



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 26, 50, 52, 73, and 140

[NRC-2015-0070]

RIN 3150-AJ59

Regulatory Improvements for Power Reactors Transitioning to Decommissioning

AGENCY: Nuclear Regulatory Commission.

ACTION: Preliminary draft regulatory analysis; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting comment on the preliminary draft regulatory analysis to support a rulemaking that would amend the NRC's regulations for the decommissioning of nuclear power reactors. The NRC's goals in amending the regulations would be to provide for an efficient decommissioning process; reduce the need for exemptions from existing regulations; address other decommissioning issues deemed relevant by the NRC; and support the principles of good regulation, including openness, clarity, and reliability. The NRC plans to hold a public meeting in spring 2017 to discuss the draft regulatory basis that was previously published in the *Federal Register* and the preliminary draft regulatory analysis to facilitate the development of public comments on those documents.

DATES: Submit comments by June 13, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to ensure consideration of comments received on or before this date.

ADDRESSES: You may submit comments by the following method:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0070. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical questions contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Christopher Howells, telephone: 301-415-1381, e-mail: Christopher.Howells@nrc.gov; or Fred Schofer, telephone: 301-415-5682, e-mail: Fred.Schofer@nrc.gov. Both are staff of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2015-0070 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0070.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The preliminary draft regulatory analysis document is available in ADAMS under Accession No. ML16271A511.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2015-0070 in your comment submission. If you cannot submit your comments on the Federal rulemaking Web site, www.regulations.gov, then contact one of the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons to not include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS. Please note that the NRC will not provide formal written responses to each of the comments received on the preliminary draft regulatory analysis. However, the NRC staff will consider all comments received in the development of the final regulatory analysis.

II. Discussion

On March 15, 2017, the NRC published a document in the *Federal Register* issuing a draft regulatory basis to support the “Regulatory Improvements for Reactors Transitioning to Decommissioning” rulemaking to amend the NRC’s power reactor decommissioning regulations (82 FR 13778). The draft regulatory basis was made available for a 90-day public comment period (ending on June 13, 2017). In the draft regulatory basis, the NRC concludes that it has sufficient justification to proceed with rulemaking in the areas of emergency preparedness, physical security, decommission trust fund, offsite and onsite financial protection requirements and indemnity agreements, and application of the backfit rule. Further, the NRC is recommending rulemaking to: (1) require that the post-shutdown decommissioning activities report (PSDAR) contain a description of how the spent fuel stored under a general independent

spent fuel storage installation license will be removed from the reactor site in accordance with the regulatory requirements in § 50.82, “Termination of License,” of title 10 of the *Code of Federal Regulations* (10 CFR), 10 CFR 50.54(bb), 10 CFR 52.110, “Termination of License,” and 10 CFR 72.218, “Termination of Licenses;” and (2) amend 10 CFR 51.53, “Postconstruction Environmental Reports,” and 10 CFR 51.95, “Postconstruction Environmental Impact Statements,” to clarify that the requirements for a license amendment before decommissioning activities may commence applies only to non-power reactors, as specified in 10 CFR 50.82(b) .

In the draft regulatory basis, the NRC concludes that regulatory activities other than rulemaking—such as guidance development—should be used to address stakeholder concerns regarding the appropriate role of State and local governments in the decommissioning process, the level of NRC review and approval of the PSDAR, and the 60 year limit for power reactor decommissioning. The NRC also determined that additional stakeholder input is needed prior to finalizing recommendations related to cyber security, drug and alcohol testing, certified fuel handler training and minimum staffing, aging management, and fatigue management. The NRC is seeking specific public input on these topics as part of the public comment request on the entire draft regulatory basis.

To supplement the draft regulatory basis, the NRC has prepared a preliminary draft regulatory analysis, in which the costs, benefits, and other impacts of each rulemaking alternative are presented in order to determine the economic impact to industry and to government from the proposed rulemaking. The NRC prepared the preliminary draft regulatory analysis to support decision making during the preparation of the draft regulatory basis document, which includes an evaluation of possible regulatory improvements for reactors transitioning to decommissioning.

III. Request for Comment

The NRC is requesting comment on the preliminary draft regulatory analysis that was

prepared to support the draft regulatory basis for the “Regulatory Improvements for Reactors Transitioning to Decommissioning” rulemaking. As you prepare your comments, consider the following general questions:

1. Is the NRC considering appropriate alternatives for each regulatory area described in the preliminary draft regulatory analysis?

2. Are there additional factors that the NRC should consider in each regulatory area?

What are these factors?

3. Is there additional information concerning regulatory impacts that the NRC should include in its regulatory analysis for this rulemaking?

4. Are all costs and benefits properly addressed to determine the economic impact of the rulemaking alternatives?

5. What additional costs or cost savings will the rulemaking alternatives cause to society, industry, and government?

IV. Cumulative Effects of Regulation

The cumulative effects of regulation (CER) describe the challenges that licensees or other impacted entities (such as State agency partners) may face while implementing new regulatory positions, programs, and requirements (e.g., rules, generic letters, backfits, inspections). The CER is an organizational effectiveness challenge that results from a licensee or impacted entity implementing a number of complex positions, programs, or requirements within a limited implementation period and with available resources (which may include limited available expertise to address a specific issue). The NRC has implemented CER enhancements to the rulemaking process to facilitate public involvement throughout the rulemaking process. In developing comments on the preliminary draft regulatory analysis, consider the following questions:

1) In light of any current or projected CER challenges, what should be a reasonable effective date, compliance date, or submittal date(s) from the time the final rule is published to the actual implementation of any new proposed requirements, including changes to programs, procedures, or the facility?

2) If current or projected CER challenges exist, what should be done to address this situation (e.g., if more time is required to implement the new requirements, what period of time would be sufficient, and why such a time frame is necessary)?

3) Do other regulatory actions (e.g., orders, generic communications, license amendment requests, and inspection findings of a generic nature) by the NRC or other agencies influence the implementation of the potential proposed requirements?

4) Are there unintended consequences? Does the potential proposed action create conditions that would be contrary to the potential proposed action's purpose and objectives? If so, what are the consequences and how should they be addressed?

5) Please provide information on the costs and benefits of the potential proposed action. This information will be used to support additional regulatory analysis by the NRC.

V. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published in the *Federal Register* on June 10, 1998 (63 FR 31883). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

Dated at Rockville, Maryland, this 3rd day of May, 2017.

For the Nuclear Regulatory Commission.

Gregory T. Bowman,
Deputy Director,
Division of Policy and Rulemaking,
Office of Nuclear Reactor Regulation.

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