

PUBLIC SUBMISSION

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Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

Comment On: NRC-2015-0070-0229

Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

Document: NRC-2015-0070-DRAFT-0261

Comment on FR Doc # 2022-03131

Submitter Information

Email: dianed@nirs.org

Organization: 65 groups requesting extension on Decommissioning rule comment period

General Comment

See attached file(s)

Attachments

extension request 5-3-2022 NRC Decommissioning Rule

Request for Extension for Public Comment on Proposed Decommissioning Rule and Support for NIRS, NRDC, Beyond Nuclear et al Extension Request: Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning
Docket ID NRC-2015-0070 87 FR 12254 (March 3, 2022)

Date: May 3, 2022

TO: The Secretary, U.S. Nuclear Regulatory Commission (NRC)

Washington, DC 20555-0001

ATTN: Rulemakings and Adjudications Staff

c/o

Daniel I. Doyle

Office of Nuclear Material Safety and Safeguards

U.S. Nuclear Regulatory Commission

Washington, DC 20555-0001; telephone: 301-415-3748

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Docket ID NRC-2015-0070 87 FR 12254

Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

Rulemaking.Comments@nrc.gov

From: 54 organizations listed below* in support of request from 11 others = 65 groups
Point of Contact Diane D'Arrigo Nuclear Information and Resource Service dianed@nirs.org

Our organizations request an extension on the NRC proposed Decommissioning Rule until August 31, 2022 to provide comments and to help garner comments from other impacted entities in our communities. We SUPPORT the April 26, 2022 extension request from a dozen petitioners signed by attorneys Diane Curran and Geoff Fettus (appended below).

The decommissioning of nuclear power reactors and nuclear fuel chain facilities is of the utmost importance to the communities in which the facilities are located and those through which and to which waste will be moved. Many of us engaged in the earliest stages of the License Termination Rule in the 1990s (10 CFR 20 Section E, including the Enhanced Rulemaking on Residual Radioactivity) and many of decommissioning national and site-specific proceedings that followed. Others began participating during the 25 years since then, when we learned about specific facilities' operations, intentions to close and plans for decommissioning. Regardless of the amount of time members of the public have worked to understand and affect decommissioning decisions, the proposed rule is complex with a long history and many documents and meetings that led up to it.

We understand that the nuclear reactor operators want to proceed as expeditiously as possible without continued requests for exemptions. Our groups, many who will be at the locations long after institutional controls and liabilities have been eased or removed, request additional time to fully review and engage on the proposed rule.

Some in our communities are still feeling the effects of repeated spikes in COVID 19 variants and need more time because things still take much longer than before. As a reminder, when we asked for relief due to complications from COVID-19, the Commission suggested we ask at each specific rulemaking, thus we repeat this request for this specific rulemaking.

Thank you for your consideration of this request for more time to provide meaningful, informed input.

Sincerely,

54 Additional Signers to the Extension Request for NRC Decommissioning Rule

Nuclear Energy Information Service (NEIS)
Chicago IL
David Kraft, Director

Citizen Power, Inc.
Pittsburgh PA
David Hughes

Indian Point Safe Energy Coalition
Cortlandt Manor NY
Marilyn Elie

Green State Solutions
Iowa City IA
Mike Carberry

New York Climate Action Group
New York NY
Judith Canepa

NYC Grassroots Alliance
New York City NY
Jill McManus

Toxics Free Great Lakes Binational Network
Kitchener Ontario
John Jackson

Don't Waste Arizona
Phoenix AZ
Stephen Brittle

Vermont Yankee Decommissioning Alliance
Montpelier VT
Debra Stoleroff

Ohio Green Party, Cuyahoga County Green
Party
Cleveland, OH
Daryl Davis

Nuclear Watch South
Atlanta GA
Joanne Sweeney
Glenn Carroll

Portsmouth Picketon Residents for
Environmental Safety and Security (PRESS)
Portsmouth OH
Vina K Colley

