

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-119; NRC-2019-0083]

**Access to the Decommissioning Trust Fund for the
Disposal of Large Components**

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Gerard P. Van Noordennen on behalf of EnergySolutions, LLC, dated February 22, 2019. The petitioner requests that the NRC revise its regulations to allow access to the decommissioning trust fund for the removal of major radioactive components before the permanent cessation of operations. The petition was docketed by the NRC on March 20, 2019 and has been assigned Docket No. PRM-50-119. The NRC is examining the issues raised in PRM-50-119 to determine whether they should be considered in rulemaking. The NRC is requesting public comment on this petition at this time.

DATES: Submit comments by August 26, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2019-0083. 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.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.

- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

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

FOR FURTHER INFORMATION CONTACT: Daniel Doyle, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3748; e-mail: Daniel.Doyle@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2019-0083 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2019-0083.
- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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 (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- **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-2019-0083 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your 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 into ADAMS.

II. The Petitioner and the Petition

The petition was submitted by Gerard P. Van Noordennen on behalf of EnergySolutions, LLC. Gerard P. Van Noordennen is the Vice President of Regulatory Affairs. The petitioner requests that the NRC amend part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) to revise the criteria for decommissioning and allow the use of the decommissioning trust fund for the disposal of major radioactive components before the permanent cessation of operations. The petition may be found in ADAMS at Accession No. ML19079A293.

III. Discussion of the Petition

The petitioner requests that the NRC amend 10 CFR part 50 to revise the definition of decommissioning in § 50.2 and amend § 50.82 to allow access to the decommissioning trust fund before the permanent cessation of operations at nuclear power plants. The petitioner observes that many factors within the nuclear power industry have changed since 2007, when the petitioner submitted a request for petition for rulemaking on similar issues (ADAMS Accession No. ML071570539), which was docketed by the NRC as PRM-50-88 and later denied. The petitioner suggests that

granting the petition will remove unnecessary burden from licensees who store major radioactive components on their sites during plant operations because they cannot use decommissioning funds for disposal of these components. Storing these components on site results in costs to build and maintain storage structures and to monitor for releases and exposures. The petitioner observes that the removal and disposal of components during operations could be considered as activities that would be part of the decommissioning process; therefore, decommissioning funds could be used for disposal of the components before permanent cessation of operations, in cases where excess funds can be shown to exist. The petitioner also observes that onsite storage of major radioactive components leads to unnecessary regulatory burdens for their maintenance and monitoring, including a potential for worker exposure.

IV. Request for Comment

The NRC is requesting public comment on the following specific questions:

1. Licensees currently may use their own internal operating funds to dispose of major radioactive components (e.g., steam generators) during plant operation, or they may choose to wait until decommissioning begins to use funds set aside for decommissioning. What advantages or disadvantages do you see to either approach, which are available under the current regulations? Provide an explanation for your response.

2. Should the NRC revise its regulations to allow a licensee the option to use funds set aside for radiological decommissioning (decommissioning trust fund) to dispose of major radioactive components (e.g., steam generators) while the nuclear power plant is still operating? Provide an explanation for your response.

3. What criteria should the NRC consider for a licensee to be able to use the decommissioning trust fund early for large component disposal? For example, the NRC could require a licensee to provide a site-specific decommissioning cost estimate at the time of a request for early access to funds. The NRC also could require annual reports that funds in the decommissioning trust will be adequate to meet the decommissioning cost estimate. Would such criteria be sufficient to ensure that adequate decommissioning funds will be available during decommissioning?

4. Are there other innovative financial approaches that could be considered by the NRC or a licensee for dispositioning major radioactive components while a nuclear power plant is operating, while still ensuring that sufficient funds will be available for decommissioning? Provide an explanation for your response.

V. Conclusion

The NRC has determined that the petition meets the threshold sufficiency requirements for docketing a petition for rulemaking under 10 CFR 2.803. The NRC is examining the issues raised in PRM-50-119 to determine whether they should be considered in rulemaking.

Dated at Rockville, Maryland, this 6th day of June, 2019.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.