



# NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

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## **NRC SEEKS PUBLIC COMMENT ON PROPOSED RULE ON DECOMMISSIONING TRUST PROVISIONS AND DRAFT REGULATORY GUIDE**

The Nuclear Regulatory Commission is proposing to amend its regulations on decommissioning trust provisions for commercial nuclear power plants and is seeking public comment on the proposed rule and a draft regulatory guide that could be used by power plant licensees in implementing the regulations.

The proposed rule change would (1) help safeguard decommissioning trust funds from investment risks; (2) ensure licensees provide adequate information to NRC about their trusts; and (3) provide safeguards against improper payments from such trusts.

The NRC proposes to require that decommissioning trust agreements be in an appropriate form for greater assurance that an adequate amount of decommissioning funds will be available. Until recently, direct NRC oversight of the terms and conditions of the decommissioning trusts was not necessary because state regulators typically exercised such authority. With deregulation, however, this oversight may cease and the NRC may need to take a more active oversight role.

Also, based on the NRC's recent experience with transfers of operating licenses of several nuclear power plants, NRC believes the proposed rule change could expedite similar transfers in the future by providing increased regulatory predictability. The proposed rule and accompanying revisions to regulatory guidance, if adopted, would provide uniform decommissioning trust terms and conditions for all nuclear power reactor licensees.

Concurrent with the issuance of the proposed rule, the staff is issuing for comment, "Proposed Revision 1 of Regulatory Guide 1.159, Assuring the Availability of Funds for Decommissioning Nuclear Reactors." This document contains proposed guidance to be used by nuclear power plant licensees on implementing the changes in NRC regulations.

Under the proposed rule, the criteria that have been required as conditions of license transfer in connection with the sale of nuclear power reactors would be incorporated in a proposed new section of Title 10 of the Code of Federal Regulations under Part 50.75. The conditions are as follow:

- The trust must be an external trust fund held in the United States, established pursuant to a written agreement with an entity that is an appropriate State or Federal government agency or whose operations are regulated by a State or Federal agency.
- The trust agreement must prohibit trust investments in securities or other obligations of the reactor owner or its affiliates, successors, or assignees.
- The trust agreement must prohibit investments in any entity owning one or more nuclear power plants, except for investments tied to general market indices or non-nuclear sector mutual funds.
- The trust agreement must stipulate that the agreement cannot be amended in any respect without 30-days prior written notice to the NRC, and there is no objection from the NRC.
- The trust agreement must stipulate that the trustee, investment advisor, or anyone else directing investments made by the trust should act prudently .
- The trust agreement must provide that no disbursements or payments from the trust (other than payment of routine administrative expenses) may be made by the trustee until the trustee has first given the NRC 30-days prior written notice, and there is no objection from the NRC.
- The person directing the investment of the funds is prohibited from representing the licensee or its affiliates or subsidiaries as the investment manager for the funds or accepting day-to-day management direction of the funds' investments or direction on individual investments by the funds from the licensee or its affiliates or subsidiaries.

Interested persons are invited to submit comments on the proposed changes within 75 days after publication of a Federal Register notice on this subject, expected shortly. Comments may be sent to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be submitted electronically via the NRC's interactive rulemaking web site at <http://ruleforum.llnl.gov> .

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