

**ADDRESSES:** You may submit your comments, identified by “docket number” on the subject line, by any of the following methods:

1. *Electronic Mail: Standards-Petitions@dol.gov.*
2. *Facsimile: 1-202-693-9441.*
3. *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.
4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copy of the petition and comments during normal business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), [barron.barbara@dol.gov](mailto:barron.barbara@dol.gov) (E-mail), or 202-693-9441 (Telefax). [These are not toll-free numbers.]

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

##### **II. Petitions for Modification**

*Docket Number:* M-2008-044-C.  
*Petitioner:* Summit Engineering, Inc., P.O. Box 130, 3016 Rt. 10, Chapmanville, West Virginia 25508 on behalf of INR-WV Operating, LLC.

*Mine:* Saunders Prep. Plant, MSHA I.D. No. 46-02140, located in Logan County, West Virginia.

*Regulation Affected:* 30 CFR 77.214(a) (Refuge piles; general).

*Modification Request:* The petitioner requests a modification of the existing standard which prohibits refuse piles to be located over abandoned openings to permit abandoned mine openings to be backfilled with inert non-acid producing soil. The petitioner states that: (1) The soil will extend approximately 25 feet into the mine and at least 4 feet in all directions beyond the limits of the mine opening; (2) the existing mine openings are within the foot print of INR's North Rock Refuse Area; (3) the mine openings are from the Buffalo Mining Company's No. 5 Mine; (4) production at the mine ceased in 1972 and has been abandoned since then; and (5) mine openings within the foot print are up-dip from additional openings outside of the foot print of the refuse area, and are dry. The petitioner further states that: (1) There is significant flow coming out of mine openings down-dip from the refuse area; (2) the entries down-dip of the refuse areas will be left open to allow drainage to continue and not impound water; (3) any exposed coal seam along the mine bench will be covered with soil to at least 4 feet above the seam; (4) a riprap rock underdrain connected to the underdrain of the refuse fill will be installed along the mine openings consisting of durable sandstone wrapped in filter fabric; (5) one 12-inch SDR-11 high density polyethylene pipe will be placed at the mine opening with the lowest elevation; (6) the combination of the underdrain and pipe will serve to handle localized drainage; and (7) breaker rock coal refuse will be placed in the fill in accordance with the approved West Virginia Department of Environmental Protection Surface Mining Control and Reclamation Act permit. The petitioner asserts that since the existing mine is abandoned, this plan will provide the same measure of protection for the miners as the existing standard.

**Patricia W. Silvey,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. E8-23186 Filed 10-1-08; 8:45 am]

**BILLING CODE 4510-43-P**

## **DEPARTMENT OF LABOR**

### **Occupational Safety and Health Administration**

[Docket No. OSHA-2008-0040]

#### **Vehicle-Mounted Elevating and Rotating Work Platforms (Aerial Lifts); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comment.

**SUMMARY:** OSHA solicits comments concerning its proposal to extend OMB approval of the information collection requirement contained in the Standard on Vehicle-Mounted Elevating and Rotating Work Platforms (Aerial Lifts) (29 CFR 1910.67). The purpose of the requirement is to reduce employees' risk of death or serious injury by ensuring that aerial lifts are in safe operating condition.

**DATES:** Comments must be submitted (postmarked, sent, or received) by December 1, 2008.

**ADDRESSES:** *Electronically:* You may submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Facsimile:* If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

*Mail, hand delivery, express mail, messenger, or courier service:* When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA-2008-0040, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and OSHA docket number for the ICR (OSHA-2008-0040). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <http://www.regulations.gov>. For further information on submitting comments see the “Public

Participation” heading in the section of this notice titled “Supplementary Information.”

**Docket:** To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

**FOR FURTHER INFORMATION CONTACT:**

Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N-3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693-2222.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA’s estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

**Manufacturer’s Certification of Modifications (paragraph (b)(2)).** The Standard requires that when aerial lifts are “field modified” for uses other than those intended by the manufacturer, the manufacturer or other equivalent entity,

such as a nationally recognized testing laboratory, must certify in writing that the modification is in conformity with all applicable provisions of ANSI A92.2-1969 and the OSHA standard and that the modified aerial lift is at least as safe as the equipment was before modification. Employers are to maintain the certification record and make it available to OSHA compliance officers. This record provides assurance to employers, employees, and compliance officers that the modified aerial lift is safe for use, thereby, preventing failure while employees are being elevated. The certification record also provides the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

**II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency’s functions, including whether the information is useful;
- The accuracy of OSHA’s estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

**III. Proposed Actions**

OSHA is requesting that OMB extend its approval of the information collection requirement contained in the Standard on Vehicle-Mounted Elevating and Rotating Work Platforms (Aerial Lifts) (29 CFR 1910.67). The Agency wishes to retain its current estimate of 21 burden hours. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

**Type of Review:** Extension of a currently approved collection.

**Title:** Vehicle-Mounted Elevating and Rotating Work Platforms (Aerial Lifts) (29 CFR 1910.67).

**OMB Number:** 1218-0230.

**Affected Public:** Business or other for-profits; Not-for-profit organizations; Federal Government; State, Local, or Tribal Government.

