



October 7, 2019

The Honorable Annette Vietti-Cook  
Secretary of the Commission  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

RE: U.S. Nuclear Regulatory Commission Reactor Oversight Process Enhancement Initiative (ID: NRC-2019-0155-0001)

Dear Secretary Vietti-Cook:

This letter provides the comments of the California Energy Commission (Energy Commission) on the above-referenced initiative. The Energy Commission is California's primary energy policy and planning agency, with core functions that include evaluating and proposing mitigation for public health, safety, and environmental impacts of proposed thermal power plants, including nuclear reactors. Since the adoption of California Assembly Bill No. 1632 (Blakeslee, 2006), the Energy Commission has taken the lead role in assessing the local costs, impacts, and policy issues associated with California's active and decommissioning nuclear power plants along the state's seismically vulnerable coastline.<sup>1</sup>

I am the Chair of the California Energy Commission and the State's Liaison Officer to the United States Nuclear Regulatory Commission (NRC). As an appointee of California Governor Gavin Newsom, I am the primary contact between California and the NRC. In my role as the Liaison Officer, I provide the NRC with information on matters pertinent to California including the state's radiological health, emergency preparedness, Energy Commission and California Public Utility Commission actions, and state nuclear safety matters.

I appreciate the opportunity to submit comments on this important topic and welcome the dialogue necessary for a comprehensive solution.

California currently hosts two operating power reactors, three power reactor facilities at various stages of decommissioning, and multiple operating and decommissioning research reactors. As a member of the Agreement State Program, California contains greater than 1,700 specific licenses authorizing possession and use of radioactive materials. Consequently, the organizational structure, operations, processes, and

<sup>1</sup> California Assembly Bill No. 1632 (Blakeslee, 2006). Retrieved from [http://leginfo.ca.gov/pub/05-06/bill/asm/ab\\_1601-1650/ab\\_1632\\_bill\\_20060929\\_chaptered.html](http://leginfo.ca.gov/pub/05-06/bill/asm/ab_1601-1650/ab_1632_bill_20060929_chaptered.html).

October 7, 2019

regulatory focus of the U.S. Nuclear Regulatory Commission (NRC) is of paramount importance to the citizens of California.

I commend the NRC on recent efforts to improve efficiency through a self-assessment process but I am concerned that the proposed initiative may weaken the NRC's focus from what is the agency's most critical role: protection of public health, safety, and the environment.<sup>2</sup> Specifically, the proposed initiative, as currently presented, prioritizes efficiency, flexibility for licensees, and expedience in implementing the "Principles of Good Regulation" over safety.<sup>3</sup> Moreover, the NRC staff recommendations reduce NRC oversight in critical areas and instead, empower licensees to exercise oversight responsibility, essentially shirking the NRC's core mission and role.

In January of 2019, the commission, via a 3-2 vote, removed many of the post Fukushima key safety requirements, SECY-16-0142- DRAFT FINAL RULE-MITIGATION OF BEYOND-DESIGN-BASIS EVENTS.<sup>4</sup> Dissenting commissioners, Jeff Baran and Stephen Burns, expressed concern that the final rule did not require licensees to prepare for re-evaluated flooding and earthquake hazards based on the most up-to-date seismological and hydrological knowledge.<sup>5</sup> Like the dissenting commissioners, I find this action troubling since the Fukushima accident was linked to the operator and regulator failing to take actions that would prioritize public safety. The current Reactor Oversight Process Enhancement Initiative (ROP) appears to be one of many recent efforts to shift priority from public safety.

**Discussion and comments for SECY-19-0067: Recommendations for Enhancing the Reactor Oversight Process Commission Approval Item 2 – Inspection Area.**

I am strongly opposed to reducing the scope of core safety inspections, decreasing the frequency of NRC inspector safety assessments or replacing them with industry self-assessments as detailed in SECY-19-0067. Specifically, NRC staff propose: "revisions to sample sizes and resource estimates for several baseline inspection procedures" and "revising the frequency of the problem identification and resolution (PI&R) inspection from a biennial to a triennial inspection."<sup>6</sup>

---

<sup>2</sup> NRC mission statement, "The NRC licenses and regulates the Nation's civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety and to promote the common defense and security and to protect the environment." Retrieved from <https://www.nrc.gov/about-nrc.html>.

<sup>3</sup> NRC document ML19070A050 - SECY-19-0067: Recommendations for Enhancing the Reactor Oversight Process (6/28/2019) page 17. Available at <https://www.nrc.gov/docs/ML1907/ML19070A036.html>.

<sup>4</sup> SRM-M190124A: Affirmation Session-SECY-16-0142: Final Rule: Mitigation of Beyond-Design-Basis Events (RIN 3150-AJ49) <https://www.nrc.gov/docs/ML1902/ML19023A038.html>

<sup>5</sup> NRC issues final rule on Fukushima lessons, 28 January 2019, <https://www.world-nuclear-news.org/Articles/NRC-issues-final-rule-on-Fukushima-lessons>.

<sup>6</sup> NRC Staff recommendations discussed in ML19070A050 - SECY-19-0067: Recommendations for Enhancing the Reactor Oversight Process (6/28/2019) pages 12 – 22 and ML19070A050 - SECY-19-0067: Enclosure 2 – Inspection Area.

October 7, 2019

For recommendation 1b, listed in SECY-19-0067, NRC staff identify two disadvantages that resonate with my concerns:

1. *Reducing inspection effort may indirectly result in declining licensee performance in areas receiving less NRC oversight.*
2. *Proposed changes to the baseline inspections could be construed as a relaxation of regulatory oversight because they would reduce the minimum sample size requirements for some inspections.*

Both identified disadvantages could have adverse, direct and indirect effects on safety operations. The current safety performance touted by industry and the NRC as justification for the proposed changes was achieved because of diligence and rigorous regulatory requirements and historical NRC oversight cannot be decoupled from historical plant performance. Conversely, a lack of proper oversight has been identified as a key contributor to hazardous events in nuclear power plants.

Increases in inspection efficiency and effectiveness combined with efforts to consolidate related inspection procedures are valid and worthwhile activities. Reductions in inspection frequency, duration, or depth for cost saving purposes only makes sense if there are no failure consequences to health and safety. Consequently, any modification of the PI&R inspection or the ROP that is partially or fully driven by fiscal considerations requires additional, robust analysis and justification. It is my view that the current Reactor Oversight Process Initiative lacks the essential robust analysis and justification that the Government of California expects.

Some of the proposed revisions to the reactor safety baseline inspections are logical and reasonable. My concern is that aspects of the recommendations seem to be justifying the prioritization of expedience over safety. Moreover, some of the justifications for the ROP recommendations appear to be predicated on generous interpretations of the underlying assumptions such as to cause concern about the safety implications to Californians.

NRC staff expressed concern with changing the frequency of the PI&R inspection:

- *“Several staff members, including a majority of the regional administrators and RAP members, have expressed the view that the frequency of the biennial PI&R inspection should not be revised until the comprehensive review has been completed.”<sup>7</sup>*
- *“The recommended inspection program changes have also not been evaluated to assess how to best position the inspection program to meet potential future challenges associated with reduced licensee resources, aging plants, and challenges posed by emerging problems such as new material degradation mechanisms.”<sup>8</sup>*

---

<sup>7</sup> NRC document ML19070A050 - SECY-19-0067: Recommendations for Enhancing the Reactor Oversight Process (6/28/2019) page 17. Available at <https://www.nrc.gov/docs/ML1907/ML19070A036.html>.

<sup>8</sup> NRC document ML19070A050 - SECY-19-0067: Recommendations for Enhancing the Reactor Oversight Process (6/28/2019) page 19. Available at <https://www.nrc.gov/docs/ML1907/ML19070A036.html>.

