

Rulemaking Comments

December 24, 2009 (10:05am)

From: SMartinelliGHS@aol.com
Sent: Wednesday, December 23, 2009 11:36 AM
To: Rulemaking Comments; Docket, Hearing; Pickett, Douglas; Boska, John;
acer8sac@comcast.net; remyc@optonline.net
Subject: Petition for rulemaking. 2.802

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

1. Either set forth a general solution to the problem, present the substance or text of any proposed regulation or amendment, or specify the regulation that is to be revoked or amended;
2. State clearly and concisely the petitioner's grounds for and interest in the action requested; and,
3. Include a statement in support of the petition for rulemaking that sets forth the specific issues involved and the petitioner's views or arguments with respect to those issues, which includes any other pertinent information to support the action sought by the petitioner.

Dear NRC:

Above are the three minimum requirements for a Petition for Rule Change to be considered. I shall address each of these, though not necessarily in the order you have them listed.

I am a stakeholder, affected both directly, and indirectly by all decisions and operations of nuclear power plants here in America, and more specifically by the operations of, and decisions made as relates to Indian Point 1,2 and three which are known as IP1, IP2 and IP3. I live within three miles of the Indian Point reactors owned by nuclear robber baron Entergy. My health suffers on a daily, hourly even minute by minute basis as a result of the NRC's dismal failure at holding their licensees accountable for their dismal failures in stopping leaks and inadvertent release of radiological contaminants into my environment. NRC's relaxed rules, their refusal to hand out meaningful fines and penalties have contributed to the death of three of our cats from cancer, have played a crucial role in my wife's breast cancer. In various other actions currently pending before the NRC, my standing as a stakeholder has been commonly and specifically accepted. Therefore, any rules and regulations dealing with the operation of, policing of, and the decommissioning of Nuclear Reactors directly affects me as same. It is therefore now proven that I have a specific interest in the Petition I am now filing, in seeing the rules changed as relates to Decommissioning, and the Decommissioning Funds meant to assure said decommissioning.

My STATEMENT of the Problems:

This petition wishes to address two very serious flaws in the NRC rules as relates to the decommissioning of nuclear reactors, and the financial instruments and assurances meant to guarantee that adequate funds are available for decommissioning of nuclear reactor sites. As everyone knows, there has been a great deal of news lately regarding the inadequacy of the decommissioning funds for up to 27 reactor sites across America...despite assurances given to the stakeholder communities, the NRC is failing miserably in holding their licensees accountable. In fact, the NRC has routinely accepted plans to make these accounts whole that fails in making them whole, but instead just pushes the ball further down the road to some future date and time. As example, Entergy requested that they be allowed to make Indian Point whole by making up shortfalls over the next 20 years of operations at the facility should their License Renewal Application be approved...this, despite the NRC's ability to request that adequate funds be immediately added to these funding mechanisms should shortfalls be found. Looking at the NRC's own fact sheet, you find this:

Before a nuclear power plant begins operations, the licensee must establish or obtain a financial mechanism – such as a trust fund or a guarantee from its parent company – to ensure that there will be sufficient money to pay for the ultimate decommissioning of the facility. Licensees must update the NRC on the status of these mechanisms every two years (annually within five years of the planned end of plant operations). This requirement provides the public reasonable assurance that funds will be available when needed to clean up a plant site and avoid costly legacy sites that must be cleaned up at taxpayer expense

First, it is pointed out that the NRC has negligently allowed their licensees to VIOLATE the current rules as relates to funding and the filing of reports. As example, Indian Point and Vermont Yankee. The fact that these companies have filed applications for License Renewal does not mean such request will be granted...in turn, this would mean said licensees should have been required as per the rules to be filing YEARLY financial assurance reports, as they reactors as the current licensee stands are planned for shut down with FIVE YEARS (emphasis

added). If on the other hand, the NRC chooses to deny this reality, then they are **DEFACTO ADMITTING** a preplanned approval of said Licensee Renewal Applications, which would prove the public claims that the License Renewal Application Process is and has been rigged (I make this as a **FORMAL ALLEGATION OF WRONG DOING**, as well as a statement of fact to support my Petition for Rulemaking.)

