

U.S. Nuclear Regulatory Commission Public Meeting Summary

October 4, 2022

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

Meeting Identifier: 20220334

Date of Meeting: May 4, 2022

Location:

Board of Supervisors Chambers, County Government Center
1055 Monterey St
San Luis Obispo CA

Webinar (via Microsoft Teams)

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

Purpose of Meeting:

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

General Details:

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

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

Rulemaking was initiated in December 2015, and extensive public outreach was conducted, including soliciting comments on an advance notice of proposed rulemaking (ANPR) (80 FR 72358) and a Regulatory Basis document (82 FR 13778).

The proposed rule was published in the *Federal Register* on March 3, 2022 (87 FR 12254) for a 75-day comment period that originally was scheduled to end on May 17, 2022. However, the comment period was extended for a total of 180 days that ended on August 30, 2022. The NRC staff is scheduled to deliver the final rule to the Commission in October 2023, and the estimated publication date of the final rule is May 2024.

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

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

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

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

The meeting consisted of an NRC presentation on the topics covered in the proposed rule and a questions and answers session where the public was invited to pose questions to the NRC to get any needed clarifications on the proposed rule and the supporting and related materials. The meeting was attended by approximately 66 people participating through webinar or in person, including staff and members of the public.

Summary of Presentation:

Brett Klukan of the NRC opened the meeting, introducing himself as the meeting facilitator. Mr. Klukan described the purpose of the meeting (to provide information to help stakeholders prepare educated comments on the proposed rule and draft regulatory guidance), discussed logistics of the meeting and the meeting agenda, advised participants on the features of the teleconference platform, and informed participants of the public feedback form available on the NRC website. Mr. Klukan then introduced Patricia Holahan of the NRC to give opening remarks.

Dr. Holahan introduced herself and the other NRC members in attendance. Dr. Holahan then discussed the NRC's goals for the rulemaking and briefly discussed the important

role that public comment has played in the development of the proposed rule, including during the ANPR and later with a draft Regulatory Basis. In addition, Dr. Holahan expressed the desire that the meeting will help the public better understand the proposed rule and encouraged public participation during the meeting. Dr. Holahan noted that the NRC will not be responding in writing to the comments offered during the meeting, and that formal comments made by the public should be submitted in writing using the methods described in the proposed rule notice.

Dr. Holahan then turned the meeting over to Dan Doyle of the NRC, who introduced himself as the Project Manager for the rulemaking. Mr. Doyle noted that the first half of the meeting will be the same material that was presented at the previous public meetings. Mr. Doyle also explained that, through Microsoft Teams, members of the public will have the ability to click and open the links on the presentation slides, as well as advance through the presentation slides by clicking on the arrows at the bottom of each slide.

Mr. Doyle began the slide presentation by providing an overview of the background and status of the proposed rule. Mr. Doyle mentioned the public outreach that occurred on the ANPR and the Regulatory Basis and discussed the schedule of the comment period that is currently open. Mr. Doyle displayed the slide with links to key documents and explained that the NRC staff is issuing four guidance documents that are available for public comment. Mr. Doyle then gave a brief overview of the graded approach concept that the NRC staff is using for several technical areas of the proposed rule.

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

Public Feedback and Questions:

Mr. Klukan provided instruction for how members of the public attending via Microsoft Teams could ask questions or offer comments. Below is a high-level summary of the comments that were offered by the public, as well as the questions that were asked and the NRC staff's responses.

- A couple members of the public expressed appreciation for the NRC extending the public comment period.
- A member of the public commented that found the presentation to be very dense and difficult to follow and suggested that the NRC present with less citation numbers and increased “plain language” to better facilitate comprehension for members of the public who are not familiar with the subject matter. The commenter also expressed that the NEPA review should take place at the beginning of the rulemaking, not along the way.
- Another member of the public asked the following questions:
 - What enhanced financial and safety protections are included in this rule for the public? NRC staff responded that, in general the rulemaking is improving efficiency and increasing clarity in the regulations, and that the proposed rule is not imposing new requirements where the NRC has identified a safety or security issue that required that.
 - Are there provisions in the proposed rule for increased public involvement in the decommissioning process? NRC staff responded that public hearings are the primary opportunities for public engagement included in the proposed rule. NRC staff added that if members of the public believe the rule should include additional opportunities for public involvement, that should be expressed in comments that are submitted during the comment period.
 - What is the NRC’s decision-making rule with respect to decommissioning activities on site? What authority does the NRC have over licensees’ decommissioning plans? NRC staff responded that the NRC provides oversight of decommissioning activities through the licensing process and the inspection process.
 - Is the National Environmental Policy Act (NEPA) review required before decommissioning work commences? NRC staff answered affirmatively, explaining that NEPA applies to all NRC actions and that from initial licensing to any changes, there is requirements and guidance for how we meet our obligations under NEPA.
 - Will the ENTOMB option for decommissioning strategies be removed from the proposed rule? NRC staff responded that no licensee has ever chosen to decommission using entombment, and there are therefore no promulgated regulations to allow for entombment. The aged guidance that mentions entombment will be removed from guidance as the NRC revises them.
 - What is the rationale for reduced emergency preparedness, cyber security, and offsite/onsite insurance requirements when the plant reaches level 2 and there is still high burnup fuel in the pool? NRC staff explained that the graded approach is based on risk; requirements are reduced for utilities as they present less of a safety risk. Specifically, NRC staff discussed emergency preparedness, explaining that level 2 facilities pose less risk of catching fire. The commenter and NRC staff briefly discussed how the proposed rule’s emergency preparedness provisions relate to the Diablo Canyon utility.
- A member of the public asked whether the NRC takes into consideration the information and suggestions offered by local citizens advisory panels and boards such as the Diablo Canyon Decommissioning Engagement Panel. NRC staff

responded that they encourage local communities to form advisory boards and that the NRC staff has engaged with advisory boards in the past to collect comments and information on best practices.

- A member of the public thanked the NRC for progressing the work of streamlining the decommissioning process and saving taxpayer dollars. The commenter asked whether there has been any consideration of a rule proposal to facilitate a nuclear power plant operator who decides to change direction from decommissioning to facility life extension. NRC staff explained that there is an existing practice for license renewal and extension; however, once the NRC receives certification that a licensee has permanently ceased operations and fuel has been removed from the vessel, there is no longer an opportunity to extend their license.
- A member of the public commented that the current trust fund formula requires more funds to be set aside than needed and that it is money which could be better used for other purposes. NRC staff responded by providing a brief overview of the trust fund process, explaining that plants are required to submit a site-specific estimate of decommissioning costs five years before shutting down per the NRC formula. There is an opportunity for the utility to adjust those costs based on their specific plans, but there is a lot of variability in how the sites choose to do it.
- A member of the public asked how the NRC would address a plant that has shutdown and wants to restart. NRC staff replied that there have been no changes in the regulations or guidance related to that situation and briefly discussed the practical implications of plants that shutdown.
- A member of the public asked about how the NRC addresses licensees who overload spent fuel pools. NRC staff responded that they would follow up with the commenter after the public meeting concluded and all questions related to the proposed rule have been addressed.

Closing:

Mr. Doyle made brief closing remarks, thanking everyone for their time and attention, and ended the meeting by stating that the NRC looks forward to the public's comments on the proposed rule.

Action Items/Next Steps:

The NRC conducted an additional hybrid public meeting on May 9, 2021. The meeting summaries are available in the NRC public meetings website.

Related Documents:

- ML22108A231 – 05/04/2022 – Notice of Public Meeting to Discuss the Proposed Rulemaking on Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- ML22118A030 – 05/04/2022 – Public Meeting Presentation by the NRC on the Proposed Rule - Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- ML22277A008– 05/04/2022 – Public meeting transcript for Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning