

of spent fuel in an independent spent fuel storage installation at power reactor sites to persons authorized to possess or operate nuclear power reactors under a combined license or duplicate design license under 10 CFR part 52. The proposed rule would also amend the requirements in § 72.218(b) regarding an application for termination of a reactor operating license and the removal of the spent fuel stored at the reactor site to indicate that this provision also applies to applications for termination of a combined license or duplicate design license.

#### *H. 10 CFR Part 73, Physical Protection of Plants and Materials*

The proposed rule would amend § 73.1(b) to clarify that the regulations in 10 CFR part 73 also apply to licenses issued under 10 CFR part 52.

#### *I. 10 CFR Part 140, Financial Protection Requirements and Indemnity Agreements*

The proposed rule would amend §§ 140.2, 140.10, 140.11, and 140.13 to correct the language to note that holders of combined licenses issued under 10 CFR part 52 are required to conform with the Commission's financial protection requirements implementing the Price-Anderson Act (Section 170 of the Atomic Energy Act of 1954). The proposed rule would also add new §§ 140.11(c) and 140.13(b). Section 140.11(c) would specify that a holder of a combined license must have and maintain financial protection when the Commission authorizes operation under § 52.231(g). Section 140.13(b) would require that each holder of a combined license who is also the holder of a license under 10 CFR part 70 authorizing ownership, possession, and storage only of special nuclear material at the site of the nuclear reactor have and maintain financial protection in the amount of \$1,000,000. Proof of financial protection would be required to be filed with the Commission in the manner specified prior to issuance of the license under 10 CFR part 70.

#### *J. 10 CFR Part 170, Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended*

The proposed rule would amend § 170.2 to clarify the applicability of the regulations in 10 CFR part 170 to the licensing processes in 10 CFR parts 50 and 52.

### **IV. Specific Requests for Comments**

In addition to the general invitation to submit comments on the proposed rule,

the Commission also requests comments on the following questions:

1. Should the final rule include an updating requirement for other than emergency preparedness information and what portions of the early site permit (ESP) should be subject to the updating requirement? Also, if an updating requirement is adopted, in what manner could an interested person challenge the updated information? (refer to § 52.39(a))

2. Should the final rule include revisions to 10 CFR part 52 to: (1) Distinguish between site characteristics, site parameters, design characteristics, and design parameters; (2) require the Commission to specify the site characteristics and design parameters when issuing early site permits; (3) require the design certification rule to specify the site parameters and design characteristics for the design; (4) require a combined license applicant referencing an early site permit to demonstrate that either the design of the nuclear power plant or the site parameters and design characteristics of a referenced design certification rule fall within the design parameters and site characteristics of the early site permit; and (5) require a combined license applicant referencing a design certification rule to demonstrate that the site parameters and design characteristics of the design certification rule fall within either: (i) The site characteristics of a site, or (ii) the site characteristics and design parameters of a referenced early site permit?

Currently, 10 CFR art 52 uses the various terms, "site parameters," "postulated site parameters," "site characteristics," "physical characteristics," and "the parameters specified in the early site permit" See, e.g., §§ 52.17, 52.18, 52.21, 52.47 (proposed § 52.107), § 52.79 (proposed § 52.211). In some cases, it appears that different terms are used to apply to the same concept, e.g., "site parameters," and "postulated site parameters." In other cases, information which would appear to constitute "site parameters" as used in the current rule is not characterized as such, e.g., § 52.17(a)(1)(i) through (viii).

To address these inconsistencies, the Commission is considering amending 10 CFR part 52, including proposed subparts A, D, and G, to use the terms: "site characteristics," "site parameters," "design characteristics," and "design parameters," to set forth in clear and unambiguous terms the Commission's requirements on early site permits, design certifications, and combined licenses. "site characteristics" would be the actual physical and demographic

values for the site, e.g., the ground force acceleration of a defined earthquake, flood level, or the atmospheric dispersion value. The "design parameters" for an early site permit would include the postulated values for thermal power level, radiological effluents, and type of cooling system for the facility. "Design characteristics" for a design certification would be the actual values for the design, e.g., thermal power level or building height. "Site parameters" for a design certification would include the postulated values for floods, ground force acceleration of a postulated earthquake, and tornado wind speeds.

3. Are there terms and conditions for an ESP that can only be fulfilled after issuance of the referencing combined license, such that "have been met" should be changed to "will be met," or "have been and will be met"? (refer to proposed § 52.211(a)(1))

4. Should the final rule include a requirement in § 50.34(a) for a construction permit application that references an ESP to demonstrate that the design of the facility falls within the site parameters of the ESP? (refer to proposed § 52.211(a)(1))

5. Should the final rule include a requirement in 10 CFR part 50 to perform testing to qualify advanced reactor designs before licensing? The purpose of this testing requirement would be to demonstrate that new or innovative safety features will perform as predicted in an applicant's safety analysis report, that effects of systems interactions have been found acceptable, and to provide sufficient data for analytical code validation, as required by proposed §§ 52.107(b) and 52.211(b).

6. Should the final rule include a revision to the current § 52.63 (proposed § 52.127) to allow the original design certification applicant to petition the Commission for rulemaking to amend the design certification rule to incorporate "beneficial changes," including improvements in safety, and/or design changes that would "significantly improve efficiency, reliability and economics." Refer to letters from Steven A. Hucik, GE Nuclear Energy (March 30, 2002) and Ronald L. Simard, Nuclear Energy Institute (March 22, 2002).

7. Should 10 CFR part 21 apply to: (a) A holder of an early site permit, but only after the holder references the permit in a license application, and (b) an applicant/vendor of a design which is the subject of a design certification rule, but only after the design certification rule is first referenced in a license application. In both cases, the