

eligibility of certain applicants,” NEI said that the NRC “should, at a minimum, amend the regulation to make clear that it does not apply to licensees that have completed the decommissioning process and removed all spent fuel to an independent spent fuel storage installation.” NEI added that Part 50.38 could be revised to clearly state that the rule’s foreign ownership, control, or domination requirements do not apply to any nuclear power plant that is undergoing decommissioning where operations have officially ceased and the nuclear fuel has been removed from the reactor core.

State response

Also on June 13, a coalition of four northeastern states—Vermont, Massachusetts, New York, and Connecticut—submitted comments on the draft regulatory basis. Critical of the NRC’s rulemaking process, the states contend that the proposed rule fails to take into account the interests of states that are home to nuclear power plants.

In particular, the coalition asked that the NRC revisit all the comments initially made by the states in response to the NRC’s November 2015 advance notice of rulemaking and incorporate those comments into the current rulemaking. The states claim that many of their original

suggestions were not addressed at all, or were minimized and would not have been mandated by the new rule.

The states also argue that the NRC failed to evaluate significant potential benefits and costs to host communities and states. To remedy this, the states are asking the NRC to (1) require certain emergency protocols to remain in place as long as spent nuclear fuel is in a spent fuel pool; (2) keep in place current regulations limiting trust fund disbursements to decommissioning expenses only and mandate additional financial assurances—and early site characterization—to avoid potential funding shortfalls; and (3) change the current regulatory framework to provide a role for host communities and states in decommissioning decisions and decrease the 60-year time frame for decommissioning.

In addition, the states take issue with the NRC’s expansion of its backfitting rule to apply to plants that are undergoing decommissioning and claim that the National Environmental Policy Act requires that the NRC prepare an environmental impact statement to accompany the proposed rule.

Final regulatory basis

During an October 31 panel session on decommissioning rulemaking at the American Nuclear Society’s Winter Meet-

ing and Expo in Washington, D.C., Meena Khanna, branch chief of the NRC’s Division of Operating Reactor Licensing, said that the NRC staff is on schedule to deliver the proposed rule and draft regulatory guidance to the commissioners in the spring of 2018, followed by the draft final rule and guidance in the fall.

Regarding the draft regulatory basis, Khanna said that the NRC received 40 public comment submissions, which included more than 1,000 individual comments. A majority of the comments, she said, were in the areas of emergency preparedness, the current regulatory approach to decommissioning, and decommissioning trust funds. Khanna noted that in crafting the final regulatory basis, her department has been working hard to read through all of the comments.

Noting that she could not make any pre-decisional statements on the final regulatory basis, Khanna said that there will be no unpleasant surprises to either the industry or public stakeholders, adding that in the regulatory basis, the NRC is solidifying what it believes is needed in the scope of the proposed rulemaking.

During the panel session, Khanna said that the final regulatory basis was to be published in the *FR* by mid-November. As of this writing, however, the final regulatory basis had not been published. **IN**

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