Citizens' Resistance at Fermi Two (CRAFT)
Redford MI
Jessie Collins

Occupy Bergen County
Bergen County NJ
Sally Jane Gellert

Heart of America NW
Seattle WA
Peggy Maze Johnson

National Nuclear Workers for Justice (NNWJ)
Portsmouth OH
Vina Colley

Concerned Citizens for Nuclear Safety
Santa Fe NM
Joni Arends

Mid-Missouri Peaceworks
Columbia MO
Mark Haim

On Behalf of Planet Earth
Watertown MA
Sheila Parks, EdD

Native Community Action Council
Las Vegas NV
Ian Zabarte

Environmental Law & Policy Center
Grand Rapids MI
Margrethe Kearney

Earth Care
Santa Fe NM
Bianca Sopoci-Belknap

Nukewatch
Luck WI
John LaForge & Kelly Lundeen

Citizens for Alternatives to Radioactive
Dumping
Dixon NM
Janet Greenwald

North American Water Office
Lake Elmo MN
George Crocker

Physicians for Social Responsibility-Los
Angeles
Los Angeles CA
Denise Duffield

Greenaction for Health and Environmental
Justice
San Francisco CA
Bradley Angel

Healthy Environment Alliance of Utah
Salt Lake City UT
Lexi Tuddenham

Alliance To Halt Fermi-3
Livonia MI
Keith Gunter

Multicultural Alliance for a Safe Environment
Albuquerque NM
Susan Gordon

Straits Area Concerned Citizens for Peace,
Justice & the Environment
Mackinaw City MI
David & Anabel Dwyer

Maryknoll Sisters - Member
Ossining NY
Jean Fallon

Redwood Alliance
Arcata CA
Michael Welch

Proposition One Campaign
Tryon NC
Ellen Thomas

Peace Action WI
Milwaukee WI
Pamela Richard

Northern Michigan Environmental Action
Council
Traverse City MI
Linda Dunigan

Ohio Nuclear Free Network
Toledo OH
Patricia Marida

Ecological Options Network
Bolin CA
Mary Beth Brangan

Citizens' Environmental Coalition
Cuddebackville NY
Barbara Warren, RN, MS

Don't Waste Michigan-Sherwood Chapter
Sherwood MI
Kathryn Barnes

Indigenous Rights Center
Albuquerque NM

Cape Downwinders
Cape Cod MA
Diane Turco, Director

Western States Legal Foundation
Oakland CA
Jacqueline Cabasso

Stand Up/Save Lives Campaign
Burr Ridge IL
Maureen Headington

Ohio Green Party, Cuyahoga County Green
Party
Cleveland OH
Daryl Davis

Northwatch
North Bay Ontario
Brennain Lloyd

San Francisco Bay Physicians for Social
Responsibility
San Francisco CA
Robert M. Gould, MD

Nuclear Watch New Mexico
Santa Fe NM
Scott Kovac

CODEPINK SF Bay Area
San Francisco CA
Cynthia Papermaster

Laguna Acoma Coalition For A Safe
Environment
Laguna and Acoma Pueblos, NM
Manuel F. Pino

Western New York Drilling Defense
Buffalo NY
Charley Bowman, Ph.D.

Earth Care
Santa Fe NM
Bianca Sopoci-Belknap

Pilgrim Watch
DUXBURY MA
Mary Lampert

New England Coalition on Nuclear Pollution,
Inc.
Brattleboro VT
Lorie Cartwright

In support of April 26 2022 request from

Natural Resources Defense Council, Inc., Nuclear Information and Resource Service, 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.

Below is the April 26 2022 extension request we are supporting:

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 Service, 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/regulations/reg-improv-trans-todecom.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. Zabler, 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.²² 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-improvtrans-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 SRMSECY-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-guidescomm/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-improvtrans-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,

_____/signed electronically by/____

Geoffrey H. Fettus, Esq., Caroline Reiser, Esq.

Natural Resources Defense Council

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April 26, 2022