Further more, in these financially turbulent times, with the stock market fluctuating wildly from day to day and week to week, a two year reporting requirement is simply inadequate to assure the safety and adequacy of the funds meant for safe decommissioning of these sites. Furthermore, as can be witnessed by the numerous changes of ownership and corporate structure at Entergy's licensed facilities, it has become apparent that having these funds held by the companies/licensees themselves is no longer acceptable.

To avoid Legacy Sites, to avoid leaving communities and taxpayers holding the bag, the following changes should be made to the current regulations as relate to Decommissioning funds:

1. Reporting requirements changed from every two years, to once a year.
2. Financial Assurances section shall be changed to read:

Before a nuclear power plant begins operations, the licensee must deposit and or create a financial mechanism – such as a trust fund with the host state, which is to be controlled and managed by the state – to ensure that there will be sufficient money to pay for the ultimate decommissioning of the facility. Licensees in cooperation with the state trust fund reporting authority must update the NRC on the status of these mechanisms every year that the plant remains in operation, and every six months once plant is within five years of the expiration date of a current license. Further, any shortcomings regardless of the cause (such as devaluation of financial instruments held by the fund) will require additional deposits into the account within 90 days from the time the shortfalls are noticed/observed in the annual reports. This requirement provides the public reasonable assurance that funds will be available when needed to clean up a plant site and avoid costly legacy sites that must be cleaned up at taxpayer expense.

The next section of the rules that need to be addressed revolve around the Safstor Option afforded licensees. Two serious flaws exist in the current rule, and how it is enforced, and again Indian Point is a perfect example. When Safstor was approved for Indian Point One, stakeholders in our local community were given the impression by the licensee and the Nuclear Regulatory Commission that Indian Point One would enter into decommissioning, its waste streams adequately dealt with at the expiration of Entergy's Current License period, rather than to be pushed off an additional 20 years into the future should a License Renewal Extension be granted for these failing aged reactors.

Allowing Entergy to keep IP1 in Safstor, pushing off the beginning of Decommissioning for another 20 years is a disservice to the community, and also means that said facility will not be returned to unrestricted use within 60 years from the time it was taken out of service. The reason Indian Point is being allowed to VIOLATE 10 CFR rules and regulations, being allowed to keep Indian Point One in Safstor, is simple...they are wrongfully and illegally depending on parts of IP ONE to help in the running of IP2 and IP3, and further are wrongfully using the reactor of IP One as an illegal storage/dumping ground for radiological waste streams from the continued operations of both IP2 and IP3.

Lastly, and most disturbing, is the Safstor option as currently written into the rules wrongfully allows their licensees to turn reactor sites into **LONG TERM ONSITE HIGH LEVEL WASTE STORAGE DISPOSAL DUMPS** that do not afford stakeholder citizens the protections they should be afforded when a facility is acting as a long term storage facility. Specifically, as found in the current rule, the Safstor reads:

Licensees may choose from three alternative decommissioning strategies: DECON, SAFSTOR, or ENTOMB.

- Under DECON (immediate dismantlement), soon after the nuclear facility closes, equipment, structures, and portions of the facility containing radioactive contaminants are removed or decontaminated to a level that permits release of the property and termination of the NRC license.
- Under SAFSTOR, often considered "delayed DECON," a nuclear facility is maintained and monitored in a condition that allows the radioactivity to decay; afterwards, it is dismantled.
- Under ENTOMB, radioactive contaminants are permanently encased onsite in a structurally sound material such as concrete and appropriately maintained and monitored until the radioactivity decays to a level permitting restricted release of the property.

The licensee may also choose to adopt a combination of the first two choices in which some portions of the facility are dismantled or decontaminated while other parts of the facility are left in SAFSTOR. The decision may be based on factors besides radioactive decay such as availability of waste disposal sites.

Stating that Safstor could be open ended based on factors besides radioactive decay SUCH AS AVAILABILITY OF WASTE DISPOSAL SITES creates a loophole that leaves host communities in grave danger of being forced into the position of being LONG TERM HIGH LEVEL WASTE DISPOSAL FACILITIES SCATTERED ALL ACROSS AMERICA.

Certain promises were given host communities at the very beginning of the process when reactors were SITED in our communities, we were provided with certain LEGALLY ENFORCIBLE rights as relates to the decommissioning of nuclear reactor sites. These primarily include the right to have the site decommissioned and returned to UNRESTRICTED USE within a period of 60 years. That was a finite and enforceable promise/contract between all parties...us as stakeholders and a host community, the Nuclear Regulatory Commission, and their licensees. The current wording of the 10 CFR Rules and Regulations as relates to SAFSTOR are deliberately vague and ambiguous in their current format, thus creating a situation where basic contractual promises relied upon in becoming host communities ARE AT GRAVE RISK of being broken, creating a situation where host communities become permanent LEGACY SITES LEFT HOLDING AN UNEXPECTED DUTY AND RESPONSIBILITY OF BECOMING PERMANENT HIGH LEVEL WASTE DISPOSAL AND LONG TERM STORAGE FACILITIES.

Fir this reason, the Decommissioning Options section should be rewritten to eliminate any and all vagueness as relates to the NRC and its licensees in meeting the promise of Decommissioning sites for unrestricted use within a period of 60 from the time the reactor ceased operations.

Licensees may choose from three alternative decommissioning strategies: DECON, SAFSTOR, or ENTOMB, as long as their choices meet and fulfill the obligation and promise to host communities to return the sites (and the land) to unrestricted use within a period NOT TO EXCEED 60 years, with no exceptions to this requirement under any circumstances, including the Federal Government and its agencies inability to deal with their LEGAL RESPONSIBILITY to provide OFF SITE LONG TERM STORAGE for these Nuclear Reactor LEGACY WASTES...if necessary, these legacy wastes will be stored at current DOD/DOE sites until such time as the Federal Government DOES ITS JOB.

- Under DECON (immediate dismantlement), soon after the nuclear facility closes, equipment, structures, and portions of the facility containing radioactive contaminants MUST BE removed or decontaminated to a level that permits release of the property FOR UNRESTRICTED USE and termination of the NRC license.
- Under SAFSTOR, often considered "delayed DECON," a nuclear facility will be/can be maintained and monitored in a condition that allows the radioactivity to decay, as long as the site moves out of SAFSTOR and into DECON in a time manner that fulfills the obligation of meeting the requirement that the portions of the facility containing radioactive contaminants MUST BE removed or decontaminated to a level that permits release of the property FOR UNRESTRICTED USE and termination of the NRC license within the 60 year time period. It is further stipulated, that while in SAFSTOR, no parts of the SAFSTOR facility may be used for ANY ACTIVITIES related to other licenses that may be held by a licensee, nor can additional waste streams be placed on the site that belong to other licensees, even if one company owns multiple licenses for multiple reactors on a singular piece of land.
- The option of ENTOMB is permanently STRICKEN FROM THE RULES, and ELIMINATED AS A CHOICE.

The licensee may also choose to adopt a combination of the first two choices in which some portions of the facility are dismantled or decontaminated while other parts of the facility are left in SAFSTOR for a period of time that does not interfere with the licensees primary responsibility of having all waste streams removed from the site, and having the site ready for unrestricted use and termination of their license within the sixty year maximum time period for FULL DECOMMISSIONING OF THE SITE. The decision may be based on factors besides radioactive decay but cannot include the lack of availability of waste disposal sites.

These changes in the rules are sought to adequately protect reactor host sites communities, and to give us the assurances that contractual obligations and promises made to us decades ago are kept and fulfilled in a timely fashion.

Respectfully Submitted

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