

# 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-50-94; RC-2010-0004]

#### Sherwood Martinelli; Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

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

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated December 23, 2009, which was filed with the NRC by Sherwood Martinelli. The petition was docketed by the NRC on December 24, 2009, and has been assigned Docket No. PRM-50-94. The petitioner requests that the NRC amend its regulations regarding the domestic licensing of production and utilization facilities. Specifically, the petitioner requests that the NRC revise its regulations as they relate to decommissioning and decommissioning funding.

**DATES:** Submit comments by May 12, 2010. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Please include Docket ID NRC-2010-0004 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their

comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods.

**Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2010-0004. Comments may be submitted electronically through this Web site. Address questions about NRC dockets to Carol Gallagher, 301-492-3668, e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

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

**E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1677.

**Hand-deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays (telephone (301) 415-1677).

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

You can access publicly available documents related to this petition, including the incoming petition for rulemaking, using the following methods:

**NRC's Public Document Room (PDR):** The public may examine and have copied for a fee publicly available documents the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

**NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC, including the incoming petition for rulemaking (ADAMS Accession No. ML093620175), are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into 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 NRC's 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).

**Federal Rulemaking Web Site:** Public comments and supporting materials related to this petition for rulemaking can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2010-0004.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rulemaking and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone: 301-492-3663 or Toll Free: 800-368-5642.

#### SUPPLEMENTARY INFORMATION:

##### Background

Sherwood Martinelli (petitioner) submitted a petition for rulemaking dated December 23, 2009. The petitioner requests that the NRC revise its regulations as they relate to decommissioning and decommissioning funding. The NRC has determined that the petition meets the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition has been docketed as PRM-50-94. The NRC is requesting public comment on the petition for rulemaking.

##### Discussion of the Petition

The petitioner believes that with the current state of the economy, a 2-year reporting requirement is not adequate to ensure the safety and adequacy of funds set aside for the decommissioning of a nuclear power plant. The petitioner requests that the NRC amend its regulations to require yearly reporting by licensees on the status of these financial mechanisms used to ensure funding, and biannual reporting if the license is within 5 years of expiration. The petitioner further requests that the NRC require additional deposits to the funding accounts within 90 days from the time a shortage is noted in the annual reports.

According to the petitioner, licensees may choose from three alternative decommissioning strategies: DECON (immediate removal or decontamination), SAFSTOR ("delayed DECON"), or ENTOMB (permanent encasement onsite). The petitioner believes that the SAFSTOR decommissioning option allows licensees to turn the reactor sites into long-term high-level waste storage facilities. The petitioner cites the NRC Fact Sheet, Decommissioning Nuclear

Power Plants, which states that a decision by a licensee to adopt a combination of DECON and SAFSTOR may be based on factors such as the availability of waste disposal sites. The petitioner believes that this wording creates a loophole whereby a site choosing the SAFSTOR option would not be returned to unrestricted use within a period of 60 years from the time reactor operation ceases. The petitioner requests that the NRC amend its regulations to clarify that a licensee's choice of alternative decommissioning strategy must result in the return of the site to unrestricted use within 60 years and that the NRC eliminate the ENTOMB strategy as an option.

The petitioner believes that, if implemented, the reporting and financial assurance amendments proposed would provide reasonable assurance that funds will be available when needed to clean up a plant site and avoid costly legacy sites to be cleaned up at taxpayer expense. With respect to the proposal to clarify the decommissioning strategies available to licensees, the petitioner believes that these proposed amendments assure that portions of the facility containing radioactive contaminants would be removed or decommissioned to a level that permits release of the property for unrestricted use within 60 years after the cessation of operations.

Dated at Rockville, Maryland, this 22nd day of February, 2010.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2010-3989 Filed 2-25-10; 8:45 am]

BILLING CODE 7590-01-P

## DEPARTMENT OF THE TREASURY

### 31 CFR Part 103

#### RIN 1506-AB08

#### Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Reports of Foreign Financial Accounts

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** FinCEN, a bureau of the Department of the Treasury (Treasury), is proposing to revise the regulations implementing the Bank Secrecy Act (BSA) regarding reports of foreign financial accounts. The proposed rule would clarify which persons will be required to file reports of foreign financial accounts and which accounts

will be reportable. In addition, the proposed rule would exempt certain persons with signature or other authority over foreign financial accounts from filing reports and would include provisions intended to prevent United States persons from avoiding this reporting requirement.

