

Nuclear Regulatory Commission

10 CFR Part 54

Docket No. PRM-54-6

NRC-2010-0291

Earth Day Commitment/Friends of the Coast, Beyond Nuclear, Seacoast Anti-Pollution League, C-10 Research and Education Foundation, Pilgrim Watch, and New England Coalition; Notice of 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 August 18, 2010, submitted by Raymond Shadis and Mary Lampert on Behalf of Earth Day Commitment/Friends of the Coast, Beyond Nuclear, Seacoast Anti-Pollution League, C-10 Research and Education Foundation, Pilgrim Watch, and New England Coalition, for docketing as a petition for rulemaking under 10 CFR 2.802. In another letter dated August 18, 2010, Robin Read, State Representative for New Hampshire, requested to be included as a petitioner for this petition for rulemaking. The petition was docketed by the NRC and has been assigned PRM- 54-6. The petitioners request that the NRC amend its regulations to permit a license renewal application no sooner than 10 years before the expiration of the current license and to apply the rule to all license renewal applications that have not yet been issued an NRC staff Final Safety Evaluation Report (FSER). The petitioners also requested a freeze on all new relicensing activity until the rulemaking is decided.

DATES: Submit comments by **(insert date 75 days from date of publication)**.

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-2010-0291 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, see “Submitting Comments and Accessing Information” in the SUPPLEMENTARY INFORMATION section of this document. 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-2010-0291. Address questions about NRC dockets to Carol Gallagher, telephone 301- 492-3668; e-mail 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. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1966.

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

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

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of

Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001,
Telephone 301-492-3667, toll free 800-368-5642, Cindy.Bladey@nrc.gov.

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site <http://www.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 can access publicly available documents related to this document, including the following documents, using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O-1F21, 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 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, or 301-415-4737, or by e-mail to

PDR.Resource@nrc.gov. The ADAMS accession number for the petition is ML1023803790.

Federal Rulemaking Web Site: Public comments and supporting materials related to this action, including the petition for rulemaking, can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2010-0291.

Petitioners

The petitioners all have a residence or interests within 50 miles of the NextEra Seabrook Nuclear Generating Station, which has applied for license renewal (Docket 050-00443) at 10 CFR 54.17(c), 20 years in advance of the end of its current license. The petitioning organizations all have members residing within 50 miles of NextEra Seabrook Nuclear Generating Station. The petitioners who are elected-officials represent constituents who reside within 50 miles of NextEra Seabrook Nuclear Generating Station.

The petitioners are as follows:

Friends of the Coast has been incorporated as a non-profit, for the public good, corporation in the State of Maine since 1995. Friends of the Coast has members who live within fifty miles of the NextEra Seabrook Nuclear Generating Station, which has applied for license renewal 20 years in advance of the expiration of its current license under 10 CFR 54.17(c).

Beyond Nuclear is incorporated as a not for profit organization based in Takoma Park, MD, which aims to educate and activate the public about the connections between nuclear power and nuclear weapons. Beyond Nuclear has members who live and work within fifty miles of the NextEra Seabrook Nuclear

Generating Station which has applied for a license renewal 20 years in advance of the expiration of its current license under 10 CFR 55.17(c).

New England Coalition has been incorporated as a not for profit corporation in the State of Vermont since 1971. It has intervened in NRC licensing and license amendment proceedings at Vermont Yankee, Yankee Rowe, and Seabrook.

Seacoast Anti-Pollution League (SAPL). SAPL has worked since 1969 to protect the health, safety and general well-being of the New Hampshire Seacoast community from nuclear pollution and other threats to the environment. Most of SAPL's members live and work within fifty miles of the NextEra Seabrook Nuclear Generating Station.

New England Coalition has members who live within fifty miles of the NextEra Seabrook Nuclear Generating Station, which has applied for license renewal 20 years in advance of the expiration of its current license under 10 CFR 54.17(c).

Pilgrim Watch is a public interest organization located in Duxbury, MA. Pilgrim Watch is an intervener in the Entergy Pilgrim Nuclear Power Station license renewal application. Pilgrim Watch has members who reside within 50 miles of Seabrook Station.

