Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 40, 50, 70 and 72

RIN 3150–AH45

[NRC–2008–0030]

Decommissioning Planning; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On January 22, 2008 (73 FR 3812), the Nuclear Regulatory Commission (NRC) published for public comment a proposed rule on Decommissioning Planning. The public comment period for this proposed rule was to have expired on April 7, 2008. The Nuclear Energy Institute (NEI) and several other stakeholders have requested an extension of 90 days. After due consideration of the requests and considering the staff's previous efforts at public outreach during this rulemaking, the NRC has decided to extend the comment period by 30 days, until May 8, 2008. In a letter dated February 29, 2008, NEI requested the additional time to provide review of the legacy site issues raised in the proposed rule, and to provide input to the NRC staff regarding the specific proposed rule text, potential unintended consequences of the rulemaking, and draft regulatory guidance released with the proposed rule.

DATES: The comment period has been extended and now expires on May 8, 2008. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number RIN 3150–AH45 in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety in NRC's Agencywide Documents Access and Management System (ADAMS). Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1677. Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301–415–1677).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

Publicly available documents related to this rulemaking, including comments, may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at: *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Kevin O'Sullivan, telephone (301) 415–8112, e-mail, *kro2@nrc.gov* of the Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 14th day of March 2008.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. E8–5650 Filed 3–19–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket No. PRM–51–1]

New England Coalition on Nuclear Pollution; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–51–1) submitted by the New England Coalition on Nuclear Pollution (now New England Coalition (NEC)). The petitioner requested that the NRC revise the value for radon-222 in Table S–3, ''Table of Uranium Fuel Cycle Environmental Data,'' of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' because it did not disclose the long-term and long-range health effects of radon gas released from uranium mill tailings piles.

ADDRESSES: For a copy of the petition, write to Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7163; e-mail: *MTL@nrc.gov.*

Publicly available documents related to this petition may be viewed electronically on public computers in the NRC's public document Room (PDR), O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at: *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public

can gain entry into the NRC's Agencywide document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Stewart Schneider, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4123; e-mail *SXS4@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On November 25, 1975, the NRC docketed a petition for rulemaking (PRM–51–1) dated November 19, 1975, filed by Roisman, Kessler, and Cashdan, on behalf of the New England Coalition on Nuclear Pollution, now New England Coalition (NEC). The petitioner requested the Commission to issue a number of amendments to 10 CFR part 51, Table S–3, ''Table of Uranium Fuel Cycle Environmental Data,'' and to postpone resolution of pending applications for construction or operation of nuclear power plants and to reassess the conclusions for previous authorizations for construction or operation of nuclear power plants. Table S–3 lists environmental data to be used by applicants and the NRC staff as the basis for evaluating the environmental effects of the portions of the fuel cycle that occur before new fuel is delivered to the plant and after spent fuel is removed from the plant site for light-water reactors (LWRs).

The petitioner stated that:

1. Table S–3 ''seriously understates'' the impact on human safety and health by disregarding the long-term effects of certain long-lived radionuclides and that the health effects of uranium mining and milling listed in the table fail to disclose the long-term and long-range health effects of radon-222 released from tailings piles;

2. The health effects of krypton-85 and tritium releases from fuel reprocessing plants are underestimated in Table S–3;

3. Releases of carbon-14 from the fuel cycle should be included in Table S–3;

4. Table S–3, by the exclusive use of the term ''man-rems,'' does not provide a meaningful representation of these health effects, and that human deaths from man-rem exposures provide a more easily comprehended consequence of the fuel cycle activities; and

5. The magnitude of the potential death toll from mill tailings alone is so great as to alter the previous judgment on these matters and to require, as a minimum, a reassessment of previous conclusions to authorize construction and operation of nuclear reactors and a postponement of resolution of all pending applications for construction or operation authority until final resolution of this issue by the Commission.

The NRC published a notice of receipt of petition on January 16, 1976 (41 FR 2448). The notice of receipt invited interested persons to submit written comments on the petition. Comments were received from 10 organizations. The Commission resolved the public comments as discussed in a **Federal Register** notice published on April 14, 1978 (43 FR 15613).

Response to the Petition

In its April 14, 1978 notice, the Commission resolved the petitioner's first issue (concerning the value for radon-222 in Table S–3), in part, when it amended Table S–3 by deleting the value for radon-222.[1] The Commission, however, deferred instituting any rulemaking on the radon issue, including the insertion of a revised value for radon-222, pending generic consideration of the issue. The generic consideration of the radon-222 value in Table S–3 remained the one outstanding item of this petition and is now resolved by this denial, as explained under the ''Reasons for Denial'' section below.

As reflected in the April 14, 1978 notice, the Commission resolved the second and third issues raised by the petition when the Commission published a revised Table S–3 on March 14, 1977 (42 FR 13803). In this revision, the Commission added carbon-14 to the table and revised the release values for krypton-85 and tritium upwards. Differences in the petitioner's release estimates and those of the NRC staff were due to differences in the models used. The basis for the NRC models is described in detail in NUREG–0116, ''Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle,'' October 1976, and NUREG–0216, ''Public Comments and Task Force Responses Regarding the Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle,'' March 1977.

As further reflected in the April 14, 1978 notice, the Commission resolved the petitioner's fourth issue, namely, that Table S–3 does not provide a meaningful representation of health effects, by amending Footnote 1 to Table S–3 to indicate that health effects are not covered in the table and may be litigated in individual cases.

Finally, regarding the petitioner's fifth issue, the Commission in the April 14, 1978 notice, denied the petitioner's request to halt the licensing of reactors and to reopen all proceedings where construction or operation had already been authorized. The Commission concluded that the actions it had taken (as described previously) effectively addressed the concerns raised by the petitioner.

Reasons for Denial

The NRC is denying the remaining outstanding issue from the petition for rulemaking (PRM–51–1) submitted by the New England Coalition on Nuclear Pollution (now New England Coalition or NEC), namely, the revision of the value for radon-222 in Table S–3.

The update to Table S–3 was delayed because, by the mid-1980s, there were no new applications for construction of nuclear power plants, nor, at that time, were any future ones predicted. Consequently, there was no regulatory need to update Table S–3 and competing priorities for rulemaking resources eventually resulted in the cessation of activities on the table. Since the mid-1980s, the NRC has revisited the issue of revising the value for radon-222 in Table S–3 on more than one occasion, but in each case higher priority rulemakings led to a halt in these efforts.

The NRC is denying the remaining outstanding issue in PRM–51–1, revising the value for radon-222 in Table S–3 of 10 CFR part 51, because the NRC has made a generic determination that the radiological impacts of the uranium fuel cycle, including those from radon-222 emissions, on individuals off-site will remain at or below the Commission's regulatory limits, and as such, are of small significance. The NRC described this generic determination and conclusion in chapter 6 of the Generic Impact Statement for License Renewal of Nuclear Plants, NUREG–1437, May 1996, (NUREG–1437),[2] which was in turn, based upon the findings made in NRC and Environmental Protection

[1] The original radon-222 value in Table S–3 was 75 curies followed by the statement, ''Principally from mills—maximum annual dose rate < 4 percent of average natural background within 5 mi of mill. Results in 0.06 man-rem per annual fuel requirement.''

[2] NUREG–1437, Ch. 6., § 6.2.2.1 (pp. 6–8 to 6–18), § 6.2.4 (pp. 6–27 to 6–28), and § 6.6 (pp. 6–87 to 6–88).

Agency (EPA) rulemakings as described below.

EPA and NRC Regulatory Programs

Section 84a(2) of the Atomic Energy Act (AEA) requires NRC to conform its regulations to EPA's regulations promulgated under the Uranium Mill Tailings Radiation Control Act, 42 U.S.C. 2022, 7901–7942 (UMTRCA) for the protection of the public health, safety and the environment from radiological and non-radiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material as defined under section 11(e)(2) of the AEA, *e.g.*, uranium mill tailings. EPA's regulations at Subpart D of 40 CFR part 192 set forth a design standard requiring that the tailings or wastes from mill operations be covered to provide reasonable assurance that radon released to the atmosphere from the tailings or wastes will not exceed an average of 20 picocuries per square meter per second (pCi/m^2-s) flux for 1000 years, to the extent reasonably achievable, and in any case, for 200 years.[3] In 1985, the NRC conformed its regulations at 10 CFR part 40, Appendix A, to EPA's regulations at Subpart D of 40 CFR part 192, by adopting the 20 pCi/m^2-s flux standard.[4] The NRC regulations at 10 CFR part 40, Appendix A apply to NRC or Agreement State licensed mill tailings piles.

An EPA risk assessment conducted as part of the 1989 EPA National Emission Standard for Hazardous Air Pollutants rulemaking (promulgating 40 CFR part 61, subparts T and W), consisting of a two-step analysis, established that compliance with the 20 pCi/m^2-s flux standard for radon emissions from uranium mill tailings piles would result in an estimated lifetime risk of cancer to the maximally exposed individual of approximately 1E–4, a level determined by EPA to be safe, under the first step of the analysis, and provided an ample margin of safety under the second step, which considered additional factors such as cost and technological feasibility.[5]

On June 1, 1994, the NRC published a final rule which conformed its regulations at 10 CFR part 40, Appendix A, to amendments made by EPA in 1993 to Subpart D of 40 CFR part 192.[6] The EPA amendments and the conforming NRC rule added provisions to fill a regulatory gap related to the timing and monitoring of NRC or Agreement State licensed mill tailings piles. In a related July 15, 1994 rulemaking, EPA found that the NRC regulatory program concerning radon-222 emissions from these tailings piles ''protect public health with an ample margin of safety'' and that the ''NRC's implementation criteria set forth a rigorous program governing the reclamation of the disposal sites so that closure will (1) last for 1,000 years to the extent reasonable, but in any event at least 200 years, and (2) limit radon release to 20 pCi/m^2-s throughout that period.'' [7]

NUREG–1437

In 1996, the NRC incorporated the above EPA regulatory findings and NRC standards reflected in 10 CFR part 40, Appendix A into NUREG–1437. Specifically, the NRC ''supplements the data on environmental impacts of the uranium fuel cycle presented in Table S–3 * * * to extend the coverage of impacts to ^{222}Rn, ^{99}Tc, higher fuel enrichment, higher fuel burnup, and license renewal of up to 20 additional years of operation.'' [8]

NUREG–1437 made the following findings:

- Principal radon releases occur during mining and milling operations and as emissions from mill tailings;
- The long-term integrity of the coverings for stabilized mill tailings piles must be maintained because the EPA and NRC regulatory standards (40 CFR part 192 and 10 CFR part 40, Appendix A) require certification of stability and the control of average radon flux levels to 20 pCi/m^2-s;
- The design and implementation of the radon cover and erosion protection features are the primary reliance for maintaining radon emissions within the 10 CFR part 40 limits and significant failure of the coverings for stabilized mill tailings piles is considered highly unlikely;
- A combination of engineering and institutional controls will most likely result in compliance with the 20 pCi/m^2-s flux standard for the foreseeable future;
- For long-term radon releases from stabilized mill tailings piles, the NRC staff has assumed that the tailings would emit, per reference reactor year (RRY),[9] 1 Ci/year for
- 100 years (covering fully intact), 10 Ci/year for the next 400 years (covering partially failed), and 100 Ci/year for periods beyond 500 years (covering failed).[10]
- The doses from radon-222 emissions from mines and tailings piles consist of tiny doses summed over large populations (the doses are very small fractions of regulatory limits, and even smaller fractions of natural background exposure to the same population); and
- As each uranium fuel cycle facility licensee must ensure that the radioactive dose from such facility is within the limit and be as low as reasonably achievable (ALARA), the doses to individual members of the public are considered by the NRC staff to be small.

NUREG–1437 served as the basis for the NRC rulemaking which amended 10 CFR part 51, insofar as license renewal impact considerations are concerned. This rulemaking summarized the NUREG–1437 findings regarding the impacts of radon-222 emissions and stated that ''impacts on individuals from radioactive gaseous and liquid releases including radon-222 and technetium 99 are small.'' [11] The NRC provided ample opportunity for public comment on both the draft and final versions of NUREG–1437 and the related amendments to part 51, including the issue concerning the impacts of radon-222 emissions.[12]

Although NUREG–1437 concerned license renewals, the NRC notes that the NUREG–1437 radon-222 impact determination is not unique to the fuel cycle for renewed licenses and can be applied to all NRC actions. In this

[3] 40 CFR 192.32(b); *see also* 48 FR 45926 (October 7, 1983).

[4] 50 FR 41852 (October 16, 1985).

[5] 54 FR 51654, 51682–83 (December 15, 1989); *see also* 59 FR 36280, 36281, 36287–88 (July 15, 1994).

[6] 59 FR 28220 (June 1, 1994). The EPA final rule amending 40 CFR part 192, Subpart D was published on November 15, 1993 (58 FR 60340).

[7] 59 FR 36280, 36283 (July 15, 1994).

[8] NUREG–1437, § 6.1 (p. 6–1).

[9] The ''reference reactor'' is a model 1000–MW(e) light-water reactor. One reference reactor year (RRY) would be one year of operation of such model reactor.

[10] NUREG–1437 sets forth the NRC staff's radon-222 data in tabular format: Table 6.1 (p. 6–10) shows data for radon releases from mining and milling operations and mill tailings piles for each RRY; Table 6.2 (p. 6–10) shows data for the estimated 100-year environmental dose commitment from mining and milling for each RRY (*i.e.*, prior to closure or stabilization of the tailings piles); Table 6.3 (p. 6–12) shows population-dose commitments from unreclaimed open-pit mines for each RRY; and Table 6.4 (p. 6–12) shows population-dose commitments from stabilized tailings piles for each RRY.

[11] 11 61 FR 28467, 28494 (June 5, 1996), now codified at 10 CFR part 51, Subpart A, App. B, Table B–1.

[12] 56 FR 47016, 47022 (September 17, 1991) (proposed rule); 61 FR 28467, 28477–78, 28494 (June 5, 1996) (final rule). The June 5, 1996 final rule provided for an additional 30 day comment period, requesting that commenters give ''specific attention'' to a number of issues, including ''the cumulative radiological effects from the uranium fuel cycle.'' 61 FR 28467. In a December 18, 1996 final rule, the NRC responded to the one comment received on the radiological impacts of the uranium fuel cycle, from EPA, which requested clarification on the collective effects, over time, on human populations. 61 FR 66537, 66539–40 (December 18, 1996). The December 18, 1996 final rule made minor clarifying and conforming changes to 10 CFR part 51.

regard, the NRC has received, and expects to continue to receive, applications for licenses to build and operate new nuclear power plants. For these applications, the NRC assesses the validity of the value for radon-222 in the environmental report submitted by the applicant for a construction permit, early site permit, or combined license for a nuclear power reactor to determine any impacts to the environment. The NRC staff scales data to the model reactor described in NUREG–1437 to arrive at figure for the expected radon-222 emissions resulting from the operation of the proposed plant. The health, safety and environmental impacts of the expected radon-222 emissions are evaluated on an application-specific basis, using the NUREG–1437 generic analysis and assessment.[13]

The NRC has determined that, at this time, revising the value for radon-222 in Table S–3, as requested in PRM–51–1, does not provide any benefit over the NRC's current application-specific review. In Staff Requirements Memorandum COMGBJ–07–0002, dated August 6, 2007, the Commission agreed that PRM–51–1 should be closed.

Conclusion

For the reasons described above, the NRC finds that a rulemaking to revise the radon-222 value in Table S–3 is not necessary. The NRC's prior deletion of the value for radon-222 in Table S–3 did grant, in part, the petitioner's request regarding the value for radon-222. The Commission is now denying the remaining outstanding issue of the petitioner's request by not revising Table S–3 to include a revised value for radon-222.

Closing the petition does not preclude the NRC from taking future regulatory action to amend Table S–3. The NRC will continue to evaluate, as part of its annual review of potential rulemaking activity, the need to amend Table S–3.

For the reasons cited in this document, the NRC denies this petition.

Dated at Rockville, Maryland, this 11th day of March, 2008.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E8–5647 Filed 3–19–08; 8:45 am]

BILLING CODE 7590–01–P

[13] *See, e.g.*, NRC final environmental impact statements for early site permits to construct new nuclear reactor facilities at Dominion's North Anna Power Station, in Louisa County, Virginia (NUREG–1811, § 6.1.1.5); Exelon's Clinton Power Station, near Clinton, Illinois (NUREG–1815, § 6.1.1.5); and Entergy's Grand Gulf Nuclear Station, near Port Gibson, Mississippi (NUREG–1817, § 6.1.1.5).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0154; Airspace Docket No. 08–ASO–10]

Establishment of Class E Airspace; Canon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E Airspace at Canon, GA. Airspace is needed to support new Area Navigation (RNA V) Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAPs) that have been developed for Franklin County Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and for Instrument Flight Rule (IFR) operations at Franklin County Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP. This action enhances the safety and airspace management of Franklin County Airport, Canon, GA.

DATES: Comments must be received on or before May 5, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008–0154; Airspace Docket No. 08–ASO–10, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Those wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2008–0154; Airspace docket No. 08–ASO–10.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register's** Web page at: *http://www.gpoaccess.gov/fr/index.html.* Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Code of Federal Regulations (14 CFR part 71) to establish Class E airspace at Canon, GA. Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedures