

# PUBLIC SUBMISSION

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Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

**Comment On:** NRC-2015-0070-0229

Regulatory Improvements for Production and Utilization Facilities Transitioning to Decommissioning

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## General Comment

I have grave concerns that the Proposed Decommissioning Rule weakens the safety provisions in the decommissioning process. NRC's decommissioning regulations put too much authority in the hands of the profit-driven nuclear industry, which is a clear conflict of interest. The NRC is charged with protecting public health and the environment. The current draft of the rules should be withdrawn and revised to strengthen local community and state engagement, prioritizing public safety and environmental protection throughout the decommissioning process.

**Public Input:** The Proposed Rule does not provide for post-operational licensing decisions or public hearings, eliminating any accountability by NRC or reactor licensees for the adequacy of safety and environmental protection measures for post-operational activities such as reactor decommissioning, emergency planning, and security. This lack of accountability would persist for decades as more than 90 operating U.S. reactors cease operations. The public, who must live with the decommissioned plants, must have the opportunity to be involved. The Proposed Rule is inadequate to successfully guide the NRC to protect public health and safety with strong public accountability for the serious risks to which decommissioning exposes the public and the human environment.

**Atomic Energy Act compliance:** The proposed rule violates the Atomic Energy Act and the decision by the U.S. Court of Appeals for the First Circuit in *Citizens Awareness Network v. NRC*, 59 F.3d 284 (1st Cir. 1995) ("CAN v. NRC") by failing to provide for NRC licensing approval and public hearing opportunities for post-operational decisions on decommissioning, emergency planning, and security. The NRC should require reactor licensees to formulate dismantlement and decommissioning plans and submit them to NRC for licensing approval, with an opportunity for state and local governments and interested members of the public to request a hearing on the adequacy of the plans to satisfy NRC safety and environmental requirements. These measures are required by the Atomic Energy Act, under *CAN v. NRC*.

**Safety:** I have grave concerns about the provisions for emergency planning and response, which the proposed changes delegate to FEMA and local governments. After fuel has been in the spent fuel pool for 10 months, the

rule would eliminate the requirements for dedicated radiological offsite emergency planning, emergency planning zones (EPZs), and public alert and notification systems. This raises serious issues for public safety. FEMA appears to have trouble with garden-variety disasters. Neither FEMA nor local responders are prepared to handle radiological emergencies, and the responsibility for this rightly belongs to the industry. Likewise, the Emergency Response Data System should continue to be required until all spent fuel is removed from the reactor site.

**Environment:** The proposed changes undermine environmental protections. They drop the requirement for an environmental impact review until after the process is completed (it's too late!) and weaken the environmental information in the Post-Shut Down Decommissioning Activities Report. A site-specific NEPA review of the process should occur early in the decommissioning process and should provide opportunities for local stakeholders the opportunity for a hearing, with appropriate protections for the fairness of the hearing process.

**Time limits:** The period of time in which a site is required to be cleaned up should be reduced from 60 years to as soon as possible with a cap of 40-50 years if possible, with due consideration for worker and public health and safety and environmental justice. (60 years is nearly a human lifetime.) The NRC must not abdicate its responsibility to review and approve irradiated fuel management programs. This proposed change sacrifices public and environmental safety in favor of nuclear industry interests. Regular NRC inspections, oversight, and reporting on decommissioning activities should be required.

**Accountability:** The proposed changes weaken the industry's financial responsibility, which should be required to have secure funding for the full process when a nuclear power plant stops producing energy. These funds must not be allowed to be used for other purposes. Taxpayers must not get the bill.

Ensuring the safety of the public and the environment must be prioritized throughout the entire decommissioning process. The NRC must do more, not less, to exercise oversight and hold the industry accountable throughout the process. The current proposed rules weaken the NRC's authority and make health and safety of people and the environment subordinate to the lightening of regulations on the industry. This is unacceptable. The rules must be revised. The Commission should take this opportunity to come into compliance with the court's decision in *CAN v. NRC* by effectively restoring the regulatory framework of the 1988 Decommissioning Rule.