I am concerned that key issues identified by NRC staff are not adequately addressed in the proposed PI&R inspection changes. These concerns should be adequately considered and directly addressed before moving forward with the ROP modification. Until it is clear that this has been done I am opposed to the PI&R inspection changes proposed in SECY-19-0067.

**Discussion and comments for SECY-19-0067: Recommendations for Enhancing the Reactor Oversight Process Commission Approval Item 3 – Emergency Preparedness Area.**

*Emergency Preparedness (EP) Area: The staff is recommending a revision to the EP significance determination process (SDP) such that only those planning standard (PS) functions that have an impact on public health and safety would have performance deficiencies assessed to have GTG safety significance.*

- NRC staff are recommending option 2: *revise the EP SDP risk-informed methodology used to assess significance for non-RSPS functions from compliance with regulations to their impact on the ability to implement an RSPS function.*

Some NRC staff expressed concern with modifications to the EP SDP:

- *“The staff contends that a revision to the EP SDP to incorporate the recommendation would be broader than solely assessing significance of an EP finding. It would potentially constitute a change in the premise of all reactor safety cornerstones and their nexus to the NRC’s defense-in-depth policy, and could introduce internal inconsistency into how deficiencies are assessed against different cornerstones. Discussion on this proposal has revealed differing views among knowledgeable staff on its merits, as discussed later in this section. Additional evaluation is needed to assess these considerations and perspectives.”<sup>9</sup>*

Elements of the NRC appear to be advocating expedited changes without addressing the concerns identified by stakeholders. Some NRC staff and interested parties are advocating for a more analytical, deliberate process that requires the completion of comprehensive assessments intended to mitigate risks to public health and safety.

I am opposed to revision of the EP SDP proposed in SECY-19-0067 until the necessary discussion, analysis and evaluation are completed.

I believe it is necessary to remind the Commission that the purpose of an independent nuclear regulator is to ensure the safe operations of nuclear power plants and the safe management of nuclear materials. The role of independent inspections is to ensure rigorous oversight. NRC independent inspectors identify issues that are missed by licensees, which in turn leads to an increase in licensee performance, vigilance, and

---

<sup>9</sup> ML19070A045 - SECY-19-0067: Enclosure 5 - Emergency Preparedness Area (6/28/2019) page 3.  
<https://www.nrc.gov/docs/ML1907/ML19070A036.html>.

October 7, 2019

safety. The NRC is a public agency, entrusted by the public to ensure their health and safety. For the NRC to transfer their responsibility and authority to licensees is fundamentally inconsistent with their mission as an independent safety regulator and holder of the public trust.

In a letter to the NRC Chair and Commissioners, Congressional Representatives expressed deep concern regarding the Reactor Oversight Process Enhancement Initiative revisions, *"Each proposed alternation weakens the current standards and it is unclear why the NRC is pursuing these changes now and in an expeditious manner that does not appear to ensure broad public input."*<sup>10</sup> I am concerned that aspects of the Reactor Oversight Initiative weakens the NRC's safety oversight. Moreover, I am concerned that many of the recent efforts taken by the NRC are prioritizing economic competitiveness over essential safety oversight.

I welcome the dialogue necessary for the development of a collaborative, comprehensive solution and look forward to working with the U.S. Nuclear Regulatory Commission's staff. Please send any future notices, correspondence, and documents to my Senior Nuclear Policy Advisor Justin Cochran, Ph.D., at the California Energy Commission, MS-39, 1516 Ninth Street, Sacramento, CA, 95814-5512, or by e-mail at Justin.Cochran@energy.ca.gov.

Sincerely,



David Hochschild  
Chair  
California Energy Commission

cc: Drew Bohan, California Energy Commission  
Ken Rider, California Energy Commission  
Justin Cochran, California Energy Commission

---

<sup>10</sup> House Democrats Push Back Against Proposed Changes to Nuclear Regulatory Commission's Reactor Oversight Process, July 15, 2019 Press Release, <https://appropriations.house.gov/news/press-releases/house-democrats-push-back-against-proposed-changes-to-nuclear-regulatory>.