NRC’s New Decommissioning Rule: Radical Rulemaking!

NRC’s new draft rulemaking attempts to once again streamline the decommissioning process. This is NRC’s second attempt at undermining cleanup standards, eviscerating public participation and subsidizing nuclear corporations short on cash and solutions. In the 1990’s NRC created an illegal ‘strip and ship’ policy for the Yankee Rowe reactor decommissioning abdicating its own rules and oversight to help the corporation out. CAN took the NRC to court to stop the dirty cleanup. The First Circuit Appellate Court found the decommissioning of Yankee Rowe “illegal and in violation of the National Environmental Policy Act, the Administrative Procedures Act and the Atomic Energy Act.” NRC’s response to the Court’s reprimand was to codify its actions in Rowe and deregulate decommissioning. The Agency’s own Inspector General’s Report “NRC at a Crossroads” underscored the radical shift that NRC proposed and codified (61 FR 39278; July 29, 1996). This radical shift by the NRC undermined the ability for the public or the state to participate in matters that vitally affected them, undercut the Agency’s ability to effectively regulate the cleanup of contaminated sites, and permitted cleanup to be driven by a nuclear corporations’ bottom line.

NRC is now proposing another radical shift in policy and regulation. Its decommissioning regulation is focused on the vulnerability of reactor fuel pools and dry cask storage. In doing this, NRC is abdicating its responsibility to impacted communities and states. Decommissioning funds were established to ensure that reactor sites were radiologically remediated and released for unrestricted use. Since ratepayers benefited from the power, they paid into the fund to ensure cleanup. Now the Agency expects ratepayers to subsidize a failed nuclear waste policy — NRC’s in-

NRC to Revise Rules for Future Reactor Decommissioning

The Vermont Yankee Nuclear Decommissioning Citizens Advisory Panel (NDCAP) has continued to meet monthly and has received reports and updates regarding various aspects of the ongoing decommissioning of the power plant. Simultaneously, the Nuclear Regulatory Commission has sought public input for its scoping process to determine how the NRC staff will move forward with a rulemaking to revise rules and policy for future reactor decommissioning. Vermont Yankee is one of the first merchant sites actively decommissioning a reactor without a customer base to support the lengthy and expensive dismantling of a power plant. As such, the merchant decommissioning here in Vermont offers invaluable insight into current rules and what policy changes will be needed as a large number of merchant reactors line up to be closed and decommissioned. To that end, citizen members of NDCAP have forwarded comments and policy suggestions to the NRC.

The citizen members suggest:

1) Keeping the ten-mile Emergency Preparedness Zone in place while spent fuel remains in wet storage in the fuel pools.

2) SAFSTOR for sixty years is unacceptable at single unit sites and should not exceed ten years. The ten year period should be used to protect workers.

Another Triumph for Grass Roots Activism

Opposition to Kinder Morgan’s Massachusetts and New Hampshire $5 billion 416-mile gas pipeline has been building for over two years. Last month Kinder Morgan (KM), the largest pipeline company in North America, announced it was suspending the Northeast Energy Direct (NED) pipeline. In late May, KM formally killed the project. I became involved in the Stop the NED Pipeline movement about 9 months ago, after several years of working within the movement to close Vermont Yankee. The successful campaign to stop this pipeline shares common traits with the efforts that closed VY.

As with the campaign to close VY, opposition to NED was organized legislatively, legally, and through public nonviolent direct action. Several Western Massachusetts legislators took strong public positions opposing the pipeline. State Attorney General Maura Healey initiated legal actions that became expensive roadblocks for KM to navigate around. At least a dozen Western Massachusetts towns organized working groups to oppose pipeline construction in their towns. All of these efforts were undergirded by demonstrative public direct action: packed FERC meetings, large pipeline walks, and planning of nonviolent civil disobedience.
During the VT legislative session, a legislative panel took testimony from the chair of the NDCAP, Kate O’Connor, to get an update on the activities of the panel. Kate’s testimony was powerful and showed how important CAN’s work has been as Vermont Yankee shut down and began the decommissioning process. Soon after Entergy announced that they would shut down Vermont Yankee, CAN went to work and advocated for the creation of a Citizens Advisory Panel. Specifically, CAN worked to ensure that the panel would not be controlled by Entergy, and that the panel would have representatives from the local community. We were successful in getting language into the state budget that created the NDCAP and kept the panel under the auspices of the state, with a legislative mandate for local representation.

Kate O’Connor’s testimony in March was powerful because she highlighted how important it was to have the independence and ability to explore issues associated with the decommissioning of Vermont Yankee. Kate said that the NDCAP is doing much more than she ever thought it would. She has testified at the NRC & has been successful in getting other states to sign onto the NDCAP’s comments to the NRC. In talking with other members of CAP’s in other decommissioning communities, Kate has learned that Vermont’s NDCAP is being seen as a model—especially as merchant plants begin to shut down. She is being asked to go to other communities and talk about how the NDCAP works. Kate has talked to Maine Yankee, California & Yankee Rowe CAPs. They are not citizen driven. NRC has asked if a CAP should be required? CAN will work to make sure that if the NRC goes in this direction, the licensee will not control the discussion.

During this testimony, it was acknowledged that Vermont’s NDCAP is sparking a national conversation about decommissioning and how NRC regulates this process. This conversation is a direct result of CAN’s advocacy and research, as well as CAN’s continued efforts to participate in the CAP meetings and help members of the community stay engaged in the process.

You can listen to a recording of Kate’s testimony before the House Fish & Wildlife Committee on the VCAN website: http://www.vtcitizen.org/.

- Amy Shollenberger, the People’s Lobbyist
amybeth@together.net

NRC to Revise Rules
continued from page 1

3) The Post Shutdown Decommissioning Activities Report (PSDAR) should be approved, not just accepted, by the NRC. Additionally, the host state and community must be given the opportunity for input in the report.

4) The NRC should encourage the formation of Citizen Advisory Panels at all decommissioning locations.

5) Decommissioning Trust Funds should be used for radiological decommissioning activities only. The NRC should not allow the funds to be drained for non-decommissioning purposes.

To learn more about ongoing NDCAP activities, check http://publicservice.vermont.gov/electric/ndcap.

- Chris Williams – CAN-VCAN • cevan@sover.net

Thanks!

We couldn’t have done it without you:
Block Foundation • Lintilhac Foundation
Van Itallie Foundation • Guacamole Foundation
Charlene Divoky • Paul Burton
Lisa Clark • Gerry Hersh
Deans Beans Coffee • Lionel Dellevigne
Greenfield Solar Store
ability to create a solution for its high level waste problem with the establishment of a nuclear waste dump. Nuclear corporations with inadequate financial resources would be permitted to raid the decommissioning fund not just to establish dry cask storage but more importantly to guard the HLW (High-Level Waste) on-site. The DOE (Dep’t of Energy) will reimburse the corporation for the establishment of the high-level waste storage pad (about 80%), but will not cover the escalating costs of guarding the site. This would then fall to ratepayers to subsidize nuclear licensees lacking the financial resources to protect their own sites. This is unacceptable and would substantially delay cleanup.

The primary focus of decommissioning must remain site remediation and restoration. Spent fuel management is a separate regulatory concern—it should not be solved by relegating decommissioning ratepayer subsidization of interim solution for HLW. By determining that cleanup of radiologically contaminated sites poses no risk to the public, NRC’s attempts to justify this radical rewriting of its rules. This is unacceptable. Again, risk was not the issue in decommissioning, site remediation and license termination were.

CAN’s 7-point plan for a responsible and thorough cleanup:

1. NRC MUST REQUIRE LICENSEES TO HAVE FULLY FUNDED DECOMMISSIONING FUNDS UPON CLOSURE: Decommissioning Funds for reactor cleanup are notoriously underfunded. The Agency permits nuclear corporations to seriously underfund their decommissioning funds delaying decommissioning for up to 60 years.

2. NRC MUST REQUIRE LICENSEES TO ESTABLISH HIGH LEVEL WASTE FUNDS AT OPERATING REACTORS TO PAY FOR SECURITY OVERSIGHT OF SPENT NUCLEAR FUEL: NRC should require licensees to establish a fuel storage fund as part of ongoing operating expenses to pay for guarding the high level waste. Should a solution to the waste problem be found, excess monies in the fund would be returned to the licensee. This should be the price of operating nuclear power reactors without a permanent HLW storage facility.

