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Agency Activities in Response to a Portion of the Nuclear Energy Innovation and Modernization Act

Comment On: NRC-2019-0073-0030

Stakeholder Input on Best Practices for Establishment and Operation of Local Community Advisory Boards in Response to a Portion of the Nuclear Energy Innovation and Modernization Act

Document: NRC-2019-0073-DRAFT-0035

Comment on FR Doc # 2019-21012

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Organization: New York State Department of Public Service

Government Agency Type: State

Government Agency: Department of Public Service

General Comment

See attached file(s)

Attachments

NYS Comment NRC 2019_0073 NEIMA 11-15-19



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ATTN: Program Management, Announcements and Editing Staff
Docket ID NRC-2019-0073

Subject: NUCLEAR ENERGY INNOVATION AND MODERNIZATION ACT; COMMUNITY ADVISORY BOARDS

Dear Sir or Madam:

In response to your September 27, 2019 Federal Register notice, New York State provides the following comments on best practices for the establishment and operation of local community advisory boards (CABs) associated with nuclear energy facility decommissioning activities. New York urges the United States Nuclear Regulatory Commission (NRC) to support the formal recognition of local CABs in communities affected by the decommissioning of nuclear energy facilities. We also recommend that all reasonable expenses necessary to operate CABs be funded by the federal government.

Right to Organize CABs

The communities surrounding nuclear energy facilities are entitled to organize CABs that are fairly recognized by NRC given the outsized impacts they face from decommissioning. Decommissioning forces communities to grapple with innumerable questions surrounding public safety, public and environmental health, employment, municipal revenues, zoning, and the timeline for site restoration and subsequent development, amid others, and requires a mix of short-term remedies, long-term solutions, and often reinventions of community identity. A good example is provided by the Indian Point nuclear power reactors and related facilities (IP), which have been a part of the Buchanan, Cortlandt, and other

neighboring New York communities for over 60 years. After the IP reactors cease operation in 2021, approximately 1,000 employees will be impacted, taxing jurisdictions will lose a \$32 million PILOT (payment in lieu of taxes) agreement, and community leaders, organizations, and citizens with diverse needs, interests, and concerns must await a lengthy decommissioning process before this 240-acre Hudson River property can be restored as a community asset.

The communities most affected by nuclear energy facilities rightly want to ensure that public safety and the environment are protected during decommissioning and need to have a role in the decommissioning process. Given that NRC shares our views that “public involvement in decommissioning activities [is] a cornerstone of strong, fair regulation of decommissioning”¹, we urge NRC to establish and confirm an unequivocal legal right for these communities to organize CABs, and secure their ability to fairly participate in the decommissioning process.

Fair and Adequate Funding

The federal government has authorized the construction and operation of nuclear power facilities, and it is therefore the responsibility of the federal government to provide reasonable funds to operate CABs. Given the loss of an important municipal revenue source, the communities seeking to organize CABs are challenged to handle the additional expense of operating them. NRC is the most appropriate entity to provide such financial support. As the regulatory body charged with ensuring strong public involvement during the radiological decommissioning process, NRC has a public trust interest in ensuring CABs are both solvent and effective.

Additionally, we strongly oppose the use of decommissioning trust funds to support CABs. As stated in 10 C.F.R. §50.82, and as echoed by New York State’s comments in decommissioning rulemaking proceedings,² the use of decommissioning trust funds are restricted to actual decommissioning activities, namely the reduction of residual radioactivity to allow the site to be released for unrestricted use.³ NRC should not force host communities into a binary choice between depleting decommissioning trust funds or supporting community advisory boards. Use of decommissioning trust funds for any other purpose would undercut the very goal CABs seek to achieve: safe, clean, timely, and comprehensive decommissioning.

We urge the Nuclear Regulatory Commission to recommend to Congress that CABs be formally recognized as essential stakeholders to the decommissioning process, financial support for CAB operational costs be provided by the federal government, and the integrity of decommissioning trust funds be maintained.

If you have any questions or need additional information, please contact Tom Kaczmarek at (518) 474-4223 or Thomas.Kaczmarek@dps.ny.gov.

¹ *Public Involvement in Decommissioning*, Nuclear Regulatory Commission, last updated Aug. 24, 2018, available at <https://www.nrc.gov/waste/decommissioning/public-involve.html> (accessed Oct.22, 2019).

² See generally New York State Comments on NRC Advance Notice of Proposed Rulemaking “Regulatory Improvements for Decommissioning Power Reactors,” (March 18, 2016) ADAMS ML16081A495 at p. 7.

³ 10 C.F.R. §§ 50.82(a)(8), 50.2 (“decommission” definition) (2018). For example, under NRC regulations, spent fuel management is not within the scope of radiological decommissioning. *General Requirements for Decommissioning Nuclear Facilities*, 53 Fed. Reg. 24018-01, 24018 (1988).

Sincerely,



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Chair, Indian Point Closure Task Force
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cc: Members of the Indian Point Closure Task Force

Hon. Peter Harckham, New York State Senate District 40
Hon. Sandy Galef, New York State Assembly
Supervisor Linda Puglisi, Town of Cortlandt
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Minority Leader John Testa, Westchester County Board of Legislators
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