of the licensees' operator training programs.

5. Providing the NRC staff the opportunity to maintain its examination expertise.

6. Ensuring that the latest, state-of-the-art testing and assessment techniques are being used.

Commissioner Curtiss' Separate Views

The staff has proposed that they be allowed to administer requalification examinations in two situations: (i) Where cause exists for administering such examinations; and (ii) on a periodic basis, at a specified frequency of once every six years at each facility. There is no disagreement within the Commission over allowing the staff to administer "for cause" examinations. The dispute arises over whether the staff should be afforded the discretion to administer examinations in situations other than where "cause" exists, without first coming to the Commission for advance approval. The staff has recommended that they be allowed the flexibility to administer such examinations at their discretion and, with one minor exception, I agree with the staff's recommendation. (I do not believe it wise or essential to specify a set periodicity for such examinations of once every six years, and, on this point, I concur in the majority view).

The majority, as I understand it, would limit the staff to administering examinations solely "for cause", and would not allow the staff to administer examinations in any other situation absent formal approval by the Commission (*i.e.*, where, in the staff's discretion, the staff deems it appropriate to do so). There are compelling reasons, in my judgment, for allowing the staff the flexibility to administer such "discretionary" examinations on its own accord. In this regard, Commissioner Rogers has set forth the reasons for allowing the staff to administer such examinations, and I concur in the reasons that he has articulated so persuasively.

Given the significant changes in the agency's operator requalification program that the staff has proposed in SECY-92-430 (and in which I generally concur), I would have preferred a more cautious transition, wherein the effectiveness of the new regulatory approach could be confirmed through such discretionary examinations, before placing reliance on "for cause" examinations and an unproven inspection regime. This is particularly important given the continuing identification of weaknesses in licensee training programs uncovered by our current examination process. Accordingly, I believe that it would be a prudent step to allow the staff this

flexibility. In my judgment, the majority's insistence upon requiring the staff to come to the Commission for advance approval in every such instance is, as a practical matter, likely to discourage the staff from administering such examinations where they may indeed be warranted.

For the foregoing reasons, I disagree with the decision of the majority to foreclose the staff from administering examinations in such circumstances, absent formal approval by the Commission. I also associate myself with Commissioner Rogers' comments.

Additional Comments of the Chairman, and Commissioners Remick and de Planque

The Chairman and Commissioners Remick and de Planque believe that all of the objectives listed by Commissioner Rogers and endorsed by Commissioner Curtiss can be met, and are being met, through various alternatives to administering requalification tests and exams periodically. For example, the staff will continue to administer an estimated 700-800 initial operator license examinations per year; it will conduct examinations for cause using the flexible authority already provided by the regulations, and as otherwise approved by the Commission; it will observe the administration of examinations by the licensees as part of both the NRC's inspection program activities and INPO's and the National Academy of Nuclear Training's accreditation and assessment activities, permitted by the NRC/INPO MOU; and the staff will have the benefit of continuous observation by Resident Inspectors.

These existing alternatives provide considerable opportunity for the staff to assess the effectiveness of licensee training programs. Indeed, the proposed Statement of Considerations says that the agency "expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs." If the staff identifies weaknesses in licensee training programs, the staff may then exercise the flexible authority of 10 CFR 55.59 (a)(2)(iii) to administer requalification tests and exams for cause.

Staff expertise needed to administer requalification tests and examinations can also be maintained by participation in training courses, just as staff expertise such as that needed by IIT members is maintained. Innovative concepts like administering examinations and tests to instructors and appropriate operator licensing personnel on the simulators at the Technical Training Center is another

way of maintaining this kind of staff expertise.

If the staff finds that with experience there is, in fact, a basis for administering periodic exams or any other alternatives, they are at liberty to provide the rationale and plan for Commission consideration. However, the information the staff has presented does not convince us of any necessity for administering periodic exams.

Finding of No Significant Environmental Impact: Availability

The NRC has determined that the proposed amendments, if adopted, are the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

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 4 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, (3150-0018 and 3150-0101), 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 licensed operator requalification. 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 Rajender Auluck (see ADDRESSES heading).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule primarily affects the companies that own and operate light-water nuclear power 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. Since these companies are dominant in their service areas, this rule does not fall within the purview of its Act.

Backfit Analysis

Currently, facility licensees assist in developing and coordinating the NRC-conducted requalification examinations. The assistance includes providing to the NRC the training material used for development of the written examinations and operating tests and providing facility personnel to work with the NRC during the development and conduct of the examinations. The Commission has concluded on the basis of the documented evaluation required by 10 CFR 50.109(a)(4), that complying with the requirement of this proposed rule would: (1) Reduce the regulatory burden on the facility licensees by reducing the effort expended by the facility licensees to assist the NRC in developing and conducting NRC requalification examinations for licensed operators, and (2) increase the regulatory burden on the facility licensees by requiring them to submit all requalification examinations at least 30 days prior to conducting the examinations.

As part of the proposed amendments, the facility licensees would be required to submit to the appropriate Regional Administrator each annual requalification operating test or comprehensive written requalification examination at least 30 days prior to conducting such test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would conduct this review and review other information already available to the NRC to determine the scope of an on-site inspection of the facility requalification program. The NRC would continue to expect each facility to meet all of the conditions required of

a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would be expected to continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license, in addition to passing the facility licensee's requalification examinations, as a condition of license renewal.

The "Scope" of part 55, 10 CFR 55.2, would be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of parts 50 and 55. Part 50, in § 50.54(i) through (m), already imposes part 55 requirements on facility licensees, and part 55 already specifies requirements for facility licensees.

The Commission believes that licensed operators are one of the main components and possibly the most critical component of continued safe reactor operation, especially with respect to mitigating the consequences of emergency conditions. Two-thirds of the requalification programs that have been evaluated as "unsatisfactory" had significant problems in the quality or implementation of the plant's emergency operating procedures (EOPs). In some of these cases, the facility licensees did not train their operators on challenging simulator scenarios or did not retrain their operators after the EOPs were revised. The Commission believes that it could have identified these problems sooner by reviewing facility requalification examinations and operating tests and inspecting facility requalification training and examination programs. Facility licensees could have then corrected these problems and improved overall operator job performance sooner.

This proposed rule is intended to improve operational safety by providing the means to find and correct weaknesses in facility licensee requalification programs more rapidly than provided for under the current regulations. The experience gained from conducting NRC requalification examinations indicates that the NRC is largely duplicating the efforts of the facility licensees. The NRC could more effectively use its resources to oversee

facility licensee requalification programs rather than conducting individual operator requalification examinations for all licensed operators. During fiscal year (FY) 1991, the NRC expended approximately 15 full-time staff equivalents (FTE) and \$1.8 million in contractor assistance funds (which equates to almost 10 additional FTE), for a total of 25 FTE, to conduct requalification examinations. However, the staff expects to conduct about 20 percent fewer requalification examinations during FY 1993 through FY 1997 because the staff's examination efforts to date have greatly reduced the number of operators who require an NRC conducted examination for license renewal during this 4-year period. Consequently, if the NRC continues conducting requalification examinations for all licensed operators, the staff estimates that it would require approximately 20 FTE each year. Therefore, implementing the proposed requalification inspection program would save the equivalent of about 7 FTE (or \$1.3 million) each year over conducting requalification examinations at the reduced rate for the long term.

Each facility licensee would continue in its present manner of conducting its licensed operator requalification program. However, this proposed rule would reduce the burden on the facility licensees because each facility licensee would have its administrative and technical staff expend fewer hours than are now needed to assist in developing and conducting the NRC requalification examinations. Facility licensees are expected to realize a combined annual operational cost savings of approximately \$820K.

In summary, the proposed rule is expected to result in improved operational safety by providing more timely identification of weaknesses in facility licensees' requalification programs. In addition, the proposed rule would also reduce the resources expended by both the NRC and the licensees. The Commission has, therefore, concluded that the proposed rule meets the requirements of 10 CFR 50.109, that there would be a substantial increase in the overall protection of public health and safety and the cost of implementation are justified.

List of Subjects 10 CFR Part 55

Criminal penalty, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

Text of Final Regulation

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 part 55 as follows:

PART 55—OPERATORS' LICENSES

1. The authority citation for 10 CFR part 55 continues to read as follows:

Authority: Secs. 107, 181, 182, 68 Stat. 939, 948, 953, as amended, sec. 134, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97-425, 96 Stat. 2282 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

2. In § 55.2, paragraph (c) is added to read as follows:

§ 55.2 Scope.

(c) Any facility licensee.

§ 55.57 [Amended]

3. Section 55.57 is amended by removing paragraph (b)(2)(iv).

4. In § 55.59 the heading and introductory text of paragraph (c) are revised to read as follows:

§ 55.59 Requalification.

(c) *Requalification program requirements.* A facility licensee shall have a requalification program reviewed and approved by the Commission and shall submit a copy of each comprehensive requalification written examination or annual operating test to the appropriate Regional Administrator at least 30 days prior to conducting such examination or test. The requalification program must meet the requirements of paragraphs (c)(1) through (7) of this section. In lieu of paragraphs (c)(2), (3), and (4) of this section, the Commission may approve a program developed by using a systems approach to training.

Dated at Rockville, Maryland, this 13th day of May 1993.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93-11821 Filed 5-19-93; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 27297; Notice No. 93-4]

Proposed Establishment of the East Coast Low and Amendment to the Atlantic Low and South Florida Low Additional Control Areas

AGENCY: Federal Aviation Administration (FAA); DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: On April 5, 1993, the FAA temporarily amended the base altitude of the Atlantic Low additional control area from 5,500 feet MSL to 2,000 feet MSL. The amendment reinstated the base altitude that existed in this offshore airspace area prior to the promulgation of the Offshore Airspace Reconfiguration final rule. This action enabled the FAA to conduct a micro-review of the air traffic control (ATC) operations conducted within this airspace area to determine the amount of controlled airspace necessary to contain certain ATC operations. The review revealed the need to amend the Atlantic Low airspace area. The FAA is proposing to amend the Atlantic Low by redesignating a portion of the airspace area as the East Coast Low, with a floor of 2,000 feet MSL, and excluding the East Coast Low and Federal Airways from the Atlantic Low. Further, the southern boundary of the Atlantic Low would be redesignated as latitude 34°00'00" North rather than the current latitude of 28°00'00" North. Concurrently, the northern boundary of the South Florida Low would be redesignated as latitude 34°00'00" North rather than the existing latitude of 28°00'00" North. The proposals in this NPRM would ensure that certain ATC operations are conducted in controlled airspace.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: Comments on this NPRM should be mailed in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 27297, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27297. The official docket may be examined in the Office of the Chief Counsel, room 915G, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Mr. William M. Mosley, ATP-230, Air Traffic Rules Branch, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments relating to the overall regulatory economic, aeronautical, environmental, energy-related, or federalism impacts of the proposals contained in this NPRM are also invited. Substantive comments should be accompanied by actual and anticipated cost impact statements, as appropriate. Comments should identify the regulatory docket number and be submitted in triplicate to the Rules Docket address specified above. Commenters wishing to have the FAA acknowledge receipt of their comments on this NPRM must submit with those comments a self-addressed, stamped postcard with the following statement: "Comments to Docket No. 27297." The postcard will be date stamped and mailed to the commenter. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking action on the proposed amendments. The proposals contained in this NPRM may be changed in light of comments received. All comments received will be available for examination in the Rules Docket, before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel regarding this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the docket number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should request from the above office a copy of Advisory Circular Number 11-2A, "Notice of Proposed Rulemaking