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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

MARY FRANCES REPKO, DEMOCRATIC STAFF DIRECTOR
ADAM TOMLINSON, REPUBLICAN STAFF DIRECTOR

February 7, 2022

The Honorable Christopher T. Hanson
Chairman
US Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Hanson,

We write again regarding the Nuclear Regulatory Commission's (NRC) schedule to establish a technology-inclusive regulatory framework for advanced nuclear technologies. Since the enactment of the Nuclear Energy Innovation and Modernization Act (NEIMA) in January 2019, we have closely followed the NRC's efforts to develop that regulatory framework, known as the "Part 53" rulemaking, to ensure it adheres to the schedule and intent of the law.¹

We appreciate the Commission's responsiveness to our interest, as well as your oversight of the NRC staff's work relating to this rulemaking. However, we want to express some concerns about the potential impacts of a revised schedule.

In response to our request, the Commission initially set a plan to complete Part 53 on an accelerated timeline—ahead of the NEIMA-mandated December 31, 2027 deadline. The initial Commission-approved timeline would have provided for a completion of the rule by October 2024. This initial timeline reflected our sense of urgency to finalize Part 53. You have expressed a similar sense of urgency.²

On November 23, 2021, the Commission approved the NRC staff's request to delay the established schedule by nine months to May 2025.³ NRC staff requested this delay in part because "more time would support further engagement with stakeholders" and it would allow staff to go through further iterations of draft language for the proposed rule.⁴ The Commission justified its approval of this request in part to "provide additional time for the staff to continue efforts to reach alignment with external stakeholders on the scope of the rulemaking and further

¹ Letter from Senators Barrasso, Whitehouse, Crapo, and Booker to NRC Chairman Kristine Svinicki (May 14, 2020); Letter from Senators Capito, Barrasso, Whitehouse, Crapo, and Booker to NRC Chairman Christopher Hanson (May 25, 2021).

² See Letter from NRC Chairman Christopher Hanson to Senator Capito (July 7, 2021); *Oversight of the Nuclear Regulatory Commission: Hearing Before the Comm. on Env'm. & Public Works*, 117th Cong. (Dec. 1, 2021), <https://www.epw.senate.gov/public/index.cfm/2021/12/business-meeting-oversight-of-the-nuclear-regulatory-commission> (remarks from NRC Chairman Christopher Hanson).

³ NRC, Part 53—Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors, <https://www.nrc.gov/reactors/new-reactors/advanced/rulemaking-and-guidance/part-53.html>.

⁴ Id.

develop rule language”⁵ In response to a question about the schedule change at a recent oversight hearing before the Senate Committee on Environment and Public Works, you stated, “I am hoping [the delayed schedule] is not a day-for-day slip, to tell you the truth. I am hoping that the extra time that we are taking up at this stage in the process that we can recover at least some of that in the final rule stage, because we will have a more fully developed product.”⁶

To ensure the final, fully developed rule improves as a result of the additional time, the NRC must continue to meaningfully engage with stakeholders to resolve major concerns with the existing draft language. As the NRC staff has released portions of the draft language for the proposed rule, there has been some progress to address potential areas of disagreement through robust and constructive engagement. More progress and resolution is necessary to achieve the shared goal to establish a useable rule. Industry stakeholders must also constructively contribute to the process and recognize the NRC’s necessary independent role of establishing the nation’s nuclear safety standards.

We agree that reaching alignment with external stakeholders on the scope and details of the proposed rule is essential to ensure a better product, and we commend the NRC staff’s efforts to do so. We support the revised Part 53 rulemaking schedule, with the understanding that this additional time is used to address the most significant areas of disagreement that have been identified by those stakeholders who are investing time and money to develop new reactor designs.⁷ The novel, iterative process set forth by the NRC staff should provide a path to successfully do so.

We appreciate the leadership that you and your colleagues have demonstrated to enable the safe use of advanced nuclear technologies. As we previously expressed, we will continue to support congressional efforts to ensure the NRC has sufficient resources to successfully establish the Part 53 rule.

We look forward to the agency’s next steps on this issue.

Sincerely,



Shelley Moore Capito
United States Senator



Sheldon Whitehouse
United States Senator

⁵ Id.

⁶ Hearing, *supra* note 2.

⁷ The highest priority issues to resolve include, but are not limited to: the use and inclusion of quantifiable health objectives (QHOs); the methods by which probabilistic risk assessments (PRA) are used to evaluate reactor design safety; and establishment of a clear rule by ensuring there are no duplicative requirements of operational programs or programmatic controls.


John Barrasso, M.D.
United States Senator


Mike Crapo
United States Senator


Cory Booker
United States Senator

McCloskey, Bridin

Attachments: 020722 Part 53 Schedule NRC Follow-up Letter.pdf

From: Zach, Andrew (EPW)

Sent: Monday, February 7, 2022 12:46 PM

To: Dacus, Eugene <Eugene.Dacus@nrc.gov>; 'Wolf, Carolyn' <Carolyn.Wolf@nrc.gov>; Decker, David <David.Decker@nrc.gov>

Cc: Williams, Bradley (Energy) <Bradley_Williams@energy.senate.gov>; Kristen Siegele (Crapo) (Kristen_Siegele@crapo.senate.gov) <Kristen_Siegele@crapo.senate.gov>; Allen, Kara (Whitehouse) (Kara_Allen@whitehouse.senate.gov) <Kara_Allen@whitehouse.senate.gov>; Mack, Stephanie (Whitehouse) <Stephanie_Mack@whitehouse.senate.gov>; Adam Zipkin (Booker) (Adam_Zipkin@booker.senate.gov) <Adam_Zipkin@booker.senate.gov>; Jenkins, Tyler (EPW) <Tyler_Jenkins@epw.senate.gov>

Subject: Letter to Chairman Hanson from Senators Capito, Whitehouse, Barrasso, Booker, and Crapo on Part 53 Rulemaking

Good afternoon folks,

Attached is a letter from Senators Capito, Whitehouse, Barrasso, Booker, and Crapo regarding NRC's ongoing work to establish a technology-inclusive, performance-based regulatory framework, as required by the Nuclear Energy Innovation and Modernization Act (NEIMA).

Please let me know if you have any questions.

Thanks, Andy

Andrew Zach
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