

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[Docket No. PRM-50-88]

#### Energy Solutions; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking, dated May 29, 2007, filed by Thomas E. Magette of EnergySolutions. The petition was docketed by the NRC on June 6, 2007, and has been assigned Docket No. PRM-50-88. The petitioner requests that the NRC amend its regulations to provide a regulatory framework that would allow funds from licensees' decommissioning trust funds to be used for the cost of disposal of "major radioactive components" (MRCs) that have been removed from reactors prior to the permanent cessation of operations.

**DATES:** Submit comments by November 5, 2007. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include PRM-50-88 in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking Web site. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays (telephone (301) 415-1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-415-7163 or Toll Free: 800-368-5642.

**SUPPLEMENTARY INFORMATION:**

#### The Petitioner

The petitioner is EnergySolutions. EnergySolutions is a nuclear services firm that provides services to private and government organizations involved in nuclear activities. The petitioner states that it has broad experience and expertise with the NRC licensing process and the standards that apply to the regulation of nuclear facilities, the use of radioactive materials, the clean-up and decommissioning of nuclear facilities, and the disposal of radioactive waste.

#### Background

The petitioner states that 10 CFR 50.2 defines decommissioning as not beginning until the site or facility ceases operations, and asserts that the definition implies that an entire facility must be removed from service before an activity can be considered as part of decommissioning. The petitioner also states that 10 CFR 50.82(a)(8) allows withdrawals from decommissioning trust funds for decommissioning expenses only, and further limits withdrawals for planning activities prior to the submittal of the post-shutdown decommissioning activities report (PSDAR) following cessation of operations. According to the petitioner, the disposal costs for MRCs that have been removed from service but are awaiting disposal while the facility is still in service are not covered by decommissioning trust funds. The petitioner states that most licensees, rather than use limited operating funds, defer the disposal of MRCs until the time of decommissioning, when they can use their trust funds to remove and dispose of the MRCs in order to achieve the radiation dose limits specified in Subpart E to 10 CFR Part 20. The petitioner asserts that this disposal may not take place for decades, giving rise to adverse environmental impacts if not properly managed.

#### The Proposed Amendments

The petitioner requests that NRC amend its regulations at 10 CFR 50.82, "Termination of License," to provide a process that would permit a licensee, in advance of permanently ceasing operation at a site, to facilitate the decommissioning process by allowing decommissioning trust funds to be used for disposal of removed MRCs. (Note: The petitioner is not requesting that

NRC amend its regulations to allow the use of decommissioning trust funds to cover the costs of removing the MRCs from the reactor.) Specifically, the petitioner is requesting that 10 CFR 50.82(a)(8)(iii) through (a)(8)(iv) be redesignated as 10 CFR 50.82(a)(8)(iv) through (a)(8)(v), and that a new 10 CFR 50.82(a)(8)(iii) be added. The petitioner proposes the new language read as follows:

(iii) Notwithstanding the limitations of §§ 50.82(a)(8)(i)(A) and 8(ii), a licensee may use decommissioning trust funds to dispose of major radioactive components that have been removed from the reactor provided:

A. The licensee has submitted to the NRC with a copy to the Federal or State government agency (e.g., Federal Energy Regulatory Commission and State Public Utility Commissions), if any, which has rate regulation oversight responsibility for the licensee's decommissioning trust fund:

(1) A request to allow it to withdraw a specified amount from its decommissioning trust fund for the purpose of disposing of specific major radioactive component(s);

(2) A site-specific decommissioning cost estimate that includes the disposal costs for major components stored on site; and

(3) An analysis demonstrating that if the licensee withdraws funds for the costs of disposing of the particular component(s) from the decommissioning trust fund, the remaining funds in the licensee's decommissioning trust fund are sufficient to meet the provisions of §§ 50.82(a)(8)(i)(B) and (C); and

B. The NRC has concluded that there is reasonable assurance that the provisions of §§ 50.82(a)(8)(B) and (C) will be met if the licensee withdraws the funds requested under § 50.82(a)(8)(iii)(A)(1).

The petitioner's asserted justifications for this amendment include:

(1) Reducing the radioactive source term associated with the contaminated components at reactor sites;

(2) Exposing site workers to less radiation;

(3) Eliminating unnecessary regulatory burdens by avoiding the costs associated with both maintaining the components on-site and providing protection to workers as a result of maintaining those components;

(4) Reducing the overall costs to decommission sites; and

(5) Ensuring that more funds are available to decommission reactors at the time the reactors cease operation.

### Conclusion

The petitioner concludes that it is in the public interest to provide a regulatory framework to allow funds from licensees' decommissioning trust funds to be used for the cost of disposal of MRCs that have been removed from reactors prior to the permanent cessation of operations. Accordingly,

the petitioner requests that the NRC amend its regulations as described previously in the section titled, "The Proposed Amendments."

Dated at Rockville, Maryland, this 15th day of August 2007.

For the Nuclear Regulatory Commission,  
**Annette L. Vietti-Cook**,  
*Secretary of the Commission*.  
 [FR Doc. E7-16476 Filed 8-20-07; 8:45 am]  
**BILLING CODE 7590-01-P**

## DEPARTMENT OF ENERGY

### Western Area Power Administration

#### 10 CFR Part 905

RIN 1901-AB24

#### Energy Planning and Management Program; Integrated Resource Planning Approval Criteria

**AGENCY:** Western Area Power Administration, Department of Energy (DOE).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Western Area Power Administration (Western) is proposing changes to current regulations that require customers to prepare integrated resource plans (IRP). Western is proposing to facilitate public review of customer IRPs by making them more readily available, such as by posting customer IRPs on Western's external Web site. Western is also proposing language to encourage participation in regional IRPs by customers who may not be members of a member-based association (MBA). Finally, Western proposes to modify the requirement that each member of an MBA approve the IRP. Publication of this **Federal Register** notice begins the formal process for the proposed regulation revisions.

**DATES:** The comment period begins today and will end November 19, 2007. Western will present a detailed explanation of the proposed revisions to its current regulations and accept oral and written comments at a joint public information and public comment forum. The public forum will be held on the following date: September 6, 2007, 1 p.m. MDT, Denver, CO. Western will accept written comments any time during the comment period.

**ADDRESSES:** Send written comments to Ron Horstman, Energy Services Specialist, Western Area Power Administration, P.O. Box 281213, Lakewood, CO 80228-8213. Comments may be sent by fax to (720) 962-7427 or by electronic mail to [horstman@wapa.gov](mailto:horstman@wapa.gov). Western will post

information about the public process on its Web site at <http://www.wapa.gov>. Western will post official comments received via letter and e-mail to its Web site after the close of the comment period. Western must receive written comments by the end of the comment period to ensure they are considered in Western's decision process.

The public forum location will be the Radisson Hotel Denver Stapleton Plaza, 3333 Quebec Street, Denver, Colorado 80207.

**FOR FURTHER INFORMATION CONTACT:** Project manager-Ron Horstman, (720) 962-7419, e-mail [horstman@wapa.gov](mailto:horstman@wapa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction and Discussion of Proposal

Section 114 of the Energy Policy Act of 1992 (EPAct), Public Law 102-486, amended the Hoover Power Plant Act of 1984 (42 U.S.C. 7275-7276) to require integrated resource planning by Western's customers. Western implemented section 114 of EPAct through completion of the Energy Planning and Management Program (Program) in October 1995. 60 FR 54151 (October 20, 1995). The Program was revised in March of 2000 to allow customers more alternatives in meeting the IRP requirements. 65 FR 16789 (March 30, 2000). Western's current regulations are published in the Code of Federal Regulations at 10 CFR part 905.

Western is proposing to revise its IRP rule pursuant to 10 CFR 905.24, which allows Western at appropriate intervals to initiate a public process to review and revise its regulations. Specifically, Western is proposing to change its IRP regulations in three respects. The first proposed change is to the public participation requirement under 10 CFR 905.11 (b)(4). Given the large number of members of some MBAs and the diversity of the member's interests, Western proposes to eliminate the requirement that members of an MBA unanimously approve the IRP (10 CFR 905.11(b)(4)(i)). Instead, Western proposes to require approval only by the governing body of an MBA, which serves the interests of each MBA member through the member's representation on the MBA board. Western is proposing no other changes to the full public participation requirement in section 905.11(b)(4).

Secondly, Western is proposing to add a paragraph to section 905.12(b) to encourage cooperation among customers in the preparation of regional IRPs by clarifying that such a regional approach is acceptable, with advance approval by Western, even if the participating