

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

STATE OF NEW JERSEY, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES NUCLEAR )  
 REGULATORY COMMISSION and )  
 the UNITED STATES OF AMERICA, )  
 )  
 Respondents. )

No. 11-3228

**PETITION FOR REVIEW**

The Nature of the Proceedings for Which Review is Sought

Pursuant to Fed. R. App. P. 15, 42 U.S.C. 2239, 28 U.S.C. 2344, and 5 U.S.C. 702, the State of New Jersey hereby petitions the Court for review of the final rule of the United States Nuclear Regulatory Commission ("NRC") entitled "Decommissioning Planning" ("Decommissioning Planning Rule"). The Decommissioning Planning Rule was published at 76 Fed. Reg. 35512 (June 17, 2011) (attached hereto), and is effective on December 17, 2012. This filing is within the Hobbs Act's 60-day statute of limitations and is timely. 28 U.S.C. § 2344.

The Facts on Which Venue is Based

28 U.S.C. 2343 establishes venue in the judicial circuit in which the petitioner resides. Petitioner State of New Jersey is

in the Third Judicial Circuit. The NRC's 10 C.F.R. § 20.1403(c) (1) applies throughout the United States.

The Grounds on Which Relief is Sought

Petitioner State of New Jersey requests that this Court hold unlawful and set aside the Decommissioning Planning Rule as arbitrary and capricious and otherwise contrary to law. The State of New Jersey submitted timely comments on the rule dated April 4, 2008.

The Decommissioning Planning Rule conflicts with the Atomic Energy Act, 42 U.S.C. § 2011 et seq., the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., and the Administrative Procedure Act, 5 U.S.C. § 501 et seq., is arbitrary and capricious and lacks a reasoned basis in numerous respects. Petitioner State of New Jersey reserves the right to also raise issues raised by all the parties who commented on the rule.

Relief Sought

Petitioner State of New Jersey requests that this Court set aside the Decommissioning Planning Rule as arbitrary and capricious and otherwise contrary to law.

Respectfully submitted,

FOR THE STATE OF NEW JERSEY

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