

NRC Response to Public Comments for PRM-50-117 [Docket ID NRC-2019-0063]

October 28, 2020

This document presents the U.S. Nuclear Regulatory Commission's (NRC) responses to comments received on Petition for Rulemaking (PRM)-50-117. The notice of receipt and request for comment was issued in the *Federal Register* (84 FR 36036) on July 26, 2019.

Comments on the petition for rulemaking are available electronically at the NRC's electronic Reading Room at <https://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. In addition, the public may view and download these comments electronically through the Federal e-Rulemaking Portal <https://www.regulations.gov>, Docket ID NRC-2019-0063.

The NRC received comments from the following individuals or groups:

Comment Number	ADAMS Accession Number	Commenter	Affiliation	Supported or Opposed the Petition
1	ML19211A998	David LeClear	Individual	Supported
2	ML19211B061	Alan Medsker	Individual	Supported
3	ML19211B069	William Kutcher	Individual	Supported
4	ML19214A057	Carl Wurtz	Individual	Supported
5	ML19219A226	Amanda Fogarty	Individual	Supported
6	ML19226A080	Evan Schultheis	Individual	Supported
7	ML19226A081	John Molitoris	Individual	Supported
8	ML19226A084	Ron Gaston	Entergy	Supported
9	ML19226A140	Steven Curtis	Individual	Supported
10	ML19232A242	George Erickson	Individual	Supported
11	ML19232A270	Philip Carlson	Individual	Supported
12	ML19266A609	Eric Brundick	Individual	Supported
13	ML19266A610	Mike Cruger	Individual	Supported
14	ML19266A611	Dawn Wallander	Individual	Supported
15	ML19266A612	Helen Duquette	Individual	Supported
16	ML19266A613	Josh Bolduc	Individual	Supported
17	ML19267A170	Gene Nelson	Californians for Green Nuclear Power	Supported
18	ML19267A171	Mark Miller	Individual	Supported
19	ML19267A172	Steven Curtis	Individual	Supported
20	ML19267A173	Ray Sundby	Individual	Supported
21	ML19267A174	Rod Coenen	Individual	Supported
22	ML19267A175	Meredith Angwin	Individual	Supported
23	ML19267A176	Alexander Cannara	Individual	Supported
24	ML19269E223	Anonymous	Individual	Supported
25	ML19282B357	Rudy Stefenel	Individual	Supported
26	ML19282B358	James Hopf	Individual	Supported

Comment Number	ADAMS Accession Number	Commenter	Affiliation	Supported or Opposed the Petition
27	ML19282B350	Eleanor Etter	Individual	Opposed
28	ML19282B352	Timothy Crook	Individual	Supported
29	ML19282B353	Ross Nizlek	Individual	Supported
30	ML19282B354	Shane Day	Individual	Supported
31	ML19282B356	Jonathan Appelbaum	Individual	Opposed
32	ML19283B644	Mary Rynski	Individual	Supported
33	ML19283B645	Anonymous	Individual	Opposed

In summary, the NRC received 33 comment submissions containing 88 comments. The NRC assigned each comment submission a comment submission number as detailed in the table above and labeled each comment by the comment submission number, followed by a designated letter (A, B, etc.) if that comment submission contained multiple unique comments. As examples, Comment 23A refers to the first comment in Comment Submission 23, whereas Comment 32 is the sole comment from Comment Submission 32. At the start of each comment bin, the NRC identifies the specific public comments contained in each bin by comment number and letter.

The NRC binned comments according to the following topics:

- (1) General Support for the Petition
- (2) General Opposition to the Petition
- (3) Clean Energy, Environmental Consideration, Climate Change
- (4) Decommissioning Funding Requirements
- (5) Cost-Effectiveness of Nuclear Power
- (6) No Path for Returning Plants to Operation
- (7) Definition of Significant, Operational History, Verification of Reactor Conditions
- (8) Existing Licensing Basis, Standards, and Regulations Are Sufficient
- (9) Guidance Should Be Provided
- (10) Plant Closures Are Economic
- (11) Plants Should Be Required to Comply with Current Standards
- (12) Should Be Evaluated Case-By-Case
- (13) Inspection Before Resuming Operations
- (14) Petition Should Include 10 CFR Part 50
- (15) Use a Risk-Informed Approach to Relicensing
- (16) Benefit to National Security
- (17) Allow Nuclear Energy to Compete
- (18) Solar and Wind Are Better
- (19) Nuclear Fusion Technology

Comment Bin 1—General Support for the Petition (1C, 4A, 6A, 8A, 9C, 12B, 16C, 18A, 19D, 22D, 24A, 26D, 28E, 29A, 30)

Comment Bin 1 Summary: Many comments expressed general support for the petition.

NRC Response to Comment Bin 1: The NRC has considered the petition and public comments as described in the denial *Federal Register* notice (FRN) and this document. For the reasons stated in the denial FRN, the NRC is denying the petition.

Comment Bin 2—General Opposition to the Petition (27A, 31A)

Comment Bin 2 Summary: Two comments expressed general opposition to the petition.

NRC Response to Comment Bin 2: The NRC has considered the petition and public comments as described in the denial FRN and this document. For the reasons stated in the denial FRN, the NRC is denying the petition.

Comment Bin 3—Clean Energy, Environmental Consideration, Climate Change (1A, 3B, 4D, 5B, 9B, 10, 11B, 12A, 13B, 15, 16B, 17, 18C, 19A, 20B, 21, 22B, 23B, 24B, 25, 26E, 28D, 29D)

Comment Bin 3 Summary: Many comments stated that nuclear power is a clean or sustainable energy source, with low or zero carbon dioxide and other greenhouse gas emissions relative to other power generation sources such as fossil fuels, which include natural gas and coal. Thus, the NRC should allow retired nuclear power plants to resume operation.

NRC Response to Comment Bin 3: The NRC considers this comment to concern issues outside of its regulatory authority. The NRC does not regulate carbon dioxide emissions or promote clean energy, and its mission is focused on the safety and security of civilian uses of nuclear technology.

Comment Bin 4—Decommissioning Funding Requirements (8D)

Comment Bin 4 Summary: This comment stated that the rulemaking should consider how decommissioning funding would be restored to meet the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) 50.33(k) or 10 CFR 50.75, “Reporting and recordkeeping for decommissioning planning,” or both.

NRC Response to Comment Bin 4: The NRC agrees that it would likely have considered decommissioning funding adequacy if it had decided to pursue rulemaking on this topic. In addition, the NRC would consider decommissioning funding adequacy if it were to receive a request from a decommissioning licensee to resume operations under the existing regulatory framework.

Comment Bin 5—Cost-Effectiveness of Nuclear Power (2, 3C, 4C, 9A, 11C, 19B, 26B, 26F, 29C)

Comment Bin 5 Summary: Several comments stated that it would be more cost-effective for licensees and ratepayers to restart a decommissioning nuclear power plant compared to building a new nuclear power plant, or that a minimal cost option to return a decommissioning nuclear power plant to service would avoid losing the sunk cost of these plants.

NRC Response to Comment Bin 5: The NRC considers this comment to concern issues outside of its regulatory authority. The NRC is a public health and safety regulator; therefore, its regulatory decisions are not influenced by the cost for a licensee to construct or operate a power plant, nor does the NRC regulate cost impacts to ratepayers. If the NRC had decided to pursue rulemaking, costs and benefits would have been considered in the regulatory analysis

Comment Bin 6—No Path for Returning Plants to Operation (1B, 5A, 20A, 22C, 28A, 32)

Comment Bin 6 Summary: Several comments stated that there is currently no practical process for returning decommissioning power plants to operations.

NRC Response to Comment Bin 6: The NRC disagrees with this comment. The NRC may consider requests from licensees to resume operations under the existing regulatory framework on a case-by-case basis, as discussed in the denial FRN under “Current Regulatory Processes” in Section IV, “Reasons for Denial.”

Comment Bin 7—Definition of Significant, Operational History, Verification of Reactor Conditions (31B, 31C, 31D)

Comment Bin 7 Summary: The NRC received the following comments on the statement in the petition that “the facility will have to successfully pass a safety inspection appropriate to the degree of repairs or reconstruction that had been performed...but it may range all the way up to the typical testing required for a new build, if significant reconstruction or repairs had to be performed.”

The commenter stated the following:

[T]he difficulty I have [i]n accepting this request is that the word significant is up to the commission to Define. It is a very ambiguous word. I am reminded of the Clean Air Act use of the word significant when referencing significant changes to a power plant may result in the requirement to update the emissions controls. This has been litigated repeatedly when power plants were significantly uprated for an energy output and modified for boiler emissions.

I do not believe that the safety of a nuclear power plant should rely on interpretations of the word significant. Nor should we allow past operation alone to influence the decision to allow that plant to restart. Frankly there is no way to know what changes have occurred in the decommissioned plant.

NRC Response to Comment Bin 7: The NRC understands these comments to mean that safety decisions should not be based on ambiguous terminology. The NRC agrees with that concept. The safety of nuclear power plants is determined based on licensee compliance with NRC regulations and NRC reviews. NRC safety reviews look at a number of factors, that include operational history. As part of a safety review, the NRC would request relevant information, as needed, about the state of reactor structures, systems, and components.

Comment Bin 8—Existing Licensing Basis, Standards, and Regulations Are Sufficient (3A, 6C, 8C, 19C, 23A, 26C)

Comment Bin 8 Summary: Several comments stated that the “licensing basis in place at the time of permanent cessation of operations,” “licensing regulations that were relevant at the time of the plants last operations,” “safety standards in place at the time of the facility’s suspension of operations,” “original safety envelope,” etc., are sufficient for safety to reauthorize operation of a retired nuclear power plant; some comments also stated that the NRC could require certain upgrades for the plant, as needed.

NRC Response to Comment Bin 8: If the NRC were to receive a request from a decommissioning licensee to resume operations, it would review the sufficiency of the existing licensing basis and need for upgrades on a case-by-case basis. As new safety and security information arises, the NRC updates its requirements as appropriate. The NRC would determine on a case-by-case basis the applicability of any such updated requirements for a retired nuclear power plant that requests reauthorization to operate.

Comment Bin 9—Guidance Should Be Provided (8E)

Comment Bin 9 Summary: “Regulatory guidance should be developed that would provide an acceptable method for complying with these new criteria.”

NRC Response to Comment Bin 9: Generally, when issuing new regulatory requirements, the NRC develops corresponding guidance for licensees to facilitate compliance. Since the NRC has determined not to initiate rulemaking on this topic for the reasons specified in the denial FRN, it will not develop corresponding guidance. Similarly, the NRC does not find it necessary to develop standalone guidance separate from rulemaking.

Comment Bin 10—Plant Closures Are Economic (4B, 11A, 13A, 18B, 22A, 26A, 28C, 29B)

Comment Bin 10 Summary: Several comments stated that plant closures are due to market conditions, not safety reasons.

NRC Response to Comment Bin 10: The NRC recognizes that market conditions have been a factor in some licensees’ decisions to permanently cease operations of some nuclear plants. The NRC considers these comments to concern issues outside of its regulatory authority. The NRC’s mission is to protect public health and safety, whereas decisions to permanently cease nuclear power plant operations for reasons solely related to market conditions are determinations for the licensee to make.

Comment Bin 11—Plants Should Be Required to Comply with Current Standards (4E, 27B, 31E, 33A)

Comment Bin 11 Summary: NRC should require decommissioning plants to meet the most recent and stringent safety standards before the NRC authorizes such plants to resume operations.

NRC Response to Comment Bin 11: If the NRC were to receive a request from a decommissioning licensee to resume operations, the NRC would review the request on a case-by-case basis consistent with applicable regulatory requirements. This review would include consideration of relevant safety standards to assure adequate protection of public health and safety.

Comment Bin 12—Should Be Evaluated Case-By-Case (6B)

Comment Bin 12 Summary: “It is therefore worth pointing out that the assessment of retired facilities on a case-by-case basis will be vital for returning them to commercial operation.”

NRC Response Comment Bin 12: Since the NRC is denying this PRM, the NRC agrees that it will assess any decommissioning power plant that applies for reauthorization of operations on a case-by-case basis.

Comment Bin 13—Inspection Before Resuming Operations (7, 14, 16A)

Comment Bin 13 Summary: Several comments stated that in order for a decommissioning plant to restart, the NRC should require the plant to pass an inspection to ensure the state of the reactor.

NRC Response Comment Bin 13: The NRC interprets these comments to mean that the NRC should perform a safety inspection of a power plant before allowing resumption of operations. The NRC agrees with this comment. Although there is not a specific inspection manual chapter (IMC) on inspecting a decommissioning power plant before authorizing that plant to resume operations, the NRC has IMCs dealing with safety inspections before operating reactor restart, including IMC 0350, “Oversight of Reactor Facilities in a Shutdown Condition Due to Significant Performance and/or Operational Concerns,” and IMC 0375, “Implementation of the Reactor Oversight Process at Reactor Facilities in an Extended Shutdown Condition for Reasons Other than Performance.”

Comment Bin 14—Petition Should Include 10 CFR Part 50 (8B)

Comment Bin 14 Summary: This comment states that the petition for rulemaking should also include 10 CFR part 50, “Domestic Licensing of Production and Utilization Facilities,” specifically 10 CFR 50.82, “Termination of license,” in addition to 10 CFR part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants.”

NRC Response to Comment Bin 14: The NRC agrees with this comment. In evaluating this petition, the NRC recognized that the specific power plants the petition referred to (Kewaunee Power Station, San Onofre Nuclear Generating Station, and Vermont Yankee Nuclear Power Station) are licensed under 10 CFR part 50, and that the concepts addressed in the petition for rulemaking would also encompass 10 CFR part 50. Accordingly, the NRC docketed the petition as PRM-50-117, indicating that 10 CFR part 50 was one of the affected CFR parts.

Comment Bin 15—Use a Risk-Informed Approach to Relicensing (28B)

Comment Bin 15 Summary: “I would suggest a risk-informed approach to the relicensing, which examines potential degradation and required improvements for relicensing in a practical, SAFETY-focused manner.”

NRC Response to Comment Bin 15: The NRC agrees with this comment. If the NRC were to receive a request from a licensee to resume operations at a decommissioning power plant, the NRC would take a risk-informed, safety-focused approach to evaluating that request on a case-by-case basis.

Comment Bin 16—Benefit to National Security (6D)

Comment Bin 16 Summary: “Overall, the potential benefit to national security, climate security, and the strength of the industry could be substantial if viable facilities were allowed to return operation, or if facilities that never began operation were allowed to do so.”

NRC Response to Comment Bin 16: The NRC considers this comment to concern issues outside of its regulatory authority. The NRC does not regulate national security issues having to do with energy independence, climate security, or promotion of nuclear power.

Comment Bin 17—Allow Nuclear Energy to Compete (19E)

Comment Bin 17 Summary: “[A]llow clean nuclear energy to fairly compete in the open market.”

NRC Response to Comment Bin 17: The NRC considers this comment to concern issues outside of its regulatory authority. The NRC does not regulate the electricity markets or economic viability of nuclear power and does not promote the nuclear industry.

Comment Bin 18—Solar and Wind Are Better (27C)

Comment Bin 18 Summary: “Solar and wind are better alternative power source alternatives. Spend your money there.”

NRC Response to Comment Bin 18: The NRC considers this comment to concern issues outside of its regulatory authority. The NRC does not regulate solar and wind power, nor does it promote or determine the types of power generation produced in any given region of the United States.

Comment Bin 19—Nuclear Fusion Technology (33B)

Comment Bin 19 Summary: “[D]o not reopen any nuclear reactors until nuclear fusion technology can be safely used instead of fission.”

NRC Response to Comment Bin 19: The NRC does not promote the use of any nuclear technology or determine the type of technology an applicant or licensee will use or seek to use.