**Number of Respondents:** 1,000.

**Frequency of Response:** On occasion.

**Average Time Per Response:** Ranges from 1 minute (.02 hour) to maintain the manufacturer’s certification record to 2

minutes (.03 hour) to disclose the record to an OSHA Compliance Officer.

**Estimated Total Burden Hours:** 21.

**Estimated Cost (Operation and Maintenance):** \$0.

**IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions**

You may submit comments in response to this document as follows:

- (1) Electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA-2008-0040). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled “ADDRESSES”). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627).

Comments and submissions are posted without change at <http://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the <http://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <http://www.regulations.gov> Web site to submit comments and access the docket is available at the Web site’s “User Tips” link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

**V. Authority and Signature**

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational

Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5-2007 (72 FR 31159).

Signed at Washington, DC, on September 23rd, 2008.

**Edwin G. Foulke, Jr.**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E8-23134 Filed 10-1-08; 8:45 am]

BILLING CODE 4510-26-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. NRC-2008-0359]

### Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

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

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** Notice with a 60-day comment period on this information collection on July 7, 2008.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 74—Material Control and Accounting of Special Nuclear Material.

3. *Current OMB approval number:* 3150-0123.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required:* Submission is a one-time requirement which has been completed by all current licensees. However, licensees may submit amendments or revisions to the plans as necessary. In addition, specified inventory and material status reports are required annually or semi-annually. Other reports are submitted as events occur.

6. *Who is required or asked to report:* Persons licensed under 10 CFR 70 who possess and use certain forms and

quantities of Special Nuclear Material (SNM).

7. *An estimate of the number of annual responses:* 21.

8. *The estimated number of annual respondents:* 19.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* An annual total of 8,589 hours (989 hours for reporting and 7,600 hours for recordkeeping). The average annual burden per respondent for reporting is 47 hours. The average annual burden per recordkeeping for the 110 record keepers is 61 hours.

10. *Abstract:* 10 CFR Part 74 establishes requirements for material control and accounting of SNM, and specific performance-based regulations for licensees authorized to possess, use and produce strategic special nuclear material, and special nuclear material of moderate strategic significance and low strategic significance. The information is used by the NRC to make licensing and regulatory determinations concerning material control and accounting of special nuclear material and to satisfy obligations of the United States to the International Atomic Energy Agency (IAEA). Submission or retention of the information is mandatory for persons subject to the requirements.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice. Comments and questions should be directed to the OMB reviewer listed below by November 3, 2008. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Nathan J. Frey, Office of Information and Regulatory Affairs (3150-0123), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to [Nathan.J.Frey@omb.eop.gov](mailto:Nathan.J.Frey@omb.eop.gov) or submitted by telephone at (202) 395-7345.

The NRC Clearance Officer is Russell Nichols, (301) 415-6874.

Dated at Rockville, Maryland, this 24th day of September 2008.

For the Nuclear Regulatory Commission.

**Gregory Trussell,**

*Acting NRC Clearance Officer, Office of Information Services.*

[FR Doc. E8-23231 Filed 10-1-08; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. Stn 50-528]

### Arizona Public Service Company, et al.; Palo Verde Nuclear Generating Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a temporary exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Section 50.46 and 10 CFR 50, Appendix K, for Facility Operating License No. NPF-41, issued to Arizona Public Service Company (APS, the licensee), for operation of the Palo Verde Nuclear Generating Station (PVNGS), Unit 1, located in Maricopa County, Arizona. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

#### Environmental Assessment

##### Identification of the Proposed Action

The proposed action would allow the use of up to eight lead fuel assemblies (LFAs) manufactured by AREVA NP with fuel rods clad with M5 to be inserted into the PVNGS, Unit 1 reactor core during operating Cycles 15, 16, and 17.

The proposed action is in accordance with the licensee's request for exemption dated March 8, 2008, as supplemented by letter dated September 10, 2008.

##### The Need for the Proposed Action

The proposed temporary exemption is needed to allow the use of M5 LFAs by APS to evaluate cladding for future fuel assemblies that may need to be of a more robust design than current fuel assemblies to allow for possibly higher duty or extended burnup. The regulations specify standards and acceptance criteria only for fuel rods clad with Zircaloy or ZIRLO. Consistent with 10 CFR 50.46, a temporary exemption is required to use fuel rods clad with an advanced alloy that is not Zircaloy or ZIRLO. Therefore, the licensee needs a temporary exemption to insert up to eight LFAs containing new cladding material into the PVNGS,