**DATES:** Written comments on the notice of proposed rulemaking may be submitted on or before April 27, 2010.

**ADDRESSES:** You may submit comments, identified by RIN 1506-AB08, by any of the following methods:

- *Federal e-rulemaking portal:* <http://www.regulations.gov>. Refer to Docket Number FinCen-2009-0008 and follow the instructions for submitting comments.

- *Mail:* FinCEN, P.O. Box 39, Vienna, VA 22183. Include RIN 1506-AB08 in the body of the text.

*Inspection of comments:* Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905-5034 (not a toll-free call).

**FOR FURTHER INFORMATION CONTACT:** Regulatory Policy and Programs Division, FinCEN (800) 949-2732 and select option 1.

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The provision of the BSA authorizing reports of foreign financial accounts reflects congressional concern that foreign financial institutions were being used to evade domestic criminal, tax, and regulatory laws. The House report on the bill leading to the enactment of the BSA described the use of undisclosed foreign financial accounts for a wide range of abuses.<sup>1</sup> Nearly four

<sup>1</sup> The House report states:

Considerable testimony was received by the Committee from the Justice Department, the United States Attorney for the Southern District of New York, the Treasury Department, the Internal Revenue Service, the Securities and Exchange Commission, the Defense Department and the Agency for International Development about serious and widespread use of foreign financial facilities located in secrecy jurisdictions for the purpose of violating American law. Secret foreign bank accounts and secret foreign financial institutions have permitted proliferation of 'white collar' crime; have served as the financial underpinning of organized criminal operations in the United States; have been utilized by Americans to evade income taxes, conceal assets illegally, and purchase gold; have allowed Americans and others to avoid the law and regulations governing securities and exchanges; have served as essential ingredients in frauds including schemes to defraud the United States; have served as the ultimate depository of black market proceeds from Vietnam; have served as a source of questionable financing for conglomerate and other corporate stock

decades after the enactment of the BSA, foreign financial accounts continue to be used for many of the abuses cataloged by Congress when it was originally considering the enactment of the BSA. For example, the Senate Permanent Subcommittee on Investigations has found that Americans have continued to use complex schemes to try to conceal their foreign financial accounts in attempts to circumvent United States law.<sup>2</sup>

Considerable effort has been made to address these abuses. The Internal Revenue Service (IRS), for example, has several projects focused on the use of offshore accounts to evade federal income taxes.

## II. Background

### A. Statutory and Regulatory Background

The BSA, Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314 and 5316-5332, authorizes the Secretary of the Treasury (Secretary), among other things, to issue regulations requiring persons to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, regulatory, and counterterrorism matters. The regulations implementing the BSA appear at 31 CFR Part 103. The Secretary's authority to administer the BSA has been delegated to the Director of FinCEN.

Under 31 U.S.C. 5314 the Secretary is authorized to require any "resident or citizen of the United States, or a person in, and doing business in, the United States, to \* \* \* keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency." For this purpose, foreign financial agency means "a person acting for a person as a financial institution bailee, depository trustee or agent, or acting in a similar way related to money, credit, securities, gold, or in a transaction in money, credit, securities or gold."<sup>3</sup> The Secretary is also

acquisitions, mergers and takeovers; have covered conspiracies to steal from the U.S. defense and foreign aid funds; and have served as the cleansing agent for 'hot' or illegally obtained monies. H.R. Rep. No. 975 91st Cong. 2d Sess. 12 (1970).

<sup>2</sup> See *Tax Haven Banks and U.S. Tax Compliance*, Staff Report, Permanent Subcommittee on Investigations, Senate Comm. on Homeland Security and Governmental Affairs, (July 17, 2008); *Tax Haven Abuses: The Enablers, the Tools and Secrecy*, Staff Report, Permanent Subcommittee on Investigations, Senate Comm. on Homeland Security and Governmental Affairs, (Aug. 1, 2006).

<sup>3</sup> See 31 U.S.C. 5312(a)(1) which excepts from the definition of financial agency a person acting for a country, a monetary or financial authority acting as a monetary or financial authority or an international