

# 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 20

[NRC-2011-0162]

RIN 3150-AJ17

### Consideration of Rulemaking To Address Prompt Remediation of Residual Radioactivity During Operation

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of public Webinar and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is seeking additional input from the public, licensees, Agreement States, non-Agreement States, and other stakeholders on the need for potential rulemaking to address prompt remediation of residual radioactivity during the operational phase at licensed material sites and nuclear reactors. The NRC has not initiated a rulemaking, but is gathering information and seeking stakeholder input on this subject for developing a recommendation to the Commission regarding the need for further rulemaking. To aid in this process, the NRC is requesting comments on the issues discussed in Section II, "Specific Questions," in the Supplementary Information section of this document. Additionally, the NRC will hold a public Webinar and host a public meeting to facilitate the public's and other stakeholders' understanding of these issues and the submission of comments.

**DATES:** The public Webinar and meeting will be held in Rockville, Maryland on July 11, 2016, from 1:00 p.m. to 4:00 p.m. (EDT) to solicit public and stakeholder feedback. Submit comments on the issues discussed in this document by August 22, 2016. Comments received after this date will be considered if it is practical to do so.

**ADDRESSES:** You may submit comment by any of the following methods (unless

this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0162. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [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.

- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN-12-H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Marlayna Vaaler, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3178; email: [Marlayna.Vaaler@nrc.gov](mailto:Marlayna.Vaaler@nrc.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

The NRC published the Decommissioning Planning Rule (DPR) in 2011 (76 FR 33512; June 17, 2011) with an effective date of December 17, 2012. The DPR applies to the operational phase of a licensed facility, and requires licensees to operate in a way to minimize spills, leaks, and other unplanned releases of radioactive contaminants into the environment. It also requires licensees to check periodically for radiological contamination throughout the site, including subsurface soil and groundwater. The DPR does not have a mandatory requirement for licensees to conduct radiological remediation during operation. In the Staff Requirements Memorandum (SRM), SRM-SECY-07-0177—Proposed Rule: Decommissioning Planning (10 CFR parts 20, 30, 40, 50, 70, and 72; RIN: 3150-AH45) (Agencywide Documents Access and Management System (ADAMS) Accession No. ML073440549) that approved the proposed DPR, the Commission directed the staff to "make further improvements to the

decommissioning planning process by addressing remediation of residual radioactivity during the operational phase with the objective of avoiding complex decommissioning challenges that can lead to legacy sites." To assist in this process, the NRC staff held a public Webinar on July 25, 2011, during which input on a draft regulatory basis and a set of defined questions concerning a potential rulemaking was obtained from members of the public, licensees, Agreement States, non-Agreement States, and other interested persons. Additionally, interested persons were afforded an opportunity to provide written comments on the same issues (see 76 FR 42074; July 18, 2011). Based upon this input, the NRC staff revised its Draft Regulatory Basis (ADAMS Accession No. ML13109A281).

Subsequently, in SRM-SECY-12-0046—Options for Revising the Regulatory Approach to Groundwater Protection (ADAMS Accession No. ML121450704), the Commission directed the staff to continue the current regulatory approach for groundwater protection, including the recently imposed requirements contained in the DPR, and to solicit public comments on the technical basis for a proposed prompt remediation rule. The Commission also directed the staff to evaluate the pros and cons of moving forward with a proposed prompt remediation rulemaking, including the staff's initial analysis of whether the cost/benefit analysis satisfies the backfit requirements. The staff conducted an additional public meeting and Webinar on June 4, 2013 (see 78 FR 33008; June 3, 2013), and subsequently evaluated stakeholder comments. From this information, the staff identified the following three options for potential rulemaking on prompt remediation during the operational phase of facility life: (1) Proceed with rulemaking; (2) do not proceed with rulemaking; or (3) collect 2 years of information from implementation of the DPR before making a staff recommendation for potential rulemaking.

