



March 8, 2018

Mr. Victor M. McCree
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555

Dear Mr. McCree;

The Decommissioning Plant Coalition (DPC) appreciates the efforts of the Nuclear Regulatory Commission (NRC) staff on its diligence in pursuing an update to the agency's rules applicable to decommissioning nuclear power plant facilities and sites. The adherence to schedules and the amount of effort that has gone into this project thus far is impressive and deserves our compliments.

The DPC was established in 2001 out of the recognition that the overwhelming attention of the regulator, the industry, and policy makers would be focused on the operating fleet and provides a forum for the identification of federal policy and regulatory issues of unique or special concern to decommissioning civilian nuclear facilities. Since its inception, plants that have been represented in the work of the DPC include: Big Rock (MI), Connecticut Yankee (CY), Dairyland (WI), Humboldt Bay (CA), Maine Yankee (ME), Rancho Seco (CA), San Onofre (CA), Vermont Yankee (VT), Yankee Rowe (MA), Zion (IL), and Crystal River (FL). Our primary goal remains to hasten the day when the spent fuel stored on-site will be successfully removed and no longer our companies' liability. The importance of this goal cannot be overstated; several of our member companies are simply awaiting the fulfillment of that goal to go out of business; some others find that spent fuel and GTCC storage consume up to 20% of corporate attention and resources, a disparate amount especially in view of the fact that these facilities no longer produce revenue. However, until the day comes that the Government meets its obligation to remove the SNF/HLW from our sites the DPC remains committed to engaging in industry activities that directly affect our sites such as this rulemaking.

While the staff's next milestone is to produce a draft final rule and the accompanying Regulatory Analysis, the DPC believes it timely to provide comments on the direction of the rulemaking as reflected in the Regulatory Basis.

The Regulatory Basis supports codifying the common exemption requests that have been approved and will continue to be sought by facilities when they transition from operations to permanent shut down. The staff indicates it is poised to include these in the draft final rule. These are positive steps that will greatly enhance efficiency and certainty for both the NRC and the industry.

The staff also indicates it is sensitive to the DPC position that as decommissioning sites reach what is now defined as, “Standalone ISFSI/Decommissioned Reactor Sites,” they are identical in their regulatory bases to those that previously reached that defined status. The staff has made progress in that regard since it issued its Advance Notice of Proposed Rulemaking. The staff’s commitment to examine the specific implementation issues associated with the rulemaking to ensure there are no unintended consequences to these sites is most welcome. The DPC will be pleased to work with the staff in that effort. As discussed when we met in early February, we are committed to developing a template of applicability as it relates to the regulations for the various phases of decommissioning to help ensure that the impacts of the proposed regulatory changes are clearly understood.

The staffs’ effort to carefully articulate that backfitting requirements do apply to decommissioning plants is commendable. The DPC believes some additional clarifications will be helpful in the draft final rule to make the intent more consistent among and between the various options that the staff discussed and recommends. It can make clearer the intent for non-applicability of new rules to decommissioning or decommissioned plants. The clarification could take the form of a matrix, or could be in the form of statements in consistent text at the end of each new or revised requirement. It could be as simple as an overarching statement in the Statement of Considerations that backfit applies to permanently shut down sites. Again, we will be pleased to assist the staff in such an effort.

The volume and nature of content that the staff indicates it will propose adding to agency guidance documents on matters that will not have a rule change needs to receive careful examination and oversight. Given that the consistent finding of the staff is that the rulemaking is not needed from safety or security standpoints, the codification of the commonly granted exemptions will increase efficiency for both licenses and agencies and is justified. However, the major reason the staff cites in advocating additional guidance on these other matters that have no identified safety or security basis is to promote better understanding by the general public and stakeholders. In as much as the level of stakeholder interest in the decommissioning

process has spanned a wide range between little and intense at differing sites. It should be clear that in the former case adding guidance will not improve efficiency and effectiveness for the agency nor for those specific licensees. For the latter, there is no indication that multiple additions to NRC guidance to its reviewers and licensees can or should address each and every concern that interested stakeholders have raised or anticipate all that will be raised in the future.

The staffs' (and licensee's) experience may well indicate that the both could improve communications with members of the public on decommissioning plans in some locations and that some focused guidance may be helpful for future sites as they permanently shut down. The focus on specific additions to guidance ought to lead to high confidence that efficiency and effectiveness of agency and licensee decommissioning efforts be realized. The guidance should not lead to a de facto approval mechanism (i.e.- guidance leading to a passing back and forth between stakeholders, the NRC, and licensees of a chain of questions about the PSDAR.) There is no regulatory basis to change the basic character of the PSDAR and move it any further toward meeting some goal short of or resembling NRC approval. To do so would also be contradictory to our experience with citizens' advisory or engagement panels; each ought to evolve according to local conditions, and each ought to be able to have discussions about decommissioning topics that are outside the Commission's regulations.

The DPC continues to advocate that NRC's regime of drug and alcohol testing should not apply to facilities once they notify the NRC that it has permanently ceased nuclear power generating activities.

The DPC continues to advocate that NRC Cyber Security regulatory requirements cease upon permanent cessation of nuclear power generating activities at a site.

The staff should continue to develop Option 3 of Section 4.3 in Appendix G of the Regulatory Basis, an option that would provide a four-tiered approach to insurance requirements during and after decommissioning.

It is our belief that the current use of draft RG 5.77 is premature. We would ask the staff and the Commission to examine and compare carefully provisions of the proposed RG 5.77 with matters under consideration in the Regulatory Basis. The provisions of proposed RG 5.77 may conflict with what we see as the correct health and safety evaluations of the Regulatory Basis.

We will be sure to make comments on the draft final rule to assist in making the final rule one that can promote long-lived efficiencies and clarity as sites near the time that they permanently cease nuclear power generating activities and eventually reach Stand Alone ISFI/Decommissioned Reactor Site status. As discussed at our recent “drop-in” meetings the DPC is not looking for a response from the Commission on this letter or its’ content. We offer this feedback in hopes of continuing the constructive dialogue and engagement in the implementation of this important rulemaking effort.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wayne Norton', with a horizontal line extending to the right.

Wayne Norton,
CNO, Maine Yankee
President and CEO, Yankee Rowe and Connecticut Yankee
On Behalf of the Decommissioning Plant Coalition

Cc: Chairman Svinicki
Commissioner Burns
Commissioner Baran