

U.S. Nuclear Regulatory Commission Public Meeting Summary

October 4, 2022

Title: Public Meeting on the “Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning” Rulemaking – Proposed Rule

Meeting Identifier: 20220184

Date of Meeting: March 21, 2022

Location:

U.S. Nuclear Regulatory Commission
One White Flint North, Commission Hearing Room (1st Floor)
11555 Rockville Pike
Rockville, MD 20852

Webinar (via Microsoft Teams)

Type of Meeting: Information Meeting with a Question and Answer Session

Purpose of Meeting:

The U.S. Nuclear Regulatory Commission (NRC) staff hosted a public meeting to engage with the public regarding the issues discussed in the “Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning” proposed rule and to provide information to help stakeholders prepare formal comments on the proposed rule and draft regulatory guidance.

General Details:

The NRC is proposing to amend its regulations related to the decommissioning of production and utilization facilities. The NRC’s goals in amending these regulations are to maintain a safe, effective, and efficient decommissioning process; reduce the need for license amendment requests and exemptions from existing regulations; address other decommissioning issues deemed relevant by the NRC; and support the NRC’s Principles of Good Regulation, including openness, clarity, and reliability.

The Commission directed the NRC staff to proceed with an integrated rulemaking on nuclear power reactor decommissioning to address the following: a graded approach to emergency preparedness, lessons learned from the licensees that have already gone through (or are currently going through) the decommissioning process, the advisability of requiring a licensee’s post-shutdown decommissioning activities report to be approved by the NRC, the appropriateness of maintaining the three existing options for decommissioning and the timeframes associated with those options, the appropriate role of State and local governmental stakeholders in the decommissioning process, and any other issues deemed relevant by the NRC staff.

Rulemaking was initiated in December 2015, and extensive public outreach was conducted, including soliciting comments on an advance notice of proposed rulemaking (ANPR) (80 FR 72358) and a Regulatory Basis document (82 FR 13778). The proposed rule was published in the *Federal Register* on March 3, 2022 (87 FR 12254) for a 75-day

comment period that was originally scheduled to end on May 17, 2022. However, the comment period was extended for a total of 180 days that ended on August 30, 2022. The NRC staff is scheduled to deliver the final rule to the Commission in October 2023, and the estimated publication date of the final rule is May 2024.

Along with the publication of the proposed rule, the NRC staff publicly released supporting and related materials:

- Draft Regulatory Analysis (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22019A132)
- Draft Environmental Assessment (ADAMS Accession No. ML22019A140)
- Draft Supporting Statements for Information Collections (ADAMS Accession No. ML18039A192)
- Unofficial Redline Rule Language for the Proposed Rule (ADAMS Accession No. ML22032A001)

The NRC staff also issued the following guidance documents for public comment in parallel with the proposed rule:

- DG-1346 Rev. 1 (Proposed New RG 1.235) Emergency Planning for Decommissioning Nuclear Power Reactors (ADAMS Accession No. ML21347A046)
- DG-1347 Rev. 1 (Proposed RG 1.184 Rev. 2) Decommissioning of Nuclear Power Reactors (ADAMS Accession No. ML21347A080)
- DG-1348 Rev. 1 (Proposed RG 1.159 Rev. 3) Assuring the Availability of Funds for Decommissioning Production or Utilization Facilities (ADAMS Accession No. ML21347A081)
- DG-1349 Rev. 1 (Proposed RG 1.185 Rev. 2) Standard Format and Content for Post-Shutdown Decommissioning Activities Report (ADAMS Accession No. ML21347A1380)

The meeting consisted of an NRC presentation on the topics covered in the proposed rule and a questions and answers session where the public was invited to pose questions to the NRC to get any needed clarifications on the proposed rule and the supporting and related materials. The meeting was attended by approximately 128 people participating through webinar or in person at NRC headquarters, including NRC staff and members of the public.

Summary of Presentation:

Lance Rakovan of the NRC opened the meeting and introduced himself as the meeting facilitator. Mr. Rakovan described the purpose of the meeting (to provide information to help stakeholders prepare comments on the proposed rule and draft regulatory guidance), provided an overview of the meeting agenda, and advised participants on the features of the teleconference platform, including how to ask questions. Mr. Rakovan then introduced Dr. Patricia Holahan of the NRC to give opening remarks.

Dr. Holahan discussed the NRC staff's goals for the rulemaking and briefly discussed the important role that public comment has played in the development of the proposed rule, including during the ANPR and later with a draft Regulatory Basis. In addition, Dr.

Holahan expressed the desire that the meeting will help the public better understand the proposed rule and encouraged public participation during the meeting. Dr. Holahan noted that the NRC will not be responding in writing to the comments offered during the meeting, and that formal comments made by the public should be submitted in writing using the methods described in the proposed rule notice.

