

May 5, 2014

The Honorable Bernard Sanders  
United States Senate  
Washington, DC 20510

Dear Senator Sanders:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your February 11, 2014, letter and the March 4, 2014, letter from you and your colleagues of the Vermont congressional delegation, Vermont Governor Peter Shumlin, and Vermont Attorney General William Sorrell. These letters urge us to provide host States and other interested parties a larger role in the decommissioning process for commercial nuclear power reactors. We share your view that States and local communities have a strong interest in the decommissioning of nuclear power plants within their boundaries.

Under the Atomic Energy Act of 1954, as amended, the NRC has sole responsibility for regulating radiological health, safety, and security at commercial nuclear power plants. This includes oversight for the establishment of funding for radiological decommissioning. The objective of decommissioning is to remove a nuclear facility safely from service and reduce the residual radioactivity to levels that meet NRC requirements to protect the public and support license termination. The NRC has approved alternative decommissioning strategies which have been evaluated to be protective of public health and safety. It is up to the licensee to choose which of these options (or combinations of options) it will use for decommissioning. The NRC's regulations require that adequate funding for decommissioning be established regardless of whether the licensee is a utility or a merchant operator. Since 1982, the NRC has overseen the successful decommissioning of 11 nuclear power plants, including 7 since we established our license termination regulations in 1996 and 1997. The NRC continually assesses the lessons learned in its decommissioning process to identify appropriate program improvements.

Other decommissioning activities that may take place after the licensee has demonstrated to the NRC that the radiological criteria for license termination have been met, and after the license has been terminated, are outside the jurisdiction or oversight of the NRC. For example, after the radiological decommissioning is complete, the NRC does not define the end state of site restoration to "greenfield" conditions.

Commercial nuclear reactor radiological decommissioning is a multi-year activity that includes an extensive decommissioning planning process and reliance on natural radioactive decay to reduce the level of radioactivity and volume of radioactive waste generated during decommissioning at the facility. Also, prior to being able to safely transfer spent fuel from the spent fuel pool to dry cask storage, the fuel needs several years to cool to comply with safety limits for the dry casks. "SAFSTOR," a process whereby a nuclear facility is placed and maintained in a condition that allows it to be safely secured, monitored and stored, relies on natural radioactive decay to reduce the radiation dose rates for workers by up to 98 percent and to reduce radioactive waste requiring disposal as waste volumes are expected to be as little as 10 percent of the original volume at plant shutdown. During the first years after shutdown, the nuclear power plant is transitioned for decommissioning. Continuing NRC inspections provide

further assurance that the facility is being managed by the licensee with public health and safety foremost in mind until the license is terminated.

Our regulations provide opportunities for interested parties to communicate their views to the NRC and the licensee regarding radiological decommissioning. NRC regulations provide the public an opportunity to comment when a licensee submits the Post-Shutdown Decommissioning Activities Report (PSDAR) and a License Termination Plan (LTP) which is reviewed as a license amendment request. In addition, the NRC conducts public meetings in the vicinity of the facility following licensee submission of its PSDAR and LTP and there is an opportunity for a hearing regarding the LTP. We strongly encourage licensees to continue the industry practice of communicating with States, local communities, and other interested parties by sponsoring citizen advisory groups.

States often play a significant role in nuclear facility decommissioning beyond the NRC's responsibility for radiological safety and security, particularly on matters relating to socio-economic impacts, including the funding of additional activities, and State-specific remediation standards. For example, regarding a licensee's decommissioning trust funds, the NRC has jurisdiction over a portion of these funds that are designated for radiological decommissioning of the nuclear facility. Recognizing that the decommissioning of power reactor sites may also be subject to regulation over non-radiological hazards by other Federal or State government agencies, it is incumbent upon the licensee to properly allocate funding for the entire decommissioning process, including both Federal and State requirements. Furthermore, it is imperative for the licensee to have an adequate and accurate reporting process in place to ensure that all regulatory bodies, Federal and State alike, are well informed of the status of a licensee's financial ability to comply with regulatory requirements and to complete the various stages of decommissioning in a timely manner.

In the case of the Vermont Yankee Nuclear Power Station, the NRC is aware that the Vermont Department of Public Service, the Vermont Agency of Natural Resources, and the licensee have entered into a Memorandum of Understanding that we understand will address a number of the State's concerns. These include the development of site restoration standards for the period of time after radiological decommissioning has been completed, and the funding for and timing of ultimate site restoration; a right of first refusal for Vermont to purchase the Vermont Yankee property; and funding for local economic transition and development.

NRC's regulatory opportunities for public involvement in the radiological decommissioning process, combined with independent State action to address directly with the plant owners issues of interest within the State's authority, provide an opportunity for State involvement in the closure and decommissioning of the Vermont Yankee Nuclear Power Station and other nuclear power plants.

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I hope this response clarifies the statutory responsibilities of the NRC and current opportunities for States and other interested parties to participate in nuclear power plant decommissioning. If you need any additional information, please contact me or Amy Powell, Acting Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

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Allison M. Macfarlane

Identical letter sent to:

The Honorable Bernard Sanders  
United States Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
United States Senate  
Washington, DC 20510

The Honorable Peter Welch  
United States House of Representatives  
Washington, DC 20515

Governor Peter Shumlin  
109 State Street, Pavilion  
Montpelier, VT 05609

Attorney General William Sorrell  
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