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

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

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

"SEC. 113. POST-SHUTDOWN DECOMMISSIONING ACTIVITIES REPORTS.

"(a) DEFINITIONS.—In this section:

"(1) AFFECTED STATE.—The term ‘affected State’ means—

"(A) the host State of a covered facility;

and

"(B) each State that is within 50 miles of a covered facility.

"(2) COMMISSION.—The term ‘Commission’ means the Nuclear Regulatory Commission.

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

"(4) HOST STATE.—The term ‘host State’ means the State in which a covered facility is located.

"(5) LICENSEE.—The term ‘licensee’ has the meaning given the term in section 50.2 of title 10, Code of Federal Regulations (or any successor regulation)."
“(6) PSDAR.—The term ‘PSDAR’ means a post-shutdown decommissioning activities report submitted to the Commission and affected States under section 50.82(a)(4)(i) of title 10, Code of Federal Regulations (or any successor regulation).

“(b) DEVELOPMENT; INITIAL CONSULTATION.—A licensee shall develop a proposed PSDAR for a covered facility after consultation with—

“(1) each affected State; and

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

“(c) SUBMISSION TO COMMISSION; ADDITIONAL CONSULTATION.—

“(1) IN GENERAL.—After additional consultation with the entities described in subsection (b) with respect to the proposed PSDAR developed under that subsection, the licensee shall—

“(A) submit to the Commission the proposed PSDAR; and

“(B) on submission of the proposed PSDAR under subparagraph (A), make the proposed PSDAR readily available to the public.
“(2) Public Availability.—On receipt of the proposed PSDAR under paragraph (1), the Commission shall make the proposed PSDAR readily available to the public.

“(d) Public Participation.—During a period of at least 90 days beginning on the date on which the licensee submits the proposed PSDAR to the Commission under subsection (c), the Commission shall solicit public participation on the proposed PSDAR in the host State, including through—

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

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

“(e) Support or Nonsupport by Host State.—

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

“(A) a statement of support for the proposed PSDAR;

“(B) a statement of conditional support for the proposed PSDAR, with specific rec-
ommendations for changes that could lead the
host State to support the proposed PSDAR; or
“(C) a statement of nonsupport for the
proposed PSDAR.
“(2) STATEMENT OF SUPPORT OR NON-
support; failure to submit.—
“(A) IN GENERAL.—If the host State files
a statement of support under paragraph (1)(A),
a statement of nonsupport under paragraph
(1)(C), or fails to file a statement with the
Commission by the deadline specified in para-
graph (1), the Commission shall issue a deter-
mination on whether the proposed PSDAR is
adequate or inadequate—
“(i) based on the considerations de-
scribed in subparagraph (B); and
“(ii) after taking into account—
“(I) any written comments sub-
mitted by the host State, other States,
and local communities with respect to
the proposed PSDAR; and
“(II) any input from the public
under subsection (d).
“(B) CONSIDERATIONS.—The Commission
shall consider a proposed PSDAR to be ade-
quate under subparagraph (A) if the Commission determines that—

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

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

“(iii) the proposed PSDAR is in accordance with applicable law (including regulations); and

“(iv) the licensee has proactively demonstrated that the licensee has, or will have, the funds required to fully implement the proposed PSDAR within the timeframe described in the proposed PSDAR.

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

“(D) DETERMINATION OF INADEQUACY.—If the Commission determines that the proposed
PSDAR is inadequate under subparagraph (A)—

“(i) the Commission shall issue a decision rejecting the proposed PSDAR, including the reasons for the decision; and

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

“(3) CONDITIONAL SUPPORT BY HOST STATE.—

“(A) IN GENERAL.—The Commission shall determine whether the proposed PSDAR is permissible under applicable law (including regulations) if the host State files a statement of conditional support for the proposed PSDAR with the Commission in accordance with paragraph (1)(B).

“(B) CHANGES.—For each change recommended by the host State under paragraph (1)(B), the Commission shall—

“(i) provide for the inclusion of the change into the final PSDAR, unless the Commission determines the change to be 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
considered to be a final order entered in a proceeding under section 189(a).

“(D) ACCEPTANCE.—If the Commission approves the proposed PSDAR under subparagraph (C)(i)(I)—

“(i) the PSDAR is final; and

“(ii) the licensee may begin implementation of the PSDAR.

“(E) REJECTION.—If the Commission rejects the proposed PSDAR under subparagraph (C)(i)(II), the licensee shall develop and submit to the Commission a new proposed PSDAR in accordance with this section.

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