

NRDC

August 6, 2021

Via Electronic Mail

Stewart Forbes
Office of the Assistant General Counsel for Civilian Nuclear Programs
U.S. Department of Energy
Room 6A-167, 1000 Independence Ave. SW
Washington, DC 20585
stewart.forbes@hq.doe.gov

Subject: Request for 60 Day Extension of Comment Period of Notice of Inquiry on Preparation of Report to Congress on the Price Anderson Act

Dear Mr. Forbes:

Representing the combined membership of over one million concerned citizens across the United States and with deep technical and legal expertise on the matter at hand, the Natural Resources Defense Council (NRDC), Nuclear Information and Resource Service (NIRS), Beyond Nuclear, and Savannah River Site Watch write today to respectfully request that the Department of Energy (DOE) extend the deadline for public comment on the *Notice of Inquiry on Preparation of Report to Congress on the Price Anderson Act*, 86 Fed. Reg. 40,032 (July 26, 2021) (“Notice of Inquiry”), for an additional sixty (60) days. An extension of time is necessary for the following reasons.

Continuation, modification, or elimination of the Price Anderson Act has the potential to significantly alter the nuclear industry framework and impact the safety and security of the public. As a result, the Notice of Inquiry raises significant economic, technical, policy, and legal considerations. Since these questions call for serious deliberation and thorough consideration, our organizations believe DOE should allow for sufficient time for stakeholders to formulate a response.

First, the Notice of Inquiry specifically requests comment on environmental justice, equity, and inclusion issues in Question 24. As President Biden has made clear, this is a vital topic that has been sorely unaddressed in the past. For example, the Nuclear Regulatory Commission is conducting a systematic review of how its programs, policies, and activities address environmental justice. *Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities*, 86 Fed. Reg. 36,307 (July 9, 2021). DOE should similarly conduct a systematic review of how the Price Anderson Act addresses and impacts environmental justice. And as short deadlines can challenge public engagement, additional time to comment on the Notice of Inquiry will enhance the public’s, and especially environmental justice communities, ability to address this topic fully and meaningfully.

Additionally, the Congressional mandate for the report to Congress on the Price Anderson Act is to “report on the need for continuation or modification of the provisions of [the PAA] taking into account the condition of the nuclear industry . . . and the state of knowledge concerning nuclear

safety....” 86 Fed. Reg. 40,035. Both the condition and safety of the nuclear industry are at critical flux points. For instance, the nuclear industry is proposing and developing – with the assistance of DOE – so-called advanced nuclear reactors. These reactors include a wide variety of design types, including small modular reactors and non-light-water reactors, each of which will require separate consideration regarding if and how the Price Anderson Act should apply, as the Notice of Inquiry acknowledges in Questions 21-23.

Many of the proposed reactors also rely on a variety of as-yet unused nuclear fuel. For example, DOE has been instructed by Congress to “establish and carry out ... a program to support the availability of HA-LEU [high assay, low enriched uranium] for civilian domestic research, development, demonstration, and commercial use.” 42 U.S.C. §16281. The safety and security of this and other potential fuels is at question and how the Price Anderson Act should or would apply is complex. A thorough review of proposed reactors and fuels will be necessary before developing our response to the Notice of Inquiry.

Given the complexity of the issues, which could have significant consequences on the safety and security of the public and specifically environmental justice communities, we urge DOE to extend the comment period. Our organizations’ small staff and relatively minor resources are stretched thin and a mere sixty-day extension will provide the time necessary for us to provide constructive comments. Please do not hesitate to contact us if you have questions or concerns. Thank you for your attention and consideration of this matter.

Sincerely,

Geoffrey H. Fettus
Senior Attorney
Natural Resources Defense Council
1152 15th St. NW, #300
Washington, D.C. 20005
(202) 289-6868
gfettus@nrdc.org

Caroline Reiser
Staff Attorney
Natural Resources Defense Council
1152 15th St. NW, #300
Washington, D.C. 20005
(202) 717-8341
creiser@nrdc.org

Timothy Judson
Executive Director
Nuclear Information and Resource Service
6930 Carroll Ave., Suite 340
Takoma Park, MD 20912
301-270-6477
TimJ@nirs.org

Kevin Kamps
Radioactive Waste Specialist
Beyond Nuclear
7304 Carroll Avenue, #182
Takoma Park, Maryland 20912
(240) 462-3216
kevin@beyondnuclear.org

Tom Clements
Director
Savannah River Site Watch
Columbia, SC
tomclements329@cs.com