[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[NRC-2011-0162]

RIN 3150-AJ17

Consideration of Rulemaking to Address Prompt Remediation of Residual Radioactivity During Operation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public Webinar and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is seeking additional input from the public, licensees, Agreement States, non-Agreement States, and other stakeholders on the need for potential rulemaking to address prompt remediation of residual radioactivity during the operational phase at licensed material sites and nuclear reactors. The NRC has not initiated a rulemaking, but is gathering information and seeking stakeholder input on this subject for developing a recommendation to the Commission regarding the need for further rulemaking. To aid in this process, the NRC is requesting comments on the issues discussed in Section II, "Specific Questions," in the Supplementary Information section of this document. Additionally, the NRC will hold a public Webinar and host a public meeting to facilitate the public's and other stakeholders' understanding of these issues and the submission of comments.

DATES: The public Webinar and meeting will be held in Rockville, Maryland on July 11, 2016, from 1:00 p.m. to 4:00 p.m. (EDT) to solicit public and stakeholder feedback. Submit comments

on the issues discussed in this document by August 22, 2016. Comments received after this date will be considered if it is practical to do so.

ADDRESSES: You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web Site:** Go to http://www.regulations.gov and search for Docket ID NRC-2011-0162. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: OWFN-12-H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see "Obtaining Information and Submitting Comments" in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Marlayna Vaaler, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3178; e-mail: Marlayna.Vaaler@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The NRC published the Decommissioning Planning Rule (DPR) in 2011 (76 FR 33512; June 17, 2011) with an effective date of December 17, 2012. The DPR applies to the operational phase of a licensed facility, and requires licensees to operate in a way to minimize spills, leaks,

and other unplanned releases of radioactive contaminants into the environment. It also requires licensees to check periodically for radiological contamination throughout the site, including subsurface soil and groundwater. The DPR does not have a mandatory requirement for licensees to conduct radiological remediation during operation. In the Staff Requirements Memorandum (SRM), SRM-SECY-07-0177 – Proposed Rule: Decommissioning Planning (10 CFR Parts 20, 30, 40, 50, 70, and 72; RIN: 3150-AH45) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML073440549) that approved the proposed DPR, the Commission directed the staff to "make further improvements to the decommissioning planning process by addressing remediation of residual radioactivity during the operational phase with the objective of avoiding complex decommissioning challenges that can lead to legacy sites." To assist in this process, the NRC staff held a public Webinar on July 25, 2011, during which input on a draft regulatory basis and a set of defined questions concerning a potential rulemaking was obtained from members of the public, licensees, Agreement States, non-Agreement States, and other interested persons. Additionally, interested persons were afforded an opportunity to provide written comments on the same issues (see 76 FR 42074; July 18, 2011). Based upon this input, the NRC staff revised its Draft Regulatory Basis (ADAMS Accession No. ML13109A281).

Subsequently, in SRM-SECY-12-0046 – Options for Revising the Regulatory Approach to Groundwater Protection (ADAMS Accession No. ML121450704), the Commission directed the staff to continue the current regulatory approach for groundwater protection, including the recently imposed requirements contained in the DPR, and to solicit public comments on the technical basis for a proposed prompt remediation rule. The Commission also directed the staff to evaluate the pros and cons of moving forward with a proposed prompt remediation rulemaking, including the staff's initial analysis of whether the cost / benefit analysis satisfies the

backfit requirements. The staff conducted an additional public meeting and Webinar on June 4, 2013 (see 78 FR 33008; June 3, 2013), and subsequently evaluated stakeholder comments. From this information, the staff identified the following three options for potential rulemaking on prompt remediation during the operational phase of facility life: (1) proceed with rulemaking; (2) do not proceed with rulemaking; or (3) collect 2 years of information from implementation of the DPR before making a staff recommendation for potential rulemaking.

As a result of the ongoing discussions regarding the need for a prompt remediation regulation, SRM-SECY-13-0108 – Staff Recommendations for Addressing Remediation of Residual Radioactivity During Operations (ADAMS Accession No. ML13354B759), instructed the staff to "collect 2 years of additional data from the implementation of the DPR. After collection and evaluation of the data and engaging stakeholders in a public meeting focused on operational experience from implementation of the Decommissioning Planning Rule, the staff should provide to the Commission a paper with the staff's recommendation for addressing remediation of residual radioactivity at licensed facilities during the operational phase of the facility." Now that the data collection period on the implementation of the DPR has come to a close, the NRC staff is collecting supplementary input from the public and other interested stakeholders to inform the staff's recommendation to the Commission regarding the need for additional rulemaking requiring prompt remediation during operation.

II. Specific Questions

Currently, there are no NRC regulations that require licensees to promptly remediate radiological contamination. To enhance stakeholder engagement in making a recommendation to the Commission regarding whether additional rulemaking in this area is warranted, the staff is holding a Webinar, hosting a public meeting, and requesting feedback on the following questions to facilitate discussion with, and solicit input from, interested stakeholders.

The NRC has asked many of the following questions before, and received some public input. Several commenters stated that an additional rule for prompt remediation is not necessary; and that issues can be addressed either by existing rules or by site-specific action. Others stated the proposed thresholds are not appropriate and that interim remediation is not cost effective. Those who supported an additional rule pointed to cases where there is significant contamination, and drew parallels to other regulations that require early cleanup, such as the Resource Conservation and Recovery Act. The NRC is now seeking further stakeholder input on these questions given the approximately 3 years that have passed since implementation of the DPR:

1. Given the information on site radiological contamination gained as a result of the implementation of the Decommissioning Planning Rule, should the NRC proceed with additional rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?
2. Based on the information on site contamination obtained from facilities that have entered decommissioning, should the NRC proceed with additional rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?
3. If the NRC does implement a rule that requires prompt remediation of radioactive spills and leaks, what concentration, dose limits, or other threshold limits should trigger prompt remediation? Should the thresholds differ for soil versus groundwater contamination?
4. Should the NRC allow licensees to justify delaying remediation under certain conditions when the contaminant level exceeds the threshold limit? If yes, then what conditions should be used to justify a delayed remediation?
5. Should factors such as safety, operational impact, and cost be a basis for delaying remediation?

6. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, then what should the licensee's analysis cover? For example, what kind of dose assessment, risk-assessments, and/or cost-benefit analyses should be performed to justify delayed remediation? What other types of analyses are relevant to this process?
7. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what role should the cost of prompt remediation versus remediation at the time of decommissioning play in the analysis? What are the overall costs and benefits of prompt remediation of residual radioactivity?
8. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what standards or criteria should a licensee use to demonstrate to the NRC that a sufficient justification to delay remediation has been met?
9. Are there any other alternatives beyond those discussed in the Draft Regulatory Basis document that the NRC should have considered to address prompt remediation?
10. What other issues should the NRC staff consider in developing a technical basis for a potential rulemaking to address prompt remediation of residual radioactivity during site operation?

III. Public Webinar

To facilitate the understanding of the public and other stakeholders of these issues and the submission of comments, the NRC staff has scheduled a public Webinar for July 11, 2016, from 1:00 p.m. to 4:00 p.m. (EDT). Webinar participants will be able to view the presentation slides prepared by the NRC and electronically submit comments over the Internet. Participants must register to participate in the Webinar. Registration information may be found in the meeting notice (ADAMS Accession No. ML16179A220). The meeting notice can also be

accessed through the NRC's public Web site under the heading for Public Meetings; see Web page http://meetings.nrc.gov/pmns/mtg. Those who are unable to participate via Webinar may also participate via teleconference. For details on how to participate via teleconference, please contact Marlayna Vaaler; telephone: 301-415-3178; e-mail: Marlayna.Vaaler@nrc.gov.

IV. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC-2011-0162 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by any of the following methods:

- **Federal Rulemaking Web site:** Go to http://www.regulations.gov and search for Docket ID NRC-2011-0162.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at http://www.nrc.gov/reading-rm/adams.html. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2011-0162 in the subject line of your comment

submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at http://www.regulations.gov as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

Dated at Rockville, Maryland, this 28th day of June 2016.

For the Nuclear Regulatory Commission,

/RA/

Andrea L. Kock, Deputy Director,
Division of Decommissioning, Uranium Recovery
and Waste Programs,
Office of Nuclear Material Safety and Safeguards.