

November 30, 2015

The Honorable Peter Welch
United States House of Representatives
Washington, DC 20515

Dear Congressman Welch:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of October 14, 2015, in which you raise a number of concerns regarding decommissioning at Entergy's Vermont Yankee Nuclear Power Plant. I appreciate the opportunity to follow up on our discussion at the September 9, 2015, hearing. Please be assured that the NRC is committed to overseeing the safe and secure decommissioning of Vermont Yankee.

Regarding State and local stakeholder involvement in the decommissioning process, we recognize that States and local communities have a strong interest in the decommissioning of nuclear power plants within their boundaries. NRC regulations provide interested parties the opportunity to comment on the licensee's Post-Shutdown Decommissioning Activities Report (PSDAR), which includes decommissioning planning, schedule, cost and environmental impact information, and is submitted to the NRC and the affected State(s) prior to or within two years following permanent cessation of operations. State and local stakeholders may also comment on the License Termination Plan (LTP), which must be submitted at least two years before the license termination date. In addition to commenting on these submittals, the NRC conducts public meetings in the vicinity of the facility following the licensee's submission of its PSDAR and LTP, and there is an opportunity for interested parties to request an adjudicatory hearing regarding the LTP.

The NRC held a public meeting to discuss the decommissioning transition process and the licensee's PSDAR in February 2015 in Brattleboro, Vermont. The staff is currently reviewing this report, as well as the public comments it received. This review is expected to be completed in December 2015, at which time the NRC will determine whether the PSDAR contains the information required by regulation. The NRC staff will also address the public comments received, as appropriate. The public meeting on the LTP is expected to occur 2 years prior to the license termination date.

For many years, the NRC has strongly recommended that licensees involved in decommissioning activities form a community committee to obtain local citizen views regarding the decommissioning process and spent fuel storage issues. At most decommissioning sites, State and local governments are involved in an advisory capacity, often as part of a board or other organization aimed at fostering communication and information exchange between the licensee and the public. While licensees are not required to create a community advisory board, NRC decommissioning guidance discusses the creation of a site-specific community advisory board and provides recommendations for methods of soliciting public advice and contains useful guidance and suggestions for effective public involvement in the decommissioning process that could be adopted by any licensee.

The NRC is aware that the State of Vermont established its own Nuclear Decommissioning Citizens Advisory Panel, which includes representatives from Entergy. This can be a forum for productive dialogue among the State, the licensee, and other interested parties. Also, we are aware that the Vermont Department of Public Service, the Vermont Agency of Natural Resources, and the licensee have entered into a memorandum of understanding that we understand is intended to address a number of the State's concerns. In addition, the NRC maintains an active State Liaison Program, which provides States with opportunities for open communication with the NRC to make comments, ask questions, and express concerns at any time.

You also raised concerns regarding the range of activities that will be funded from the decommissioning trust fund. NRC requirements restrict the use of decommissioning trust fund withdrawals to expenses for legitimate decommissioning activities consistent with the definition of decommissioning under NRC regulations. If a licensee seeks to use its decommissioning trust fund for ancillary activities (such as site restoration or spent fuel management), a regulatory exemption must be sought and granted in accordance NRC regulations. On June 23, 2015, the NRC staff published in the *Federal Register* notice that it had granted Entergy an exemption from NRC regulations that would allow Entergy to withdraw decommissioning trust funds to pay for spent fuel maintenance. Use of decommissioning trust funds was the subject of a recent decision by an NRC Atomic Safety and Licensing Board, which is now before the Commission in its adjudicatory capacity, and is also the subject of a lawsuit in the D.C. Circuit. As such, the Commission is unable to offer any views on this matter at this time.

The length of the decommissioning process and Entergy's decision to use SAFSTOR was another concern identified in your letter. By regulation, power reactor licensees are allowed 60 years to complete decommissioning. Scientific studies concluded that 50 years was the optimal time for radioactive decay and would result in radiation dose rates being reduced to 1%-2% and radioactive waste volumes being reduced to about 10% compared to the levels that exist at the time of permanent plant shutdown. Sixty years was determined to be appropriate based on 50 years to allow radioactive decay and 10 years to complete the decommissioning.

NRC regulations are flexible and allow the licensee to perform immediate dismantling and decontamination (DECON), or pursue a monitored mode (SAFSTOR), at the licensee's discretion, within the 60-year period. A third option (ENTOMB) permanently encases radioactive contaminants onsite in structurally sound material such as concrete. Please be assured that during the decommissioning period, licensees are still subject to NRC's regulations. NRC inspectors conduct periodic inspections to ensure decommissioning operations are conducted safely and securely.

Your final concern addressed possible reduction in the size of the emergency planning zone and its potential impact on public safety. The Commission authorized the staff to issue an exemption from the agency's emergency planning requirements. This exemption resulted in the elimination of NRC requirements for formal offsite radiological emergency plans at Vermont Yankee, but requires the maintenance of certain onsite capabilities to communicate and coordinate with offsite response authorities. However, the State has asked the Commission to reconsider the decision. Relatedly, the State has appealed an Atomic Safety and Licensing Board decision that denied the State's request for hearing on Entergy's request to amend the Vermont Yankee Site Emergency Plan and Emergency Action Level Scheme. The Commission is unable to comment on these matters while they are pending.

Regarding the dismantlement of Vermont Yankee's Emergency Response Data System (ERDS), as you indicated, the Commission has ruled on the appeal — principally concerned with ERDS — from the State of Vermont regarding Vermont Yankee's staffing reduction amendment. Since Vermont Yankee is permanently shut down and Entergy's post-shutdown emergency plan does not describe ERDS or its use during an emergency, the licensee has the authority to retire ERDS without prior NRC approval, following an analysis to determine that the removal of ERDS would not reduce the effectiveness of Vermont Yankee's emergency plan. On October 28, 2015, the NRC staff issued letters to the States of Vermont, New Hampshire, and Massachusetts notifying them of the termination of ERDS at Vermont Yankee. Nonetheless, the State of Vermont Nuclear Engineer has access to Vermont Yankee's plant data server at the emergency operations facility during drills and emergencies.

Your input is important to us as we continually assess the lessons learned in the decommissioning process to identify appropriate program improvements. If you need any additional information, please contact me or Eugene Dacus, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Stephen G. Burns