

POLICY ISSUE
(Information)

January 30, 2015

SECY-15-0014

FOR: The Commissioners

FROM: Mark A. Satorius
Executive Director for Operations

SUBJECT: ANTICIPATED SCHEDULE AND ESTIMATED RESOURCES
FOR A POWER REACTOR DECOMMISSIONING RULEMAKING

PURPOSE:

The purpose of this memorandum is to provide an anticipated schedule and an estimate of the resources required for the completion of a decommissioning rulemaking, as directed by staff requirements memorandum (SRM) SECY-14-0066, "Request by Dominion Energy Kewaunee, Inc., for Exemptions from Certain Emergency Planning Requirements," dated August 7, 2014 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14219A366), and by SRM SECY-14-0118, "Request by Duke Energy Florida, Inc., for Exemptions from Certain Emergency Planning Requirements," dated December 30, 2014 (ADAMS Accession No. ML14364A111).

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BACKGROUND:

Following a period of 15 years without a power reactor permanently shutting down, 5 operating reactor units have permanently shut down over the last 2 years and entered a decommissioning phase. This has prompted the U.S. Nuclear Regulatory Commission (NRC) staff and stakeholders to refocus on the need for a rulemaking on decommissioning. Many of the licensing actions for the recent permanently shut down reactors involved requests for exemptions from existing regulations. Developing a decommissioning rule will provide a more efficient and predictable decommissioning transition process.

In addition, such an approach would support the principles of good regulation, including openness, clarity, and reliability. With this objective in mind and based on Commission direction in the SRM SECY-14-0118, the staff has begun efforts to develop a rulemaking on decommissioning.

In SRM SECY-14-0118, the Commission stated that the staff should perform the following:

- Proceed with rulemaking on decommissioning;
- Set an objective of early 2019 for completion of this rulemaking; and
- Continue processing current and pending applications for decommissioning amendments and exemptions until that regulatory work is complete.

Schedule and Resources for a Reactor Decommission Rulemaking

Per the SRM direction, the staff is working on a decommissioning rulemaking in a manner that will not impact the current decommissioning transition licensing activities. The staff plans to conduct the rulemaking expeditiously and issue the final rule as soon as practicable. However, it will be extremely challenging to complete the decommissioning rulemaking in early 2019 without impacting the current decommissioning and non-decommissioning emergency planning (EP) licensing activities because of competing skill sets needed for both activities. To provide for timely progress on both activities, the staff will initially conduct preliminary rulemaking activities in parallel with the licensing actions, and increase its focus on the rulemaking as the licensing actions are completed. The preliminary activities include continuing to develop lessons learned that will support the rulemaking regulatory basis, consulting with the Federal Emergency Management Agency (FEMA), identifying resource needs, and developing a detailed schedule for the rulemaking effort. The staff anticipates this approach will help expedite the rulemaking process but that there is a high likelihood that the final rule may not be issued until sometime in calendar year (CY) 2020.

The following assumptions are key to the staff's ability to complete this rulemaking:

- Interactions and coordination with relevant Federal, State, and local agencies remain timely;
- Development of the technical bases for complex areas (e.g., changes to offsite EP, physical security, and liability insurance coverage requirements) does not introduce unforeseen challenges;
- No additional reactors, other than Oyster Creek Nuclear Generating Station, permanently shut down during the rulemaking period;
- A standard 75-day public comment period is provided on the proposed rule;
- The lessons learned do not identify issues that significantly impact the scope of the rulemaking; and
- Neither the public nor the NRC identify the need to supplement or re-notice the proposed rule.

The staff also notes that receipt of significant or complex public comments on the proposed rule could extend the final rule schedule.

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]. The staff estimates that resources in excess of 25 full-time equivalents and \$2 million in contract support will be required through CY 2019 for completion of a decommissioning rule. These resources will be primarily drawn from the Office of Nuclear Reactor Regulation, the Office of Nuclear Security and Incident Response, and the Office of Nuclear Material Safety and Safeguards. These estimates do not include resources needed to complete the ongoing decommissioning licensing activities. The resources needed to accomplish a decommissioning rulemaking are substantially higher than typical rulemakings because of the complex scope and breadth of the regulatory changes to be considered, and the expected high-level of public interest, comments, and interactions.

Impacts of Decommissioning Rulemaking on Ongoing Staff Work

To complete the decommissioning rulemaking, the staff will evaluate reallocation of resources in FY 2016 and beyond. The staff will reallocate resources in FY 2015 as described in the enclosure. Potential impacts in FY 2016 could include delays in the development of the following:

- NRC guidance documents and conduct of emergency preparedness research necessary to support the revision of NUREG-0654/FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," selected Fukushima lessons learned (lower tier items);

- Risk Management Regulatory Framework; and
- Updates to overall decommissioning program guidance NUREGs.

The staff will conduct a workload reprioritization that will defer/limit other mission-related work [] to support the decommissioning rulemaking. The staff plans to develop a detailed schedule, resource estimates, and projected impacts on other NRC mission-related work by the third quarter in CY 2015.

Based on lessons learned with the five recent shutdown reactors, the staff had planned for the near-term to develop guidance intended to facilitate more effective planning activities for the decommissioning transition process (in addition to any guidance associated with the decommissioning rule), and for more efficient NRC staff review and processing of decommissioning transition licensing actions. The initiation of a decommissioning rulemaking will limit the staff's ability to develop such guidance documents and templates that could benefit any additional power reactors that permanently shut down before completion of the rulemaking (e.g., Oyster Creek has indicated it plans to shut down in CY 2019). However, the Nuclear Energy Institute (NEI) has indicated that it is developing comparable industry guidance. The staff's goal is to continue to engage with NEI on its guidance; however, the staff's focus on developing the rulemaking may also impact its availability to review and potentially endorse the industry guidance.

COMMITMENT:

The staff is proceeding with a rulemaking on decommissioning. The staff will maintain its focus on the current decommissioning transition licensing actions while proceeding on an optimistic schedule to finalize the decommissioning rule in CY 2019. In the near-term, the staff will develop detailed schedule and resource needs by the third quarter of CY 2015, [

]. The staff will keep the Commission informed of any issues that could result in delays to the anticipated decommissioning rulemaking schedule.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection. The Office of the Chief Financial Officer reviewed this package. Consistent with the memorandum of understanding between the NRC and FEMA, the NRC staff provided FEMA with a copy of this paper for comment. FEMA indicated it had no issues with the paper, but it would be concerned if the rulemaking effort causes a delay in joint NRC-FEMA efforts to update NUREG-0654/FEMA-REP-1. NRC staff will continue to engage FEMA on the EP aspects of the decommissioning rulemaking, as it is developed, to ensure impacts to other work are fully considered.

The Commissioners

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The memorandum and its enclosure are designated as Official Use Only-Sensitive Internal Information because they contain predecisional and budget information. The memorandum and its enclosure are limited to NRC unless the Commission determines otherwise.

/RA Michael Johnson for/
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Enclosure:
Fiscal Year 2015 Resource
Reallocations

FISCAL YEAR 2015 RESOURCE REALLOCATIONS

The U.S. Nuclear Regulatory Commission staff will make the following resource reallocations in Fiscal Year (FY) 2015 to support the preliminary decommissioning rulemaking efforts described in this paper.

The rulemaking titled “Part 50.46(a), Decoupling Loss of Offsite Power/ Loss of Coolant Accident ” was put on hold in FY 2015 pending developments related to the Risk Management Regulatory Framework. Also, the rulemaking titled “Additional Decommissioning Funding Assurance” will not take place in FY 2015. Therefore, the Office of Nuclear Reactor Regulation (NRR) will reallocate 2.0 full-time equivalents [

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The staff will reallocate 0.5 FTE [

]. The 0.5 FTE represents excess FY 2015 resources that resulted from a decrease in licensing workload related to the termination of Worcester Polytechnic Institute research and test reactor (RTR), the completion of the approval of the Veterans Administration-Omaha RTR Decommissioning Plan, and the soon-to-be terminated University of Michigan license termination.

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