

United States Senate

WASHINGTON, DC 20510

May 1, 2014

The Honorable Allison M. Macfarlane
Chairman
Nuclear Regulatory Commission
Rockville, MD 20852

Dear Chairman Macfarlane:

We write to request that the Nuclear Regulatory Commission (NRC) cease exempting licensees of decommissioning nuclear reactors from its emergency response and security regulations. NRC repeatedly cites these regulations to demonstrate the long-term safety and security of spent nuclear fuel. Yet it has granted each and every one of the ten requests for exemptions from emergency response requirements that it has received from reactors that have permanently shut down, generally within 2 years of the reactors' closure and without regard to how much spent fuel is still stored in spent fuel pools (Appendix A). The NRC has also received or expects to receive similar requests for exemptions from emergency response and security requirements from the licensees of the Kewaunee, Crystal River, SONGS, and Vermont Yankee nuclear power plants (Appendix B). Given the risks associated with spent fuel pools, we urge you to deny all of these requests.

The National Academy of Sciences¹ (NAS) and the NRC² have both found that draining of a spent nuclear fuel pool can lead to fires, large radioactive releases and widespread contamination. NRC's analysis has even concluded that the health and economic impacts of a spent fuel fire could equal those caused by an accident at an operating reactor.

Emergency Protection Zones, which encompass a distance of 10-50 miles around a nuclear power plant, are the areas subject to evacuation plans and other emergency response actions developed by reactor licensees, NRC, FEMA, and local authorities. The meltdowns at Fukushima illustrated the need for such planning, with the Japanese government ordering evacuations out to 12 miles and the NRC and other countries recommending evacuation out to 50 miles,³ in part because of a concern about Fukushima's spent nuclear fuel. Similarly, the terrorist attacks of September 11, 2001 led to new and strengthened security regulations, and a court decision⁴ and a NAS report⁵ both found that spent fuel pools could not be dismissed as potential targets for terrorist attacks.

¹ National Research Council, "Safety and Security of Commercial Spent Nuclear Fuel Storage," 2006

² <http://pbadupws.nrc.gov/docs/ML1325/ML13256A342.pdf> and

<http://pbadupws.nrc.gov/docs/ML0104/ML010430066.pdf>

³ "FUKUSHIMA DAIICHI: ANS Committee Report," March 2012.

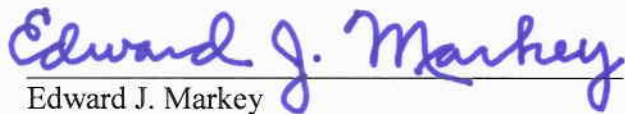
⁴ U.S. Court of Appeals for the Ninth Circuit, "San Luis Obispo Mothers for Peace v. NRC," June 4, 2006

⁵ National Research Council, "Safety and Security of Commercial Spent Nuclear Fuel Storage," 2006

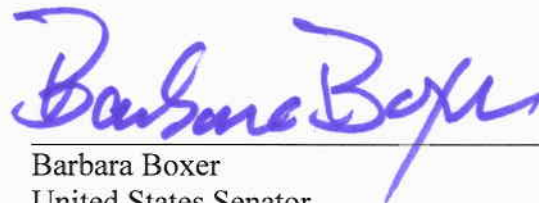
NRC is currently in the process of finalizing its Waste Confidence decision that spent nuclear fuel can be stored safely for at least 60 years beyond the licensed life of a nuclear power plant, and based this determination in part⁶ on the assertion that emergency preparedness and security regulations remain in place during decommissioning. The Commission is also voting on whether there is a benefit to accelerating the transfer of spent nuclear fuel to dry casks, and the document⁷ being voted on assumes the continued application of emergency response and security requirements.

What the NRC failed to state in its court and other filings was that licensees of decommissioning reactors are almost always exempted from the regulatory requirements NRC based its findings on within two years of the reactors' shut-down. This is unacceptable. We urge you to announce your intent to reverse this unwise policy.

Sincerely,



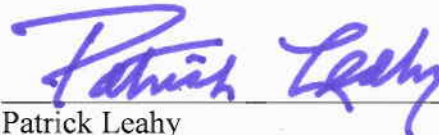
Edward J. Markey
United States Senator



Barbara Boxer
United States Senator



Bernard Sanders
United States Senator



Patrick Leahy
United States Senator



Kirsten Gillibrand
United States Senator

⁶ <http://pbadupws.nrc.gov/docs/ML1322/ML13226A076.pdf>

⁷ US Nuclear Regulatory Commission, "[Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark I Boiling Water Reactor.](http://www.nrc.gov/reading-rm/doc-collections/commission/comm-secy/2013/2013-0030comscy.pdf)" June 2013 and <http://www.nrc.gov/reading-rm/doc-collections/commission/comm-secy/2013/2013-0030comscy.pdf>

Appendix A

Table of Granted Exemptions to Offsite Emergency Preparedness Requirements

| Plant Name | Operation Ceased | Exemption Granted |
|-------------------|-------------------------|--------------------------|
| Humboldt Bay | 7/2/76 | 4/29/87 |
| La Crosse | 4/30/87 | 7/8/88 |
| Fort St. Vrain | 8/18/89 | 12/31/90 |
| Rancho Seco | 6/7/89 | 2/22/91 |
| Yankee Rowe | 10/1/91 | 10/30/92 |
| Trojan | 12/2/92 | 9/30/93 |
| Haddam Neck | 7/22/96 | 8/28/98 |
| Maine Yankee | 12/6/96 | 9/3/98 |
| Big Rock Point | 8/29/97 | 9/30/98 |
| Zion | 2/13/98 | 8/31/99 |

Appendix B: Exemption Requests Under NRC Review (or Anticipated) from Power Reactors that have Shut Down Recently or Announced Intentions to Permanently Shut Down

| Exemption Request Description | Kewaunee | Crystal River | SONGS | Vermont Yankee |
|---|-----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| Exemption Request: 10 CFR 50.75 & 10 CFR 50.82(a)(8)(i)(A) Related to Access to Decommissioning Trust Fund | Under NRC Review (ML13098A031) | Under NRC Review (ML14098A037) | Under NRC Review (ML14051A632) | |
| Exemption Request-(Security Related): 10 CFR 73.55(p)(i, ii); Severe weather security suspension | Under NRC Review (ML13161A168) | Under NRC Review (ML13204A397) | | Under NRC Review (ML13317A077) |
| Exemption Request-(Security Related): 10 CFR 73.55(j)(4)(ii), Central Alarm Station and Secondary Alarm Station Communications with Control Room | Under NRC Review (ML13165A343) | Anticipated | | |
| Exemption Request-(Security Related): 10 CFR 73.55(b)(6), Force on Force | Under NRC Review (ML13178A206) | Under NRC Review (ML14023A662) | | |
| Exemption Request: 10 CFR 50.47 & 10 CFR 50, Appendix E, and Emergency Plan | Under NRC Review (ML13221A182) | Under NRC Review (ML13274A584) | Under NRC Review (ML14092A332) | Under NRC Review (ML14080A141) |
| Exemption Request-(Security Related) 10 CFR 73.55(k)(5)(i), Armed responder | Under NRC Review (ML13290A154) | | | |
| Exemption Request-(Security Related) 10 CFR 73.55(i), Secondary Alarm Station | Under NRC Review (ML13290A153) | Anticipated | | |
| Exemption Request: 10 CFR 140, Financial Protection Insurance | Under NRC Review (ML14090A112) | Under NRC Review (ML14063A502) | Anticipated | |
| Exemption Request: 50.54(w), Onsite Property Damage Insurance | Under NRC Review (ML14090A111) | | | |
| Exemption Request: 10 CFR 50.54(m), Operator Staffing | Under NRC Review (ML13254A153) | | Under NRC Review (ML13268A143) | Under NRC Review (ML13325B016) |

NOTE: Blank table entries mean the NRC is unaware of the licensee's intentions related to the listed exemption