

***SUMMARY of COMMENTS BEFORE A MEETING OF THE
UNITED STATES NUCLEAR REGULATORY COMMISSION***

November 9, 1999

**Regarding An Integrated Review of Decommissioning Requirements
Improving Decommissioning Regulation For Nuclear Power Plants**

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I. Introduction

I believe the most productive role of non-industry stakeholders, in particular informed laypersons, may be bounded by the following:

- Help focus policy with regard to the public's need to have confidence in nuclear regulation.
- Help industry and regulators think through developing regulation from the perspective of affected parties (e.g., residents in the vicinity of nuclear facilities, or environmental advocates).
- Question assumptions and process, especially from a practical or layman's point of view.
- Help both industry and regulators to "think outside the box", that is, to consider those externalities which may be obscured by concentration on more narrowly focused disciplines.
- Share the perspective of experience and local knowledge

I. Enhancing Clarity, efficiency, and effectiveness

If adapting regulations originally drafted for operating nuclear power stations has proved to be problematic for both regulators and the licensees, the disorienting effect on a public stakeholder's sense of place in the process is even more pronounced.

Public confidence cannot be maintained if there is uncertainty from or within the agency on basic issues.

For example:

- Citizens, who were for years assured that nuclear power reactors were nonpolluting, now find there are significant issues with radiological site remediation. They find that, in terms of risk, residual radioactive pollutants are not required by NRC to meet the same derived risk-standards as non-radioactive toxins in the environment. A Commission which seeks to relieve the industry's regulatory burden (if possible) by embracing risk-information at the front of the decommissioning process, fights tooth and nail to avoid risk-basis at the end of the process.

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The public has a right to be confused and therefore withhold its confidence. The agency should avoid the appearance of clinging to prescriptive regulation when it benefits the industry and risk-informing it away when it does not.

I believe a distinct regulatory decommissioning protocol is required. It should be one that is front-loaded with objective checks and balances providing the industry, the regulators, and the public with a secure platform from which to enter the decommissioning process.

The new protocol should, I believe, have as its centerpiece a plant specific comprehensive charter or permit for decommissioning which would take the site from present state to end state. Plants that had shutdown with an accumulation of safety-related defects should be subject to a thorough inspection with a checklist for any conditions that might effect safety during decommissioning.

An adjudicatory process, with simple access for stakeholders should be afforded. As far as I know, there is no legal stumbling block to NRC holding joint hearings with other agencies or governmental entities. Perhaps there could be fewer regulatory stops but more inclusive stops and stops with built-in accountability to satisfy both an industry and a public advocacy hunger for certainty

By contrast the present scheme appears to completely satisfy no one. All but the most obtuse of public and media have been 'put off' by the trivial nature of the PSDAR and the attendant informal meetings.

Changes are needed not only in the regulations, but also in the manner in which the organization conducts itself.

II. Public Confidence in Decommissioning Regulation

NRC personnel interacting with the public are the best expression of NRC regulation. If improving public confidence in the regulatory process is of high priority, then it is essential that NRC personnel maintain openness and absolute candor in communicating with the public. This is sadly, in my experience, not always the case. Please keep in mind, that it when it comes to credibility, as in the case of bad checks, exceptions do make the rule.

Timely action and response speaks volumes. For example, in June of 1998, MYAPC made a unilateral determination that security would not be compromised by reconfiguring its defenses against radiological sabotage and proceeded to make extensive changes. An NRC team of security specialists did not physically examine the changes until nine months later.

Comments and Questions on Spent Fuel Pool Hazards and other Risks in Decommissioning

Although the staff should be planning for reviewing and risk-informing the entire decommissioning process, I believe the present priority of examining spent fuel pool accident risks to be correct.

The staff is correct in undertaking an in-depth review rather than simply relying on the conclusions of the few existing studies of accident risks. The staff should have accurate plant specific design information.

I am concerned that the move to a risk-informed decommissioning rule not become so weighted toward risk-base that analysis for prescriptive based contributions to the rule are slighted. I believe it is important to the protection of the environment, and to the public health and safety, to continually ask, "What if? It is important to examine any tenable question that is raised before dismissing it based on a casually assigned probability.

The following scenarios are offered as examples:

- **Accidental Backflush During Piping Decontamination**
- **Kindling a Zirconium Cladding Fire**

I do not believe an accurate risk analysis can be accomplished without a careful, updated review, both site-specific and generic, of external factors that are apt to affect assumptions about risks and consequences.

I am concerned about what we think we know. For example, the staff has identified no materials aging or degradation issues in examining SFP vulnerabilities. However materials used in spent fuel pools, in racks, and in fuel assemblies have been known to degrade in similar environments.

While focus on accidents that would trigger offsite emergency response is understandable, more likely accidents involving gross consequences to workers and accidents involving long-term damage to the environment must be given competing emphasis.

While the impatience of industry with what appears to a slow process is understandable from a time is money perspective, the effect on a license being required to submit individual analysis and applications for exemptions can be mitigated through preparation for the process. In other words, the industry has a readily available in-house remedy available. Individual SFP heat up and vulnerability analysis can and should be done as soon as possible and can be done well in advance of decommissioning.

A failure to adequately provide for the public safety, however, should an accident occur, is without remedy.