

PUBLIC SUBMISSION

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Docket: NRC-2024-0135

Returning a Decommissioning Plant to Operating Status

Comment On: NRC-2024-0135-0003

PRM-50-124, Returning a Decommissioning Plant to Operating Status

Document: NRC-2024-0135-DRAFT-0028

Comment on FR Doc # 2024-20936

Submitter Information

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Organization: Citizens Advisory Council, Pennsylvania Department of Environmental Protection

General Comment

Please see attached file/letter from the Citizens Advisory Council to the Pennsylvania Department of Environmental Protection.

Attachments

Comments to NRC - Returning a Decommissioning Reactor to Operational Status



Citizens Advisory Council

to the Department of Environmental Protection

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December 2, 2024

Dear United States Nuclear Regulatory Commission:

The Citizens Advisory Council (“CAC” or “Council”) to the Pennsylvania Department of Environmental Protection (“PA DEP”) offers the following comments to the petition for rulemaking, notice of docketing, and request for comment that was published in the Federal Register on September 19, 2024 (89 Fed. Reg. 76750, Sept. 19, 2024). That Federal Register notice discussed a petition for rulemaking that was docketed by the United States Nuclear Regulatory Commission (“U.S. NRC”). That petition requested that U.S. NRC revise its regulations to include a Commission-approved process for returning a decommissioning plant to operational status. This comment letter was approved by the Council on [INSERT DATE].

The Council was established by Act 175 of 1929, the Administrative Code of 1929, which also includes the Council’s membership. The Council’s members are representative of the diversity of Pennsylvania – in region and geography, politics, profession and expertise, and perspective.

Since its formation, the Council has sought to ensure that all people in Pennsylvania enjoy the benefits of and rights to clean air; pure water; and the preservation of natural, scenic, historic, and esthetic values of the environment. Part of the statutory mandate of the Council includes evaluating the environmental issues and laws affecting Pennsylvania and providing advice concerning environmental matters to, *inter alia*, the Commonwealth’s federal representatives.

Additionally, members and staff of the Council serve on various other advisory boards, committees, and commissions of PA DEP. For example, the Council’s Executive Director represents the residents of Pennsylvania on PA DEP’s Radiation Protection Advisory Committee and represents PA DEP on the Low-Level Radioactive Waste Advisory Committee.

As U.S. NRC knows, more than 31 percent of electricity generation in the Commonwealth comes from nuclear. Pennsylvania has eight operating reactors and three decommissioning reactors, one of which is exploring the possibility of going operational again. The eight operating reactors are Beaver Valley Power Station Units 1 and 2, Limerick Generating Station Units 1 and 2, Peach Bottom Atomic Power Station Units 2 and 3, and Susquehanna Steam Electric Station Units 1 and 2. And the reactors undergoing decommissioning are Peach Bottom Atomic Power Station Unit 1 and Three Mile Island Units 1 (“TMI-1”) and 2, the latter being the site of the of the March 28, 1979, incident, which resulted in severe damage to the reactor core. TMI-1 is currently decommissioning, but has been the topic of local, national, and international news

relating to plans to become operational within three years. It is with TMI-1 in mind that the Council approached the U.S. NRC's Federal Register notice.

At a high level, the Council supports U.S. NRC's endeavors to revise its regulations to include an approved process for returning a decommissioning plant to operational status, including agreement that the revision should happen in 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," and not 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." While individual members of the Council, and the various stakeholders within Pennsylvania, have perspectives that span the entire spectrum, these regulations would provide much needed flexibility in meeting future energy demands, developing hydrogen and other decarbonization efforts and projects, and tackling climate change.

In development of these regulations, U.S. NRC must consider various aspects, including environmental reviews, public participation, and safety aspects.

First, U.S. NRC is obligated to evaluate the environmental effects of approving the return of a decommissioning plant to operating status under the National Environmental Policy Act (NEPA). The Council believes that applicants returning a decommissioning plant to operational status should follow a process similar to 10 CFR § 51.53(c), "Postconstruction environmental reports." Additionally, the Council believes that U.S. NRC's NEPA process should be similar to the process used for license renewal, which is to issue an Environmental Impact Statement through a supplement to NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants." As part of the NEPA process, U.S. NRC should broadly address Environmental Justice considerations.

The U.S. NRC should likewise consider environmental justice in accordance with established Commission policy. Environmental Justice considerations are not just limited how the U.S. NRC addresses these issues under NEPA. U.S. NRC should engage in a robust public outreach and participation process, engaging and receiving comments and concerns from all stakeholders, especially communities in and around a decommissioning reactor that may return to operation. The Council encourages early and frequent public meetings in developing these regulations and when considering the return of a decommissioning plant to operational status. All public meetings should offer an online and in-person component and be offered at various dates and times to maximize and ensure a well-attended and diverse group of interested people attend. Likewise, for specific decommissioning plants, multiple in-person meetings, with an online component, should be conducted in the vicinity of the plant. For example, public meetings regarding TMI-1's return to operation should be online and in or near Harrisburg, PA – the Council will offer time during one of our monthly meetings, in coordination with our Executive Director and PA DEP, to facilitate the U.S. NRC's future consideration of TMI-1.

Finally, the Council fully believes that safety is of paramount importance. While the Council's focus is on environmental issues, environmental and safety issues are inextricably intertwined.

A comprehensive framework to conduct safety evaluations will need to be established to assure the safety of all decommissioning plants returning to operation, including TMI-1. Some plants have sat idle for years or decades, like Unit 1 at Peach Bottom, or are actively decommissioning, such as TMI-1. Ensuring key systems like the reactor cooling system, control systems, and emergency backup generators meet modern safety requirements is essential. As such and for safety equipment needing replacement or modification as a result of mothballing or dismantling, the Council does not believe that these reactors should enjoy Backfit Protection, as defined in 10 CFR § 50.109, “Backfitting,” or, while not pertinent in the case of TMI-1, Issue Finality found in 10 CFR Part 52. In so much as equipment must be replaced, these plants should meet modern safety requirements as articulated under 10 CFR Parts 50 or 10 CFR Part 52. In addition, a robust quality assurance program is needed to ensure structures, systems, or components (SCCs) provide adequate confidence that they will perform satisfactorily when returning to operation – including either an NRC-based program during decommissioning or a program that is able to look at SCCs once the plant begins activities for reoperation, or both. However, while the Council believes that Backfit Protection and Issue Finality should not be on the table, the established framework should still be risk-informed and performance based.

Like the petitioner states, the Council is not offering specific language or wording for a proposed rule. However, in addition to the issues identified earlier, the contemplated rulemaking should consider the elements in the petition, which include decommissioning status and configuration verification, aging management, quality assurance during restart and operations, equipment maintenance, personnel qualifications, license expiration, appropriate licensing basis, start-up testing, U.S. NRC catchup review, completion of past Open Commitments. The Council believes that the Atomic Energy Act of 1954 requires U.S. NRC to publish an opportunity to request a hearing when individual decommissioning plants apply to return to operation. While slight modifications are needed to account for this contemplated rulemaking, the provisions of 10 CFR Part 2, “Agency Rules of Practice and Procedure,” should be currently comprehensive to substantively account for this endeavor.

In general, the Council supports U.S. NRC’s attempts in creating a regulatory framework to return decommissioning nuclear reactors to operation. Where warranted, after appropriate consideration of safety and environmental issues, the return of eligible plants to operating status may contribute to providing the United States with additional flexibility to tackle climate change while meeting future energy demands. At the same time, the Council will continue to urge the federal government, including the U.S. NRC, to address environmental and safety concerns of plant such as Three Mile Island to guarantee the rights of every Pennsylvania resident to clean air; pure water; and the preservation of natural, scenic, historic, and esthetic values of the environment.

We finally extend an open invitation to U.S. NRC to one of the Council’s monthly meetings, as mentioned earlier, to discuss any nuclear, reactor, material, or waste issues that may impact Pennsylvania and within your statutory jurisdiction.

For any questions, responses, or follow-ups, please get in touch with the Council's Executive Director, Ian Irvin at iirvin@pa.gov or (717)787-8171.

On behalf of the Council,

Trisha L.R. Salvia

Trisha Salvia,
Vice Chairperson, Citizens Advisory Council

cc: