

From: [Cochran, Justin@Energy](mailto:Cochran,Justin@Energy)
To: [RulemakingComments_Resource](#)
Cc: Gallardo, Noemi@Energy
Subject: [External_Sender] NRC request for comments on the proposed amendments to its regulations that relate to the decommissioning of production and utilization facilities (Docket ID NRC-2015-0070)
Date: Tuesday, August 30, 2022 9:42:51 PM
Attachments: [Chair Hochschild Letter to NRC on Decommissioning Rulemaking Aug2022.pdf](#)

Good day.

Attached pdf contains the comments of Chair David Hochschild, California Liaison Officer to the NRC. If you have questions or need additional information please let me know. Thank you for your time and consideration.

Best Regards,

Justin Cochran, Ph.D.

Emergency Coordinator & Nuclear Advisor to

Chair David Hochschild

California Energy Commission

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August 30, 2022

Brooke P. Clark,
Secretary,
U.S. Nuclear Regulatory Commission,
Washington, DC 20555-0001,
ATTN: Rulemakings and Adjudications Staff

RE: U.S. Nuclear Regulatory Commission (NRC) request for comments on the proposed amendments to its regulations that relate to the decommissioning of production and utilization facilities (Docket ID NRC-2015-0070)

Dear Secretary Clark:

This letter provides the comments of the California State Energy Resources Conservation and Development Commission (more commonly referred to as the California Energy Commission) on the above-referenced action. I am the Chair of the California Energy Commission and the State's Liaison Officer to the United States Nuclear Regulatory Commission (NRC). The California Energy Commission is California's primary energy policy and planning agency, with core functions that include evaluating and proposing mitigation for public health, safety, and environmental impacts¹ of proposed thermal power plants, including nuclear reactors. Since the adoption of California Assembly Bill No. 1632 (Blakeslee, 2006), the California Energy Commission has taken the lead role in assessing the local costs, impacts, and policy issues associated with California's active and decommissioning nuclear power plants along the state's seismically vulnerable coastline.²

As the Liaison Officer, I provide the NRC with information on matters pertinent to California including the state's radiological health, emergency preparedness,

¹ The California Environmental Quality Act (CEQA) makes environmental protection a mandatory part of every California state and local (public) agency's decision-making process. The 2019 CEQA statutes and guidelines can be found at https://resources.ca.gov/-/media/CNRA-Website/Files/Programs-and-Projects/CEQA/CEQA-Homepage/2019_CEQA_Statutes_and_Guidelines.pdf?la=en&hash=28D5D3CF051762486FC0A43BB50921F85E30E8CC.

² California Assembly Bill No. 1632 (Blakeslee, 2006). Retrieved from http://leginfo.ca.gov/pub/05-06/bill/asm/ab_1601-1650/ab_1632_bill_20060929_chaptered.html.

actions by the California Energy Commission and California Public Utilities, and state nuclear safety matters.

California currently hosts one operating power reactor facility, three power reactor facilities at various stages of decommissioning, and multiple operating and decommissioning research reactors. As a member of the Agreement State Program, California has more than 1,600 specific licenses authorizing possession and use of radioactive materials.

I recognize and appreciate the efforts by NRC staff and leadership to address the existing decommissioning process. This letter focuses on issues in the proposed decommissioning rule that I believe are deficient or prioritize reducing industry "burdens" and regulatory "flexibility" over the interests of state and local stakeholders. In the current draft of the proposed rule, the NRC staff have prioritized reducing the regulatory "burden" and costs of licensees while ignoring or marginalizing the impacts the rule's provisions have upon non-licensees.

Key areas in the current draft where licensees interest is prioritized over state and local interests are in the critical areas of emergency preparedness, liability, and spent fuel management. As our colleagues in Vermont, Massachusetts, New York, and Connecticut stated in their 2017 comment letter, NRC staff have attempted to calculate potential benefits and costs for the NRC and industry while failing to address benefits and costs for the host communities and states. My concern is that many of the issues that have been previously raised by the states in the various comment periods remain in the current version of the proposed rule. Consequently, I cannot support the proposed decommissioning rule.

A summary of my primary concerns with the proposed rule are:

- The Certified Fuel Handler position should be subject to higher standards when engaged in activities that represent significant safety consequences.
- The proposed rule would weaken NRC's financial assurance requirements. The proposed rule does not strengthen the standards or provide a higher level of assurance that adequate decommissioning funds will be available. Explicit requirements are needed to assure funding shortfalls are addressed in a timely manner. Furthermore, the proposed rule should maintain existing insurance levels until all spent fuel is transferred to dry cask storage.
- The proposed rule should extend cyber security requirements until all spent fuel is transferred to dry cask storage.
- The proposed rule should require licensees to maintain real time monitoring until all spent fuel is transferred to dry cask storage.
- NRC must require dedicated radiological emergency planning, including a 10-mile EPZ, until all spent fuel is transferred to dry cask storage. The

- current proposed rule emergency preparedness requirements are significantly reduced when a plant reached Level 2.
- Level 2 eliminates the requirements for dedicated offsite emergency planning, emergency planning zones (EPZs), and public alert/notification systems. This is overly optimistic when considering potential risks to the spent fuel pool. An event that triggers a nuclear incident has a high probability of introducing significant barriers to transportation, communication, and both offsite and regional response support.
 - Prompt decommissioning should be the expectation and not an option. The proposed rule should require decommissioning to be completed as soon as technically and financially feasible.
 - Conducting the environmental review before decommissioning begins or any of the major decisions have been made is essential to ensure that safety or environmental concerns are addressed.
 - IAEA has explicitly stated that licensees “should submit an application containing the final decommissioning plan for review and approval by the regulatory body”.³ The proposed rule further weakens an already inadequate PSDAR process.

I support the recommendations made by Commissioner Baran in his comments on SECY-18-0055 and strongly recommend that NRC staff make the appropriate revisions to the proposed rule.⁴

I have directed my staff to engage in this important topic and welcome future dialogue on this and related issues. Please send any future notices, correspondence, and documents to my Senior Nuclear Policy Advisor Justin Cochran, Ph.D., at the California Energy Commission, 715 P Street, Sacramento, CA, 95814-5512, or by e-mail at Justin.Cochran@energy.ca.gov.

Sincerely,



David Hochschild
Chair
California Energy Commission

³ International Atomic Energy Agency, Decommissioning of Nuclear Power Plants and Research Reactors (1999).

⁴ Commissioner Baran’s Comments on SECY-18-0055, “Proposed Rule: Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning” ML21230A313.