Rulemaking1CEm Resource

From: RulemakingComments Resource
Sent: Friday, February 19, 2016 4:31 PM
To: Rulemaking1CEm Resource
Subject: FW: Docket ID NRC-2015-0070

DOCKETED BY USNRC—OFFICE OF THE SECRETARY

SECY-067
PR#: ANPR-26, 50, 52, 73, and 140
FRN#: 80FR72358
NRC DOCKET#: NRC-2015-0070
SECY DOCKET DATE: 02/19/2016
TITLE: Regulatory Improvements for Decommissioning Power Reactors
COMMENT#: 034

From: Thomas Matsuda [mailto:matsudat@yahoo.com]
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Subject: [External_Sender] Docket ID NRC-2015-0070

I am submitting comments for Docket ID NRC-2015-0070.

NRC MUST REQUIRE LICENSEES TO HAVE FULLY FUNDED DECOMMISSIONING FUNDS UPON CLOSURE: Decommissioning Funds for reactor cleanup are notoriously underfunded; the Agency permits nuclear corporations to seriously under-fund their decommissioning funds with the rationale that over time and with the ability for shuttered reactors to remain in SAFSTOR for up to 60 years, the funds required for cleanup would accumulate eventually. In addition, under utility owned nuclear facilities, utilities could request rate increases from state public service entities to cover any shortfalls in the fund. This was certainly the case at Yankee Rowe and Connecticut Yankee. These captured ratepayers covered the substantial shortfalls for inadequate and incompetent financial planning. With NRC's approval of merchant fleets of nuclear reactors, no captive ratebase exists to subsidize inadequate planning by licensees; contaminated sites can languish for indeterminate periods of time with no surety that the corporation responsible for cleanup will exist in 60 years. This undermines the impacted community as well as the states that remain in part responsible.

DECOMMISSIONING FUNDS CAN ONLY BE USED FOR RADIOLOGICAL CLEANUP: NO AMENDMENTS TO PERMIT LICENSEES TO RAID THE FUND FOR OPERATING EXPENSES: The Decommissioning fund was established for the cleanup of radiological contamination at reactor site. Its express purpose is to permit the site to be released for unrestricted use (if possible) after cleanup is completed. However NRC has permitted licensees to through an amendment process to substantially undermine the financial wellbeing of the fund for non-radiological purposes. For example Entergy (ENVY) has advanced a series of propositions for the use of the Vermont Yankee's decommissioning fund that have nothing to do with radiological cleanup. However, these appropriations have everything to do with Entergy's financial vulnerability and

its lack of adequate operational funds. For example, Entergy intends to use decommissioning funds to pay $600,000 in local taxes, its legal as well as lobby fees. It intends to use decommissioning funds to pay for guarding its dry cask storage installation through the 2050's. In fact, the corporation wants to use the fund to pay in part for the transfer of fuel to dry storage. Permitting these withdrawals seriously undermines the fund and substantially delays radiological cleanup.

NRC SHOULD RESTORE NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE:

Decommissioning should be reclassified as a Major Federal Action requiring NEPA compliance and the participation of the EPA in decommissioning oversight. The First Circuit Appellate Court justices opined in CAN v NRC that decommissioning is a major federal action and requires NEPA compliance. "An agency cannot skirt NEPA or other statutory commands by exempting a licensee from compulsory compliance, and then simply labeling its decision "mere oversight" rather than a major federal action. To do so is manifestly arbitrary and capricious." NEPA compliance is required and mandatory by the court for decommissioning. It would reinstate the use of NRC resident inspectors and increase NRC oversight and public participation. It would reinstate EPA oversight over chemical contamination at decommissioning sites.

It is essential for NRC to define decommissioning as a major federal action. As the Appellate Court opined ". . ., it is undisputed that decommissioning is an action which, even under the Commission's new policy, requires NEPA compliance 10C.F.R.S. 51.95(b)." The Agency's attempt to streamline the process for licensees and deregulate NRC requirements abdicates your responsibility to protect the health and safety of the workers, the public, the environment, and also undermines citizen due process.

NRC SHOULD RESTORE ALL DECOMMISSIONING SAFEGUARDS INCLUDING THE HEARING RIGHTS OF THE PUBLIC: Public meetings do not constitute the hearing rights required by the Atomic Energy Act and affirmed by CAN v NRC. Adjudicatory hearings offer citizens the right to cross examination and discovery. A meeting does not afford citizens the level of institutional accountability necessary given the dangers of enviro-toxic contamination inherent in the reactor cessation. Informational meetings, as experienced at Rowe, CT Yankee and VT Yankee, obfuscated, confused, and ignored the concerns of local citizens. Both the Federal District Court and the Appellate Court chastised the agency for this approach. If the community has concerns, and there is no regulatory recourse save one "meeting" with NRC, the Commission will, in fact, create greater polarization between the community and the regulator. This may lead to intensified mistrust of the agency and further costly legal battles as is seen in the decommissioning of Vermont Yankee. Advisory boards do not take the place of hearings.

THE DECOMMISSIONING PLAN SHOULD BE REINSTATED AND REPLACE THE PSDAR: The decommissioning plan must a thorough guide and road map for the cleanup process; it is an

instrument to hold a licensee accountable for the cleanup commitments it establishes in the plan; A 30-page narrative or report (PSDAR) identifying the licensee's actions does not qualify as a plan and does not establish verifiable licensee commitments.

SITE-SPECIFIC ADVISORY BOARDS BE ESTABLISHED AS A FORMAL MECHANISM FOR LOCAL AND STATE PARTICIPATION DURING DECOMMISSIONING: It is essential that the community in the effluent pathway of reactors as well as states that have oversight responsibilities including advocacy for ratepayers have the opportunity to participate in pollution reduction and prevention during decommissioning. This participation must be meaningful. The passive community participation in which limited information is fed to citizens to allay their fears is ineffective. Holding a meeting in a community to "inform" them of decommissioning is

inadequate. The Appellate court has rejected this approach. A process must evolve which is responsive to the concerns of effected citizens who will continue to bear the burdens of long term exposure to low-level radiation and contamination. Citizens must have a substantive role in decommissioning in order to clarify, negotiate and protect their community's interests and to satisfy the requirements of a constitutional democracy.

Communities should be given the opportunity to participate in decommissioning from its onset. Therefore, CAN proposes that Site-specific Advisory Boards be offered to reactor communities as a formal mechanism of community participation during decommissioning, since the process of site clean-up could span decades if not lifetimes. These boards must be independently convened in order to be effective. The Advisory Board would meet regularly to give meaningful input into decisions concerning health and safety, pollution prevention and reduction. This Board would function to educate the community regarding the impacts of the technology that exist in their neighborhood. It would include diverse interests such as local government, public interest groups, representatives of towns in the effluent pathway, Native Americans, reactor representatives, and Federal and State regulators such as the NRC, the MDPH, DEP, etc. An ecology of democracy must develop for citizens, scientists, technologists, industry, and regulators to work together to solve the contamination problems inherent in the nuclear fuel cycle.

Respectfully,
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