

Official Transcript of Proceedings
NUCLEAR REGULATORY COMMISSION

Title: Public Meeting to Discuss the Proposed Rulemaking on "Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning"

Docket Number: (n/a)

Location: Rockville, Maryland

Date: Thursday, March 31, 2022

Work Order No.: NRC-1892

Pages 1-77

NEAL R. GROSS AND CO., INC.
Court Reporters and Transcribers
1716 14th Street, N.W.
Washington, D.C. 20009
(202) 234-4433

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

+ + + + +

PUBLIC MEETING TO DISCUSS THE PROPOSED RULEMAKING
ON "REGULATORY IMPROVEMENTS FOR PRODUCTION AND
UTILIZATION FACILITIES TRANSITIONING TO
DECOMMISSIONING"

+ + + + +

THURSDAY,

MARCH 31, 2022

+ + + + +

The meeting convened at the Commission
Hearing Room, NRC One White Flint North, 11555
Rockville Pike, Rockville, Maryland, and by video
teleconference, at 4:00 p.m. EDT, Lance Rakovan,
Meeting Facilitator, presiding.

NRC STAFF PRESENT:

LANCE RAKOVAN, Meeting Facilitator; Senior
Environmental Project Manager, Office of Nuclear
Material Safety and Safeguards

HOWARD BENOWITZ, Senior Attorney

DANIEL DOYLE, Office of Nuclear Material Safety and
Safeguards

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 STACEY IMBODEN, Senior Project Manager, Office of
2 Nuclear Material Safety and Safeguards

3 PATRICIA HOLAHAN, Director, Office of Enforcement

4 GLENNA LAPPERT, Office of Nuclear Material Safety and
5 Safeguards

6 MAURIN SCHEETZ, Reactor Operations Engineer, Office of
7 Nuclear Reactor Regulation

8 BRIAN ZALESKI, Fitness for Duty Program Specialist,
9 Office of Nuclear Security and Incident Response

10

11 PUBLIC COMMENTERS:

12 MICHAEL COSTELLO

13 THEODORE WENTWORTH

14 TONY LESHINSKIE

15 RICH JANATI

16 CHRISTOPHER SALZ

17 TODD SMITH

18 ERIC GILLEN

19

20

21

22

23

24

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

C-O-N-T-E-N-T-S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

PAGE

Welcome and Logistics.....4

Background and Status.....8

Overview of the Proposed Rule.....13

Tips for Preparing Comments.....49

Public Feedback and Questions.....54

Next Steps and Wrap-up.....78

P-R-O-C-E-E-D-I-N-G-S

4:00 p.m.

1
2
3 MR. RAKOVAN: So, hello everyone, my name
4 is Lance Rakovan. I'm a senior environmental project
5 manager at the U.S. Nuclear Regulatory Commission, or
6 NRC, and it's my pleasure to facilitate today's
7 meeting, along with the staff, who will be helping out
8 in the Commissioner's Hearing Room at NRC
9 Headquarters. We're going to do our best to make sure
10 this meeting is worthwhile for everyone, and we hope
11 you'll help us out with that.

12 Slide two please. The purpose of this
13 public meeting is to provide information to help you
14 make more educated comments on the proposed
15 decommissioning rule, and draft regulatory guidance.
16 We will be going through the various ways you can
17 participate in this commenting process as part of our
18 presentation. Slide three please. Here's our agenda
19 for today. After I finish up with some logistics,
20 we'll have some opening remarks.

21 And then we'll provide our presentation,
22 which will include details on background, and status,
23 an overview of the proposed rule, tips for preparing
24 comments, and next steps. We'll then open the floor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 to feedback, and questions. Slide four please.
2 Please note that today's meeting is being recorded,
3 and transcribed. We ask that you help us get a full,
4 clear accounting of the meeting -- hold on, it sounds
5 like we've got some -- give me a second.

6 Okay, sorry about that. Please help us
7 get a clear accounting of the meeting by staying on
8 mute, appropriate timing. If you are on the phone, or
9 on Teams, and are not speaking, or keeping your
10 electronic devices silent, and keeping side
11 discussions to a minimum if you're in the room. Also
12 it would help us out greatly if speakers can identify
13 themselves, and any group they are with when they
14 first talk.

15 When we get to the Q&A portion of the
16 meeting, those of you on Teams can use the raise your
17 hand feature to signal that you have a question.
18 Those on the phone can use star five. Please note
19 that the chat feature on Teams has been disabled. The
20 slides that will be shown on the Microsoft Teams
21 screen can be found in the NRC's ADAMS Library at
22 ML22089A003. Again, for those of you on the phone,
23 that is ML22089A003.

24 And again, those are posted to the public

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 meeting schedule page for this meeting. Any phone
2 attendees, if you could, please email dan.doyle,
3 that's D-O-Y-L-E @nrc.gov to let us know that you were
4 in attendance. For those of you with us in the room
5 today, please note that emergency exits are at all
6 four corners of the room, and that restrooms are out
7 the main entrance, and then to your left. Slide five
8 please.

9 I would now like to introduce Trish
10 Holahan, a special assistant in the NRC's Division of
11 Rulemaking, Environmental, and Financial Support to
12 give some opening remarks. Trish, if you would?

13 DR. HOLAHAN: Thanks Lance, and good
14 afternoon. I'm Trish Holahan, as Lance said, I'm a
15 specialist within the NRC's Division of Rulemaking,
16 Environmental, and Financial Support, and I'd like to
17 thank you for joining us today to talk about the NRC's
18 decommissioning rulemaking. The NRC's goals for this
19 rulemaking are to maintain a safe, effective, and
20 efficient decommissioning process.

21 Incorporate lessons learned from the
22 decommissioning process, and support the NRC's
23 principles of good regulation, including openness,
24 clarity, and reliability. The proposed rule would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 implement specific regulatory requirements for
2 different phases of the decommissioning process
3 consistent with the reduced risk that occurs over time
4 while continuing to maintain safety, and security.

5 The proposed rule would incorporate
6 lessons learned from plants that have recently
7 transitioned to decommissioning, and improve the
8 effectiveness, and efficiency of the regulatory
9 framework while protecting public health, and safety.
10 Public comment has twice played an important role in
11 the development of the proposed rule. When we
12 published an advanced notice for proposed rulemaking,
13 and later with the draft regulatory basis.

14 We are seeking public input on the
15 proposed rule to influence regulations that will guide
16 future nuclear plant decommissioning. The rule
17 addresses several regulatory areas, which you'll hear
18 about in more detail during this meeting. We hope
19 today's meeting will help you better understand the
20 proposed rule. We look forward to your feedback, and
21 questions today.

22 But please note that the NRC will not be
23 responding in writing to verbal comments in today's
24 meeting. Comments must be submitted in writing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 through the methods in the Federal Register notice as
2 you'll hear about later, to receive formal
3 consideration in the rulemaking. This is the second
4 public meeting on the proposed rule. We're also
5 planning to hold additional meetings in April, in
6 other locations around the country with the option for
7 virtual participation.

8 Please check the NRC's public website for
9 additional details about upcoming public meetings, and
10 for other resources to help you as you review the
11 proposed rule. Thank you very much, and I'll turn it
12 back to Lance.

13 MR. RAKOVAN: Thanks Trish. If we could
14 go to slide six please. I'd now like to turn things
15 over to Dan Doyle, who has the lead for this
16 initiative. If I could ask folks to please let Dan
17 get through his presentation, and then we'll take a
18 short break, and open the floor to questions at that
19 time. But we want Dan to be able to provide all the
20 information today in his presentation. So, Dan?

21 MR. DOYLE: Thank you very much Lance. As
22 Trish said, this is our second public meeting on the
23 decommissioning proposed rule. If you attended the
24 previous meeting on March 21st, please note that the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 first half of this meeting, the NRC staff
2 presentation, is the same material as last time, and
3 then we will open it up for Q&A, as Lance said, for
4 the rest of the time. We didn't want to have multiple
5 meetings in case individuals had a conflict, or are
6 working, or something.

7 So, there may be some more folks joining
8 us in the meeting a little bit later, because we did
9 mention that last time as well. But for those that
10 are here, welcome, and thank you. One final note
11 before I move ahead with the presentation is about the
12 meeting platform. We are using Microsoft Teams for
13 the meeting today. You should see the slides if you
14 join the meeting, through your computer.

15 If you don't, please go ahead, and raise
16 your hand, and we'll see if we can address that. But
17 assuming you do see that, underneath the slides you
18 should see arrows that would actually allow you to
19 flip back, and forth, and just wanted to point out
20 that that does not affect anyone else. That is just
21 your view, so you're free to do that if you see
22 something that interests you.

23 And also using this platform, you do have
24 the ability to click any of the links in the slides if

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 you wanted to open up any of the documents now. Next
2 slide please. And one more. Okay, starting off with
3 a little bit of context, if you wouldn't mind just
4 clicking dismiss on the screen there. Thank you.
5 There was an increase in nuclear power plant shutdowns
6 that focused the NRC's attention on making some
7 changes to the regulations that relate to
8 decommissioning.

9 So, the NRC initiated rulemaking in
10 December 2015 to explore changes related to that
11 process. We have already completed some extensive
12 public outreach. We solicited early comments in an
13 advanced notice of proposed rulemaking. We also
14 issued a regulatory basis document, and we had public
15 comment periods in meetings for both of those steps.

16 We do have information about those, and
17 the feedback that we received from that early public
18 outreach available on our public website, which I'll
19 highlight with a later slide. So, the recent news
20 with this activity is that, and the reason we're
21 having the meeting today, is that we published the
22 proposed rule in the Federal Register on March 3rd,
23 2022.

24 The citation is 87 FR 12254. So, we are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 in the public comment period right now. It is 75
2 days, and it will end on May 17th, 2022. Next slide
3 please. For convenience we included two slides that
4 list some of the key documents associated with this
5 proposed rule with links to access them directly. So,
6 this is the first slide. So, again, there's the
7 citation for the proposed rule with links to the web
8 version, or the printed version.

9 And then supporting, and related
10 materials. We have a draft regulatory analysis, which
11 discusses the costs, and benefits associated with this
12 action. Draft environmental assessment for compliance
13 with the National Environmental Policy Act. Draft
14 supporting statements for information collection. We
15 do have changes to information collection requirements
16 in this rule, and those changes are discussed in the
17 supporting statements for compliance with the
18 Paperwork Reduction Act.

19 And there is a fourth document listed on
20 there as the unofficial red line rule text. I have
21 another slide highlighting that a bit later, but just
22 to explain briefly what that is, in case you can't
23 tell from the title, it is unofficial, there is a
24 disclaimer when you open it, it is just for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 information, but it is not an official part of the
2 package, it's not a legal document per se.

3 It's just intended to be a helpful
4 information. But in the event that there was a
5 difference between that, and what was published in the
6 Federal Register, the Federal Register is the official
7 legal version. But that document may be helpful,
8 because it does show in a red line strike out format,
9 what this proposed rule would change in the rule
10 language. What would be inserted, and what would be
11 deleted.

12 So, you'd be able to see that in context,
13 and hopefully that would be helpful. Okay, next slide
14 please. We are also updating four guidance documents.
15 We're issuing four draft regulatory guides for public
16 comment in parallel with the proposed rule, and
17 they're listed here on the slide. The first one is
18 related to emergency planning for decommissioning
19 nuclear power plants, and that would be a new
20 regulatory guide.

21 The other three are updates to existing
22 regulatory guides that relate to decommissioning. The
23 second one on the left is an update to Reg Guide
24 1.184, decommissioning of nuclear power plants. The

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 next one would be an update to Reg Guide 1.159, which
2 is revision three. Availability of funds for
3 decommissioning production and utilization facilities.

4 And the last one is an update to
5 Regulatory Guide 1.185, standard format, and content
6 for post shutdown decommission activity reports. So,
7 these four documents are out for public comment now.
8 So, if you have public comments on the proposed rule,
9 and the guidance, please submit it all together. It's
10 all a combined action, it's one request for public
11 comment.

12 Next slide please. For this part of the
13 meeting we will give an overview of the topics in the
14 proposed rule. So, I'll start with a general
15 discussion of the graded approach concept that we use
16 in the proposed rule, and how that has been applied to
17 several technical areas. The rest of the slides will
18 give an overview for each of the technical areas, or
19 topics in the proposed rule.

20 If you look at the proposed rule in
21 section four, scope of the proposal, there are 16
22 headings. The slides here follow the order of those
23 topics in the proposed rule, the titles here match the
24 titles in that proposed rule. I would also like to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 point out that I am the rulemaking project manager
2 serving as the spokesperson for the rule today. But
3 we have a great team of NRC staff who are the subject
4 matter experts in these topics that have helped shape,
5 and craft this proposed rule, and taken great care
6 with that.

7 Many of them are on the line here today
8 for the Q&A session later. Next slide please. The
9 proposed rule takes a graded approach to
10 decommissioning, where different levels of
11 requirements apply at different stages of the
12 decommissioning process. Across the top of this table
13 are the four levels used in the proposed rule as a
14 facility goes through the decommissioning process.

15 Level one begins after the facility
16 docket the two required certifications, one is for
17 permanent cessation of operations, and the other is
18 that fuel has been removed from the reactor vessel.
19 Level two is after a period of sufficient decay of the
20 spent fuel, which would generically be ten months for
21 a boiling water reactor, or 16 months for a
22 pressurized water reactor if the facility meets the
23 criteria in the proposed rule.

24 Level three would be when all fuel is in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 dry cask storage. And level four would be when all
2 fuel is off site. The rows in the table show the
3 topic areas that have updated requirements linked to
4 these levels. Emergency preparedness would use all
5 four levels starting with the post shutdown emergency
6 plan in level one, through level four, where there is
7 no longer a need for an onsite radiological emergency
8 response plan because all fuel is off site.

9 Other topic areas that use the graded
10 approach include physical security, cyber security,
11 and on site, off site insurance, which we'll discuss
12 in later slides. Next slide please. Okay, so this is
13 the first of the 16 topic slides. Before I proceed,
14 I'll just explain how this is laid out a bit. So, for
15 each of these slides, you'll see a summary of the
16 proposed changes.

17 The box in the upper right corner
18 identifies the section in the proposed rule where we
19 have a more detailed discussion, we have a narrative
20 discussion about the topic. That box also includes
21 page numbers for where that section is located, if you
22 want to jump to that, and read it. We also have
23 listed all the sections in the CFR, the Code of
24 Federal Regulations that would be changed.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Towards the middle of the slide, where it
2 says specific requests for comment for each of these
3 slides, we will mention if there are any questions
4 that the NRC is posing for stakeholder consideration.
5 Those would all be in section five of the proposed
6 rule. And then on the bottom of the slide we also
7 have an area for additional information if there's
8 something else we'd like to point out on the topic.

9 And then on the very bottom of the slide,
10 we have a progress bar that shows the topic that we're
11 on, and the ones we did recently, and ones coming up
12 next in case that's helpful to you as you're keeping
13 an eye on this meeting. Right now, we're starting
14 with the first one, emergency preparedness. So, a
15 little bit of background.

16 Because the current NRC regulations don't
17 provide a means to distinguish between the EP
18 requirements that apply to an operating reactor, and
19 the EP requirements that apply to a reactor that has
20 permanently ceased operations, decommissioning
21 licensees have historically requested exemption from
22 EP requirements. The proposed rule would provide
23 common EP requirements for reactors in
24 decommissioning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Eliminating the need for specific
2 exemptions, or license amendments. Because of the
3 decreased risk of off site radiological release, and
4 fewer types of possible accidents that can occur at a
5 decommissioning reactor, the proposed EP requirements
6 align with that reduction in risk while maintaining
7 safety. So, what are the changes that we're
8 proposing?

9 The NRC is proposing to add a new section,
10 10 CFR 50.200, which would provide planning standards,
11 and requirements for post shutdown, and permanently
12 defueled emergency plans. The proposed standards, and
13 requirements for emergency plans are consistent with
14 the level of planning the Commission has previously
15 approved for decommissioning facilities. The proposed
16 planning requirements also ensure close coordination,
17 and training with off site response organizations as
18 maintained throughout the decommissioning process.

19 The NRC is also proposing to amend 10 CFR
20 50.54(q) to provide licensees with the option to use
21 the tiered requirements, and standards at the
22 appropriate time in decommissioning, and to add a new
23 process by which licensees can make changes to the
24 emergency plan to transition between levels. There

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 are two questions that were related to this topic that
2 we're specifically asking for stakeholder input on if
3 you'd like to provide that.

4 So, the first one, we would like to know
5 what are the advantages and disadvantages of requiring
6 dedicated radiological emergency planning, including a
7 ten mile emergency planning zone until all spent
8 nuclear fuel at the site is removed from the spent
9 fuel pool, and placed in dry cask storage. Is there
10 additional information the NRC should consider in
11 evaluating whether all hazards planning would be as
12 effective as dedicated radiological emergency
13 planning?

14 So, that's a summary of the first
15 question. The NRC has determined that ten hours would
16 be a sufficient amount of time for an emergency
17 response to a spent fuel pool accident based on an all
18 hazards plan. Is there additional information the NRC
19 should consider in evaluating this issue? And the
20 second question, nuclear power facilities that are
21 shut down permanently, or indefinitely are currently
22 not required to maintain an emergency response data
23 system.

24 These systems transmit near real time

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 electronic data between the licensee's on site
2 computer system, and the NRC Operations Center.
3 Licensees in level one would maintain a capability to
4 provide meteorological, radiological, and spent fuel
5 pool data to the NRC within a reasonable time frame
6 following an event.

7 What are the advantages and disadvantages
8 of requiring nuclear power plant licensees to maintain
9 those aspects of the emergency response data system
10 until all spent fuel is removed from the pool? And
11 then under the additional information heading, the
12 staff has developed guidance corresponding to the
13 proposed rule changes for emergency preparedness. We
14 have this proposed new regulatory guide, emergency
15 planning for decommissioning nuclear power reactors,
16 Draft Guide 1346.

17 The NRC staff believes that these changes
18 will establish emergency planning requirements
19 commensurate with the reduction in radiological risk
20 as licensees proceed through the decommissioning
21 process, while continuing to provide reasonable
22 assurance that protective action can and will be
23 taken, and maintaining emergency preparedness as a
24 final independent later of defense in depth.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Next slide please. The proposed rule
2 would make certain changes as for physical security.
3 The proposed rule would make certain changes to
4 eliminate licensee requests for approvals via
5 exemptions, amendments, and for certain adjustments to
6 their physical security programs. Current security
7 requirements do not reflect the reduced risk for a
8 decommissioning facility after fuel is removed from
9 the reactor vessel.

10 When the fuel is transferred into a spent
11 fuel pool, the amount of plant equipment that's relied
12 upon for the safe operation of the facility is
13 significantly reduced, which allows for certain
14 security measures to be eliminated because their
15 implementation is no longer needed, or the security
16 measures can be adjusted for the physical protection
17 program during decommissioning.

18 Because certain security measures can be
19 adjusted, or no longer are necessary for
20 decommissioning, commonly requested exemptions, and
21 amendments have been submitted by licensees to address
22 this new posture. For example, the control room is
23 specifically identified in current security
24 requirements as an area that must be protected as a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 vital area.

2 The proposed rule would potentially
3 eliminate the need to identify the control room as a
4 vital area when all vital equipment is removed from
5 the control room, and when the area does not act as a
6 vital area boundary for other vital areas. Also
7 current security regulations for a power reactor
8 licensee require the use of a licensed senior operator
9 for the suspension of security measures during
10 emergencies.

11 For permanently shut down, defueled
12 reactors, licensed senior operators are no longer
13 required. The proposed rule would allow certified
14 fuel handlers to be used to suspend security measures
15 during emergencies at a decommissioned facility.
16 Lastly, to eliminate the need for the submission of
17 license amendments, and exemptions for licensee
18 transitions to independent spent fuel storage
19 installations.

20 The NRC is proposing that once all spent
21 nuclear fuel has been placed in dry cask storage,
22 licensees may elect to protect a general license
23 independent spent fuel storage installation in
24 accordance with the physical security requirements

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 that are consistent with Part 72, Subpart H in 10 CFR
2 73.51. Licensees would continue to address the
3 applicable security related orders associated with an
4 SSE that are conditions of the license.

5 Next slide please. Cyber security.
6 Consistent with a graded approach layout in the
7 technical basis for a graded approach section of the
8 Federal Register notice, this is in section III.G, the
9 proposed rule would continue to apply cyber security
10 requirements to decommissioning plants until the risk
11 is significantly reduced for public health, and
12 safety.

13 Specifically, the cyber security rule is
14 continuously applied until the fuel is permanently
15 removed from the reactor vessel to the spent fuel
16 pool, and there has been sufficient decay of the fuel
17 in the spent fuel pool such that there is little
18 chance that it could heat up to cladding ignition
19 temperature within ten hours if the spent fuel pool
20 were to be drained.

21 So, the proposed rule would make several
22 changes related to this. For Part 50 power reactor
23 licensees, and combined license holders under Part 52,
24 would both be subject to the same requirements. So,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 for Part 50, power reactor licensees, the proposed
2 rule would remove the license condition that requires
3 licensees to maintain cyber security plans.

4 For combined license holders, the proposed
5 rule would extend the requirement to maintain a cyber
6 security program during decommissioning, and that
7 would be a new requirement. For currently operating,
8 or recently shut down Part 50 reactor licensees,
9 because the licensee's cyber security program is
10 included as a license condition, this license
11 condition to maintain the cyber security program
12 remains in effect until the termination of the
13 license, or the NRC removes the condition from the
14 license.

15 For example, if the licensee submits a
16 license amendment request, and the NRC approves it.
17 Therefore the proposed rule would not constitute back
18 fitting, because the proposed rule would codify the
19 already imposed requirements, cyber security program
20 license conditions during level one decommissioning,
21 or until the spent fuel in the spent fuel pool has
22 sufficiently cooled.

23 This is not true for combined license
24 holders. The proposed revision would constitute a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 change, a new requirement, because the operational
2 program, such as a security program that includes
3 cyber security, are requirements in the regulations,
4 and not separately identified as license conditions as
5 they are for Part 50 licensees. Presently, combined
6 license holders are required to maintain their cyber
7 security program only as long as 10 CFR 73.54 is
8 applicable to them.

9 That means that combined license holders
10 are not required to maintain their cyber security
11 program during decommissioning, because the power
12 reactor licensee is not authorized to operate nuclear
13 power reactors during decommissioning. The change to
14 73.54 is identified in the proposed rule as a change
15 affecting issue finality for 10 CFR Part 52, combined
16 license holders, as defined in 52.98.

17 Therefore the proposed rule includes a
18 back fit analysis in section IX.D. There is a
19 specific question on this topic, the proposed rule
20 applied cyber security requirements to plants that are
21 in level one, however a licensee in level two would
22 not be required to maintain a cyber security plan,
23 because the NRC has determined that there is little
24 chance the spent fuel in the spent fuel pool could

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 heat up to clad ignition temperature within ten hours.

2 What are the advantages and disadvantages
3 of extending the cyber security requirements to shut
4 down nuclear plants until all spent fuel is
5 transferred to dry cask storage? Next slide please.

6 Drug and alcohol testing, there are three items that I
7 would like to highlight on this topic. In Part 26,
8 which is related to fitness for duty requirements, the
9 proposed rule would amend 10 CFR 26.3 scope to correct
10 an inconsistency in the applicability of Part 26 to
11 Part 50, and 52 license holders of nuclear power
12 reactors.

13 Part 26 does not apply to a Part 50
14 license holder once the NRC docket the licensee's 10
15 CFR 50.82(a)(1) certification, that the power reactor
16 has permanently ceased operation, which formally
17 begins the decommissioning process. However, Part 26
18 continues to apply to the holder of a combined license
19 issued under Part 52 throughout decommissioning. The
20 staff believes that there is no technical basis for
21 this inconsistency.

22 10 CFR 26.3 would be revised to specify
23 that Part 26 also no longer applies to a Part 52
24 license holder once the NRC docket the licensee's 10

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 CFR 52.110(a) certification that the power reactor has
2 permanently ceased operation. That is the first
3 change related to fitness for duty, scope in 26.3.

4 The second item to highlight here is
5 related to criminal penalties. Section 26.3 includes
6 a substantive requirement for certain entities to
7 comply with requirements in 10 CFR Part 26 by a
8 specific deadline, and violations of this regulation
9 should be subject to criminal penalties. The specific
10 deadlines in section 26.3(a) were added in the 2008
11 Part 26 final rule. But Section 26.825(b) was not
12 updated to reflect this change, which was an
13 oversight. Therefore, the proposed rule would remove
14 10 CFR 26.3 from the list of provisions that are not
15 subject to criminal penalties if violated in
16 26.825(b).

17 The third item I wanted to highlight for
18 this topic is related to the Part 73 insider
19 mitigation program. Section 73.55(b)(9)(ii)(B)
20 requires that a licensee's insider mitigation program
21 contain elements of a fitness for duty program
22 described in part 26 but does not identify which
23 fitness for duty program elements must be included in
24 the insider mitigation program. The proposed rule

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 would establish the required elements of a fitness for
2 duty program in the insider mitigation program for
3 operating, and decommissioning reactors under Part 50,
4 and 52. Next slide please.

5 Certified fuel handlers are non-licensed
6 operators who are commonly used at permanently
7 defueled nuclear facilities with irradiated fuel in
8 the spent fuel pool.

9 The certified fuel handler is intended to
10 be the on-shift representative who is responsible for
11 safe fuel handling activities, and always present on
12 shift to ensure safety of the spent fuel, and any
13 decommissioning related activities at the facility.
14 Currently a certified fuel handler is qualified
15 through a training program that must be reviewed, and
16 approved by the NRC.

17 The proposed rule would modify the
18 definition of a certified fuel handler, and add a
19 provision that removes the need for NRC approval of
20 the training program if the training program for
21 certified fuel handler is derived from a systems
22 approach to training, and includes specific topics
23 which are outlined in the proposed rule language.

24 Specifically the training program must

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 address the safe conduct of decommissioning
2 activities, safe handling, and storage of spent fuel,
3 and appropriate response to plant emergencies. The
4 proposed rule would also clarify that a shift
5 technical advisor is not required for decommissioning
6 nuclear power reactors. Next slide please. The
7 decommissioning funding assurance topic, we have two
8 slides.

9 Summary of the changes, this proposed rule
10 modifies the biennial decommissioning trust fund
11 reporting frequency for operating reactors in 10 CFR
12 50.75 to be consistent with the three year reporting
13 frequency for independent spent fuel storage
14 installations. We are making two changes related to
15 independent spent fuel storage installation funding
16 reports.

17 One is that would allow licensees to
18 combine the reports required by the regulations listed
19 on the slide, 50.82(a)(8)(v), (8)(vii), and 10 CFR
20 72.30. The other related change is that the proposed
21 rule would remove the requirement for NRC approval of
22 the report filed under 10 CFR 72.30(c). The proposed
23 rule would clarify that when a licensee identifies a
24 shortfall in the report required by 50.75(f)(1), the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 licensee must obtain additional financial assurance to
2 cover the shortfall, and discuss the information in
3 the next report.

4 The final item to highlight here, the
5 proposed rule would make administrative changes to
6 ensure consistency with 10 CFR 50.4, written
7 communications regarding the submission of
8 notification, and to eliminate 10 CFR 50.75(f)(2),
9 because 10 CFR 50.75(f)(1) fully encompasses paragraph
10 (f)(2). Next slide please. So, these are specific
11 requests for comment related to the decommissioning
12 funding assurance topic.

13 For financial assurance, the proposed rule
14 includes the question what are the advantages and
15 disadvantages of updating the formula to reflect
16 recent data, and to cover all estimated radiological
17 decommissioning costs rather than the bulk of the
18 cost? Site specific cost analysis, what are the
19 advantages and disadvantages of requiring a full site
20 investigation, and characterization at the time of
21 shut down and of eliminating the formula and requiring
22 a site specific cost estimate during operations?
23 Regarding the decommissioning trust fund, should the
24 NRC's regulations allow decommissioning trust fund

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 assets to be used for spent fuel management if one,
2 there is a projected surplus in the fund based on a
3 comparison to the expected cost identified in a site
4 specific cost estimate.

5 And two, the assets are returned to the
6 fund within an established period of time. What are
7 the advantages and disadvantages of allowing
8 decommissioning trust fund assets to be used for these
9 purposes? What are the advantages and disadvantages
10 of allowing decommissioning trust fund assets to be
11 used for non-radiological site restoration prior to
12 the completion of radiological decommissioning.

13 The timing of the decommissioning fund
14 assurance reporting. What are the advantages and
15 disadvantages of extending the reporting frequency
16 from two years to three years? And does this change
17 affect the risk of insufficient decommissioning
18 funding? And the last item, identical requirements
19 under 10 CFR 50.82, and 52.110. Besides proposing
20 conforming changes to 10 CFR Part 52, the NRC is
21 asking whether the NRC should maintain identical
22 requirements in 10 CFR 52.110, and 10 CFR 50.82.

23 We do have, as I mentioned earlier,
24 updated guidance document, Draft Guide 1348, update to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Reg Guide 1.159 provides updated guidance for assuring
2 the availability of funds for decommissioning. Next
3 slide please. Regarding the requirements for on site,
4 and off site financial protection requirements, and
5 indemnity agreements.

6 These changes would provide regulatory
7 certainty by minimizing the need for licensees of
8 decommissioning reactors to request regulatory
9 exemptions for relief from requirements that should
10 apply only to operating reactor licensees. We do have
11 two specific requests for public comment. What are
12 the advantages and disadvantages of requiring the
13 existing level of insurance to be maintained until all
14 spent fuel is in dry cask storage, which would be
15 level three.

16 And the insurance for a specific licensee,
17 the NRC recognizes that as a reactor site is
18 decommissioned, eventually all that remains of the
19 Part 50, or Part 52 licensed site is a general license
20 ISFSI under 10 CFR Part 72, which is essentially the
21 same as a site specific ISFSI. I don't know if I said
22 ISFSI is independent spent fuel storage installation
23 in case anyone was wondering, ISFSI.

24 It's essentially the same as a specific

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 license ISFSI under 10 CFR Part 72. Considering that
2 10 CFR Part 72 specific license ISFSIs have no
3 financial protection requirements, should the NRC
4 address the disparity between specific license, and
5 general license ISFSIs as a part of this rulemaking?
6 Please provide an explanation for your response. Next
7 slide please.

8 The proposed rule clarifies various
9 environmental reporting requirements, including those
10 related to the content of the post shutdown
11 decommissioning activity report, or PSDARs. In part,
12 the proposed rule would change, would clarify that
13 licensees at the PSDAR stage are required to evaluate
14 the environmental impacts from decommissioning, and
15 provide in the PSDAR the basis for whether the
16 proposed decommissioning activities are bounded by
17 previously issued site specific, or generic
18 environmental reviews.

19 The Commission provided additional
20 direction in its staff requirements memorandum in
21 November with respect to the consideration of any
22 identified unbounded impacts. The rule changes would
23 allow licensees to use appropriate federally issued
24 environmental review documents prepared in compliance

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 with the Endangered Species Act, the National Historic
2 Preservation Act, or other environmental statutes
3 rather than just environmental impact statements.

4 The rule would also remove language
5 referencing amendments for authorizing decommissioning
6 activities in 10 CFR Part 51. In developing the
7 original proposed rule, the NRC staff considered, but
8 dismissed a proposal that staff approve each
9 licensee's PSDAR before allowing major decommissioning
10 activities to begin. This was done on the basis that
11 requiring approval of a PSDAR would have no additional
12 benefit in terms of public health, and safety.

13 However, as will be discussed later, the
14 staff was directed by the Commission to solicit public
15 comment on the question of whether the NRC should
16 require approval of a PSDAR in a site specific
17 environmental review, and hearing opportunity before
18 undertaking any decommissioning activity. The two
19 regulatory guides related to PSDARs were revised to
20 include clarifying language consistent with the rule
21 changes.

22 I would also like to note on this topic
23 that the decommissioning generic environmental impact
24 statement will be updated separately in the future.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 Separately from the rulemaking activities. Okay, I
2 think I covered the specific requests for comments.
3 We do have a comment, I think it's actually the first
4 request, that it does discuss what I just said, about
5 the PSDAR.

6 And it asks for input regarding site
7 specific environmental review, or hearing opportunity
8 before allowing major decommissioning activities.
9 There's also a request for input for other activities
10 to increase transparency, and public trust in the
11 NRC's regulatory framework, and also regarding the
12 role of state, and local governments in the
13 decommissioning process.

14 Next slide please. When the plant is no
15 longer operating, and in decommissioning, most plant
16 components such as pumps, and valves are no longer in
17 service, and will eventually be removed as part of the
18 dismantlement activities. Therefore there's no longer
19 a need to retain certain records associated with these
20 components, and the proposed rule would eliminate many
21 record keeping retention requirements.

22 This proposed rule would not impact the
23 records that are required to be maintained in support
24 of decommissioning, and license termination

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 activities. The proposed rule also includes the
2 specific question concerning the record keeping
3 requirements for facilities licensed under 10 CFR Part
4 52. One of this rulemaking's few proposed changes to
5 Part 52 would be in 10 CFR 52.63 regarding the record
6 keeping, and retention requirements for departures
7 from the design of a facility.

8 However, these changes would not apply to
9 a combined license holder that references one of the
10 certified designs in the Part 52 appendices, because
11 those appendices have their own record keeping
12 provision. The NRC is asking if we should revise the
13 Part 52 appendices to conform those record keeping
14 requirements with those proposed in 10 CFR 52.63.
15 Next slide please.

16 Okay, low level waste transportation. We
17 are on slide 23. When a plant is actively being
18 decommissioned, the plant typically generates large
19 volumes of bulk low level radioactive waste to
20 efficiently manage the transportation of the waste to
21 a licensed disposal site. Most licensees ship waste
22 by rail. The railroads control the schedule for the
23 transportation of the rail cars to the destination.

24 And the time to reach the disposal site is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 generally more than the 20 day notification
2 requirement currently in the regulation. Licensees
3 will continue to monitor and track the location and
4 progress of their low level waste shipments, but
5 notifications to the NRC would no longer be required
6 unless the new 45 day limit is exceeded. Next slide,
7 slide 24, spent fuel management planning.

8 The NRC staff identified ambiguity in the
9 spent fuel management, and decommissioning regulations
10 due to a lack of cross referencing between Part 72,
11 and Part 50. The rulemaking clarifies the information
12 for consistency. Specifically, the regulation in 10
13 CFR 72.218 states that the 10 CFR 50.54(bb) spent fuel
14 management program, the irradiated fuel management
15 plan, or IFMP, must show how the spent fuel will be
16 managed before starting to decommission systems and
17 components needed for moving, unloading, and shipping
18 the spent fuel. Section 72.218 also requires that an
19 application for termination of a reactor operating
20 license submitted under 10 CFR 50.82 or 10 CFR 52.110
21 must also describe how the spent fuel stored under the
22 Part 72 general license will be removed from the
23 reactor site.

24 Although 10 CFR 72.218 states what

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 information must be included in these Part 50
2 documents, the corresponding regulations in Part 50 do
3 not contain this information. Therefore the NRC
4 proposes to clarify and align the regulation in 10 CFR
5 50.54(bb), 50.82, 52.110, and 72.218 to ensure
6 appropriate documentation of spent fuel management
7 plans and decommissioning plans.

8 So, the rule changes that we are proposing
9 in 10 CFR 50.54(bb), the NRC proposes moving the
10 72.218 provisions to 50.54(bb) to clarify that the
11 IFMP must be submitted and approved before the
12 licensee starts to decommission systems, structures,
13 and components needed for moving, unloading, and
14 shipping the spent fuel. The NRC proposes to clarify
15 the current irradiated fuel management plan approval
16 process and the 50.54(bb) provisions regarding
17 preliminary approval and final NRC review of the IFMP
18 as part of any proceeding for a continued licensing
19 under Part 50, or Part 72, as these proceedings no
20 longer exist as they did when 50.54(bb) was first
21 promulgated. The NRC proposes to require submittal of
22 the initial IFMP, and any subsequent changes to the
23 IFMP as a license amendment request.

24 And the changes in 10 CFR 72.218, the NRC

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 proposes revising that section to address requirements
2 related to decommissioning and termination of the Part
3 72 general license as the current title of 72.218,
4 which is termination of licenses suggests.
5 Specifically, the proposed 72.218 notes that the
6 general license ISFSI must be decommissioned
7 consistent with the requirements in 10 CFR 50.82, 10
8 CFR 52.110, as the general license ISFSI is part of
9 the Part 50, or Part 52 licensed site.

10 Also the proposed 72.218 notes that the
11 general license is terminated upon termination of the
12 Part 50, or Part 52 license. We do have a specific
13 request for comment related to this topic. The
14 proposed rule clarifies the current IFMP approval
15 process by requiring submittal of the initial IFMP,
16 and any changes to the IFMP for NRC review, and
17 approval by license amendment.

18 We would like to know if stakeholders see
19 any challenges with implementing this part of the
20 proposed rule. We're also considering including a
21 change control provision to specify what changes a
22 licensee can make to the IFMP without NRC approval.
23 We would like to know stakeholder's opinions on a
24 change control process including the criteria for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 changes licensees can make without NRC approval, and
2 any associated record keeping or reporting for those
3 changes.

4 We do have updated guidance on this topic.
5 For the IFMP, we added guidance in Draft Guide 1347,
6 it's in section C3, to outline the information to be
7 included in a licensee's IFMP. For a general licensee
8 decommissioning, we added references to general
9 license ISFSIs in both Draft Guide 1347, and Draft
10 Guide 1349. To make it clear that the general license
11 ISFSI must be decommissioned consistent with the
12 requirements in 10 CFR 50.82, and 10 CFR 52.110.

13 The NRC staff believes that these changes
14 will provide regulatory clarity, and enhance overall
15 regulatory transparency, and openness regarding
16 decommissioning, and spent fuel management planning. I
17 would now like to, for the next several slides, turn
18 it over to Mr. Howard Benowitz. Howard is our senior
19 attorney supporting this rulemaking in the NRC's
20 Office of the General Counsel. Howard?

21 MR. BENOWITZ: Thanks Dan. If we could go
22 to slide 25, this is on the back fit rule. The back
23 fit rule currently sits in 10 CFR 50.109, and in this
24 proposed rule, the NRC would provide a new back

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 fitting provision for nuclear power reactor licensees
2 in decommissioning. We would renumber the paragraphs
3 in the current 10 CFR 50.109 so that the 50.109(a)
4 would be the current back fit rule.

5 And the new 50.109(b) would be the
6 provision for decommissioning nuclear power reactor
7 licensees. The NRC is also proposing to edit the back
8 fitting provision in Part 72 so that that provision
9 would apply during decommissioning for an ISFSI, or
10 monitored retrievable storage facility. The proposed
11 rule would also revise a requirement in 10 CFR 50.109
12 that the NRC must consider the cost of imposing a back
13 fit if the basis for back fitting is a compliance
14 exception to the requirement of performing a back fit
15 analysis.

16 This proposed change is based on a 2019
17 update to the Commission's back fitting policy in
18 Management Directive 8.4. Also included in the
19 proposed rule, Federal Register notice, a specific
20 request for comment regarding the back fit rule, and
21 specifically what are the advantages and disadvantages
22 of applying the back fit rule to power reactor
23 licensees in decommissioning. Next slide please,
24 slide 26 on foreign ownership control and domination.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 The Atomic Energy Act and the NRC's regulations
2 provide definitions for utilization facility and
3 production facility. Additionally, certain provisions
4 in the Atomic Energy Act and NRC regulations,
5 including the prohibition on foreign ownership,
6 control, or domination, apply only to a utilization,
7 or production facility.

8 But during decommissioning, a utilization
9 facility, or production facility will be dismantled to
10 the point where it no longer meets the definition of a
11 utilization facility, or production facility. The
12 proposed rule adds language to establish the criteria
13 for when exactly a utilization facility or a
14 production facility is no longer a utilization
15 facility or production facility.

16 The proposed rule also adds language to
17 affirm that despite this physical change in the
18 facility, and that it no longer meets the appropriate
19 definition, the NRC continues to have statutory
20 authority over the existing Part 50, or Part 52
21 license. And that the NRC regulations applicable to
22 utilization or production facilities will continue to
23 apply to the holder of that Part 50, or 52 license
24 unless the regulations explicitly state otherwise.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 And we have identified one such regulation in the
2 proposed rule, and that is in 10 CFR 50.38, the
3 foreign ownership, control, or domination prohibition.
4 And the proposed rule states that that provision would
5 no longer apply once the Part 50 or 52 facility is no
6 longer a utilization, or production facility.
7 Therefore the NRC's regulations would not prohibit the
8 transfer of a license for that facility to a foreign
9 owned, controlled, or dominated entity.

10 We did not ask a specific request for
11 questions on that one. So, next slide please, slide
12 27, concerning the scope of license termination plans.
13 We have in Part 50 and Part 52 provisions concerning
14 license termination plans. And the proposed rule
15 would clarify that those provisions in 10 CFR 50.82
16 and 52.110 would not apply before fuel has been loaded
17 into the reactor for that facility that's licensed
18 under Part 50, or 52.

19 Which, and this is consistent with our
20 historical practice, these license termination
21 provisions are written for reactors that have
22 commenced operations, and the NRC has historically
23 viewed operation as beginning with the loading of fuel
24 into the reactor. And this is discussed in more

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 detail in the proposed rule Federal Register notice.

2 The NRC is also proposing this change
3 because some confusion arose about whether 10 CFR
4 52.110 was applicable when certain combined license
5 holders sought to terminate their licenses during
6 construction, or before construction even began at
7 their facility. The NRC informed these licensees that
8 52.110 did not apply for the reasons that are
9 described in the Federal Register notice.

10 Next slide please, 28. We are proposing
11 to remove certain license conditions and withdraw
12 orders. These license conditions, and there's one
13 particular order, they're substantively redundant with
14 existing provisions in our regulations. So, we no
15 longer need to have them as license conditions, or
16 orders. The order is Order EA-06-137 concerning
17 mitigation strategies for large fires, or explosions
18 at nuclear power plants.

19 And this is provided in the Federal
20 Register notice, but the ADAMS number is accession
21 number ML061600076. That's the ADAMS number for that
22 particular order. The license conditions that we are
23 proposing to remove are the conditions associated with
24 that order, and Order EA-02-026, which was one of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 post 9/11 orders, and also the cyber security license
2 condition that Dan mentioned earlier.

3 The license conditions would be deemed
4 removed when the rule goes into -- these provisions
5 are in the final rule when the final rule goes into
6 effect, and they would actually be removed by
7 administrative license amendment. Which means the NRC
8 staff would proactively, without a license amendment
9 request from a licensee, we would issue letters to the
10 licensees with the license amendment changes removing
11 those license conditions.

12 We did ask in the Federal Register notice,
13 a question about this proposal. We were interested in
14 getting your input to identify any other potential
15 redundant requirements that are not listed in this
16 proposed rule that are related to decommissioning.
17 Next slide please. This is slide 29. This concerns
18 changes, and the proposed changes to make consistent
19 our regulations regarding the treatment of holders of
20 an operating license under Part 50, or Part 52
21 combined license.

22 There are many provisions, you can see in
23 the top right corner of the slide. There are a number
24 of provisions in our regulations listed there. They

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 often only refer to 10 CFR Part 50.82 for the
2 decommissioning requirements for a Part 50 licensee,
3 and they do not also reference the similar provision
4 in Part 52, 52.110.

5 So, we are proposing to provide those
6 references in each instance, so that those provisions
7 would state, and reference both the Part 50, and 52
8 provisions regarding decommissioning, and license
9 termination. That is all I had Dan, back to you.

10 MR. DOYLE: All right, thank you Howard.
11 So, we're on slide 30. This is showing all the
12 specific requests for comment. The headings for each
13 of the specific requests for comment, I mentioned
14 there are 18 of them, it is in section five of the
15 Federal Register notice. And we've highlighted on the
16 previous topic slides, any that related to those
17 topics.

18 There are three that didn't specifically
19 fall into any of those, I'll just highlight those now.
20 The time frame for decommissioning, this was one of
21 the topics that the Commissioners had directed the
22 staff to examine, and we did look at that in the
23 regulatory basis stage, but ultimately made a decision
24 as described in that regulatory basis document not to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 propose changes to the decommissioning time frame
2 requirements.

3 But we are soliciting stakeholder feedback
4 on that, and the question is basically what are the
5 advantages and disadvantages of requiring prompt
6 decontamination rather than allowing up to 60 years to
7 decommission a site? As part of its review of a
8 PSDAR, what are the advantages and disadvantages of
9 the NRC evaluating, and making a decision about a time
10 frame for decommissioning on a site specific basis?

11 Another one is on the right side, second
12 from the top, exemptions, and then right before that,
13 applicability. So, for exemptions, as stated, as
14 discussed in the proposed rule, one of the goals of
15 amending these regulations is to reduce the need for
16 regulatory exemptions. 10 CFR 50.12 states that the
17 Commission may grant exemptions from the requirements
18 of the regulations in 10 CFR Part 50 if the request
19 will not present an undue risk to public health, and
20 safety, and is consistent with common defense, and
21 security.

22 What are the advantages and disadvantages
23 of the current 50.12 approach to decommissioning
24 related exemptions? What standard should the NRC

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 apply in determining whether to grant exemptions from
2 the new, or amended regulations? What are the
3 advantages and disadvantages of providing an
4 opportunity for the public to weigh in on such
5 exemption requests?

6 Are there other process changes the NRC
7 should consider in determining whether to grant
8 exemptions from the new or amended regulation? And
9 then the one right below that, applicability, to
10 highlight that. There is a discussion in the proposed
11 rule about the applicability of these changes to NRC
12 licensees that are currently operating that are not
13 transitioning into decommissioning right now.

14 And also to facilities that have already
15 gone largely through the decommissioning process, or
16 are in the process now, such as ISFSI only, or a
17 standalone ISFSI decommissioned reactor site.
18 Permanently shut down nuclear reactors will be at
19 different stages of decommissioning when the new
20 decommissioning regulations become effective, and will
21 have previously received varying regulatory
22 exemptions.

23 Can you foresee any implementation issues
24 with the proposed rule as it is currently written for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 any new, or amended requirement included in this
2 proposed rule? How should the requirement apply to
3 sites currently in different stages of the
4 decommissioning process? All right, so that's all of
5 the topics that we did ask for questions on. There's
6 quite a list there.

7 Next slide please. Slide 31. So, we do
8 have a regulatory analysis as one of our supporting
9 documents, where we examine the costs, and benefits to
10 the NRC, nuclear industry, public. So, that document
11 is available for review and comment. So, just to
12 summarize a few points related to that. The
13 conclusion in the regulatory analysis is that the
14 proposed rule would be overall cost beneficial with an
15 estimated net averted cost.

16 In other words, cost that would have
17 occurred without the proposed rule, of approximately
18 17.9 million, seven percent, all of these values are
19 seven percent net present value, basically bringing
20 future value back to present dollars. And 37 million
21 at a three percent net present value for the
22 recommended alternatives that were included in the
23 proposed rule.

24 And just to highlight a few of the areas

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 that had sort of the largest costs, or benefits
2 associated with those, the emergency preparedness
3 alternative is estimated to result in net averted
4 costs of approximately 7.74 million. The drug, and
5 alcohol testing alternative is estimated to result in
6 net averted costs of approximately 7 million, and the
7 decommissioning funding assurance alternative is
8 estimated to result in averted costs of approximately
9 1.18 million.

10 Next slide please. So, for these next few
11 slides, this is intended to provide some tips, some
12 things for you to consider if you're planning to
13 review the proposed rule and submit comments to
14 hopefully make the comments and the outcome more
15 effective. Next slide please. So, one tip is to take
16 a look at the commenter's checklist. This is not an
17 NRC document, but it's on regulations.gov.

18 That's a website that many other federal
19 agencies use, including the NRC, to provide
20 information about rulemaking activities, and to
21 collect public comments. When you go to submit a
22 comment on there, you'll see a link to this
23 commenter's checklist. So, it's right on the comment
24 form. There's also a printable format, which I have a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 screen shot of there.

2 So, please feel free to take a look at
3 that, it provides some helpful tips on the kinds of
4 information that is most helpful for a federal agency
5 to receive, and to help you make your point more
6 effectively. Next slide please. Tip number two, as I
7 mentioned at the beginning, we did make available this
8 unofficial red line rule language document.

9 It shows how the proposed rule would
10 modify the current regulations in red line strike out
11 format. This will be deleted, this will be added, so
12 that is a different format from what you see in the
13 proposed rule if you go to the very end where it has a
14 list of instructions. But you wouldn't see it in
15 context, you would have to take out the current
16 regulations, and actually go through, and apply those
17 changes.

18 So, this is intended to be helpful by
19 doing that step for you. But again, the proposed
20 rule, and what's printed in the Federal Register is
21 the official legal version, and please do not rely on
22 this document for your comments, but you can feel free
23 to check it. Next slide please. Tip number three, we
24 did put on the NRC public website, a dedicated page

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 with information about this proposed rule.

2 We do have a direct link to the proposed
3 rule, a direct link to the comment form. All of the
4 supporting documents, the regulatory guides, the
5 regulatory analysis, the environmental assessment,
6 information collections, as well as the background
7 documents from the advanced notice of proposed
8 rulemaking, the regulatory basis, the staff's paper
9 that went to the Commission, the Commission's
10 direction, the background information is all there.

11 That short link on the slide will bring
12 you right to that, or you can scan the QR code with a
13 mobile device, and that'll also bring you there. If
14 you have any trouble with that, feel free to reach out
15 to me. My email address, and phone number is shown on
16 the slide there. Next slide please. One of the small
17 differences from the last meeting, if anyone was at
18 the meeting on the 21st, we did add this slide just
19 summarizing, or showing how to submit a comment.