Mr. Rakovan then turned the meeting over to Dan Doyle of the NRC, who introduced himself as the Project Manager for the rulemaking. Mr. Doyle began the slide presentation by providing an overview of the background and status of the proposed rule. Mr. Doyle noted the public outreach that occurred on the ANPR and the Regulatory Basis and discussed the schedule of the comment period. Mr. Doyle displayed the slide with links to key documents and explained that the NRC staff is issuing four guidance documents that are available for public comment. Mr. Doyle gave a brief overview of the graded approach concept that the NRC staff is using for several technical areas of the proposed rule. Mr. Doyle then proceeded with the slide presentation, after explaining that the presentation would cover the topics included in the proposed rule.

Mr. Doyle first discussed Emergency Preparedness and was followed by Vince Williams of the NRC, who presented Physical Security. Following Mr. Williams, Mr. Doyle presented the next several topics: Cyber Security, Drug and Alcohol Testing, Certified Fuel Handler Definition and Elimination of the Shift Technical Advisor, Decommissioning Funding Assurance, Offsite and Onsite Financial Protection Requirements and Indemnity Agreements, Environmental Considerations, Record Retention Requirements, Low-Level Waste Transportation, and Spent Fuel Management Planning. Howard Benowitz of the NRC then presented the next several topics, including the Backfit Rule; Foreign Ownership, Control, or Domination; Clarification of Scope of License Termination Plan Requirement; Removal of License Conditions and Withdrawal of Orders; and Changes for Consistent Treatment of Holders of Combined Licenses and Operating Licenses. Mr. Doyle resumed the presentation by discussing the specific requests for comments that are included in the proposed rule and then discussed the Regulatory Analysis, providing a brief summary of the costs and benefits of the proposed rule. Mr. Doyle also mentioned that the meeting participants can submit feedback through the NRC Public Meeting Feedback Form, available in the slide presentation and also on the meeting details page. Mr. Doyle concluded the presentation by providing some tips for preparing comments on the proposed rule and discussing next steps for the rulemaking.

Public Feedback and Questions:

After a short break, Mr. Rakovan resumed the meeting and explained that there would be time for public comments and questions. Stakeholders posted a few questions and comments:

- A representative from PSEG Nuclear LLC asked how best to use the unofficial redline document to understand any changes that are being proposed, particularly recent changes, in conjunction with the information presented in the *Federal Register* for the proposed rule. Mr. Doyle explained that the NRC staff has updated parts of the rulemaking package to address recent Commission direction and that changes in the rule text are consistent with the discussions in the *Federal Register* notice. Mr. Benowitz added that the unofficial redline document is meant to be used as a tool to help the

public better understand the proposed changes to the current rule language and noted that it is not an official Part of the proposed rule package. Mr. Benowitz emphasized that comments should not be submitted on the unofficial redline document; comments on the rule text should be in response only to materials in the official proposed rule package published in the *Federal Register*.

- A representative from the Nuclear Energy Institute (NEI) posed a question regarding the proposed backfitting language in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.109(b), asking how the language would apply to spent fuel pool structures, systems, and components (SSCs) and Independent Spent Fuel Storage Installation (ISFSI) and the extent to which the “in use” language limits the applicability of the provision. Mr. Benowitz responded that the term “in use” does limit the applicability of the backfitting provision, and that it would apply to the spent fuel pool and related SSCs that are being used at the plant. Mr. Benowitz added that the status of activities related to decommissioning and dismantlement would then impact applicability of the backfitting provision to those SSCs that remain in use. Mr. Benowitz also commented that the NRC staff would look at the language in more detail to determine if language needs to be added to describe a point where the proposed backfitting provision would no longer apply.
- Another NEI representative commented that industry members are planning to be involved in reviewing the rulemaking package and expressed appreciation for the NRC staff’s thorough and competent efforts in putting together the rulemaking package. The commenter anticipated that the NEI will agree with the majority of changes that the NRC staff is proposing and opined that the proposed rulemaking is a significant improvement in the regulatory framework for decommissioning that will result in many efficiencies. The commenter concluded by saying the NEI intends to submit written comments by the deadline and thanked the NRC staff for the work they have done.

Closing:

Mr. Doyle made brief closing remarks, including mentioning that participants in the public meeting can submit feedback to improve the structure of future public meetings through the NRC Public Meeting Feedback Form, available in the slide presentation and also on the meeting details page. Mr. Doyle thanked everyone for their time and attention and ended the meeting.

Action Items/Next Steps:

There was another public meeting 4:00 PM – 7:00 PM ET on March 31, 2022. The NRC conducted additional hybrid public meetings on April 12, 2021; April 19, 2021; May 4, 2021; and May 9, 2021. The meeting summaries are available in the NRC public meetings website.

Related Documents:

- ML22070A000 – 03/21/2022 – Notice of Public Meeting to Discuss the Proposed Rulemaking on Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- ML22059A016 – 03/21/2022 – NRC Presentation for Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

- ML22277A000 – 03/21/2022 – Public meeting transcript for Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning