

April 25, 1996

FOR: The Commissioners
 FROM: James M. Taylor /s/ Executive Director for Operations
 SUBJECT: ANNUAL REPORT ON THE STATUS OF PREMATURELY SHUTDOWN PLANTS

- **PURPOSE:**
- **BACKGROUND:**
- **DISCUSSION:**
 - I. Rulemaking Activities
 - II. Current Plant Status

PURPOSE:

To inform the Commission of the status of open issues and the progress of specific facilities toward decommissioning. The last report was sent to the Commission on April 7, 1995.

BACKGROUND:

In COMJC-92-002 of March 3, 1992, the Commission directed the staff to submit quarterly reports on the status of pending licensing and regulatory actions for prematurely shutdown plants. In accordance with staff's notification to the Commission in SECY-95-087, the staff is submitting the report annually.

DISCUSSION:

I. Rulemaking Activities

In response to staff requirements memoranda (SRMs) of June 30 and July 13, 1993, the staff developed a proposed rulemaking to revise certain regulations in Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) to clarify their applicability and to make certain changes in decommissioning policy regarding permanently shutdown reactors. On July 7, 1994, the staff issued SECY-94-179, "Notice of Proposed Rulemaking on Decommissioning of Nuclear Power Plants." The proposed rule defines terminology related to decommissioning and requires licensees to send the Nuclear Regulatory Commission (NRC) early notification of planned decommissioning activities at their facilities.

In addition, the rulemaking explicitly delineates the applicability, or limited applicability, of certain requirements in 10 CFR Part 50 to permanently shutdown reactors. The primary change that the proposed rule would implement is that a licensee is no longer required to submit a decommissioning plan for NRC approval before undertaking major decommissioning activities. Under the proposed rule, a licensee would be able to begin decommissioning after certain criteria have been met. The licensee must provide two certifications to the NRC: (1) the reactor has been permanently shut down, and (2) all spent fuel has been removed from the reactor. The licensee must also submit a post-shutdown decommissioning activities report (PSDAR), in which it describes its proposed activities to the NRC. The proposed rule imposes a mandatory 90-day hold period to allow the NRC staff to evaluate the PSDAR and to hold a public information meeting in the vicinity of the site. After the 90-day period, licensees would be permitted to undertake decommissioning activities meeting the requirements of [10 CFR 50.59](#). The staff received 34 comments from the public on the proposed rule and is preparing a response to the comments and the final rule. The staff expects the proposed final rulemaking package to reach the Commission in May 1996.

Potential deregulation of the power generating industry has created uncertainty with respect to whether current NRC regulations concerning decommissioning funding will require a modification to account for utility reorganization not contemplated when the current financial regulations were promulgated. Therefore, on April 8, 1996, the Commission published in the *Federal Register* an advanced notice of proposed rulemaking regarding financial assurance requirements for decommissioning nuclear power plants. The Federal Register notice invites public comment on issues pertaining to the form and content of the NRC's nuclear power reactor decommissioning financial assurance requirements as they relate to electric utility deregulation.

II. Current Plant Status

A. Rancho Seco

1. Decommissioning Plan

Following resolution of prolonged intervention by the Environmental Conservation and Resources Organization (described in the September 2, 1994, report), the staff issued the decommissioning order approving the Rancho Seco decommissioning plan on March 20, 1995.

Under its SAFSTOR decommissioning plan, Sacramento Municipal Utility District (SMUD) plans to transfer the spent fuel from the Rancho Seco spent fuel pool to an onsite ISFSI licensed separately by the Office of Nuclear Materials Safety and Safeguards under [10 CFR Part 72](#). Construction of the ISFSI is proceeding on schedule and is scheduled to be completed in FY 98.

In late 1994, SMUD informed the NRC that it had begun a reevaluation of decommissioning methods different from the long-term SAFSTOR decommissioning plan approved by the NRC. One alternative being evaluated is prompt dismantlement of the facility and onsite storage of contaminated materials at the Ward Valley disposal site. SMUD expects to complete the study and present final recommendations to its board of directors this summer.

2. Actions in Progress

On December 12, 1994, as required by [10 CFR 50.54\(bb\)](#), SMUD submitted its plan for management and funding of spent fuel storage activities until possession of the fuel is transferred to the Department of Energy. On April 17, 1995, the NRC staff informed SMUD that it had no objections to the plan. The NRC staff also approved three license amendment requests allowing minor changes to the defueled technical specifications. The staff has under review a license amendment request to conform the technical specifications to revised 10 CFR Part 20 requirements and another amendment request to update the spent fuel shipping cask licensing basis before fuel from the spent fuel pool

is moved to the ISFSI.

B. Yankee Rowe

1. Decommissioning Plan

Yankee Atomic Electric Company (YAEC) submitted the Yankee Rowe decommissioning plan on December 20, 1993. The staff issued an order approving the plan on February 14, 1995. Approval of the plan was rescinded by CLI-95-14 in response a decision of the United States Court of Appeals for the First Circuit discussed in the section that follows.

2. First Circuit Decision and Intervention

The Citizens Awareness Network (CAN), a public interest group based in the Rowe community, filed a request for an injunction against the NRC in the federal district court in Massachusetts on March 31, 1994. CAN sought to require the NRC to order the suspension of the component removal project at Yankee Rowe (discussed in the September 2, 1994, report). The suit also claimed that the NRC had failed to comply with the National Environmental Policy Act (NEPA) in not performing a site-specific environmental evaluation. The district court denied the complaint on jurisdictional grounds; however, CAN appealed to the U.S. Court of Appeals for the First Circuit in Boston. On July 20, 1995, the court issued its decision, which found that the NRC had erred when it rejected CAN's request for a hearing on the component removal project, that CAN was entitled to a hearing under Section 189a of the Atomic Energy Act in connection with the NRC decision to permit the component removal project, and that the NRC had violated NEPA by permitting YAEC to initiate the component removal project before the agency had prepared an environmental assessment or impact statement. The court remanded the case to the NRC for further action.

In the September 6, 1995, *Federal Register*, the Commission provided notice to the public of the Court of Appeals decision, solicited public comment regarding the Commission's legal authority to allow or forbid further decommissioning activity at Yankee Rowe, and stated NRC's intention to issue a future *Federal Register* notice that would offer an opportunity for a hearing on the Yankee Rowe decommissioning plan. On October 12, 1995, the NRC issued an order (CLI-95-14) stating that NRC regulations do not allow YAEC to conduct further "major" decommissioning activities at the Yankee Rowe facility until a decommissioning plan is approved after completion of a hearing.

On November 30, 1995, CAN and the New England Coalition on Nuclear Pollution submitted a joint petition to intervene in the approval of the Yankee Rowe decommissioning plan pursuant to an October 27, 1995, notice of opportunity for hearing. On January 16, 1996, the Commission issued a memorandum and order (CLI-96-01) referring the petition and answers from the licensee and NRC staff to the Atomic Safety and Licensing Board (ASLB). This order provided a suggested schedule for an expedited hearing and guidance to the ASLB on several novel issues raised by the petition. On March 1, 1996, the ASLB issued a decision (LBP-96-2) that found the petitioners have standing to intervene, but failed to present any litigable contentions. On March 18, 1996, the petitioners filed an appeal of LBP-96-2 with the Commission. The NRC staff and YAEC responded in opposition to the appeal on April 2, 1996, and the matter is pending before the Commission.

On three occasions this year (January 17, February 9, and March 18, 1996), CAN has filed emergency motions requesting the Commission to halt most of the activities at Yankee Rowe which the staff has found permissible pending approval of a decommissioning plan. The NRR Office Director denied the first two requests, which were referred to the staff pursuant to [10 CFR 2.206](#). On April 1, 1996, the Commission issued a memorandum and order (CLI-96-6) affirming the two director's decisions and denying the third request as it raised issues already addressed in the first two.

On March 28, 1996, the petitioners filed a motion with the U. S. Court of Appeals for the First Circuit for a stay (injunction) of ongoing activities at Yankee Rowe. The motion challenges the two director's decisions discussed above. The NRC and YAEC filed a responses on April 5, and April 10, 1996, respectively opposing the petitioners' motion. On April 11, 1996, the First Circuit ordered the petitioners either to withdraw the appeal or show cause why the appeal should not be dismissed for lack of jurisdiction. The petitioners replied on April 16, 1996, and the NRC responded on April 18, 1996. The matter is pending before the First Circuit.

3. Completed Actions

On February 8, 1996, the staff issued a transportation certificate of compliance for a reactor vessel (RV) storage or shipping cask. The RV could be stored on site indefinitely in this cask or shipped in it as "low specific activity" waste to a low-level radioactive waste facility. Yankee Atomic's earliest planned shipping date is the summer of 1996.

C. San Onofre Unit 1

1. Decommissioning Plan

The decommissioning plan submitted by Southern California Edison for San Onofre Unit 1 proposes to maintain the plant in SAFSTOR until the permanent shutdown of San Onofre Units 2 and 3, currently projected for 2013 when the operating licenses expire. All three units will be dismantled at the same time.

2. Actions Completed

On July 21, 1995, the Commission issued an exemption from certain parts of [10 CFR 73.55](#) as a preliminary step towards enabling Southern California Edison to revise the security plan for San Onofre Nuclear Generating Station to facilitate implementation of a biometrics access control system.

D. Trojan

1. Decommissioning Plan

Portland General Electric (PGE) submitted the Trojan decommissioning plan on January 26, 1995. It had chosen to proceed with the dismantlement of the facility over the next few years. On December 22, 1995, the NRC staff published a *Federal Register* notice offering an opportunity for hearing in connection with approval of the decommissioning plan. No requests for hearing were submitted. On January 22, 1996, the Oregon Department of Energy (ODOE) issued the results of its review of the decommissioning plan and offered the opportunity for a contested case hearing on approval of PGE's decommissioning plan. The ODOE 30-day period expired without a request for hearing. The staff, after notifying the Commission, issued the order approving the decommissioning plan on April 15, 1996.

2. Actions Completed

The staff issued the Permanently Defueled Technical Specifications (PDTS) for the Trojan facility on March 31, 1995. This amendment significantly modifies the current Appendix A technical specifications for the facility by removing all requirements associated with facility operation. PGE modeled the PDTS after the improved standard technical specifications in NUREG-1431, "Standard Technical Specifications, Westinghouse Plants."

3. Large-Component Removal Project

In November 1994, PGE began its large-component removal project (LCRP), which included the removal and shipment of the Trojan steam generators and pressurizer to the U.S. Ecology low-level waste repository at Hanford, Washington. The LCRP was completed on November 1, 1995.

E. Indian Point Unit 1

Decommissioning Plan

On January 31, 1996, the staff, after notifying the Commission, issued an order approving the SAFSTOR decommissioning plan for Indian Point Unit 1. An amendment was also issued to renew the Indian Point Unit 1 possession-only amended license and to revise the Indian Point Unit 1 technical specifications. Unit 1 will remain in SAFSTOR until Unit 2 is shut down, after which the licensee, Consolidated Edison, intends to dismantle both units.

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