3. DECOMMISSIONING FUNDS CAN ONLY BE USED FOR RADIOLOGICAL CLEANUP: NO AMENDMENTS TO PERMIT LICENSEES TO RAID THE FUND FOR OPERATING EXPENSES. The Decommissioning fund was established for the cleanup of radiological contamination at reactor site. Its express purpose is to permit the site to be released for unrestricted use (if possible) after cleanup is completed. However, NRC has permitted licensees, through an amendment process, to substantially undermine the financial wellbeing of the fund for non-radiological purposes. Entergy (ENVY) advanced a series of propositions for the use of the Vermont Yankee’s decommissioning fund that include $600,000 in local taxes, its legal as well as lobby fees, its costs for fuel transfer from the fuel pool to dry cask storage, as well as its guarding the high-level waste installation through the 2050s.

4. NRC SHOULD RESTORE NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE: Decommissioning should be reclassified as a “Major Federal Action” requiring NEPA compliance and the participation of the EPA in decommissioning. Cleaning up highly contaminated sites requires significant oversight. It should not be driven by licensees or their lack of adequate funding. The First Circuit Appellate Court justices opined in CAN v. NRC that decommissioning is a major federal action and requires NEPA compliance. “An agency cannot skirt NEPA or other statutory commands by exempting a licensee from compulsory compliance, and then simply labeling its decision ‘mere oversight’ rather than a major federal action. To do so is manifestly arbitrary and capricious.”

5. NRC SHOULD RESTORE ALL DECOMMISSIONING SAFEGUARDS & THE HEARING RIGHTS OF THE PUBLIC: NRC MUST REINSTATE SUB PART D HEARINGS ON DECOMMISSIONING: NRC’s 1996 radical revision of decommissioning regulations eviscerated the hearing rights of citizens as well as states. Public meetings do not constitute the hearing rights required by the Atomic Energy Act and affirmed by CAN v. NRC. Adjudicatory hearings offer citizens the right to cross examination and discovery.

6. THE DECOMMISSIONING PLAN SHOULD BE REINSTATE AND REPLACE THE PSDAR: The decommissioning plan must be a thorough guide and road map for the cleanup process—it is an instrument to hold a licensee accountable for the cleanup commitments it establishes in the plan. A 30-page narrative or report (PSDAR) identifying the licensee’s actions does not qualify as a plan and does not establish verifiable licensee commitments.

7. SITE-SPECIFIC ADVISORY BOARDS SHOULD BE ESTABLISHED AS A FORMAL MECHANISM FOR LOCAL AND STATE PARTICIPATION DURING DECOMMISSIONING: It is essential that the community in the effluent pathway of reactors as well as states that have oversight responsibilities (including advocacy for ratepayers), have the opportunity to participate in pollution reduction and prevention during decommissioning. This participation must be meaningful. The passive community participation in which limited information is fed to citizens to allay their fears is ineffective. A process must evolve which is responsive to the concerns of affected citizens who will continue to bear the burdens of long-term exposure to low-level radiation and contamination. Citizens must have a substantive role in decommissioning in order to clarify, negotiate and protect their community’s interests and to satisfy the requirements of a constitutional democracy.

CAN, together with Nuclear Information & Resource Service (NIRS), submitted comments on NRC’s new rule. 90 groups signed on to our comments. For more information, check out CAN’s website: www.nukebusters.org.

- Deb Katz, Exec. Director, CAN
Deconstructing Pilgrim: Safety Concerns Remain at Pilgrim Reactor

The Nuclear Regulatory Commission staff was in Plymouth, MA in June for their annual review of the problem-plagued Pilgrim nuclear reactor. At the public meeting, NRC inspectors again assessed Pilgrim as one of the worst nuclear reactors in the country. Pilgrim is still one step from federally mandated shut down even after three years of increased federal oversight. Region 1 Admin David Lew, when asked if a severe accident like Fukushima could happen here in Plymouth, admitted, “Yes.” Yet the NRC allows Pilgrim to operate on a dangerous tightrope between the NRC’s own flawed probability risk analysis and the reality of possibility for a severe accident to occur.

