

114TH CONGRESS
1ST SESSION

S. 964

To amend the Atomic Energy Act of 1954 to provide for consultation with State and local governments, the consideration of State and local concerns, and the approval of post-shutdown decommissioning activities reports by the Nuclear Regulatory Commission.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2015

Mr. SANDERS (for himself, Mrs. BOXER, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Atomic Energy Act of 1954 to provide for consultation with State and local governments, the consideration of State and local concerns, and the approval of post-shutdown decommissioning activities reports by the Nuclear Regulatory Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nuclear Plant Decom-
5 missioning Act of 2015”.

1 **SEC. 2. POST-SHUTDOWN DECOMMISSIONING ACTIVITIES**
 2 **REPORTS.**

3 Chapter 10 of title I of the Atomic Energy Act of
 4 1954 (42 U.S.C. 2131 et seq.) is amended by adding at
 5 the end the following:

6 **“SEC. 113. POST-SHUTDOWN DECOMMISSIONING ACTIVI-**
 7 **TIES REPORTS.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) AFFECTED STATE.—The term ‘affected
 10 State’ means—

11 “(A) the host State of a covered facility;

12 and

13 “(B) each State that is within 50 miles of
 14 a covered facility.

15 “(2) COMMISSION.—The term ‘Commission’
 16 means the Nuclear Regulatory Commission.

17 “(3) COVERED FACILITY.—The term ‘covered
 18 facility’ means a facility of a licensee for which a
 19 PSDAR is required.

20 “(4) HOST STATE.—The term ‘host State’
 21 means the State in which a covered facility is lo-
 22 cated.

23 “(5) LICENSEE.—The term ‘licensee’ has the
 24 meaning given the term in section 50.2 of title 10,
 25 Code of Federal Regulations (or any successor regu-
 26 lation).

1 “(6) PSDAR.—The term ‘PSDAR’ means a
 2 post-shutdown decommissioning activities report
 3 submitted to the Commission and affected States
 4 under section 50.82(a)(4)(i) of title 10, Code of Fed-
 5 eral Regulations (or any successor regulation).

6 “(b) DEVELOPMENT; INITIAL CONSULTATION.—A li-
 7 censee shall develop a proposed PSDAR for a covered fa-
 8 cility after consultation with—

9 “(1) each affected State; and

10 “(2) each unit of local government and tribal
 11 government in the affected State that is located
 12 within 50 miles of the covered facility.

13 “(c) SUBMISSION TO COMMISSION; ADDITIONAL CON-
 14 SULTATION.—

15 “(1) IN GENERAL.—After additional consulta-
 16 tion with the entities described in subsection (b)
 17 with respect to the proposed PSDAR developed
 18 under that subsection, the licensee shall—

19 “(A) submit to the Commission the pro-
 20 posed PSDAR; and

21 “(B) on submission of the proposed
 22 PSDAR under subparagraph (A), make the
 23 proposed PSDAR readily available to the pub-
 24 lic.

1 “(2) PUBLIC AVAILABILITY.—On receipt of the
2 proposed PSDAR under paragraph (1), the Commis-
3 sion shall make the proposed PSDAR readily avail-
4 able to the public, on the condition that the Commis-
5 sion may redact any information necessary to pro-
6 tect the national security.

7 “(d) PUBLIC PARTICIPATION.—During a period of at
8 least 90 days beginning on the date on which the licensee
9 submits the proposed PSDAR to the Commission under
10 subsection (c), the Commission shall solicit public partici-
11 pation on the proposed PSDAR in the host State, includ-
12 ing through—

13 “(1) the solicitation of written comments from
14 the public; and

15 “(2) the conduct of at least 2 public hearings
16 within the host State.

