

RESPONSE SHEET

TO: Carrie M. Safford, Secretary
FROM: Commissioner Crowell
SUBJECT: COMDAW-24-0001: Revising the Duration of Design Certifications

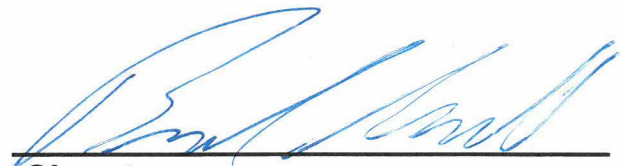
Approved Disapproved Abstain Not Participating

COMMENTS: Below Attached None

Entered in STARS

Yes

No



Signature

Date 07/25/24

**Commissioner Crowell's Comments on
COMDAW-24-0001, "Revising the Duration of Design Certifications"**

I appreciate Commissioner Wright raising the time-sensitive issue associated with updating the term duration for design certifications and standard design approvals included as part of the NRC staff's comprehensive draft proposed rule to better align the NRC's existing Parts 50 and 52 regulations (SECY-22-0052). The question of adjusting these term durations is one element among a number of significant and necessary updates to consider in this important paper.

In considering Commissioner Wright's proposal, it is worth noting that the Commission directed staff to proceed with an integrated rulemaking on updating the reactor licensing process on September 22, 2015.¹ This was a significant, but important, undertaking by staff in response to growing concerns from stakeholders. After a thorough and informed review, staff delivered a draft proposed rule to the Commission for consideration on June 6, 2022.² As of today, the proposed rule has now been with the Commission for over two years, preceding my own tenure on the Commission. While Commissioner Wright's proposal is warranted, I have significant reservations with the Commission advancing this singular action before all Commissioners have voted on the underlying draft proposed rule in SECY-22-0052. Therefore, as a responsible precursor to responding to this targeted proposal from Commissioner Wright, I have submitted my vote and associated comments on SECY-22-0052.

With respect to Commissioner Wright's specific proposal, I am aware of five current design certifications that could potentially expire before a rulemaking would likely conclude. At present, this timing dilemma now exists regardless of whether such a rulemaking covers the full Parts 50/52 alignment or a more targeted rulemaking specific to adjusting the current term lengths for design certification and standard design approvals. Fortunately, there are several existing options that potentially impacted certification and approval holders could utilize to extend or renew their current design certifications and approvals, and which do not rely on completion of a rulemaking. These options are well-known and have been available to certification holders but likely have not been utilized due to a reasonable expectation by most stakeholders that the 50/52 rulemaking would conclude before most renewals would be needed.

That said, I agree that extending the duration of design certifications and standard design approvals is more straightforward than many of the more complex issues presented by the staff in the draft proposed rule. However, I am concerned about severing the issue from the broader Parts 50/52 alignment effort. With Commission direction issued on a number of policy issues and rulemakings specific to advanced reactors, taking up the Parts 50/52 alignment rulemaking post haste seems a logical step as we continue efforts to further prepare a regulatory framework for new reactors. In consideration of Commissioner Wright's proposal, I encourage my colleagues to give commensurate attention to advancing the full Parts 50/52 alignment effort proposed by staff in SECY-22-0052.

While I support the policy objective of adjusting the term duration for design certifications and standard design approvals, I am not convinced that a direct final rule to update Part 52 to generically replace the current 15-year term with a 40-year duration for all current and future design certifications and standard design approvals is the most efficient or durable path to take.

¹ SRM-SECY-15-0002.

² SECY-22-0052.

Historically, this rulemaking technique is intended for expediting issuance of noncontroversial rules. Although updating these specific term durations appears noncontroversial on its face, we must be mindful that if significant adverse comments are received on a direct final rule the staff would then be required to withdraw the direct final rule, consider the public comments received via the companion proposed rule published concurrent with a direct final rule, and then provide an updated draft final rule to the Commission for consideration. If this were to occur, the targeted rulemaking to update term durations could, in theory, fall behind the Parts 50/52 rulemaking effort, or, perhaps most likely, not be completed before the proposed December 31, 2025 deadline.

Therefore, I propose an alternative for my colleagues' consideration, consistent with my vote on SECY-22-0052: for any designs set to expire before this rule is finalized, the staff should initiate exemptions to extend the current terms for timely renewal provisions and for applicants seeking to reference a certified design, as appropriate, beyond the expected schedule for this rulemaking. In doing so, the staff should alert both stakeholders and the public, including, at a minimum, issuing a statement in the *Federal Register* documenting the NRC's intentions to exempt the design(s) in question from the current term limit(s). In sum, I believe this narrowly tailored approach would address the near-term expiration dates with more certainty, while allowing the Parts 50/52 alignment rulemaking to move forward intact.