C-10 Research & Education Foundation is located in Newburyport, MA, and has members who reside within 50 miles of Seabrook Generating Station. C-10 maintains an environmental monitoring system in the vicinity of Seabrook Generating Station and provides public education on environmental and energy matters.

Robin Read is a State Representative for the State of New Hampshire.

Background

Grounds for Action Requested

The petitioners state that the NRC's current regulation (10 CFR 54.17), is unduly non-conservative with respect to its effect on accuracy and completeness of the application, public participation, changing environmental consideration, aging analysis and management, regulatory follow-through, National Environmental Policy Act compliance, changing regulation, and more. The petitioners state that they seek to restore some margin of conservation by halving the lead time on license renewal applications from 20 to 10 years.

The petitioners state that a rulemaking for 10 CFR 54.17(c) was conducted more than 15 years ago. The rulemaking took place before sweeping changes in NRC oversight and before economic and regulatory shifts that enabled unprecedented changes in ownership and an industry-wide shift of focus from anticipated decommissioning to uprate and license renewal. The petitioners state that the rulemaking cannot have contemplated how these changes have affected the dynamics of license renewal aging analysis and aging management planning over a period of 40 years (20 years of current license, plus 20 years of extended period of operation). The petitioners claim that because the rule does not take into consideration its present context, the rule is antiquated and obsolete and must be reconsidered.

The petitioners state that of 32 license renewals granted, none were filed 20 years in advance of license expiration and only among 14 license renewal applications under consideration and filed in the last few years is an exception to be found, Seabrook Station-Unit 1. The petitioners state that NextEra Seabrook has provided no credible justification for its very early filing. The petitioners state that the great majority of

licensees have filed applications for license renewal within 10 years of original license expiration without any apparent negative consequences. The petitioners believe that this experience is a clear demonstration that more than 10 years lead time is unnecessary and of little benefit. The petitioners state that filing, reviewing, and granting license renewal applications more than 10 years in advance of the original license expiration can have negative consequences.

The petitioners state that the rulemaking for 10 CFR 54.17(c) proceeded without sufficient consideration of the impact of 20 year advance consideration of license renewal on the hearing rights of affected persons. By renewing the license of a nuclear power station 20 years in advance of the licensed extended period of operation NRC removes to the distance of a full generation, the opportunity for an adjudicatory hearing, a coming generation of affected residents, visitors, and commercial interests as yet unable or unprepared to speak for themselves. The petitioners state that 10 CFR 54.17(c) introduces the question of whether the action proposed is obtaining the license or entering into an extended period of operation 20 years hence. The petitioners believe that the safety and environmental ramifications (the physical impact on affected persons) begin 20 years away. The petitioners state that 10 CFR 54.17(c) allows for effective segmentation of the proposed action rendering the permission so far removed in time from the implementation as to provide an intellectual disconnect or, in effect, void legal notice.

The petitioners state that 10 CFR 54.17(c) allows licensees and NRC reviewing staff to press to untenable lengths the unproven ability to predict the aging and deterioration of systems, structures, and components (SSCs). The petitioners state that 10 CFR 54.17(c) promotes failure of the license renewal application to encompass the potential effects of an environment that is arguably changing at an unprecedented rate. The

petitioners state that active proposals for more than 3000 megawatts of wind power are currently on the books in New England, with potential for 12,000 more. The petitioners state that it cannot be credibly projected over 20 years what wind power will then be available, in part because wind power projects are seldom, if ever, planned 20 years in advance.

The petitioners state that filing for license renewal at mid-term of the current license finds the licensee at a place in SSC service life where in industry experience, few failures are observed and, generally, those that are observed are episodic or anomalous in nature and cannot be readily plotted as a trend for prediction purposes. The petitioners state that the time of an elevated rate of failures due to design, manufacturing, and construction defects has passed and is largely irrelevant to aging management in the proposed extended period of operation. The petitioners state that the anticipated end-of-design life and aging issues have barely, if at all, begun to emerge, so little or no plant-specific information on how a given plant will age is available to be trended, provide lessons, or otherwise illuminate the path forward. It is generally observed that for many SCCs this information flow rates increase rapidly in the fourth quarter and toward the end of a license. The petitioners state that this SSC reliability progression is well-known and often illustrated in the so-called "Bath Tub Curve". Additionally, corrosion risk is a function of time. The petitioners state that the Beaver Valley NPP containment issue provides a powerful example of operating experience emerging at a late date in a way that affects the license renewal. VT Yankee also provides a series of later life structural failures as additional examples. The petitioners state that it is appropriate, from a regulatory audit standpoint, to wait until applicable failure rate and observed aging phenomena data is in hand, before attempting time-limited aging analysis or aging management planning; less than 10; not less than 20 years in advance of operating license expiration.