17 “(e) SUPPORT OR NONSUPPORT BY HOST STATE.—

18 “(1) IN GENERAL.—Not later than 60 days
19 after the receipt of a proposed PSDAR for a covered
20 facility, the Commission shall notify the host State
21 of the opportunity to file with the Commission, by
22 the date that is 60 days after the date on which the
23 host State receives the invitation under this para-
24 graph—

1 “(A) a statement of support for the pro-
2 posed PSDAR;

3 “(B) a statement of conditional support
4 for the proposed PSDAR, with specific rec-
5 ommendations for changes that could lead the
6 host State to support the proposed PSDAR; or

7 “(C) a statement of nonsupport for the
8 proposed PSDAR.

9 “(2) STATEMENT OF SUPPORT OR NON-
10 SUPPORT; FAILURE TO SUBMIT.—

11 “(A) IN GENERAL.—If the host State files
12 a statement of support under paragraph (1)(A),
13 a statement of nonsupport under paragraph
14 (1)(C), or fails to file a statement with the
15 Commission by the deadline specified in para-
16 graph (1), the Commission shall issue a deter-
17 mination on whether the proposed PSDAR is
18 adequate or inadequate—

19 “(i) based on the considerations de-
20 scribed in subparagraph (B); and

21 “(ii) after taking into account—

22 “(I) any written comments sub-
23 mitted by the host State, other States,
24 and local communities with respect to
25 the proposed PSDAR; and

1 “(II) any input from the public
2 under subsection (d).

3 “(B) CONSIDERATIONS.—The Commission
4 shall consider a proposed PSDAR to be ade-
5 quate under subparagraph (A) if the Commis-
6 sion determines that—

7 “(i) the proposed PSDAR provides for
8 the overall protection of human health and
9 the environment;

10 “(ii) the licensee has a substantial
11 likelihood of implementing the proposed
12 PSDAR within the timeframe described in
13 the proposed PSDAR;

14 “(iii) the proposed PSDAR is in ac-
15 cordance with applicable law (including
16 regulations); and

17 “(iv) the licensee has demonstrated
18 that the licensee has, or will have, the
19 funds required to fully implement the pro-
20 posed PSDAR within the timeframe de-
21 scribed in the proposed PSDAR.

22 “(C) DETERMINATION OF ADEQUACY.—If
23 the Commission determines that the proposed
24 PSDAR is adequate under subparagraphs (A)

1 and (B), the Commission shall issue a decision
2 document approving the PSDAR.

3 “(D) DETERMINATION OF INADEQUACY.—
4 If the Commission determines that the proposed
5 PSDAR is inadequate under subparagraphs (A)
6 and (B)—

7 “(i) the Commission shall issue a deci-
8 sion rejecting the proposed PSDAR, in-
9 cluding the reasons for the decision; and

10 “(ii) not later than 2 years after the
11 date on which operations at the plant
12 cease, the licensee shall develop and submit
13 to the Commission a new proposed
14 PSDAR in accordance with this section.

15 “(3) CONDITIONAL SUPPORT BY HOST
16 STATE.—

17 “(A) IN GENERAL.—The Commission shall
18 determine whether the proposed PSDAR is per-
19 missible under applicable law (including regula-
20 tions) if the host State files a statement of con-
21 ditional support for the proposed PSDAR with
22 the Commission in accordance with paragraph
23 (1)(B).

1 “(B) CHANGES.—For each change rec-
2 ommended by the host State under paragraph
3 (1)(B), the Commission shall—

4 “(i) provide for the inclusion of the
5 change into the final PSDAR, unless the
6 Commission determines the change to be
7 inappropriate for inclusion, based on clear
8 and convincing evidence provided by the li-
9 censee that—

10 “(I) the change violates applica-
11 ble law; or

12 “(II) the costs of the change sub-
13 stantially outweigh the safety, eco-
14 nomic, or environmental benefits of
15 the change to the host State; and

16 “(ii) provide the rationale for a deter-
17 mination of inappropriateness under clause
18 (i).

19 “(C) DECISION DOCUMENT.—

20 “(i) IN GENERAL.—Based on the de-
21 terminations made under subparagraphs
22 (A) and (B), the Commission shall issue a
23 decision document that—

24 “(I) accepts the proposed
25 PSDAR with any changes rec-

1 ommended by the host State that are
2 not determined to be inappropriate
3 under subparagraph (B); or

4 “(II) rejects the proposed
5 PSDAR.

6 “(ii) APPLICABLE LAW.—A decision
7 document issued under clause (i) shall be
8 considered to be a final order entered in a
9 proceeding under section 189(a).

10 “(D) ACCEPTANCE.—If the Commission
11 approves the proposed PSDAR under subpara-
12 graph (C)(i)(I)—

13 “(i) the PSDAR is final; and

14 “(ii) the licensee may begin implemen-
15 tation of the PSDAR.

16 “(E) REJECTION.—If the Commission re-
17 jects the proposed PSDAR under subparagraph
18 (C)(i)(II), not later than 2 years after the date
19 on which operations at the plant cease, the li-
20 censee shall develop and submit to the Commis-
21 sion a new proposed PSDAR in accordance with
22 this section.

23 “(f) ADDITIONAL REQUIREMENT.—Notwithstanding
24 any other provision of this section, a Commission shall not
25 approve a PSDAR under this section unless the proposed

1 PSDAR includes a requirement that the licensee comply
2 with applicable State law relating to air, water, or soil
3 quality or radiological standards with respect to the imple-
4 mentation of the proposed PSDAR if the applicable State
5 law is more restrictive than the applicable Federal law.

6 “(g) APPLICATION TO EXISTING DECOMMISSIONING
7 ACTIVITIES.—

8 “(1) IN GENERAL.—The Commission shall no-
9 tify—

10 “(A) each licensee of the opportunity to
11 develop a revised PSDAR for any facility of the
12 licensee for which a PSDAR has been sub-
13 mitted but, as of the date of enactment of the
14 Nuclear Plant Decommissioning Act of 2015—

15 “(i) decontamination and dismantle-
16 ment activities have not commenced; or

17 “(ii) decontamination and dismantle-
18 ment activities have been commenced for
19 less than 1 year; and

20 “(B) each State that is within 50 miles of
21 the facility described in subparagraph (A) of
22 the opportunity consult with the licensee de-
23 scribed in subparagraph (A) in accordance with
24 subsection (b).

25 “(2) PROCESS.—

1 “(A) IN GENERAL.—Except as provided in
2 paragraphs (3) and (4), if a licensee described
3 in paragraph (1) elects to develop a revised
4 PSDAR, the process for consideration and ap-
5 proval of the revised PSDAR under paragraph
6 (1) shall be carried out in accordance with—

7 “(i) the process for the consideration
8 and approval of a proposed PSDAR for
9 covered facilities described in subsections
10 (b) through (d) and subsection (f); and

11 “(ii) the process for support or non-
12 support by the host State as described in
13 subsection (e).

14 “(B) NONSELECTION.—If a licensee de-
15 scribed in paragraph (1) elects not to revise the
16 original PSDAR, the entities described in sub-
17 section (b) may file a statement of support or
18 nonsupport for the original PSDAR in accord-
19 ance with the process for support or nonsupport
20 by the host State described in subsection (e).

21 “(3) DECISION DOCUMENT.—A decision docu-
22 ment for a revised PSDAR submitted under this
23 subsection, or for the original PSDAR if the licensee
24 elects not to revise the original PSDAR, shall be
25 carried out in accordance with subsection (e)(3)(C),

1 except that the deadline for the Commission to issue
2 a decision document shall be by not later than 1
3 year after the decontamination and dismantlement
4 activities have commenced.

5 “(4) REVISION AFTER DETERMINATION OF IN-
6 ADEQUACY.—If the Commission rejects the revised
7 PSDAR in accordance with the process for rejection
8 under subsection (e)(3)(E), the licensee shall develop
9 and submit to the Commission a new revised
10 PSDAR in accordance with this subsection by not
11 later than 2 years after the date on which the Com-
12 mission rejects the revised PSDAR.”.

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