

PUBLIC SUBMISSION

As of: 9/13/22, 3:03 PM Received: August 30, 2022 Status: Pending Post Tracking No. 17g-bubf-hphk Comments Due: August 30, 2022 Submission Type: Web

Docket: NRC-2015-0070

Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

Comment On: NRC-2015-0070-0229

Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

Document: NRC-2015-0070-DRAFT-2296

Comment on FR Doc # 2022-03131

Submitter Information

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Government Agency Type: State

Government Agency: New York State Energy Research and Development Authority (NYSERDA)

General Comment

New York State comments (see attached file).

Attachments

NYS comments decommissioning rulemaking 8-30-22



NYSERDA

KATHY HOCHUL
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Chair

DOREEN M. HARRIS
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August 30, 2022

U.S. Nuclear Regulatory Commission
Office of the Secretary
ATTN: Rulemakings and Adjudications Staff
Washington, DC 20555

Subject: Proposed rulemaking NRC-2015-0700 “Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning”

To all concerned:

The State of New York has reviewed the NRC’s proposed rulemaking NRC-2015-0700 “Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning” that was published in the Federal Register on March 3, 2022. The proposed rule seeks to amend regulations governing the transition of nuclear power plants from operation to decommissioning in accordance with NRC’s perception of lower safety risk for a permanently shut down nuclear power plant.

New York State has submitted comments in prior stages of this rulemaking and incorporates by reference here our letters dated March 18, 2016 (ML16081A495) and June 13, 2017 (ML17165A386), associated with the NRC’s Advance Notice of Proposed Rulemaking (ANPR) and Regulatory Basis documents, respectively. We also acknowledge and incorporate the comments on this proposed rule submitted on August 30, 2022 collectively by the Attorneys General of New York, Connecticut, Maryland, Michigan, Vermont, and Massachusetts.

In addition, we offer the following:

NYSERDA supports Commissioner Baran’s position that the rule unduly favors the interests of the industry over all other stakeholders, and in particular appreciates his consideration of the shifting cost burden to state and local governments by reducing emergency preparedness and insurance protections while risks are still present. *See SECY-18-0055, Notation Vote at 2.* We appreciate Commissioner Baran’s careful consideration of comments submitted by states, local governments, and tribal stakeholders, and support his position that Community Advisory Panels be created by state governments. With the Indian Point decommissioning, it is further noted that local governments may convene similar

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organizations as well. *Id. at 5.* In particular, NYSERDA also supports Commissioner Baran's observation that the decommissioning formula, unchanged by the draft rule, "does not even purport to account for the full costs of decommissioning, only the "bulk of funds" necessary for radiological decontamination". *Id. at 12.* It is clear from Commissioner Baran's thoughtful comments accompanying his vote that he understands the holistic impact of decommissioning on the universe of relevant stakeholders, and our comments support further Commission action to even the playing field among these actors.

NYSERDA further supports Commissioner Baran's call to require licensees to submit a detailed decommissioning plan for approval by NRC before decommissioning work can begin and to provide formal opportunity for state and public comment on that plan. NRC's current approach results in a post-shutdown decommissioning activities report (PSDAR) that is a mere 'FYI' to those it will most affect – the state and local community -- rather than the start of a partnership with those vital stakeholders. Absent an NRC approval requirement, the NRC process simply has no teeth.

Currently, the state and public only has an opportunity for comprehensive decommissioning plan input and hearing if the licensee happens to choose to sell (or transfer) the plant to a decommissioning entity. The public's ability to participate in the development of a decommissioning plan for a facility should not hinge on the reactor operator electing to transfer the facility to a decommissioning entity. We urge NRC to establish a licensing action for plant shutdown and transition to decommissioning. NRC's current PSDAR paradigm flies in the face of the intent of the NRC's State Liaison program and NRC's otherwise strong focus on cooperation with the states.

Thank you for the opportunity to comment. If you have any questions or concerns, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Alyse Peterson".

Alyse Peterson, P.E.
Senior Advisor for Nuclear Coordination & Radioactive Waste Policy

cc: Doug Tifft, State Liaison Officer, NRC