



U.S. NRC

UNITED STATES NUCLEAR REGULATORY COMMISSION

Protecting People and the Environment

Dodd-Frank Act and the Alternatives to the Use of Credit Ratings Proposed Rule

10 CFR Part 30

October 30, 2019

Agenda

- ❑ **Opening Remarks**
 - ❑ **Purpose of Public Meeting**
 - ❑ **Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)**
 - ❑ **NRC Decommissioning Funding Assurance Requirements and the Use of Credit Ratings**
 - ❑ **NRC Regulations Impacted by Dodd-Frank**
 - ❑ **Staff Analysis**
 - ❑ **Staff Recommendations to Address Dodd-Frank Requirements**
 - ❑ **Overview of NRC Rulemaking Effort on Alternatives to the Use of Credit Ratings**
 - ❑ **Discussion Questions**
 - ❑ **Closing Remarks**
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Opening Remarks

Purpose of Public Meeting

- ❑ Provide an overview of:
 - ❑ The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010
 - ❑ The NRC staff's analysis of its impact on NRC regulations
 - ❑ The NRC's rulemaking effort on Alternatives to the Use of Credit Ratings
- ❑ Provide an opportunity for public input

Dodd-Frank Wall Street Reform and Consumer Protection Act – *July 21, 2010*

“... promote the financial stability of the United States by improving accountability and transparency in the financial system, to end “too big to fail,” to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices...”

- ❑ SEC. 939. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS
 - SEC. 939A. REVIEW OF RELIANCE ON RATINGS

- ❑ Each Federal Agency shall:
 1. Review any regulation that requires use of credit-worthiness and references regarding credit ratings
 2. Modify Regulations – remove reference to or requirement of reliance on credit ratings and substitute a standard of credit-worthiness that “each respective agency shall determine as appropriate for such regulations”
 3. Transmit a report to Congress containing a description of modifications made to its regulations

NRC Decommissioning Funding Assurance Requirements and the Use of Credit Ratings

- NRC decommissioning funding assurance regulations:
 - Byproduct Material Licensees - 10 CFR 30.35(f)(2);
 - Source Material Licensees - 10 CFR 40.36(e)(2);
 - Production and Utilization Licensees -10 CFR 50.75(e)(1)(iii);
 - Special Nuclear Material Licensees - 10 CFR 70.25(f)(2); and
 - Spent Fuel, HLW and GTCC Licensees - 10 CFR 72.30(e)(2).
 - Surety Instruments
 - Prepayment
 - External Sinking Fund
 - Other Surety Methods
 - Surety bond
 - Letter of credit
 - Insurance
 - **Self Guarantee (SG) and Parent Company Guarantee (PCG)**
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NRC Regulations Impacted by Dodd-Frank

Financial Tests for Company use of PCGs and SGs (found in 10 CFR Part 30)

- Appendix A – Parent Company Guarantee
 - II.A.1. – no bond rating; 4 financial metrics; **or**
 - II.A.2. – bond rating and 3 financial metrics

- Appendix C – Self Guarantee (with bonds)
 - II.A. – bond rating and 2 financial metrics (and one class of equity security registered with the SEC)

- Appendix D – Self Guarantee (no bonds)
 - II.A. – no bond rating; 3 financial metrics

NRC Regulations Impacted by Dodd-Frank (cont.)

Self Guarantee for Colleges, Universities, and Hospitals

- Appendix E – Self Guarantee (colleges/universities)
 - II.A.(1) – bond rating only (for those that issue bonds)
 - II.A.(2) – minimum endowment funding requirement (for those that do not issue bonds)

- Appendix E – Self Guarantee (hospitals)
 - II.B.(1) – bond rating only (for those that issue bonds)
 - II.B.(2) – 4 financial metrics

Staff Analysis

In each instance in which a licensee chooses to use a Part 30 Appendix A, C, or E guarantee mechanism requiring a bond rating, staff believes:

Alternative qualification criteria currently exist within the NRC regulations that:

- 1) Meet the objective of the NRC's Decommissioning Funding Assurance requirements
- 2) Adequately qualify the licensee to ensure it meets financial qualifications necessary for use of such mechanism

Staff Recommendations to Address Dodd-Frank Requirements

Appendix A – Parent Company Guarantee

- Strike Appendix A, II.A.2 in whole; rely on current Appendix A, II.A.1. criteria

Appendix C – Self Guarantee

- Strike Appendix C in its entirety; rely instead on current Appendix D criteria

Appendix E – Self Guarantees for Colleges and Universities

- Strike Appendix E, II.A.(1) in its entirety; rely instead on current Appendix E, II.A.(2) criteria

Appendix E – Self Guarantees for Hospitals

- Strike Appendix E, II.B.(1) in its entirety; rely instead on current Appendix E, II.B.(2) criteria

Overview of NRC Rulemaking Effort on Alternatives to the Use of Credit Ratings

- ❑ NRC's initial approach was to develop a Direct Final Rule
- ❑ July 2019 - Direct Final Rule was submitted to the Commission; became publicly available at that time
 - ❑ NRC became aware of potential stakeholder feedback
- ❑ September 2019 - Commission approved staff's request to withdraw Direct Final Rule
- ❑ Staff in the process of developing a Proposed Rule with stakeholder input

Discussion Questions

- 1) Are there licensees that meet the current financial tests for a guarantee that would no longer be able to meet the financial tests as proposed by this rulemaking?
- 2) Would such licensees be able to meet the decommissioning funding assurance requirements using one or more other funding methods allowed for by regulation (prepayment, external sinking fund, surety bond, letter of credit, and insurance)? If so, what would be the cost of that method(s)?
- 3) Should the NRC consider alternative financial test criteria to assess an applicant's or licensee's use of a guarantee to provide reasonable assurance of funds for decommissioning? If so, please provide details.

Closing Remarks

How Did We Do?

Email feedback to:
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