

IN RESPONSE, PLEASE
REFER TO: M921124

January 14, 1993

MEMORANDUM FOR: William C. Parler
General Counsel

James M. Taylor
Executive Director for Operations

FROM: Samuel J. Chilk, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - BRIEFING BY OGC ON
REGULATORY ISSUES AND OPTIONS FOR
DECOMMISSIONING PROCEEDINGS (SECY-92-382),
10:00 A.M., TUESDAY, NOVEMBER 24, 1992,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE
FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

The Commission was briefed by the Office of the General Counsel on the lessons learned from the Shoreham decommissioning effort and on the issues and options for handling the decommissioning of power reactors.

Based on this Commission briefing, the Commission has concluded that the staff should continue work on updating Regulatory Guide 1.86. The guidance should address what activities should be permitted prior to approval of a decommissioning plan and address, as well, the availability and use of money from the licensee's decommissioning fund for activities normally associated with decommissioning before approval of the decommissioning plan. Before any generic decisions on the use of decommissioning funds are made, the staff and OGC should provide an analysis and recommendations to the Commission on permitting licensees to use their decommissioning funds for decommissioning activities prior to approval of the decommissioning plans.

Pending final action by the Commission on SECY-92-382, on a case-by-case basis, the staff may implement the following approach with regard to evaluating what activities should be allowed prior to approval of a decommissioning plan:

1. After permanent shutdown of a facility, 10 CFR 50.59 should be applied on the basis of an assumption that the facility will not resume operation, provided that a possession-only-license (POL), a confirmatory shutdown

order, or other legally binding instrument to remove the authorization to operate has been issued by the agency for such facility.

2. Notwithstanding the Commission's statements in footnote 3 of CLI-90-08 and the Statements of Consideration for the decommissioning rules at 53 Federal Register 24025-26, licensees should be allowed to undertake any decommissioning activity (as the term "decommission" is defined in 10 CFR 50.2) that does not -- (a) foreclose the release of the site for possible unrestricted use, (b) significantly increase decommissioning costs, (c) cause any significant environmental impact not previously reviewed, or (d) violate the terms of the licensee's existing license (e.g., OL, POL, OL with confirmatory shutdown order etc.) or 10 CFR 50.59 as applied to the existing license.
3. The staff may permit licensees to use their decommissioning funds for the decommissioning activities permitted above (as the term "decommission" is defined in 10 CFR 50.2), notwithstanding the fact that their decommissioning plans have not yet been approved by the NRC.

These and the remaining items associated with SECY-92-382 will be addressed by the Commissioners in their vote sheets on the SECY paper and in the subsequent staff requirements memorandum.

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque
OIG
Office Directors, Regions, ACRS, ACNW (via E-Mail)
OP, SDBU/CR, ASLBP (via FAX)
PDR - Advance
DCS - P1-24