20 Just wanted to make that very clear. So,
21 there are several methods where you can submit a
22 comment. These instructions are in the proposed rule
23 in the Federal Register notice, there's a section that
24 says addresses, and we've included that here. So, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 can use regulations.gov to upload your comment, or you
2 can send it by email to rulemaking.comments@nrc.gov,
3 or you could send it through the regular mail to the
4 secretary, and the address is there.

5 So, please don't submit multiple methods,
6 that just causes us duplication. So, our preferred
7 method is regulations.gov, but you're welcome to use
8 other methods, or again, if you have a problem with
9 any of that, you can reach out to me. My name, and
10 contact information is in the proposed rule. Next
11 slide please. Okay, we are almost about to wrap this
12 up.

13 The next steps are shown here on the
14 slide. Again, we're in the public comment period, the
15 last day is May 17th. So, that full day is included,
16 11:59 p.m., Eastern Time, May 17th is actually when
17 regulations.gov would no longer accept public
18 comments, that's the official close of the comment
19 period. After we received the comments, the staff
20 will review, and develop an updated final rule
21 package, which would be submitted to the Commission.

22 The target date for the staff to do that
23 is October of 2023, and then the estimated final rule
24 publication date would be May of 2024. The final rule

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 would be effective 30 days after that, this would be
2 assuming the Commission -- it does need to go to the
3 Commission for review, and vote. So, if they approve
4 that, then the estimated publication date would be May
5 2024.

6 We do also maintain on our website, the
7 schedule for all of our ongoing rulemaking activities,
8 including these major milestone dates for when it
9 would go to the signature authority, and when we
10 believe it would be published. So, if there are
11 changes, then we will update that website. Next slide
12 please. Okay, thank you for sticking with us. I know
13 some of this can be kind of dry.

14 But we did think it would be helpful to at
15 least touch on each of these topics, that if something
16 catches your interest, or attention, that you know
17 where to look to learn more about it. So, as you
18 formulate your comments, we hope that was helpful.
19 So, that concludes the staff's overview of the
20 proposed rule, and I will now turn it back to Lance.

21 MR. RAKOVAN: All right, thanks Dan. That
22 was a pretty lengthy presentation, so we wanted to
23 give everyone about a ten minute break to kind of
24 stretch your legs, take a bio break if you need to,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 get a tasty beverage, if you have one, or can go get
2 one. I've got 5:11 Eastern, so let's plan on starting
3 up a little bit after 5:20 Eastern, where we'll be
4 opening the floor up for questions.

5 So, again, going to take a ten minute
6 break, back in a little after 5:20 Eastern.

7 (Whereupon, the above-entitled matter went
8 off the record at 5:11 p.m. and resumed at 5:21 p.m.)

9 MR. RAKOVAN: Let's go ahead and
10 transition to our public Q&A session. Please remember
11 that our goal today is to help provide you with
12 information, so you can make informed comments. So,
13 we ask that your questions focus on any clarification
14 you, or others may need in terms of the proposed
15 decommissioning rule, and draft regulatory guidance.
16 Our intent is not to discuss specific details of any
17 particular facility.

18 So, we ask that you keep your questions on
19 the decommissioning rule, and related topics, in
20 general. I'll take questions here on Teams, and Dan
21 will help if there's anyone in the audience there in
22 the Commissioner's Hearing Room. Remember, those of
23 you who are on Teams directly can use the raise your
24 hand feature to signal that you have a question, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 you can unmute yourselves.

2 Those on the phone, you can hit star five
3 to raise your hand, and star six to unmute. We'll
4 take hands in the order that we see them, and we ask
5 that folks keep to a few question at a time if you do
6 have a question. So again, for those of you on Teams,
7 if you'd like to ask a question, you can just raise
8 your hand, and use the raise your hand feature. For
9 those of you on the phone, you can hit star five, and
10 that will signal to me that you have a question.

11 So, we'll go ahead, and pause to see if we
12 have any questions today. All right, Mr. Costello, if
13 you could go ahead, and unmute yourself, and ask your
14 question.

15 MR. COSTELLO: Hi, this is Michael
16 Costello from the Wisconsin DHS. Just wanted to ask,
17 we have a licensee, without getting into the
18 specifics, who could possibly be classified as a
19 utilization facility. Is this current rulemaking
20 intended to only target power plants and the
21 associated facilities with nuclear power production,
22 or would it affect general materials licenses that it
23 falls under?

24 MR. BENOWITZ: This is Howard Benowitz

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 from the NRC. The proposed rule is only proposing
2 changes that would -- you referred to materials
3 licensees, the proposed changes would only affect Part
4 50 of our regulations, and 52, but there are -- Part
5 50 has a definition of production facility, and a
6 definition of utilization facility, but it only
7 applies within Part 50 of our regulations.

8 So, when you refer to materials licensees,
9 that leads me to believe you're outside of Part 50, so
10 I'm not asking you to clarify, or go into any more
11 detail, we're here to talk more generically about this
12 proposed rule, but just hopefully that helps answer
13 your question, that this rule is limited in that sense
14 to Part 50. And not materials licensees that might be
15 under say Part 30, or 40.

16 MR. RAKOVAN: Sir, did that clarify your
17 question, did you have any follow up?

18 MR. COSTELLO: Yeah, that was very
19 helpful, thank you.

20 MR. RAKOVAN: Okay, Mr. Wentworth, I see
21 you have your hand up.

22 MR. WENTWORTH: Yes, thank you. TR
23 Wentworth, State of Michigan. I wanted to make sure,
24 or actually I just wanted to ask the question, you

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 noted that the final rule is slated for implementation
2 October of 2023 with -- and I understand that the
3 dates are in flux, final implementation date of May of
4 2024. Will this have any impact on facilities that
5 are going into decommissioning status between say
6 right now, and those two dates?

7 MR. DOYLE: I was just going to say, I'll
8 start, and then Howard can add on or correct me. So,
9 we do have that section where we're talking about the
10 applicability to operate -- so, I think the main
11 answer to your question is no, in general, the
12 proposed rule is not intended to propose changes to
13 facilities that are currently operating, or that are
14 going to be going into decommissioning before the
15 effective date of the final rule.

16 But again, we do have a section that
17 highlights, I believe the Part 26, I think there was a
18 Part 26 change that would apply to currently operating
19 reactors, and there's another example I can't think of
20 right now, but most of the changes are focused on
21 decommissioning.

22 MR. BENOWITZ: This is Howard, I would
23 just add that this is only a proposal at this point,
24 and nothing in this Federal Register notice impacts

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 anybody until the final rule, as approved by this
2 Commission, goes into effect. So, it says, you noted
3 it was 2024. So, at that point, whatever is in the
4 final rule, which may look a lot like the proposed
5 rule, it may not, we don't know right now.

6 But whatever's in that final rule would go
7 into effect. Much of that is -- a lot of those things
8 are not mandatory. So, even a licensee that goes into
9 decommissioning tomorrow for instance, if they submit
10 their 50.82 certifications for instance tomorrow, and
11 they begin decommissioning, and when this rule goes
12 into effect say in two years, if they decide I want to
13 take advantage of that emergency preparedness new
14 requirement, it's optional, so I want to take
15 advantage of it.

16 They might be able to do that at that
17 point, and it's just up to them as maybe a business
18 decision, or -- so the short answer -- probably too
19 late for that, is that until this rule goes into
20 effect as a final rule, there's nothing really
21 available. No part of it is even an option for any
22 entity to use, and certainly we're not imposing
23 anything in this proposal on anyone until it's a final
24 rule. Does that help answer your question?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. WENTWORTH: I think so. I just want
2 to make sure that -- suppose a facility goes into
3 decommissioning status between right now, and the time
4 of the final rule, will their licensing status change
5 once this final rule goes into effect? Or are they
6 under the regime at the time they go into decommission
7 status? I guess that's probably what I wanted to say.

8 MR. BENOWITZ: Okay, I don't think my
9 answer really changes. Because much of what we're
10 doing in this rule is optional, that if the licensee
11 wants to take advantage of something, I say take
12 advantage, wants to use the EP framework that we're
13 proposing in this rule, or they can stay under the
14 current regulations, which they might have to file
15 exemptions, et cetera, but that's their choice.

16 There are things in this proposed rule
17 that they might want to -- trying to think of -- a lot
18 of it will depend on, of course what's in the final
19 rule, and whether it's mandatory, or not, on a license
20 that is in decommissioning at the time the rule goes
21 into effect. So, if that licensee goes into
22 decommissioning tomorrow, they will be under the
23 current rules until this rule goes into effect.

24 And to the extent that this rulemaking

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 changes any of the current rules, whether they're
2 mandatory, or not, I think will be the answer to your
3 question of how that particular licensee reacts to the
4 final rule. The framework itself overall isn't
5 changing, but aspects of it will be. But again, some
6 of them won't be mandatory, so they won't be mandatory
7 changes on that licensee.

8 MR. WENTWORTH: Okay, thank you, I think
9 that answers my question, I appreciate that. Thank
10 you.

11 MR. RAKOVAN: All right, Mr. Ray, you have
12 your hand up? Mr. Ray, did you have a question?

13 COURT REPORTER: Can you hear me?

14 MR. RAKOVAN: Yes.

15 COURT REPORTER: I was wondering who spoke
16 before Howard, but now I understand there are only
17 three people in the room, so I figured it out. Thank
18 you.

19 MR. RAKOVAN: Okay, thank you. Okay,
20 again, if you have a question, if you're directly on
21 Teams, you can use the raise your hand feature like
22 the similar folks have done, and we've gone one by
23 one. If you are on the phone line, you can hit star
24 five, and that will raise your hand. Looks like we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 have a question, please go ahead Mr. Leshinskie.

2 MR. LESHINSKIE: It's Leshinskie, yes.
3 I'm Tony Leshinskie, I am the state nuclear engineer
4 for the State of Vermont. And this is effectively a
5 follow up to the last question. In the response it
6 was stated that most of what is being proposed here
7 will not be mandatory. So, just for the point of
8 clarification, and I recognize that at this point you
9 don't know what's going to be in the final rule.

10 As you stated, it could look a lot like
11 what's proposed right now, it could be different. But
12 do you guys have any sense of what parts of the
13 current rulemaking will be mandatory for all plants
14 currently undergoing decommissioning when these rules
15 take effect?

16 MR. BENOWITZ: This is Howard Benowitz
17 again. Off the top of my head, I don't know the answer
18 to that question. In the Federal Register notice, I
19 think we say whether or not a particular proposed
20 change would be optional for licensees. Again, the
21 first thing that comes to mind, the first emergency
22 preparedness requirement, that whole framework that we
23 propose is optional.

24 And then there are -- I'm sorry, I have to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 say read the Federal Register notice. And also there
2 is a -- to some extent, it might help if there's a
3 back fitting discussion, because if we are proposing
4 mandatory changes, then we would explain in the back
5 fitting discussion, which you'll find it in the
6 Federal Register notice, whether, or not it's a back
7 fit.

8 And a back fit, just for those who aren't
9 familiar, is a change to a current requirement that
10 the NRC is imposing on a licensee. So, this rule, to
11 the extent that there are -- maybe it's a reporting
12 requirement we're changing, and that could be a back
13 fit if it's mandatory. The licensee has to change
14 some aspect of how it operates, or even in
15 decommissioning.

16 And that's -- back fitting is in Section
17 IX, Roman numeral IX. The heading is back fitting,
18 and issue finality. And it goes through all of the
19 proposed changes in this proposed rule, and whether,
20 or not they would be imposed, or not, and, or be back
21 fitting, or affect the issue finality of a holder of a
22 combined license under Part 52. So, that might be --
23 the back fitting section might not have all the
24 answers that you're looking for.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 But it might be a shortcut at least to
2 know, I'm sorry I just don't remember whether, or not
3 it states whether certain ones would be mandatory, or
4 not.

5 MR. LESHINSKIE: Okay, that's helpful. I
6 admittedly have not looked at the back fitting
7 section, and since you noted that, it sounds like it's
8 mostly for Part 52, if I understood what you said
9 correctly. I'm more interested in Part 50 at this
10 point, but I'll look through there anyway.

11 MR. BENOWITZ: Okay, just to clarify, I'm
12 sorry if I misspoke, it's Part 50 and Part 52. Issue
13 finality is a concept like back fitting, but it only
14 applies to licensees under Part 52, and back fitting
15 for this rule is for the Part 50 licensees.

16 MR. LESHINSKIE: Okay, that's very
17 helpful, thank you.

18 MR. RAKOVAN: Okay, any additional? There
19 we go. Mr. Janati?

20 MR. JANATI: Yes, Rich Janati, Division of
21 Environmental Protection. I actually have two
22 questions. One of them is going to be semi question,
23 semi comment. We've had several nuclear power plants
24 decommissioned in the U.S. already, and I'm wondering

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 what took the NRC so long to come up with this
2 proposed rulemaking? I would say it probably should
3 have been done several years ago.

4 The other question I have is related to
5 the FFD program. How does the FFD program fall under
6 this graded approach, or fit under this graded
7 approach? Do licensees require to maintain the FFD
8 program throughout level two, and three? If you could
9 elaborate on that, I would appreciate it.

10 MR. DOYLE: This is Dan Doyle, so I can
11 talk about the schedule a bit. So, why did it take so
12 long? We were very thorough, so there's a lot of
13 regulations that touch decommissioning. The NRC
14 wanted to do a thorough job, and proceed carefully
15 with basically maximum stakeholder input on this. So,
16 in the early stages, I guess one thing I'll point out,
17 I was aware this was before my time, but the NRC was
18 looking at making changes to decommissioning in the
19 late 1990s.

20 The last major change to decommissioning
21 regulations was 1996. So, there was some discussions
22 going back into the 90's actually. After September
23 11th, the agency's focus shifted to security. But
24 there has been this awareness, or interest in making

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 some of the changes to decommissioning, and then as I
2 mentioned, the prompt recently, semi recently for this
3 proposed rule, was the increase in licensees that were
4 shutting down.

5 Some of them with very little planning.
6 So, that's kind of the big picture, and then we again
7 decided to take an approach that had maximum
8 opportunity for stakeholder input. We did do an
9 advanced notice of proposed rulemaking, we had a
10 regulatory basis document, again, with a comment
11 period on both of those. And then we're following our
12 internal process which includes getting internal
13 alignment with the Commission, who sets the policy for
14 the agency, and with other priorities for that agency.

15 So, hopefully that's helpful, but your point is
16 taken, it has not been a fast process.

17 DR. HOLAHAN: Can I add something?

18 MR. DOYLE: Yes.

19 DR. HOLAHAN: Sorry, this is Trish
20 Holahan. Also we had done a lessons learned of the
21 existing plants in decommissioning. So, we started
22 with that, and then we went to the ANPR, and the draft
23 reg basis. So, we've been working on it for a while,
24 but we started with the lessons learned for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 decommissioning.

2 MR. DOYLE: Okay, thank you Trish, this is
3 Dan Doyle again. So, I believe the second question
4 was related to fitness for duty?

5 MR. JANATI: Correct.

6 MR. DOYLE: Let's see, we do have --

7 MR. ZALESKI: Yeah, can you hear me? This
8 is Brian Zaleski.

9 MR. JANATI: Yeah, I can hear you.

10 MR. DOYLE: You have the NRC staff contact
11 for this, Mr. Brian Zaleski, thank you.

12 MR. ZALESKI: So, let me reiterate the
13 question you had to see if I understand it correctly,
14 and you can correct me before I answer it. So, I
15 think you were asking what's changing from what
16 currently applies to decommissioning sites to what
17 we're proposing?

18 MR. JANATI: Correct, yeah, as it relates
19 to the different levels, yeah.

20 MR. ZALESKI: So, right now under Part 26,
21 Part 26 does not apply to a decommissioning power
22 reactor. But elements of Part 26 do apply through the
23 insider mitigation program under Part 73. Part 73
24 does not specify what those elements are. So, a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 licensee today that was decommissioning would be
2 inside their security plan, defining what elements of
3 the Part 26 program they would apply.

4 So, we're talking about, and if you look
5 in the rulemaking documents, it supports that the
6 licensees are currently implementing a full program.
7 So, if the proposed rule was finalized as proposed,
8 there would be a reduction in the requirements based
9 on what licensees are currently doing under their own
10 actions. So, it would break it out into individuals
11 that have unescorted access authorization to the vital
12 area of the decommissioning facility.

13 So, that's one element. And it would be a
14 couple other categories of individuals. One would be
15 security, it would be certified fuel handlers, and it
16 would be individuals that are defined as fitness for
17 duty program personnel, so those are individuals that
18 are administering the drug testing program. They
19 would be subject to a full probing. That's everything
20 in Part 26 now.

21 And like I said, licensees are applying --
22 decommissioning licensees I believe are applying the
23 full program right now. And the second piece would be
24 individuals that do not have access to the vital

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 areas. So, they do not have access to the spent fuel
2 pool, but they do have access to the protected area.
3 So, that's outside the vital area, they have
4 unescorted access to the protected area.

5 There would be a subset of fitness for
6 duty program requirements that would apply to them.
7 They would be subject to pre-access testing, so that's
8 before they're granted access. They'd be subject to
9 for cause testing, so if they're demonstrating signs
10 of impairment, or if there's credible information
11 about a potential substance abuse issue, and they
12 would be subject to the behavioral observation
13 program.

14 So, if they're demonstrating some sort of
15 aberrant behavior, the program would apply to them.
16 And that's through the for cause. So, that's what's
17 in the proposed rule in terms of the differences
18 between right now, where the full program is applying
19 through the security plan to comply with the IMP
20 requirement in Part 73 to more of a graded approach.
21 Hopefully that lays out the difference.

22 MR. JANATI: Yeah, that helps. I was
23 wondering if somehow you could fit that in the slide
24 that has the four levels.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. ZALESKI: Right, you want --

2 MR. JANATI: With cyber security, but it
3 would have been nice to have the FFD program in there
4 as well.

5 MR. ZALESKI: I appreciate that feedback,
6 we can look at that, we do have additional public
7 meetings, so Dan, we can take a look at that.

8 MR. JANATI: Thank you very much.

9 MR. ZALESKI: Thank you.

10 MR. RAKOVAN: Okay, again, if you have a
11 question, if you are directly on Teams, you can use
12 the raise your hand feature. If you are on the phone,
13 then you can hit star five. Let's see if we have any
14 additional questions. Let's see if we have any
15 additional questions. All right, Mr. Salz please.

16 MR. SALZ: Hi, this is Chris Salz, State
17 of Ohio, radiological branch chief with the Emergency
18 Management Agency. Are you guys elaborating on
19 anything that you presented on during this?

20 MR. DOYLE: Sure, we have staff here, and
21 so we'll do the best that we can to again, try to
22 explain what's in the proposed rule, yes.

23 MR. SALZ: Okay, so you talked about spent
24 fuel handlers, and it kind of sounded like you were

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 lowering the qualification standards, was the best way
2 that I can sum that up. And then lowering the adult
3 supervision if you will, that was to be on the site
4 while there was still spent fuel in the pool. Was that
5 kind of what I heard? And if you -- if that is what I
6 heard, can you, I guess elaborate as to why?

7 MR. DOYLE: Yes, this is Dan Doyle. Again,
8 we can address that you're talking about the certified
9 fuel handler and elimination of the shift technical
10 advisor topic. We do have a staff member who can talk
11 about that, Maurin Scheetz. Okay, Maurin, are you
12 able to unmute?

13 MR. RAKOVAN: Maurin, are you there? I
14 cannot, I don't have the ability to unmute her
15 unfortunately.

16 MR. DOYLE: Okay, we might need to come
17 back to that one. But just, I guess at a high level,
18 what we're doing is revising the regulations such that
19 NRC approval of the training program would not be
20 required. So, I don't think that we would
21 characterize that as lowering the qualification
22 standards. But when we get Maurin back, we can
23 explain that a little bit more.

24 And then as far as lowering the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 supervision, I don't think we would characterize that
2 either, but rather having the appropriate level of
3 supervision based on what's required at the facility.
4 I do see Maurin's video, are you?

5 MR. RAKOVAN: Yeah, we can hear her, go
6 ahead Maurin.

7 MS. SCHEETZ: I'm back, sorry about that,
8 my audio wasn't working. So, to answer the question
9 about certified fuel handlers, we're matching what is
10 currently done for non-licensed operators at a plant.
11 So, the proposed language would take away the
12 Commission's approval of a training program because
13 we're going to match how we do non-licensed training
14 programs for operating reactors.

15 Which is having a training program that's
16 based on a systems approach to training, which has its
17 own definition in the Code of Federal Regulations.
18 So, we're applying a certain pedigree to the certified
19 fuel handling program, and the proposed rule would
20 make that occur for all certified fuel handling
21 programs for decommissioning.

22 And then as far as the shift technical
23 advisor, what currently happens at decommissioning
24 sites now, is they have to go through a license

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 amendment request process to remove the shift
2 technical advisor. So, that's already happening, that
3 is a person that is there for accident assessment, and
4 engineering expertise in an operating reactor. So,
5 that position doesn't apply in a decommissioning
6 state.

7 So, we're just matching what is already
8 done, and codifying it in the proposed rule language.
9 I hope that answers your question.

10 MR. SALZ: Yes, thank you.

11 MR. RAKOVAN: Okay, let's see if we have
12 any other hands that come up.

13 MR. DOYLE: This is Dan again, while we're
14 waiting for the next question. I just wanted to make
15 the point that Mr. Salz was just asking, that's kind
16 of the whole reason why we're here, is to try to
17 explain, or if there's something that doesn't make
18 sense, to really help you understand better what's in
19 the proposed rule, and to prepare your public
20 comments.

21 So, feel free to ask questions, we do have
22 staff available to try to respond. And we will be
23 putting out, as I said, we did have that first meeting
24 on March 21st, we will be putting out a summary of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 that meeting, we're going to do a summary of this
2 meeting also, and as Trish mentioned, we are planning
3 additional meetings. So, for each of those we'll have
4 the slides, we'll have a summary.

5 And if something occurs to you after this
6 meeting, as you're taking a look at it, you can feel
7 free to pop back in on those future ones, and ask the
8 question there.

9 MR. RAKOVAN: So again, if you have any
10 questions, please raise your hand, or if you're on the
11 phone, you can hit star five. All quiet on all fronts
12 at this time.

13 MR. DOYLE: Okay, so what we're planning
14 to do here is maybe I should go through the rest of my
15 slides, there are just a few more slides here. And
16 then if folks want to step off, away from the meeting,
17 that is totally fine, and up to you. But the NRC
18 staff that are here, most of us are going to remain on
19 the line in case someone was planning to join the
20 meeting later to make a comment. So, let's go -- what
21 do we have for the next slide?

22 Okay, so I did just want to make this
23 point before folks drop off. That we are interested
24 in your feedback on how we conduct our public

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 meetings, so we do have, for all public meetings, a
2 feedback form. There's just a few questions, if you
3 want to provide any feedback about what you think went
4 well, or what could be done better, or differently.

5 We are entering this new way of
6 interacting with the public, and trying to have these
7 hybrid meetings, so people can attend in person, or
8 online, and we want it to be effective. So, if you
9 have tips, or anything that you'd like us to know, the
10 best way to do that would be to fill out the feedback
11 form. There is the QR code you can scan, or click the
12 link on the meeting details page. There is the
13 meeting feedback form.

14 All right, I think the next one is just
15 the list of acronyms, and abbreviations that we have
16 used in this slide, we always try to include that, too
17 many acronyms here. But, so that's all the slides
18 that we have. As I said, we are going to stick on the
19 meeting here, on the line. So, if there was a
20 question that you had, that you've been hanging onto,
21 we're going to be here.

22 So, feel free to speak up, we're here for
23 you guys. If you do want to drop off, that is okay as
24 well, but again, we'll be staying here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 MR. RAKOVAN: Hey Dan, my recommendation
2 would be to put the slide up that talks about how
3 folks can provide their comments, and to leave that
4 one up as we idle, if you will.

5 MR. DOYLE: Okay, that's a good point.
6 That was slide 36 if you want to put that up.

7 MR. RAKOVAN: With that, I guess we are
8 unofficially convening the meeting. But again, we
9 will hang out, just in case folks have comments, or
10 folks pop back on, and we'll address as necessary.

11 (Whereupon, the above-entitled matter went
12 off the record at 5:53 p.m. and resumed at 5:55 p.m.)

13 MR. COSTELLO: Just in terms of the
14 emergency preparedness, I believe it mentioned that
15 there would be a reduced off site response
16 requirement, I'm assuming that's for the licensee, is
17 that correct?

18 MR. DOYLE: We're going to get an NRC
19 staff member here, Mr. Todd Smith.

20 MR. SMITH: Hi, yeah, this is Todd Smith,
21 Senior Level Advisor for Emergency Preparedness and
22 Incident Response in the Office of Nuclear Security
23 Instant Response. So, the requirements on the
24 licensee change commensurate to the risk of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 facility, to the levels of decommissioning. As far as
2 the off site response, that is the responsibility of
3 state, and locals, as it currently is for operating
4 nuclear plants.

5 So, that responsibility does not change.
6 The only thing that changes is whether the NRC
7 requires findings of the state of the off site
8 planning. However, there will always be off site
9 plans, just like there will always be on site plans
10 throughout decommissioning.

11 MR. COSTELLO: Okay, and part two to that
12 question, does the NRC anticipate an increased need
13 for environmental monitoring when this need, as it's
14 written now, goes into effect with the graded stages
15 of decommissioning?

16 MR. DOYLE: Let me pull the -- that's a
17 good question, you're asking if there's an increased
18 need for environmental monitoring. So, what I can say
19 for now is we don't have anything in the proposed rule
20 that would change requirements for environmental
21 monitoring that I'm aware of right now. Let me see,
22 do we have -- is Stacey Imboden on the line, Stacey
23 are you able to respond to this one?

24 MS. IMBODEN: Hi Dan, Stacey Imboden. No,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 I'm not aware of any additional requirements for
2 environmental monitoring.

3 MR. DOYLE: So, let me just follow that up
4 by saying that if -- again, so you form your views,
5 and from your point of view on the proposed rule, and
6 we encourage you to submit any comments if you feel
7 that there's a basis for making a change to what we've
8 proposed for the current regulations, does that answer
9 your question? Do you have any other follow up for
10 that sir?

11 MR. COSTELLO: Yeah, thank you very much
12 for the responses. That cleared it up. So, no
13 current requirement change for that environmental
14 monitoring.

15 MR. DOYLE: That's correct.

16 MR. RAKOVAN: It looks like we do have
17 another question. Are we still good with getting the
18 transcript?

19 COURT REPORTER: Yes sir.

20 MR. RAKOVAN: All right. Mr. Gillen?

21 MR. GILLEN: Yes, thank you. I was
22 wondering if there were going to be future local
23 public meetings on this proposed rulemaking?

24 MR. DOYLE: Yes, this is Dan Doyle, we are

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 planning to host several public meetings in April that
2 people could attend in person. So, we have not
3 released those yet. The changes, as everybody knows
4 the challenges with the pandemic, the surge, and the
5 impact on facilities and availability and spacing and
6 all of that has unfortunately delayed us releasing.
7 But it's nice that things seem to be going in a good
8 direction.

9 So, we do expect to issue those meeting
10 notices very soon, with the locations, and the times
11 for those, so the short answer is yes.

12 MR. GILLEN: Okay, thank you.

13 MR. DOYLE: And those would be also hybrid
14 meetings, so if you don't happen to live near those,
15 but as I said, if you wanted to participate, or ask a
16 question, you could turn in just like you did for this
17 one, or call in either with your computer, or the
18 phone, and participate virtually.

19 MR. GILLEN: Great, thank you.

20 (Whereupon, the above-entitled matter went
21 off the record at 6:01 p.m. and resumed at 6:14 p.m.)

22 MR. DOYLE: Great. So, we have a small
23 but dedicated group of individuals who are still in
24 attendance, that's totally fine. Hope we're not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 inconveniencing you at all with keeping on the line. I
2 imagine if you don't have comments, or questions,
3 that's totally fine, or you may have some, but just
4 not want to raise them here, that's totally fine. But
5 again, we are going to just hang out.

6 That was a decision that we made
7 internally just in case someone wanted to join later.
8 So, I imagine you're staying on, because you might
9 want to hear what other folks have to say, totally up
10 to you. But I did just want to point out we will be
11 releasing the meeting summary, and there's also going
12 to be a transcript in case you wanted to come back,
13 and look later. But again, you're welcome to stay on
14 the line, thank you.

15 And we just stopped sharing the slides,
16 and shared them again, just to add this note in case
17 someone does happen to join in, and just hears
18 silence. That the meeting will remain open until 7:00
19 p.m. Eastern Time, so it's about another 45 minutes.
20 If you do think of a question, feel free to raise your
21 hand or unmute. Thank you.

22 (Whereupon, the above-entitled matter went
23 off the record at 6:15 p.m. and resumed at 6:59 p.m.)

24 MR. DOYLE: Okay, thank you very much.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309

1 So, we are right at 7:00 p.m., as we mentioned
2 earlier, we did just want to keep the lines open for
3 the full amount of time in case someone had a
4 conflict, and wanted to join late. So, I'm glad that
5 we did keep the lines open, we did get a few more
6 comments from individuals after there was a brief
7 pause. So, that's good insight from us.

8 We'll factor in this experience today with
9 our planning for the future meetings. But for those
10 few dedicated people who are still on the line, just
11 wanted to say thank you again for participating today,
12 we appreciate your time, and look forward to any
13 comments you may have on the proposed rule. And that
14 wraps it up for today, thank you so much, have a great
15 day.

16 (Whereupon, the above-entitled matter went
17 off the record at 7:00 p.m.)

18
19
20
21
22
23
24

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1716 14th STREET, N.W., SUITE 200
WASHINGTON, D.C. 20009-4309