The petitioners state that the current rule exacerbates NRC staff and licensee difficulty in following license renewal commitments. The petitioners state that license renewal applications are often approved with the proviso that certain commitments be made and fulfilled; generally before the period of extended operation begins. These commitments often include inspections, tests, analyses, and development of programs vital to safety and environmental protection. The petitioners state that regulatory experience shows NRC staff turnover, changes in oversight, licensee staff changes, and ownership (licensee) changes, greater in a 20 year period than a 10 year period, will at once complicate and place increased emphasis on proper handoff of unfulfilled licensee commitments.

The petitioners state that 20 years from application to onset of extended operation will, based on regulatory history, certainly see an inordinate amount of applicable regulatory change, with lack of compliance likely to be grandfathered in. The petitioners state that current issues under consideration for treatment in the license renewal process include aging management for underground, buried, or inaccessible pipes that carry radionuclides, and aging management for safety-related low voltage cables that are below-grade and not qualified for a wet environment.

The petitioners state that, in its current form, the regulation conflicts with, circumvents, and otherwise frustrates the letter and spirit of the National Environmental Policy Act (NEPA). The petitioners state it further conflicts with, circumvents, and otherwise frustrates the object and goals of NEPA. The petitioners state that the NEPA provides at Section 1500.2, that the Federal agencies, "shall to the fullest extent possible: (e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment." The petitioners state that the Act provides at Section

1500.1(b) that “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.”

The Petition

The petitioners request that the NRC amend its regulations to change the time before expiration of the operating license or combined license currently in effect in which a licensee may apply for a renewed license from 20 to 10 years. The petitioners request that the NRC amend 10 CFR 54.17(c) to read as follows:

An application for a renewed license may not be submitted to the Commission earlier than 20 years before the expiration of the operating license or combined license currently in effect.

An application for a renewed license may not be submitted to the Commission earlier than 10 years before the expiration of the operating license or combined license currently in effect.

Petitioner’s Request to Suspend all License Renewal Review

Pending Disposition of the Petition for Rulemaking

The petitioners request that the Commission suspend all license renewal review pending disposition of this petition for rulemaking. The petitioners state that given the lead-in time on the application(s) and the fact that no additional work would be required of the licensee, no significant additional burden would accrue to the applicant. The petitioners state that, in as much as several petitioners intend to file requests for a hearing and petitions for leave to intervene in the matter of Seabrook license renewal,

this suspension would preserve the order of the application review process and contribute to judicial efficiency and economy. The petitioners state that further suspension of review activities now would avoid duplication of effort should the Commission issue the requested rule change.

The petitioners state that although they are not parties to a proceeding in this matter and no proceeding has yet been convened, the petitioners urge the Commission to find that the present situation is analogous to that described in 10 CFR 2.802 (d) and to exercise its discretion for the benefit of the NRC and all parties by suspending review of all license renewal applications submitted more than 10 years in advance of current license expiration until resolution of this petition.

The NRC has determined that this request is not part of the rulemaking process. The NRC will address in a separate action the petitioners' request to freeze all new relicensing activity pending disposition of the PRM.

Conclusion

For the reasons stated previously the petitioners request that NRC revise its regulations at 10 CFR 54.17 to permit license renewal application no sooner than 10 years before the expiration of current license and to apply the rule to all license renewal applications that have not yet been issued an NRC staff FSER.

Dated at Rockville, Maryland, this 21st day of September 2010.

For the Nuclear Regulatory Commission.

/RA/

Annette L. Vietti-Cook,
Secretary of the Commission.