

UNITED STATES NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555-0001

June 26, 2000

NRC REGULATORY ISSUE SUMMARY 2000-09
STANDARD REVIEW PLAN FOR LICENSEE REQUESTS TO
EXTEND THE TIME PERIODS ESTABLISHED FOR INITIATION
OF DECOMMISSIONING ACTIVITIES

Addressees:

All material licensees regulated in accordance with 10 CFR Parts 30, 40, and 70.

Intent:

To inform addressees that the U.S. Nuclear Regulatory Commission will now implement the standard review plan (SRP) entitled, "Licensee Requests to Extend the Time Period Established for Initiation of Decommissioning Activities." No specific action nor written response is required.

Background:

SECY-99-042, "Denial of a Petition for Rulemaking: Nuclear Energy Institute (NEI)," required the staff to develop guidance to clarify the regulations that allow licensees alternative time schedules for initiation of decommissioning. In developing the guidance, the Commission requested that the staff: (1) work closely with stakeholders to develop acceptance criteria for the approval of alternative time schedules for initiation of decommissioning; (2) address the case of Federal facilities undergoing decommissioning; and (3) address the need to establish or revise financial assurance instruments for decommissioning.

On August 11, 1999, the Federal Register, Volume 64, No. 154, announced the availability of the draft SRP and requested public review and comment. All comments received were resolved to the mutual satisfaction of the stakeholders and NRC staff, and incorporated in the attached SRP.

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Template: NRR-052

Summary of Issue:

Attached is the SRP entitled, "Licensee Requests to Extend the Time Period Established for Initiation of Decommissioning Activities." The SRP provides the criteria the staff will use to review licensee requests for alternative time schedules for initiation of decommissioning activities.

Paperwork Reduction Act Statement:

This regulatory issue summary requires no specific action nor written response. If you have any questions about this summary, please contact the technical contact listed below, or the appropriate NRC office.

/RA/

John T. Greeves, Director
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

Contact: John T. Buckley, DWM/NMSS
301- 415-6607
E-mail: jt@nrc.gov

Attachments:

1. Standard Review Plan for Licensee Requests to Extend the Time Periods Established for Initiation of Decommissioning Activities
2. List of Recently Issued NRC Regulatory Issue Summaries

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Original signed by:

John T. Greeves, Director
Division of Waste Management
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Contact: John T. Buckley, DWM/NMSS
301- 415-6607
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Division of Waste Management

STANDARD REVIEW PLAN
LICENSEE REQUESTS TO EXTEND THE TIME PERIOD ESTABLISHED
FOR INITIATION OF DECOMMISSIONING ACTIVITIES

1. RESPONSIBILITY FOR REVIEW

- 1.1 Primary - Project Manager (PM). The Regional or Headquarters PM is responsible for reviewing and responding to licensee requests to extend the time limits established for the initiation of decommissioning activities. Licensees should be notified of the U.S. Nuclear Regulatory Commission's (NRC's) decision, by letter, signed by the Branch Chief. If the license requires changes to its license certifications to meet the acceptance criteria presented in this Standard Review Plan (SRP), the PM is responsible for ensuring that the license is appropriately amended.
- 1.2 Secondary - None
- 1.3 Supporting - Health Physicist, Financial Assurance Specialist

2. AREAS OF REVIEW

The staff will review a licensee request to extend the time limits established for the initiation of decommissioning activities in accordance with the requirements of the "Timeliness in Decommissioning of Material Facilities" rule (59 FR 36026-36040, July 15, 1994) (hereafter Timeliness Rule). The Timeliness Rule requirements are presented in 10 CFR 30.36, 40.42, 70.38, and 72.54. Throughout the remainder of this SRP, reference will be made to various sections of 10 CFR 30.36. Specifically, the requirements for the initiation of decommissioning are located in Section 30.36 (d). Section 30.36 (f) provides the requirements for extending the time periods established in Section 30.36 (d). Readers should substitute similar sections in 10 CFR 40.42, 70.38, and 72.54, as applicable for other licensing situations.

3. REVIEW PROCEDURES

The staff will use and apply material from this SRP as may be appropriate for specific cases. The staff's review of Licensee submittals should include: (1) Acceptance Reviews; (2) Detailed Reviews; (3) Requests for Additional Information; and (4) documentation of the Safety and Environmental Review. In implementing this streamlining approach, staff should conduct an acceptance review to ensure the application is complete, and if it is not, return it to the licensee. Staff should then conduct its detailed review, and prepare its preliminary technical evaluation. Through this process, staff will be able to identify areas where questions need to be asked. This approach will help ensure that questions are limited to those areas where additional information is truly needed, and should help reduce questions.

3.1 Acceptance Review

The staff will review a licensee request to extend the time period established in 10 CFR 30.36 (d) for initiation of decommissioning activities for completeness in accordance with this SRP. If the licensee's information is inadequate or incomplete, the staff should request that the licensee supply additional information. The staff may recommend that the request: (1) be rejected because of inadequate information; (2) be placed on hold pending submittal of requested information; or (3) accepted for documentation. If the request is accepted for documentation, the detailed review of the request will begin.

