

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY**

In the Matter of)	
)	
U.S. DEPARTMENT OF ENERGY)	Docket No. 110-06361
)	
(Export of 93.35% Enriched Uranium)	License No. XSNM3810
)	

REQUEST FOR EXTENSION OF TIME TO FILE HEARING REQUEST

In accordance with 10 C.F.R. §§ 2.307 and 110.88, Curium US LLC (“Curium”) requests the Office of the Secretary or Commission, as appropriate, to grant an extension of time to file petitions to intervene and hearing requests (“hearing requests”) in response to the above-captioned export license application filed by the U.S. Department of Energy (“DOE”), on behalf of Institute for Radioelements (“IRE”). This application was posted on the U.S. Nuclear Regulatory Commission (“NRC”) Agencywide Documents Access and Management System (“ADAMS”) on August 5, 2019, and concerns the export of nearly 5kg of high-enriched uranium (“HEU”) to multiple destinations in Europe for the purposes of medical isotope production.

This license application presents significant issues of nonproliferation law and policy, which strike at the heart of the NRC’s requirement to uphold the common defense and security.¹ These concerns are only underscored by the pending January 2, 2020 statutory sunset on all NRC export licensing of HEU for medical isotope production.² It is not surprising as a result that

¹ See, e.g., *U.S. Dep’t of Energy* (Exp. of 93.20% Enriched Uranium), CLI-16-15, 84 NRC 53, 63 (2016) (the Commission noting that “any shipment of weapons-grade nuclear material entails some risk of diversion”); *NRC Policy Statement on the Use of High-Enriched Uranium (HEU) in Research Reactors*, 47 Fed. Reg. 37,007 (1982) (“The widespread use of HEU fuel, which involve[s] a large number of domestic and international fuel shipments, increases the risks of proliferation through theft or diversion of this material.”).

² The American Medical Isotopes Production Act of 2012 amended Section 134 of the Atomic Energy Act (21 U.S.C. § 2160d) to provide that after January 2, 2020, barring certain limited actions by the U.S. Secretary of Energy, the NRC “may not issue a license for the export of highly enriched uranium from the United States for the purposes of medical isotope production.”

multiple parties have notified the Office of the Secretary expressing interest in filing hearing requests on this application.

Despite the important issues raised in the filing of this license application, the application was *not* noticed on the Federal Register, as it fell just shy of the requirements for posting set forth in 10 C.F.R. § 110.70. Notably, the proposed export is for 4.772kg of HEU, with a total of 4.455kg of the uranium 235 isotope—just short of the 5 effective kg limit normally required for Federal Register noticing. Unlike other license applications, this application was also *not* posted on the NRC’s website page listing applications and hearing opportunities.³ Therefore, potential petitioners such as Curium have faced increased difficulties both in identifying the application and then preparing hearing requests in the short 30 day period following posting of on ADAMS—in this case by the filing deadline of September 4, 2019.⁴

Therefore, given the important issues raised in the application, the number of potentially interested parties, and that this application has not been posted for public review on traditional NRC forums, the parties request a brief extension of time to consider and prepare hearing requests—extending the deadline for timely filing to September 13, 2019.⁵ In the alternative, Curium also encourages the Office of the Secretary to formally notice the application in the

³ <https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing-license-applications.html>.

⁴ Pursuant to 10 C.F.R. § 110.82(c), hearing request are normally considered timely if filed 30 days following receipt in the Federal Register, publication on the NRC website, or receipt in the Public Document Room. This application was posted on ADAMS on August 5, 2019 (ADAMS Accession Number ML19213A204).

⁵ Extensions of time for filing hearing requests have been granted in recent past Part 110 licensing proceedings. *See, e.g., EnergySolutions, LLC* (Radioactive Waste Im/Ex Licenses), CLI-11-03, 73 NRC 613, 616 n.3 (2011).

Federal Register, to ensure a sufficiently broad public review of this significant application.⁶

Respectfully Submitted,

/s/ Signed (electronically) by Amy C. Roma
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Dated in Washington, D.C.
August 28, 2019

⁶ Curium's counsel notified the Office of the Secretary on August 27 in the morning of its intent to file a motion to extend time. It was instructed to wait to file the motion until the establishment of a hearing docket, which occurred today.

August 28, 2019

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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2019 copies of the above **Request for Extension of Time to File Hearing Request** have been served through the U.S. Nuclear Regulatory Commission E-Filing system on the participants of the above-captioned proceeding.

Respectfully Submitted,

/s/ Signed (electronically) by Amy C. Roma
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