



[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:** Regulatory basis.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is publishing a regulatory basis to support a rulemaking that would amend the NRC's regulations for the decommissioning of nuclear power reactors. The NRC's goals in amending these 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 staff; and support the principles of good regulation, including openness, clarity, and reliability.

**DATES:** The regulatory basis is available on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** 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**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **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](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the SUPPLEMENTARY INFORMATION section. The regulatory basis can be accessed in ADAMS at accession number ML17215A010.

- **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.

**FOR FURTHER INFORMATION CONTACT:** Alysia G. Bone, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-1034, e-mail: [Alysia.Bone@nrc.gov](mailto:Alysia.Bone@nrc.gov); U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:** On December 30, 2014, the Commission directed the NRC staff to proceed with a rulemaking on power reactor decommissioning in the staff requirements memorandum (SRM) for SECY-14-0118, "Request by Duke Energy Florida, Inc., for Exemptions from Certain Emergency Planning Requirements" (ADAMS Accession No. ML14364A111). The Commission also stated that the rulemaking should address: issues

discussed in SECY-00-0145, “Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning” (ADAMS Accession No. ML003721626), such as the graded approach to emergency preparedness (EP); lessons learned from the plants that have already gone 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 governments and non-governmental stakeholders in the decommissioning process; and any other issues deemed relevant by the NRC staff.

The NRC issued an advance notice of proposed rulemaking (ANPR) in the *Federal Register* (80 FR 72358; November 19, 2015) to obtain stakeholder feedback on the regulatory issues included in the SRM for SECY-14-0118. The NRC received public comments related to each of the regulatory issues outlined in the ANPR. Most public feedback pertained to the level of public involvement in the decommissioning process, the 60-year limit for power reactor decommissioning, the NRC’s approval of the PSDAR, the use of decommissioning trust funds (DTFs), and EP considerations. The NRC reviewed the comments and used input received from the comments to develop the options presented in the draft regulatory basis, which was issued for a 90-day public comment period on March 15, 2017 (82 FR 13778). The NRC received input from stakeholders in every area addressed in the draft regulatory basis. The NRC also received the most stakeholder input on the current regulatory approach to decommissioning, EP, and DTFs. The comments received on the draft regulatory basis were considered in the development of the regulatory basis.

In the regulatory basis, the NRC staff concludes that it has sufficient justification to proceed with rulemaking in the areas of EP, physical security, cyber security, drug and alcohol testing, training requirements for certified fuel handlers (CFHs), DTFs, offsite and onsite financial protection requirements and indemnity agreements, and application of the backfit rule.

Further, the NRC staff is recommending rulemaking: (1) to require that decommissioning documents in § 50.54(bb) of title 10 of the *Code of Federal Regulations* (10 CFR); § 50.82, “Termination of license”; and § 52.110, “Termination of license,” or a combination thereof, contain information on spent fuel management planning, in accordance with the regulatory requirements in § 72.218, “Termination of Licenses”; (2) to amend § 51.53, “Postconstruction environmental reports,” and § 51.95, “Postconstruction environmental impact statements,” to clarify the environmental reporting requirements and add a reference to § 52.110; (3) to amend §§ 50.82(a) and 52.110 to clarify that licensees must evaluate the environmental impacts of decommissioning, and whether they are bounded, in the PSDAR; (4) to amend § 50.59(d)(3); § 50.71(c); 10 CFR part 50, appendix A, Criterion 1, “Quality standards and records”; 10 CFR part 50, appendix B, Criterion XVII, “Quality Assurance Records”; and § 72.72(d) to remove certain record-retention requirements for structures, systems, and components (SSCs) that no longer remain in service during decommissioning, as well as duplication requirements for spent fuel storage records; and (5) to amend 10 CFR part 20, appendix G, Section III.E, for investigating shipments of low-level radioactive waste (LLW) if the shipper has not received notification of receipt within 20 days after transfer, to allow a 45-day notification window based on operating experience that shows this is a reasonable delay for LLW shipments.

Additionally in this regulatory basis, the NRC staff recommends guidance development and inspection procedure updates for minimum staffing of non-licensed operators and aging management of certain SSCs. The NRC staff also determined that fatigue management would not be addressed in this decommissioning rule.

In the regulatory basis, the NRC staff reiterated conclusions from the draft regulatory basis that regulatory activities other than rulemaking—such as guidance development—can be pursued to address the appropriate role of State and local governments in the decommissioning process, the level of NRC review of the PSDAR, and the 60-year limit for power reactor decommissioning.

In addition to the regulatory basis, staff plans to publish a revised preliminary draft of the regulatory analysis, which will update and refine the analysis of costs and benefits.

The NRC staff plans to publish a proposed rule for public comment in 2018.

Dated at Rockville, Maryland, this 21st day of November, 2017.

For the Nuclear Regulatory Commission.

Patricia K. Holahan, Director,  
Division of Rulemaking,  
Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017-25552 Filed: 11/24/2017 8:45 am; Publication Date: 11/27/2017]