

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: 20220336

Date of Meeting: May 9, 2022

Location:

Hotel 1620 Plymouth Harbor
180 Water St
Atlantic Room
Plymouth, MA

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 (PSDAR) 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 118 people participating through webinar or in person, including NRC 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 Dr. 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 mentioned that this will be the last public meeting held for the proposed rulemaking.

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 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. 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 instructions 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.

General Opposition to the Rule

- Several congressional staff members expressed opposition to the rule and called for a more meaningful role for community engagement during the decommissioning process. Similarly, several members of the public expressed concern with the proposed rule, reasoning that it would result in a reduction in public involvement and education.
- A congressional staff member called upon the NRC to reject the proposed rule and rewrite it to create more robust oversight of nuclear companies.
- A congressional staff assistant commented that the proposed rule continues to allow the NRC and plant operators to cut corners on safety and limit public engagement at the expense of the residents and communities surrounding these plants. The commenter also said that the proposed rule abdicates NRC's authority and obligations over the decommissioning process by failing to require NRC approval of the PSDAR. Furthermore, the commenter expressed that the proposed rule creates an exemption-based system of regulation that would allow for an unfunded emergency response mandate to be passed onto local communities.

Holtec Pilgrim Facility

- Several members of the public expressed concern with the potential radioactive exposure of the environment and the public from the dumping of radioactive waste into the Cape Cod Bay.
- A member of the public asked about how the proposed rule would impact Holtec's discharge of radioactive water into the Bay or the security of dry cask storage of spent fuel. NRC staff responded that the proposed rule would not address discharge to the environment nor the security of dry cask storage. NRC staff clarified that the focus of the proposed rule is the transition of nuclear facilities from operations to decommissioning.
- A member of the public pointed to 10 CFR 20.1301(f) as a regulation that could reduce the collective dose of radiation discharged to the environment. The commenter asked the NRC if they could use this regulation to prevent Holtec's discharge. NRC staff answered that there are no changes in the proposed rule related to that provision. Additionally, NRC staff noted that in order to utilize this regulation to address Holtec's discharges, there would have to be a firm safety basis, and highlighted that current regulations are adequate to protect public health and safety.
- A member of the public said that Commissioner Baran commented that one of the NRC office directors confirmed that the reason PSDARs are not approved by the NRC is that approval would trigger a requirement to allow public participation in the agency decision. The commenter noted that they submitted extensive comments on Pilgrim's PSDAR that were never acknowledged.
- A member of the public expressed concern with when the NRC approves the decommissioning plan. The commenter said that the NRC does not approve the decommissioning plan at the outset of the process, but instead at its conclusion. The commenter described the benefits of revising this process to include NRC approval before decommissioning begins, including (1) approval at the beginning

of the process would signify that the plan is a major federal action which would require a National Environmental Policy Act (NEPA) environmental review and (2) significant costs savings because it could prevent lawsuits at the end.

- A member of the public discussed two studies performed by Richard Clapp, which focused on incidents of cancer around nuclear facilities. The commenter asked why the NRC did not perform a follow-up study. NRC staff answered that they were going to do a joint study with the Department of Energy and the Environmental Protection Agency, but they could not get the funding.

GEIS

- A couple members of the public asked for clarity on the generic environmental impact statement (GEIS), which could provide exemption from an environmental assessment. NRC staff responded that the GEIS will go through a separate public comment period when it is updated. The NRC staff also informed that a GEIS is not a categorical exemption. Each licensee will have to evaluate their environmental impacts and provide a basis on whether those are bounded. There may be generic conclusions, but a licensee would have to verify that a conclusion applies to them.
- A commenter asked if the decommissioning rule, as currently proposed, would provide the public with an opportunity to address concerns about decommissioning and potential environmental impacts under NEPA. The commenter also asked how NRC plans on segregating the environmental assessment from the GEIS. NRC staff said that if the public believes that the proposal has environmental impacts that have not been identified yet, to please provide that as a comment. NRC staff also clarified that the environmental assessment mentioned during the presentation relates to an assessment of the rulemaking activities, which is separate and distinct from the GEIS that relates to environmental impacts at facilities during decommissioning.

Other Comments

- A member of the public asked the NRC to clarify the proposed rule's approach to subsurface contamination, because the current rule is focused on surface contamination. NRC staff answered that the proposed rule does not address that specifically, but that the NRC has extensive guidance in place for environmental monitoring of all plants, and decommissioned plants are required to perform a site characterization study that includes surface, subsurface, and groundwater, and provide that report to the NRC. The NRC is also conducting a public workshop on subsurface measurements on May 11th.
- A couple members of the public said that the NRC has referenced guidance many times while answering questions during this public meeting, but the commenters stated that guidance is not regulation and expressed concern that the guidance was drafted by the nuclear industry.
- A member of the public expressed concern with describing the rule as cost beneficial, stating that the rule would benefit the NRC and the nuclear industry only at the cost of the public.

- A member of the public expressed support for the extension to the public comment period.
- A member of the public asked why the request for comments on financial assurance did not mention the findings from the working group on financial assurance, which found no gaps or policy issues warranting a change in the process. NRC staff informed that they are updating guidance on financial assurance and will review the proposed rule notice to determine if they should add the findings from the working group.
- A member of the public stated that the Commission's Staff Requirements Memoranda was a two to one vote in favor of the proposed rule, with Commissioner Baran being the vote against. The commenter noted that Commissioner Baran said that the proposed rule misses the mark.

Closing:

Dr. Holahan 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 public comment period will be open until August 30th, 2022.

Related Documents:

- ML22104A153 – 05/09/2022 – Notice of Public Meeting to Discuss the Proposed Rulemaking on Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- ML22129A004 – 05/09/2022 – Public Meeting Presentation by the NRC on the Proposed Rule - Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
- M22277A010 – 05/09/2022 – Public meeting transcript for Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning