

113TH CONGRESS  
2D SESSION

# S. 2326

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.

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## IN THE SENATE OF THE UNITED STATES

MAY 13, 2014

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

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## 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 2014”.

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.

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

11           “(1) the solicitation of written comments from  
12          the public; and

13           “(2) the conduct of at least 2 public hearings  
14          within the host State.

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

16           “(1) IN GENERAL.—Not later than 60 days  
17          after the receipt of a proposed PSDAR for a covered  
18          facility, the Commission shall invite the host State  
19          to file with the Commission, by the date that is 60  
20          days after the date on which the host State receives  
21          the invitation under this paragraph—

22           “(A) a statement of support for the pro-  
23          posed PSDAR;

24           “(B) a statement of conditional support  
25          for the proposed PSDAR, with specific rec-

1 ommendations for changes that could lead the  
 2 host State to support the proposed PSDAR; or

3 “(C) a statement of nonsupport for the  
 4 proposed PSDAR.

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

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

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

17 “(ii) after taking into account—

18 “(I) any written comments sub-  
 19 mitted by the host State, other States,  
 20 and local communities with respect to  
 21 the proposed PSDAR; and

22 “(II) any input from the public  
 23 under subsection (d).

24 “(B) CONSIDERATIONS.—The Commission  
 25 shall consider a proposed PSDAR to be ade-

1           quate under subparagraph (A) if the Commis-  
2           sion determines that—

3                   “(i) the proposed PSDAR provides for  
4                   the overall protection of human health and  
5                   the environment;

6                   “(ii) the licensee has a substantial  
7                   likelihood of implementing the proposed  
8                   PSDAR within the timeframe described in  
9                   the proposed PSDAR;

10                  “(iii) the proposed PSDAR is in ac-  
11                  cordance with applicable law (including  
12                  regulations); and

13                  “(iv) the licensee has proactively dem-  
14                  onstrated that the licensee has, or will  
15                  have, the funds required to fully implement  
16                  the proposed PSDAR within the timeframe  
17                  described in the proposed PSDAR.

18                  “(C) DETERMINATION OF ADEQUACY.—If  
19                  the Commission determines that the proposed  
20                  PSDAR is adequate under subparagraph (A),  
21                  the Commission shall issue a decision document  
22                  approving the PSDAR.

23                  “(D) DETERMINATION OF INADEQUACY.—  
24                  If the Commission determines that the proposed

1 PSDAR is inadequate under subparagraph  
2 (A)—

3 “(i) the Commission shall issue a deci-  
4 sion rejecting the proposed PSDAR, in-  
5 cluding the reasons for the decision; and

6 “(ii) the licensee shall develop and  
7 submit to the Commission a new proposed  
8 PSDAR in accordance with this section.

9 “(3) CONDITIONAL SUPPORT BY HOST  
10 STATE.—

11 “(A) IN GENERAL.—The Commission shall  
12 determine whether the proposed PSDAR is per-  
13 missible under applicable law (including regula-  
14 tions) if the host State files a statement of con-  
15 ditional support for the proposed PSDAR with  
16 the Commission in accordance with paragraph  
17 (1)(B).

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

21 “(i) provide for the inclusion of the  
22 change into the final PSDAR, unless the  
23 Commission determines the change to be  
24 inappropriate for inclusion, based on clear

and convincing evidence provided by the licensee that—

“(I) the change violates applicable law; or

“(II) the costs of the change substantially outweigh the safety, economic, or environmental benefits of the change to the host State; and

“(ii) provide the rationale for a determination of inappropriateness under clause (i).

“(C) DECISION DOCUMENT.—

“(i) IN GENERAL.—Based on the determinations made under subparagraphs (A) and (B), the Commission shall issue a decision document that—

“(I) accepts the proposed PSDAR with any changes recommended by the host State that are not determined to be inappropriate under subparagraph (B); or

“(II) rejects the proposed PSDAR.

“(ii) APPLICABLE LAW.—A decision document issued under clause (i) shall be

1                   considered to be a final order entered in a  
2                   proceeding under section 189(a).

3                   “(D) ACCEPTANCE.—If the Commission  
4                   approves the proposed PSDAR under subpara-  
5                   graph (C)(i)(I)—

6                   “(i) the PSDAR is final; and

7                   “(ii) the licensee may begin implemen-  
8                   tation of the PSDAR.

9                   “(E) REJECTION.—If the Commission re-  
10                  jects the proposed PSDAR under subparagraph  
11                  (C)(i)(II), the licensee shall develop and submit  
12                  to the Commission a new proposed PSDAR in  
13                  accordance with this section.

14               “(f) ADDITIONAL REQUIREMENT.—Notwithstanding  
15 any other provision of this section, a Commission shall not  
16 approve a PSDAR under this section unless the proposed  
17 PSDAR includes a requirement that the licensee comply  
18 with applicable State law relating to air, water, or soil  
19 quality or radiological standards with respect to the imple-  
20 mentation of the proposed PSDAR if the applicable State  
21 law is more restrictive than the applicable Federal law.”.

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