3.2 Detailed Review

The staff will determine whether the licensee has met the requirements of the Timeliness Rule. The staff will verify that: (1) the licensee has met the notification requirements of the Timeliness Rule; and (2) the licensee has provided sufficient evidence to show that the regulatory evaluation criteria described in Section 4.1 have been met.

3.3 Requests for Additional Information

Document insufficient or inadequate information submitted by the licensee and communicate what additional information is needed to address the identified deficiencies.

3.4 Safety and Environmental Review Reports

Communicate the staff's position on the safety and environmental acceptability of licensee's request, which forms the basis for the subsequent licensing action.

4. ACCEPTANCE CRITERIA

The requirements for the initiation of decommissioning are located in Part 30.36 (d) of the Timeliness Rule. Part 30.36 (d) requires that within 60 days of the occurrence of any of the following, licensees shall provide notification to the NRC, in writing, of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with NRC requirements, or submit for approval, within 12 months of notification, a decommissioning plan and begin decommissioning upon approval of that plan, if:

1. The license has expired;
2. The licensee has decided to permanently cease principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements;
3. No principal activities under the license have been conducted for a period of 24 months; or
4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

In accordance with Part 30.36 (f), licensees can request to extend the time periods established in Part 30.36 (d). The Commission may grant requests to extend the time periods established in 30.36 (d) if the Commission determines that this relief is: (1) not detrimental to the public health and safety and (2) is otherwise in the public interest.

The "Statement of Considerations" for the Timeliness Rule, published in the Federal Register, Volume 590, No. 135, July 15, 1994, states that the staff will also evaluate a licensee's request to extend the time period established for initiation of decommissioning against the five criteria identified in Part 30.36(h). Although the criteria in Part 30.36(h) are intended for evaluating a licensee's request to extend the time period for completion of decommissioning, and are generally not intended for evaluating alternate schedules for initiating decommissioning under 30.36(f), the staff will consider these criteria to the extent applicable to the situation.

4.1 Regulatory Evaluation Criteria

4.1.1 Notification Requirements of the Timeliness Rule

A request to extend the time period established for initiation of decommissioning will be accepted if it includes: (1) the date that principal activities at the site, separate building or outdoor area ceased, as provided for in Sections 30.36 (d)(3) and 30.36 (d)(4); (2) the date a request for an extension of the time period is required, as provided for in Section 30.36 (f); (3) length of postponement requested; (4) whether a decommissioning plan will ultimately be required for the site; and (5) sufficient information to demonstrate that an extension of the time period for initiation of decommissioning will meet the requirements of Section 30.36 (f).

4.1.2 Evidence that an Extension of the Time Period Will Not be Detrimental to Public Health and Safety

To demonstrate that delaying the start of decommissioning will not be detrimental to public health and safety, a licensee should:

- a. Submit the health and safety plan that will be in effect during the standby period. If the current health and safety plan will remain in effect during standby, state when it was submitted and when the NRC approved Health and Safety Plans will be reviewed in accordance with Section 10 of the SRP for Decommissioning.
- b. Discuss its record of regulatory compliance. This may be accomplished by presenting the results of NRC, U.S. Environmental Protection Agency, and State inspections for the past 5 years, at the site.

4.1.3 Demonstration that an Extension of the Time Period for Initiation of Decommissioning is Otherwise in the Public Interest

Factors that may form the basis for an argument that an extension of the time period for initiation of decommissioning is otherwise in the public interest include: (1) Federal concern for the impact on the domestic uranium mining industry; (2) future need for services provided by

material licensees to the electric utility industry; (3) future needs of the national defense industry; (4) a substantial increase in the efficiency of decommissioning thus reducing anticipated dose to workers; and (4) reduced decommissioning costs for Federal facilities. This list is not meant to be exhaustive. There are likely to be other valid licensee specific arguments for extending the time period established for decommissioning. NRC's determination of what is in the public interest will not be based solely on what is in the applicant's best economic interests, because the applicant's economic interest and the public's interest may not necessarily coincide. To support a request for an extension of the time period in 10 CFR 30.36 (d), a licensee should provide:

- a. The reason the licensee is requesting an extension of the time period for initiation of decommissioning schedule, and an explanation of how the public's interest will be served by NRC approval of the extension. For example, licensees who request to go on standby rather than decommission, could address whether decommissioning of the facility will require dismantlement, such that the facility will no longer be available for nuclear purposes. In addition, licensees should demonstrate that the facilities will not significantly deteriorate during the standby period. Facilities should be sufficiently maintained such that they may become operational without extensive repairs, and decommissioning is not significantly more complex at a later date.

Operators of Federal facilities could explain how an extension of the time period for initiation of decommissioning would better take into account a broader Federal plan, for decommissioning, that establishes priority, funding, and schedules, thereby reducing the public funds needed for decommissioning the facility;

- b. A discussion of the current decommissioning cost estimate and the potential for increased decommissioning costs if the extension of the time period is approved. The licensee should also provide evidence of adequate financial surety for the ultimate decommissioning of the site. Financial surety documentation will be reviewed in accordance with Section 15 of the SRP for Decommissioning;
- c. A discussion of: (1) the extent and nature of contamination and the potential for migration by airborne or groundwater pathways; and (2) the plan for monitoring and maintaining the site, separate building, or outdoor area during the extension period. The plan should be sufficiently detailed to demonstrate that public and worker health and safety and the environment will not be negatively affected during the extension period. The operating maintenance and radiation protection programs previously approved by NRC may be continued during the extension period. The plan should also demonstrate that the applicant will conduct sufficient monitoring, during the extension period, to assure that residual contamination does not become a public nor a worker health and safety issue.

5.0 EVALUATION FINDINGS

5.1 Introduction

The staff's review should verify that sufficient information has been provided in the licensee's request to satisfy the requirements of the Timeliness Rule and the information is consistent with the guidance in this SRP. On this basis, the staff should be able to conclude that this evaluation is complete and acceptable.

Findings will consist of a brief discussion of: (1) whether the licensee has met its notification requirements under the Timeliness Rule; (2) the rationale for accepting or rejecting licensee's evidence that public health and safety will be adequately protected; (3) the rationale for accepting or rejecting the licensee's demonstration that an extension of the time period for initiation of decommissioning is in the public's interest; and (4) the basis for concluding that there will be sufficient financial assurance to complete decommissioning at the time of license termination.

5.2 Sample Evaluation Findings

The staff has reviewed the licensee's request to extend the time periods established in Part 30.36 (d), according to the SRP entitled, "Licensee Requests to Extend the Time Period Established for Initiation of Decommissioning Activities."

[The Licensee] ceased principal activities at the site on [date]. The NRC received a request to extend the time period established for initiation of decommissioning by [number] years, on [date], in accordance with the requirements of Part 30.36 (f). [The Licensee] has acknowledged that a decommissioning plan will be required to decommission the site before license termination.

The Health and Safety Plan submitted [or referenced] by [the Licensee] is adequate to ensure that public health and safety will be protected during the extension period. In addition, results of past inspections indicate that [the Licensee] can successfully implement its operational health and safety plan.

[The Licensee] has secured financial surety equal in amount to the decommissioning cost estimate the NRC approved. Provisions have been made to vary the amount of financial surety if necessary, to cover changing decommissioning costs with time.

The monitoring and maintenance plan submitted by [Licensee] is adequate to ensure that worker and public health and safety, and the environment, will not be negatively affected during the extension period.

It is in the public's interest to allow [Licensee] to extend the time period established for initiation of decommissioning for a period of time, not to exceed [X] years, for the following reason(s). [INSERT REASON.] Examples: the standby period will allow economic conditions in the uranium market to improve. Existing statutes oblige the Secretary of Energy to gather

information on the uranium mining industry and to have a continuing responsibility for the domestic industry, to encourage the use of domestic uranium. See 42 U.S.C. 2201b and 2296b-3. Although this responsibility is not NRC's, we recognize that the viability of the industry is a Federal concern, or an alternate schedule involving some of the Federal licensee's other facilities would better take into account the Federal licensee's overall decommissioning needs, thereby reducing public funds needed for the ultimate decommissioning of the facility, etc.]

The evaluation finding letter to the licensee should also state that within 60 days of the termination of the extension period, the licensee must notify NRC in writing of such occurrence, and either begin decommissioning at its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with NRC requirements, or submit within 12 months of notification a decommissioning plan, if required by Section 30.36 (g)(1), and begin decommissioning upon approval of that plan.

6. REFERENCES

U.S. Code of Federal Regulations:

1. 10 CFR Part 30 - "Rules of General Applicability to Domestic Licensing of Byproduct Material."
2. 10 CFR Part 40 - "Domestic Licensing of Source Material."
3. 10 CFR Part 70 - "Domestic Licensing of Special Nuclear Material."
4. 10 CFR Part 72 - "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste."

**LIST OF RECENTLY ISSUED
NRC REGULATORY ISSUE SUMMARIES**

Regulatory Issue Summary No.	Subject	Date of Issuance	Issued to
2000-08	Voluntary Submission of Performance Indicator Data	03/29/2000	All holders of OLs for nuclear reactors, except for those licensees who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
2000-07	Use of Risk-Informed Decisionmaking in License Amendment Reviews	03/28/2000	All holders of OLs for nuclear reactors, except for those licensees who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
2000-06	Consolidated Line Item Improvement Process for Adopting Standard Technical Specifications Changes for Power Reactors	03/20/2000	All holders of OLs for nuclear reactors, except for those licensees who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
2000-05	Resolution of Generic Safety Issue 165, Spring-Actuated Safety and Relief Valve Reliability	03/16/2000	All holders of OLs for nuclear reactors, except for those licensees who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
2000-04	Operating Reactor Licensing Action Estimates	03/16/2000	All power reactor licensees

OL = Operating License

CP = Construction Permit