

November 30, 2015

The Honorable Edward J. Markey  
United States Senate  
Washington, DC 20510

Dear Senator Markey:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to the October 15, 2015, letter from you and your colleagues seeking assurances that the remaining period of operation at Pilgrim Nuclear Power Station and its subsequent decommissioning will be in compliance with NRC regulations and protective of public health and safety. You also asked that decommissioning occur quickly and that the NRC encourage measures to assist workers who lose their jobs due to the reactor shutdown.

As you noted in your letter, Pilgrim has had some long-standing performance issues of low-to-moderate safety significance that have moved the plant into the Multiple/Repetitive Degraded Cornerstone Column (Column 4) of the NRC's Reactor Oversight Program Action Matrix. Entergy's decision to shut down Pilgrim no later than June 1, 2019, does not affect the NRC's ongoing increased oversight at the facility or the licensee's obligation to implement an effective performance improvement plan by taking actions necessary to achieve sustained improvements. The goal of NRC oversight is to ensure that, through the remaining period of operation, Entergy operates its facility in a safe and secure manner and remedies the identified performance issues.

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 taking comments on these submissions, the NRC also conducts public meetings in the vicinity of the facility following licensee submission of its PSDAR and LTP, and provides an opportunity for a hearing regarding the LTP.

Further, for many years, the NRC has strongly recommended that licensees involved in decommissioning activities form a community committee to obtain local citizen views and concerns 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 community engagement panel 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 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.

As your letter recognizes, licensees of facilities undergoing decommissioning have requested license amendments from the NRC. Licensees request these license amendments so that regulatory requirements reflect the reduced risks of permanently shutdown and defueled reactors as compared to operating reactors. Because current NRC emergency planning and security regulations address the emergency and security consequences of scenarios at operating reactors and not the reduced consequences of emergency and security scenarios at permanently defueled reactors, licensees undergoing decommissioning have also sought exemptions from emergency planning and security regulations. Exemptions and license amendments are part of a well-established NRC process to modify emergency plans and security plans commensurate with the site-specific risks that are present during decommissioning. A licensee cannot be relieved from NRC requirements unless it provides a detailed, technical application to the NRC to support the request and the NRC conducts a review to evaluate whether the requested license amendment and/or exemption should be granted. In order to grant such requests, the NRC must find that the action requested will not present an undue risk to, or will not endanger, the public health and safety and is consistent with the common defense and security.

Regarding requests for exemptions specifically from some of the NRC's emergency planning (EP) requirements, on May 11, 2015, the NRC issued guidance to identify the issues that the NRC staff evaluates in reviewing requests for exemptions. While the guidance is intended to assist the NRC staff in reviewing EP exemption requests, it also serves to describe and make publicly available the methods that the NRC staff considers acceptable for use in implementing specific parts of the agency's regulations, such as those governing exemption requests. In developing this guidance, the NRC relied upon previous exemption review experience, informed by the most recent spent fuel pool studies, and comments received during an extended public review and comment period.

Similarly, the NRC issued staff guidance earlier this year to ensure clear and consistent reviews of a licensee's request for licensing actions and amendments, the use of alternative measures, and requests for exemption from security regulations for nuclear power reactors after permanent cessation of plant operations. It includes consideration of past experience and lessons learned from technical evaluations of previous security exemption requests.

The NRC is committed to ensuring that the radiological decommissioning of the site is completed safely and within the time allotted by regulations. To meet this commitment, the NRC has established a comprehensive, regulation-based decommissioning funding program to provide reasonable assurance that sufficient funding will be available for radiological decommissioning of all U.S. commercial nuclear reactors, which applies from the time of initial licensing through license termination. Compliance with these regulations is verified through a broad monitoring program that includes a licensee's submittal of periodic decommissioning funding status reports and may be informed by onsite inspections of a licensee's decommissioning activities.

By regulation, power reactor licensees are allowed 60 years to complete decommissioning. Scientific studies have concluded that 50 years is 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 that allows the radioactivity to decay before the plant is dismantled and the property decontaminated (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.

Finally, your request that the NRC encourage measures to support communities, particularly workers whose jobs will be lost, is beyond the scope of the NRC's statutory mission under the Atomic Energy Act of 1954, as amended. The NRC has requirements to establish funding for radiological decommissioning, but has no authority to provide or mandate economic assistance to communities that may be affected by adverse economic impacts when an operating plant shuts down.

I appreciate you sharing your views on this important matter. Please be assured that the NRC is committed to overseeing the safe and secure operation and decommissioning of Pilgrim. If you need additional information, please contact me or Eugene Dacus, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

*/RA/*

Stephen G. Burns

Identical letter sent to:

The Honorable Edward J. Markey  
United States Senate  
Washington, DC 20510

The Honorable Elizabeth Warren  
United States Senate  
Washington, DC 20510

The Honorable William R. Keating  
United States House of Representatives  
Washington, DC 20515

The Honorable James P. McGovern  
United States House of Representatives  
Washington, DC 20515

The Honorable Niki Tsongas  
United States House of Representatives  
Washington, DC 20515

The Honorable Katherine Clark  
United States House of Representatives  
Washington, DC 20515

The Honorable Stephen F. Lynch  
United States House of Representatives  
Washington, DC 20515

The Honorable Joseph P. Kennedy, III  
United States House of Representatives  
Washington, DC 20515

The Honorable Michael E. Capuano  
United States House of Representatives  
Washington, DC 20515

The Honorable Seth Moulton  
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The Honorable Richard E. Neal  
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