As a result of the ongoing discussions regarding the need for a prompt remediation regulation, SRM-SECY-13-0108—Staff Recommendations for Addressing Remediation of Residual Radioactivity During Operations (ADAMS Accession No. ML13354B759), instructed the staff to "collect 2 years of

additional data from the implementation of the DPR. After collection and evaluation of the data and engaging stakeholders in a public meeting focused on operational experience from implementation of the Decommissioning Planning Rule, the staff should provide to the Commission a paper with the staff's recommendation for addressing remediation of residual radioactivity at licensed facilities during the operational phase of the facility." Now that the data collection period on the implementation of the DPR has come to a close, the NRC staff is collecting supplementary input from the public and other interested stakeholders to inform the staff's recommendation to the Commission regarding the need for additional rulemaking requiring prompt remediation during operation.

## II. Specific Questions

Currently, there are no NRC regulations that require licensees to promptly remediate radiological contamination. To enhance stakeholder engagement in making a recommendation to the Commission regarding whether additional rulemaking in this area is warranted, the staff is holding a Webinar, hosting a public meeting, and requesting feedback on the following questions to facilitate discussion with, and solicit input from, interested stakeholders.

The NRC has asked many of the following questions before, and received some public input. Several commenters stated that an additional rule for prompt remediation is not necessary; and that issues can be addressed either by existing rules or by site-specific action. Others stated the proposed thresholds are not appropriate and that interim remediation is not cost effective. Those who supported an additional rule pointed to cases where there is significant contamination, and drew parallels to other regulations that require early cleanup, such as the Resource Conservation and Recovery Act. The NRC is now seeking further stakeholder input on these questions given the approximately 3 years that have passed since implementation of the DPR:

1. Given the information on site radiological contamination gained as a result of the implementation of the Decommissioning Planning Rule, should the NRC proceed with additional rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?

2. Based on the information on site contamination obtained from facilities that have entered decommissioning, should the NRC proceed with additional

rulemaking to address remediation of residual radioactivity during the operational phase? Why or why not?

3. If the NRC does implement a rule that requires prompt remediation of radioactive spills and leaks, what concentration, dose limits, or other threshold limits should trigger prompt remediation? Should the thresholds differ for soil versus groundwater contamination?

4. Should the NRC allow licensees to justify delaying remediation under certain conditions when the contaminant level exceeds the threshold limit? If yes, then what conditions should be used to justify a delayed remediation?

5. Should factors such as safety, operational impact, and cost be a basis for delaying remediation?

6. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, then what should the licensee's analysis cover? For example, what kind of dose assessment, risk-assessments, and/or cost-benefit analyses should be performed to justify delayed remediation? What other types of analyses are relevant to this process?

7. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what role should the cost of prompt remediation versus remediation at the time of decommissioning play in the analysis? What are the overall costs and benefits of prompt remediation of residual radioactivity?

8. If the NRC implements a rule that allows licensees to analyze residual radioactivity to justify delaying remediation, what standards or criteria should a licensee use to demonstrate to the NRC that a sufficient justification to delay remediation has been met?

9. Are there any other alternatives beyond those discussed in the Draft Regulatory Basis document that the NRC should have considered to address prompt remediation?

10. What other issues should the NRC staff consider in developing a technical basis for a potential rulemaking to address prompt remediation of residual radioactivity during site operation?

## III. Public Webinar

To facilitate the understanding of the public and other stakeholders of these issues and the submission of comments, the NRC staff has scheduled a public Webinar for July 11, 2016, from 1:00 p.m. to 4:00 p.m. (EDT). Webinar participants will be able to view the presentation slides prepared by the NRC and electronically submit comments

over the Internet. Participants must register to participate in the Webinar. Registration information may be found in the meeting notice (ADAMS Accession No. ML16179A220). The meeting notice can also be accessed through the NRC's public Web site under the heading for Public Meetings; see Web page <http://meetings.nrc.gov/pmns/mtg>. Those who are unable to participate via Webinar may also participate via teleconference. For details on how to participate via teleconference, please contact Marlayna Vaaler; telephone: 301-415-3178; email: [Marlayna.Vaaler@nrc.gov](mailto:Marlayna.Vaaler@nrc.gov).

## IV. Accessing Information and Submitting Comments

### A. Accessing Information

Please refer to Docket ID NRC-2011-0162 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal Rulemaking Web site*: Go to <http://www.regulations.gov> and search for Docket ID NRC-2011-0162.

- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may access publicly available documents online in the NRC Library 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 email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- *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-2011-0162 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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](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 not to 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 submissions into ADAMS.

Dated at Rockville, Maryland, this 28th day of June, 2016.

For the Nuclear Regulatory Commission,  
**Andrea L. Kock**,  
*Deputy Director, Division of  
Decommissioning, Uranium Recovery and  
Waste Programs, Office of Nuclear Material  
Safety and Safeguards.*

[FR Doc. 2016-15949 Filed 7-5-16; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

#### 19 CFR Part 149

[USCBP-2016-0040]

RIN 1651-AA98

#### Definition of Importer Security Filing Importer

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Importer Security Filing and Additional Carrier Requirements regulations were implemented in 2009 as an interim final rule to improve CBP's ability to identify high-risk shipments in order to prevent smuggling and improve cargo safety and security. These regulations require certain cargo information to be submitted to CBP via an Importer Security Filing (ISF) before the cargo is loaded on a vessel that is destined to the United States. These regulations fulfill the requirements of section 203 of the SAFE Port Act of 2006 and section 343 of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002. The ISF Importer is the party that is required to file the ISF. This notice of proposed rulemaking (NPRM) proposes to expand the definition of ISF Importer

for certain types of shipments to ensure that the party that has the best access to the required information will be the party that is responsible for filing the ISF.

**DATES:** Comments must be received on or before September 6, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Peyman Jamshidi, Program Manager, Vessel Manifest and Importer Security Filing, Office of Cargo and Conveyance Security, Office of Field Operations by email at: [PEYMAN.JAMSHIDI@cbp.dhs.gov](mailto:PEYMAN.JAMSHIDI@cbp.dhs.gov).

**ADDRESSES:** You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2016-0040.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229-1177.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of International Trade, Regulations and Rulings, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229-1177. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325-0118.

**SUPPLEMENTARY INFORMATION:**

**Background**

After the terrorist attacks on September 11, 2001, CBP amended its regulations to require vessel carriers to electronically submit certain advance cargo information, including cargo declarations, to CBP no later than 24 hours before the cargo is laden aboard a vessel at a foreign port. See 19 CFR 4.7 and 4.7a. The rule was published in the **Federal Register** (67 FR 66318) on

October 31, 2002. Its purpose was to enable CBP to identify high-risk cargo before the vessel arrived in the United States.

Section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109-347, 120 Stat. 1884 (SAFE Port Act)) directed the Secretary of Homeland Security, acting through the Commissioner of CBP, to promulgate regulations to "require the electronic transmission to the Department [of Homeland Security] of additional data elements for improved high-risk targeting, including appropriate security elements of entry data, as determined by the Secretary, to be provided as advanced information with respect to cargo destined for importation into the United States prior to loading of such cargo on vessels at foreign seaports." Pursuant to this Act, and section 343(a) of the Trade Act of 2002 (19 U.S.C. 2071 note), CBP published an NPRM in the **Federal Register** on January 2, 2008 (73 FR 90), proposing to require importers and carriers to submit additional information pertaining to maritime cargo before the cargo is loaded on a vessel that is destined to the United States. The trade gave the proposed rule the shorthand name "10 + 2", which references the number of advance data elements CBP was proposing to collect. Importers, described in the proposed rule as Importer Security Filing Importers, would generally be required to submit 10 additional data elements (the 10 of "10 + 2"). Carriers would generally be required to submit two additional data elements (the 2 of "10 + 2").

On November 25, 2008, CBP published an interim final rule and solicitation of comments in the **Federal Register** (73 FR 71730, CBP Decision 08-46). The interim final rule was effective on January 26, 2009. However, a delayed compliance period of at least 12 months was provided to allow industry sufficient time to comply with the new requirements.

The interim final rule finalized most of the provisions of the NPRM, including all the provisions relating to the carrier requirements. The only portions of the NPRM that were not finalized were the six importer data elements for which CBP provided some flexibility regarding the time and/or manner of compliance. CBP solicited public comments on the flexibilities provided. CBP also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. CBP has not yet published a final rule addressing the flexibilities and the Regulatory Assessment and Final Regulatory Flexibility Analysis.