

U.S. NUCLEAR REGULATORY COMMISSION  
BEFORE THE SECRETARY

Proposed Rule: )  
Regulatory Improvements for Production and Utilization ) NRC-2015-0070  
Facilities Transitioning to Decommissioning ) April 26, 2022  
)

**REQUEST FOR EXTENSION OF TIME TO COMMENT ON PROPOSED RULE RE:  
REGULATORY IMPROVEMENTS FOR PRODUCTION AND UTILIZATION  
FACILITIES TRANSITIONING TO DECOMMISSIONING**

Natural Resources Defense Council, Inc., Nuclear Information and Resource Services, Inc., Citizens Awareness Network, Inc., Beyond Nuclear, Inc., San Luis Obispo Mothers for Peace, Inc., Hudson River Sloop Clearwater, Inc., Council on Intelligent Energy and Conservation Policy, Inc., Coalition for a Nuclear Free Great Lakes, Inc., Ohio Nuclear Free Network, Inc., Don't Waste Michigan, Inc., Sustainable Energy and Economic Development Coalition, Inc., and Richard Kline, retired Columbia University professor ("Requesters") hereby request an extension of time to comment on the U.S. Nuclear Regulatory Commission's ("NRC's") proposed decommissioning rule, and related documents. *See* Proposed Rule, Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning, 87 Fed. Reg. 12,254 (Mar. 4, 2022) ("Proposed Rule"), <https://www.nrc.gov/waste/decommissioning/reg-guides-comm/reg-improv-trans-to-decom.html#documents>. The Requesters seek an extension of the commenting deadline from May 17, 2022, until August 31, 2022, for a total commenting period of 180 days (six months). The requested extension is necessary to provide interested members of the public with a meaningful opportunity to review and analyze the voluminous rulemaking record, as well as to participate in NRC public meetings and field hearings held by the U.S. Congress.

In support of this extension request, the Requesters respectfully submit:

1. This rulemaking is critically important to protection of public health and safety and the environment, because it will establish final standards governing the decommissioning of many currently-operating nuclear reactors across the United States in coming decades. The legal and technical issues raised by decommissioning these reactors – and therefore by this rulemaking – are complex and significant, involving the potential generic relaxation of several safety requirements that previously were addressed in plant-specific license amendment and extension proceedings; environmental impacts of a range of decommissioning options such as DECON, SAFSTOR, and ENTOMB; and legal/policy issues such as (a) whether NRC's decommissioning review requires or should entail licensing decisions requiring NRC to offer an opportunity for a public hearing and (b) whether a more thorough review is needed under the National Environmental Policy Act ("NEPA").

2. This rulemaking has environmental justice significance, thus warranting provision of ample time for public participation.

In a recent NRC Staff review of “how agency programs, policies, and activities address environmental justice,” decommissioning was identified as an area with environmental justice implications, and the Staff also recognized that this rulemaking could have environmental justice implications. SECY-22-0025, Memorandum to the Commissioners from Daniel H. Dorman, Executive Director for Operations and Marian L. Zobler, General Counsel, re: Systematic Review of How Agency Programs, Policies, and Activities Address Environmental Justice (Mar. 29, 2022) (“SECY-22-0025”). As stated in Enclosure 8, Entitled “Commitments to Enhance How the Agency Addresses Environmental Justice,” SECY-22-0025 states:

The NRC currently is conducting a rulemaking to amend NRC regulations related to decommissioning of production and utilization facilities. Environmental considerations are included in this rulemaking activity.<sup>22</sup> *As part of this rulemaking process, there could be changes or clarifications to environmental related considerations, which could include EJ considerations.* Given ongoing work, potential decommissioning-related rulemaking changes were not considered as part of this EJ review.

Enclosure 8 at 7 (emphasis added). Given the importance of environmental justice in the NRC’s rulemaking and policy-setting activities, it is essential to give the public more time to address these issues in the commenting process.

3. The rulemaking record is so voluminous that it cannot be meaningfully reviewed and responded to in 75 days.

The documents on which NRC seeks comments consist of:

- An 82-page Federal Register notice setting forth the Proposed Rule;
- A Regulatory Analysis more than 100 pages long;
- An Environmental Assessment.
- Four draft regulatory guides covering significant safety issues (such as general decommissioning requirements, emergency planning, and financial assurance requirements), and totaling hundreds of pages.

Additionally, commenters must familiarize themselves with a large record identified in <https://www.nrc.gov/waste/decommissioning/reg-guides-comm/regulations/reg-improv-trans-to-decom.html#documents>, including:

- Dissenting opinions by two Commissioners (*see* Notation Vote Response Sheet from Chairman Hanson to Annette-Vietti-Cook Secretary (Aug. 10, 2021); Notation Vote Response Sheet from Commissioner Baran to Annette-Vietti-Cook Secretary (Aug. 9, 2021));
- Commission and NRC Staff memoranda addressing the proposed rule (*see* SRM-SECY-180-0055, Memorandum from Annette L. Vietti-Cook, NRC Secretary, to Daniel H. Dorman, Executive Director for Operations, re: Staff Requirements -

SECY-18-0055 - Proposed Rule: Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning (Nov. 3, 2021); SECY-18-0055, Memorandum from Victor M. McCree, Executive Director for Operations, to the Commissioners re: Proposed Rule: Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning (May 7, 2018)); and

- Five federal register notices related to NRC's 2015 Advanced Notice of Proposed Rulemaking (*see* <https://www.nrc.gov/waste/decommissioning/reg-guides-comm/regulations/reg-improv-trans-to-decom.html#documents>).

Finally, commenters must familiarize themselves with a large body of voluminous documents *not* identified as relevant by the NRC, but which are clearly relevant to this rulemaking. These documents include, for example:

- NRC's existing decommissioning and decommissioning financing regulations and regulatory guidance;
- NUREG-0586, Supp. 1, Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities: Regarding the Decommissioning of Nuclear Power Reactors (Nov. 2002);
- Thousands of pages of comments on the 2015 ANPR by state and local governments, other federal agencies (including the Federal Emergency Management Agency, and environmental and civic organizations (*see* <https://www.regulations.gov/docket/NRC-2015-0070/comments>); and
- Technical reports evaluating decommissioning experience, such as NRC's 2021 Annual Report on Status of the Decommissioning Program (ML21280A402).

Such a huge volume of relevant documents cannot be reviewed or analyzed in a meaningful way in a timeframe as short as 75 days.

4. The comment period is insufficient to allow both written comments and participation in public proceedings. Many prospective commenters have participated in or plan to participate in NRC public meetings on the Proposed Rule (*see* <https://www.nrc.gov/waste/decommissioning/reg-guides-comm/regulations/reg-improv-trans-to-decom.html#meetings>); and some will testify in and/or attend a May 6, 2022, field hearing by the Senate Environment and Public Works Committee (*see* <https://www.epw.senate.gov/public/index.cfm/hearings>). In the relatively brief 75-day commenting period provided by the NRC, it is not possible for commenters to *both* prepare for/participate in these meetings *and* do the work of preparing comments on the Proposed Rule.
5. NRC has previously afforded the public with a commenting period of 120 days (four months) at a less critical point in the rulemaking cycle, when the record was substantially smaller. *See* Advance Notice of Proposed Rulemaking; extension of comment period, 80 Fed Reg. 80,709 (Dec. 28, 2015). NRC should provide a longer commenting period of 180 days (6 months) for the Proposed Rule and related documents, given that (a) the Proposed Rule is more critically important because it will set final public safety standards

for decommissioning for decades to come, and (b) the Proposed Rule is now supported by a record that is twice as voluminous as the ANPR.

For these reasons, the Requesters respectfully submit that NRC should provide a total of 180 days (6 months), or until August 31, 2022, to ensure the affected public has a meaningful opportunity to comment on the critically important Proposed Rule.

Respectfully submitted,

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April 26, 2022

## CERTIFICATE OF SERVICE

I certify that on April 26, 2022, I e-mailed the foregoing REQUEST FOR EXTENSION OF TIME TO COMMENT ON PROPOSED RULE RE: REGULATORY IMPROVEMENTS FOR PRODUCTION AND UTILIZATION FACILITIES TRANSITIONING TO DECOMMISSIONING to the following:

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