

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: 20220270

Date of Meeting: March 31, 2022

Location:

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

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 40 people participating through webinar or in person at NRC headquarters, including NRC staff and members of the public.

Summary of Presentation:

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

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

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

Mr. Rakovan then turned the meeting over to Dan Doyle of the NRC, who introduced himself as the Project Manager for the rulemaking. Mr. Doyle noted that the first half of the meeting will be the same material that was presented at the previous public meeting on March 21st. Mr. Doyle began the slide presentation by providing an overview of the background and status of the proposed rule. Mr. Doyle noted the public outreach that occurred on the ANPR and the Regulatory Basis and discussed the schedule of the comment period. Mr. Doyle displayed the slide with links to key documents and explained that the NRC staff is issuing four guidance documents that are available for public comment. Mr. Doyle gave a brief overview of the graded approach concept that the NRC staff is using for several technical areas of the proposed rule. Mr. Doyle then proceeded with the slide presentation, after explaining that the presentation would cover the topics included in the proposed rule.

Mr. Doyle first discussed Emergency Preparedness and 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. Next, Mr. Doyle provided some tips for preparing comments on the proposed rule, mentioning that the NRC presentation included a slide summarizing how to submit a public comment. 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:

After a short break, Mr. Rakovan resumed the meeting and explained that there would be time for public comments and questions. Several members of the public raised questions related to the preliminary proposed rule language. Below is a high-level summary of the questions that were asked and the NRC staff's responses.

- A stakeholder asked about the applicability of the rulemaking to utilization facilities. The stakeholder asked whether the proposed rule applies to nuclear power plants

- only or if it would affect general materials licensees. NRC staff responded that the proposed changes would only affect Part 50 and 52, and that Part 50 has the definitions of production facility and utilization facility, but the proposed rule applies to Part 50 and does not apply to materials licensees such as the ones under Parts 30 or 40.
- A stakeholder asked whether the final rule would impact the licensing status of facilities that begin the decommissioning process between now and the date of the rule's implementation. NRC staff responded that, in general, the rulemaking is not intended to apply to facilities that begin the decommissioning process before the effective date of the final rule. The staff emphasized that nothing in the rulemaking as it currently stands impacts any licensee or any facility, since it is still in the proposal stage. In addition, most of the provisions in the proposed rule are optional, and licensees can therefore decide whether they want to take advantage of the provisions or not after the rule is finalized.
 - A stakeholder asked which parts of the current rulemaking will be mandatory for the plants that are undergoing decommissioning when the rule takes effect. NRC staff recommended that the commenter refer to the *Federal Register* notice, and the backfitting discussion in particular, which would address any proposed mandatory changes that would apply to plants undergoing decommissioning at the time of the final rule.
 - A stakeholder asked why it has taken the NRC this long to put together the proposed rulemaking, since several nuclear power plants have already decommissioned. NRC staff responded that the NRC has sought to proceed carefully and with maximum stakeholder input. The staff provided a brief overview of the history of NRC's plans to make changes to the decommissioning regulations and explained that the prompt for this proposed rule was the increase in licensees that were shutting down.
 - A stakeholder asked for clarification as to how the graded approach applies to the fitness for duty (FFD) requirements and whether licensees will be required to maintain their FFD program through decommissioning. In response, NRC staff discussed current practices related to a licensee's security plan and explained that if the proposed rule was finalized as proposed, the graded approach would mean that there would be a reduction in the requirements of what licensees are currently doing under their security plans. The commenter noted that it would be helpful to include that information on the relevant slide.
 - A stakeholder asked for clarification regarding the changes to the spent fuel handler requirements and whether the proposed rule reduces onsite supervision while there is still spent fuel in the pool. NRC staff explained that the proposed rule seeks to match and codify current practices.
 - A stakeholder asked for clarification on whether the changes to Emergency Preparedness would result in a reduced offsite response requirement for licensees. NRC staff responded that licensees' requirements change commensurate to the risk of the facility and that offsite response is the responsibility of states and locals and will not be changing as a result of the proposed rule.
 - A stakeholder asked whether the NRC anticipates an increased need for environmental monitoring when the final rule goes into effect. NRC staff replied that they are not aware of any additional requirements for environmental monitoring in the proposed rule.

- A stakeholder asked whether there will be future local public meetings for the rulemaking. NRC staff responded that there will be several public meetings in April at different locations, with the option of attending in person.

Closing:

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

Action Items/Next Steps:

The NRC conducted additional hybrid public meetings on April 12, 2021; April 19, 2021; May 4, 2021; and May 9, 2021. The meeting summaries are available in the NRC public meetings website.

Related Documents:

- ML22076A054 – 03/31/2022 – Notice of Public Meeting to Discuss the Proposed Rulemaking on Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- ML22089A003 – 03/31/2022 – Public Meeting Presentation by NRC on Proposed Rule - Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- ML22277A002 – 03/31/2022 – Public meeting transcript for Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning