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**RIC 2012
DECOMMISSIONING PLANNING
INCLUDING FUNDING ASSURANCE**

The Rulemaking Process

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Topics

- What starts the rulemaking process?
- Steps in the rulemaking process
- Regulatory basis content
- Example – Decommissioning Planning rule
- Current – Prompt Remediation draft regulatory basis

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What starts the rulemaking process?

- Regulatory basis from FSME programmatic division, or another Office or NRC Region
- Petition for rulemaking
- Congressional mandate or Executive Branch order
- NRC Executive Director for Operations or Commission directive


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Steps in the rulemaking process


- Preparation of the **regulatory basis**
- Acceptance (or not) of the regulatory basis, and priority ranking
- Develop and issue a **proposed rule**
- Public comment period
- Resolve public comments, develop and issue a **final rule**



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Regulatory Basis Content


- Explain why current regulation or policy needs to be changed
- Explain why alternatives to rulemaking will not work
- Identify different approaches to resolve the issue
- Provide supporting scientific, policy, legal, or technical information
- Explain stakeholder interactions in developing the technical portion of the regulatory basis and stakeholder views
- Discuss any backfit considerations, as appropriate
- Explain any limitations on regulatory basis scope and quality



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**Example: Decommissioning Planning
(regulatory basis)**

- FSME programmatic division identified need to Commission (5/2003)
- Commission Staff Requirements Memorandum (SRM)(11/2003)
- First regulatory basis (6/2004)
- Two 6 month extensions (tritium leaks [2005], public meeting [2007])
- Second regulatory basis (2/2007)


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**Example: Decommissioning Planning
 (proposed rule)**

- Staff submittal of draft proposed rule to Commission (10/2007)
- Commission SRM (12/2007)
 - approved publication of the proposed rule, subject to Commissioner comments in the SRM, one of which was:

*As such, the staff should engage stakeholders to develop a **technical basis**...The technical bases will be a precursor to a **proposed rule** to include requirements for licensees to remediate residual radioactive contaminated areas and thereby minimize the creation of legacy sites.*
- Proposed rule published (1/2008; 73 FR 3812)


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**Example: Decommissioning Planning
 (final rule)**

- Staff submittal of draft final rule to Commission (10/2008)
- Notice of public meeting to discuss resolution of comments (11/2008)
- Summary notes of 11/2008 public meeting (11/2008)
- Staff request to withdraw draft final rule (11/2008)
- Commission SRM approving withdrawal (1/2009)
- Staff submittal of revised draft final rule to Commission (3/2009)
- Commission SRM approving publication (12/2010)
- Publication of final rule (6/2011; 76 FR 35512)


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**Current: Prompt remediation
 (regulatory basis)**

- Commission directive (SRM dated 12/2007)
- Notice of public webinar (7/2011; 76 FR 42074)
- Summary notes of public webinar to inform regulatory basis (7/2011)
- Regulatory basis submittal to rulemaking division (1/2012) with determination of the priority rank


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Conclusions

- Public involvement is essential for rulemaking success
- Decommissioning Planning rule followed accepted procedures with outreach activities to stakeholders
- Prompt Remediation rule is just getting started
- The Commission has the last word on the agency's rulemaking policy


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Reference to Public Documents

- Slide 6
 - bullet one (ML030800158, ML030870180, ML030870186)
 - bullet two (ML033210595)
 - bullet three (ML041660079)
 - bullet five (ML070590234)
- Slide 7
 - bullet one (ML070140014)
 - bullet two (ML073440549)
 - bullet three (73 FR 3812)

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Reference to Public Documents

- Slide 8
 - bullet one (ML082490364)
 - bullet two (ML082960390)
 - bullet three (ML083181094)
 - bullet four (ML083290482)
 - bullet five (ML090280476)
 - bullet six (ML090490280)
 - bullet seven (ML103350034)
 - bullet eight (76 FR 35512)
- Slide 9
 - bullet one (ML073440549)
 - bullet two (76 FR 42074)
 - bullet three (ML112210795)

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