Entergy, announced, one day later, that it would refuel and operate Pilgrim until 2019 suggests Entergy is fully confident that the NRC will protect the plant from shutdown despite the dangers it poses. The following day, the NRC announced budget cuts with reductions in oversight and reporting. Reducing regulatory action at a time of increased problems is playing Russian Roulette with our lives.

Losing money in the deregulated market and beholden to the energy contract through 2019 with the New England Independent Systems Operators (ISO), Entergy has no financial choice but to continue to operate or face stiff fines for pulling out of their contract without replacement power. The bottom line for Entergy is, as always, money.

Pilgrim closing in 2019 is not comforting. With a long litany of NRC-documented violations at the “repetitively degrading” Pilgrim nuclear reactor, we are entering an even more dangerous time. Waiting three more years is not a viable option. Poor financial performance, as Pilgrim loses $40 million a year, coupled with putting off maintenance, repairs and safety protocols only increases the risks.

Serious safety concerns remain. Dr. Charles Perrow, Prof Emeritus at Yale, has explored complex technological systems and industrial disasters, particularly at nuclear power reactors. He warns that minor failures compounded with human error can cascade into devastating accidents. He expounds the ‘Normal Accident Theory’ which concludes that “some complex systems with catastrophic potential are just too dangerous to exist because they cannot be made safe, regardless of human effort.” Accidents, he explains, result from a combination of the “unexpected, incomprehensible, uncontrollable, and unavoidable.” A cascading event of equipment failures and human errors mix to make severe accidents not only part of the system but more likely to happen. Three Mile Island, Chernobyl and Fukushima operators were all unprepared for the complexities of multiple failures. Accidents will happen because of the technology, not in spite of it.

The Union of Concerned Scientists concurs with this position. USC Senior Writer Elliot Negin, commenting on the Fukushima disaster, has strongly warned, “It will only be a matter of time before a similar event happens in the United States.”

Assurances of public safety through the regulatory process are revealed as a fatal farce. U.S. Sen. Barbara Boxer (D-Calif.) addressed the NRC commissioners for their lack of attention to serious public safety issues in her home state. She declared, “This is not hyperbole but life and death for my people.” The Nuclear Regulatory Commission is not just failing the people in Massachusetts but the entire nation.

So why wait until another ‘near miss’? Pilgrim should be closed immediately.

The real possibility of failed safety systems coupled with human error is an acknowledged fatal flaw of nuclear technology that can lead to catastrophic consequences. High risk technologies like nuclear power, as Dr. Perrow predicts, have a real potential to produce tragic events like Fukushima. Ignoring the multiple warnings of Pilgrim dangers and Entergy’s ongoing neglect, combined with the NRC mission to prop up the failing Pilgrim reactor until 2019, is a phenomenal failure of government.

Neither NRC rules, regulations, nor oversight will save us from disaster. We have a civic obligation to be outraged.

- Diane Turco, Cape Downwinders
www.capedownwinders.org

Another Triumph for Grass Roots Activism continued from page 1

In another time and place, VY would still be running as the trenches for the NED pipeline were being dug. Both VY and NED were terminated by lack of profitability. Both Entergy and KM were expecting ratepayer bailouts to ensure the profitability of these projects. Due to public opposition, Vermont electric utilities refused to sign sweetheart deals with Entergy that would have made VY profitable on the backs of ratepayers. In a similar manner, public opposition to NED influenced the Massachusetts Attorney General and state legislators to be unwilling to place the cost of the pipeline on electric ratepayers, a decision that would have made the pipeline profitable to KM. In another time and place the power of corporate America could have prevailed.

As we work to prevent giant energy corporations from perpetrating the destruction of the earth’s compatibility with life, perhaps there is a lesson here. Dedicated, intensive, nonviolent grassroots activism can disrupt the crony influence of corporations over government. While the headlines read that lack of profitability doomed VY or NED, the chain of events that created this situation was started by grassroots activism. While the corporate world needs to downplay the significance of this activism, it’s important that activists appreciate what we have accomplished. We still have much to do.

Bob Bady, VT www.safeandgreencampaign.org
The Experiment

Growing up on suburban Long Island in the ‘50’s, I had no idea what to do with “nature.” No one ever told me in school, in my family, and I guess I never asked. Kids only know what they are taught. So, I did things that were kind of weird. They weren’t weird then, they were just the stuff of boyhood. Sometimes the boys I hung out with would shoot at squirrels with a slingshot. Sometimes we would catch frogs and salamanders and I don’t want to tell you what we did with them. I suppose you could call our behavior “scientific experiments” to be kind and forgiving. But, what was really going on then was complete ignorance. We didn’t have a clue, and in those days no one ever told us what was right and wrong, the rules so to speak, about how we should interact with the natural world. Today, we have the clues, we have the knowledge, and we know what is right and wrong.

In the 1950’s & 60’s, another “scientific” experiment was taking place in America. Nuclear power, the splitting of the uranium atom to boil water, make steam, and produce electricity, was sold to us as “atoms for peace,” and in our ignorance, we were told that it would provide us with “electricity too cheap to meter.” Nuclear power was the key to “the world of tomorrow.” But, we were never told that the radioactive waste released relentlessly from these reactors would contaminate our air, our land, our rivers and our bodies. We were never told that we would have to deal with 80,000+ tons of high-level radioactive waste that is so toxic it must be isolated from all life forms for 100,000 years and more. We were never told that there would be a plague of cancers as a result of exposure to radiation. We were never told that we would be living next to a terrorist target. We were never told that if a nuclear accident occurs there would be no one to sue, we would have to abandon our homes and there would be no insurance coverage (just read the nuclear exclusion clause in your homeowners policy).

Right now the Obama administration, seemingly owned by the nuclear industry, is pushing for an expansion of nuclear power. This time, we’re not the ignorant children we were when nuclear power was first sold to us. This time we know the scientific experiment failed with a devastating legacy of cancer, toxic waste, and the taking of our land, air, and water. This time we can speak up and be heard. This time we can choose safe, clean, renewable energy. This time we can act as if there is a tomorrow.

Call or write your representatives in Washington, Massachusetts, New Hampshire and Vermont and tell them – “No new nuclear reactors, no multi-billion dollar taxpayer subsidies to a failed technology. Shut ‘em all down, NOW!”

This time, we know what is right and what is wrong.
- Harvey Schaktman
CAN Board of Directors

Net Metering and Our Energy Future in MA

On April 11, Gov. Baker signed into law, H4173, which raised the Net Metering cap by 3 percent for both Private and public categories. The bill continued full retail Net Metering credits for small PV systems and municipal PV systems. However, all other solar PV systems for low income and community shared solar got a 40 percent cut in Net Metering credits. This is going to severely curtail solar development for projects that could benefit 75 percent of the population, who are unable to install their own solar PV.

On May 11, the Department of Public Utilities (DPU) raised the Net Metering caps by 3 percent as legislated by H4173, and immediately the private cap in national grid (NG) territory maxed out and closed.

Heralded by the Statehouse as an anticipated “nine months’ relief” for solar installers, we are back to a moratorium on private solar PV systems in National Grid (NG) territory. Since March 2015 private and public Net Metering caps were maxed in NG territory which covers 171 towns and cities in MA. And even with the “relief” of H4173, those same 171 towns and cities have solar projects waiting for the Net Metering cap to be raised again.

The Omnibus energy bill currently considered in the MA statehouse is at best a “minibus” energy bill covering offshore wind and hydro power contracts. 1200MW of offshore wind is not enough. MA needs to be a leader and commit to at least 2000MW of offshore wind generation to make a dent in meeting our Global warming solutions act requirements.

Long-term contracts with Hydro Quebec (HQ) require large transmission projects. Although HQ can help supply backup power, to be truly resilient and sustainable, we need to generate our own renewable energy. MA has a HUGE untapped offshore wind resource which could be a net exporter of electricity and a boost for the state economy. And we don’t want to be dependent on yet another foreign source of electricity generation.

Call the Joint Committee on Telecommunications, Utilities and Energy and the House Committee on Ways and Means to voice your concerns and advocate for solar PV and offshore wind.

Contact information is available here:
https://malegislature.gov/People/Search
https://malegislature.gov/Committees/Joint/J37
https://malegislature.gov/Committees/House/H34
Call Governor Baker too (617-725-4005) and request a Good Solar Policy:
• 20 percent Solar generation by 2020 — to replace the 8600MW fossil and nuclear generation, which is expected to go off line.
• Eliminate Net Metering caps.
• Raise the RPS to 5 percent annually renewable portfolio standard.
• Return full retail Net Metering credits to low income and community shared solar.
• Increase energy efficiency, energy storage and grid modernization in hyper mode to reduce our Green House Gas emissions.
• Reduce our reliance on natural gas and nuclear and move as fast as possible to 100 percent renewable energy.

- Claire Chang, member, CAN Board of Directors
ccchang@nukebusters.org
Michael Mariotte, no-nukes activist dies at 63

Michael Mariotte, a former Washington City Paper editor and punk-rock drummer who later became a nationally known anti-nuclear activist, died May 16 at his home in Kensington, MD. He was 63. The cause was pancreatic cancer, said his former wife, Lynn Thorp.

In 1981, Mr. Mariotte was the founding editor of an alternative weekly newspaper that evolved into the Washington City Paper. He continued to work at the paper in a variety of positions, including managing editor, until 1985, when he joined the Nuclear Information and Resource Service (NIRS).

He launched the organization’s newsletter, Groundswell, now called Nuclear Monitor, which has become a clearinghouse of information on issues related to nuclear power and alternative energy sources.

After becoming executive director of NIRS in 1986, Mr. Mariotte helped lead successful efforts to prevent the development of nuclear power plants in Maryland and Louisiana and initiated anti-nuclear advocacy programs in Eastern Europe.

After the 1986 Chernobyl disaster in what was then the Soviet Union, Mr. Mariotte visited the shuttered nuclear power plant. He testified before Congress and became a key player in an effort to block federal legislation to allow the interstate transportation of nuclear waste, which he and other activists belittled as “mobile Chernobyl.” The bill was ultimately defeated.

Mr. Mariotte participated in anti-nuclear demonstrations and helped train locally based groups concerned about the spread of nuclear materials. He also helped solicit participation from celebrities who were sympathetic to his message.

He was executive director of NIRS from 1986 to 2013 and served as president of the organization, based in Takoma Park, MD, until his death. In 2014, he received a lifetime achievement award from a consortium of environmental groups for his activism promoting a “nuclear-free, carbon-free future.” The award was presented by consumer advocate Ralph Nader.

“Creative to the core, he found new and interesting ways to show the dangers of nuclear power and the benefits of the safe energy alternatives,” Nader said in a statement. “Bonnie Raitt, Jackson Browne, Graham Nash and other socially motivated entertainers all have paid constant compliments to his boundless energy taking on the nukes all across the globe.”

Michael Lee Mariotte was born December 9, 1952, in Indianapolis. He spent four years in Paris during his youth, when his father was assigned to France as a civilian employee of the Army.

The family later settled in Reston, VA, and Mr. Mariotte graduated in 1970 from Herndon High School. He attended the University of Texas at Austin before graduating from Antioch College in Yellow Springs, OH, in 1978.

After moving to the Washington area, Mr. Mariotte worked as an editorial assistant for the American Bar Association before helping launch 1981, the alternative weekly that later became the Washington City Paper.

While living in Arlington, VA, in the late 1970s, Mr. Mariotte and his housemates were interested in starting a band but did not have a drummer. Mr. Mariotte, a one-time guitarist, learned to play drums on the job.

He and singer-guitarist Diana Quinn, guitarist David Wells and a changing cast of bassists began performing in 1978 as Tru Fax and the Insaniacs. Through the mid-1980s, the band was a mainstay at the 9:30 Club and other Washington-area venues, along with other leading groups in the local punk scene, including the Bad Brains, Insect Surfers, Slickee Boys and Urban Verbs.

When Washingtonian magazine named the Insaniacs Washington’s worst band in 1980, the group gleefully used the epithet for publicity.

The Insaniacs’ 1982 album, “Mental Decay,” received some radio airplay. One of the band’s most popular tunes, “Washington,” co-written by Mr. Mariotte, became something of an alternative-culture anthem of the time, featuring the lyrics: “I used to work as a waiter in the lounge of the Hiltron/Now I work for my sentron and I live in Arlingtron, I live in Arlingtron.”

The Insaniacs continued to perform occasionally until shortly before Mr. Mariotte’s death. In recent years, the band was working on a new recording, “ArtiFax,” which is scheduled for release later this year.


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