



**U.S. NRC**

UNITED STATES NUCLEAR REGULATORY COMMISSION

*Protecting People and the Environment*

# **Advance Notice of Proposed Rulemaking**

## **Alternatives to the Use of Credit Ratings**

**10 Code of Federal Regulations (CFR)**

**Part 30**

**February 8, 2021**

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# Purpose of Public Meeting

- ❑ Provide an overview of:
  - ❑ The advance notice of proposed rulemaking (ANPR) to facilitate public input during comment period
  - ❑ Background on the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) and its impact on NRC regulations
  - ❑ Staff's proposed approaches for compliance with Dodd-Frank

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# Agenda

- **Opening Remarks**
- **Background**
  - **Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)**
  - **NRC Decommissioning Funding Assurance Requirements and the Use of Credit Ratings**
  - **NRC Regulations Impacted by Dodd-Frank**
- **The NRC's Rulemaking - Alternatives to the Use of Credit Ratings**
- **ANPR Process, Discussion Questions, and Submitting Comments**
- **Road Ahead and Closing Remarks**

# Opening Remarks



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# Background

- ❑ What is the Dodd-Frank Act?



- ❑ Which NRC regulations are impacted?
- ❑ What are NRC's decommissioning funding assurance regulations and surety instruments?

# Background



## The Dodd-Frank Wall Street Reform and Consumer Protection Act 2010

**“... promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices...”**

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# The Dodd-Frank Impacts to Federal Agencies

## ❑ SEC. 939. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS

### SEC. 939A. REVIEW OF RELIANCE ON RATINGS

#### ❑ Each Federal Agency shall:

1. Review any regulation that requires use of credit-worthiness and references regarding credit ratings
  2. Modify Regulations – remove reference to or requirement of reliance on credit ratings and substitute a standard of credit-worthiness that “each respective agency shall determine as appropriate for such regulations”
  3. Transmit a report to Congress containing a description of modifications made to its regulations
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# NRC Decommissioning Funding Assurance Requirements and Surety Instruments

- NRC decommissioning funding assurance regulations:
    - Byproduct Material Licensees - 10 CFR 30.35(f)(2)
    - Source Material Licensees - 10 CFR 40.36(e)(2)
    - Production and Utilization Licensees - 10 CFR 50.75(e)(1)(iii)
    - Special Nuclear Material Licensees - 10 CFR 70.25(f)(2)
    - Spent Fuel, HLW and GTCC Licensees - 10 CFR 72.30(e)(2)
  - Surety Instruments
    - Prepayment
    - External Sinking Fund
    - Other Surety Methods
      - Surety bond
      - Letter of credit
      - Insurance
      - **Self Guarantee (SG) and Parent Company Guarantee (PCG)**
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# NRC Regulations Impacted by Dodd-Frank

□ 10 CFR Part 30, Appendix A –

## 10 Parent Company Guarantee

Parts 1 to 50

Revised as of January 1, 2018

➤ II.A.2. – bond rating and 3 financial metrics

□ 10 CFR Part 30, Appendix C – Self Guarantee

➤ II.A. – bond rating and 2 financial metrics (and one class of equity security registered with the SEC)

# NRC Regulations Impacted by Dodd-Frank (cont.)

## *Colleges, Universities, and Hospitals*

### CODE OF FEDERAL REGULATIONS

- 10 CFR Part 30, Appendix E –  
Self Guarantee
  - II.A.(1) – bond rating only (for colleges/universities that issue bonds)
  - II.B.(1) – bond rating only (for hospitals that issue bonds)



## The NRC's Rulemaking - Alternatives to the Use of Credit Ratings

- ❑ Staff's initial approach was to remove use of credit rating criteria and instead rely on existing financial test criteria
- ❑ October 30, 2019, public meeting comments highlighted challenges with the initial approach
  - ❑ Could negatively affect some licensees' ability to utilize guarantee mechanisms
- ❑ Staff conducted additional analysis and outreach to other federal agencies
- ❑ Based on results of analysis and feedback, staff recommended and received Commission approval to conduct an ANPR to solicit public input.

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# Advance Notice of Proposed Rulemaking



**FEDERAL REGISTER**

The Daily Journal of the United States Government

- ❑ The ANPR published on December 21, with a 75-day comment period ending March 8, 2021 (85 FR 82950, [link to federal register notice](#))
- ❑ Potential Rulemaking Approaches
  - Modified or new financial metrics for assessing credit-worthiness
  - Independent agency determination

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# ANPR Question 1



Question 1) Are there licensees that meet the current credit rating-based financial test for a guarantee that would not be able to meet the alternate working capital and liability-based financial tests currently presented in 10 CFR part 30 appendices?

Would such licensees be able to meet the decommissioning funding assurance requirements using one or more other funding assurance methods allowed for by regulation (i.e., prepayment, surety bond, insurance, external sinking fund)?

## ANPR Question 2



Question 2) Modified or new financial metrics for assessing creditworthiness: Please provide your views on financial statement metrics or other quantifiable financial characteristics that could be reported by licensees to assess a licensee's creditworthiness and hence, its ability to use a parent company guarantee or self-guarantee mechanism for providing reasonable assurance that decommissioning funding will be available (see § 50.75, "Reporting and recordkeeping for decommissioning planning"). Suggested metrics should differ from the current working capital and liability-based metrics currently presented in 10 CFR part 30 appendices cited in the Background to this notice and include pass or fail criteria limits.

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## ANPR Question 3



Question 3) Independent agency determination: Please provide your views on the NRC performing an independent risk-informed, performance-based determination of a licensee's credit-worthiness. The NRC would seek to determine the licensee's risk of default based on its review of financial data while providing some degree of flexibility on the part of licensees as to the type of financial data submitted. This could include evaluation of financial data available from the licensee, open-sources, and from third parties, including credit ratings.

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# ANPR Question 4

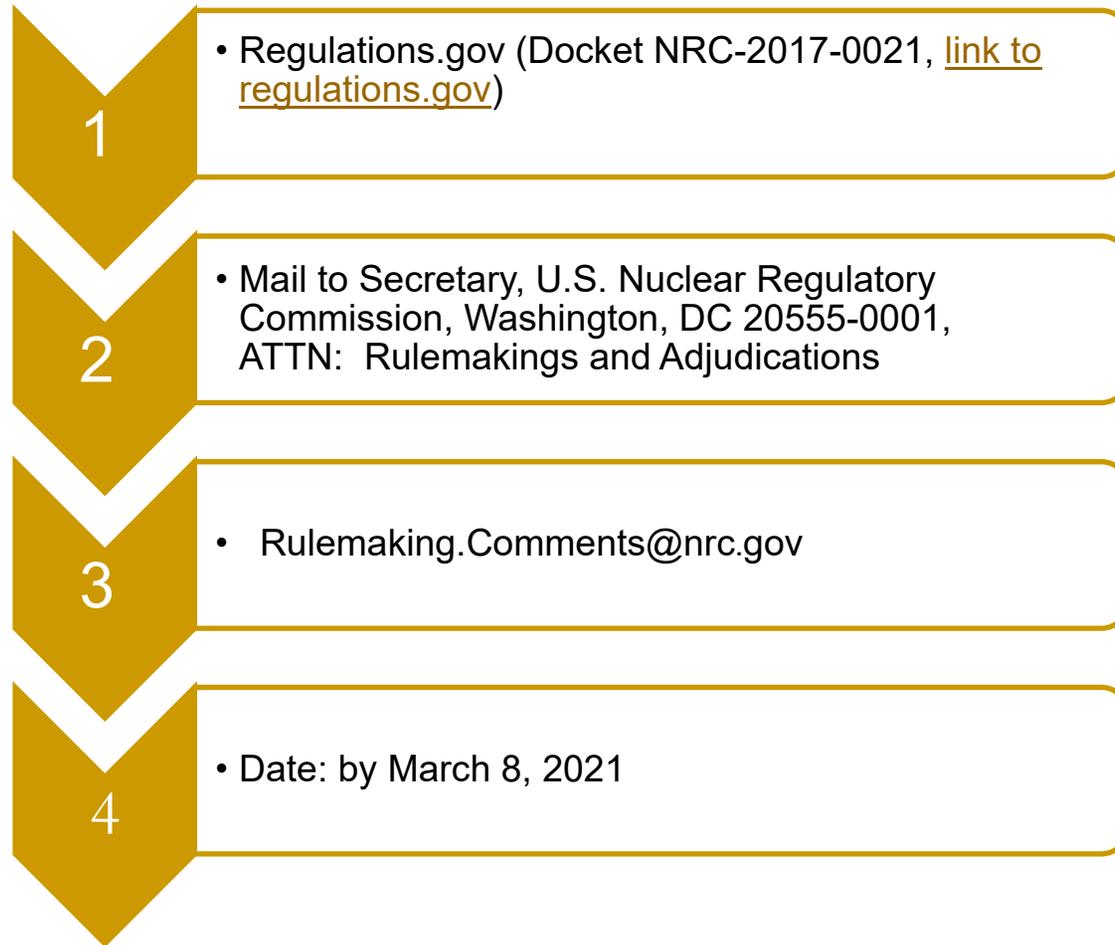


Question 4) Should the NRC consider other alternative financial test criteria not presented above to assess an applicant's or licensee's use of a guarantee to provide reasonable assurance of funds for decommissioning?

If yes, please provide details of the alternative criteria and the financial data needed for its use.

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# How to Submit Public Comments



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# Questions?



More questions? contact:  
[Gregory.Trussell@nrc.gov](mailto:Gregory.Trussell@nrc.gov)

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# Road Ahead and Closing Remarks



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# How Did We Do?

Email feedback to:  
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