Commissioner Merrifield's Comments on SECY-99-168

Rec 10/27/99

I approve in part, and disapprove in part, the staff's proposal as discussed below:

1. With significant apprehension, I approve the plan and schedule for completion of the spent fuel pool risk assessment. At this late stage of the process, I believe it would be counterproductive to not finish the assessment and subsequent report. The NRC has been dealing with this issue for several years. It is clear to me that our past efforts associated with the preliminary generic analysis relied on unrealistic assumptions. While I am hopeful that the Technical Working Group (TWG) will improve on our previous efforts and provide a sound and realistic technical basis on spent fuel pool accident risk, I believe the Commission could benefit from an independent technical review of the report. Thus, I believe the ACRS should review and comment on the draft TWG report prior to its release in January 2000 and on the final report prior to its release in April 2000. I am particularly interested in the ACRS's perspective on the assumptions used in the staff's analysis.

2. I approve the staff's proposal to develop an integrated, risk-informed rulemaking for decommissioning. However, I believe that the staff can improve upon its schedule associated with the rulemaking plan and the subsequent rulemaking activities. Currently, the staff intends to submit an integrated rulemaking **plan** by May 31, 2000. I find it difficult to understand why such a plan cannot be rolled out with the final technical report in April. I have heard the argument that there is no urgency associated with this rulemaking given the lack of new plants projected to enter the decommissioning arena in the coming years. I find this argument less than satisfying as it reflects a willingness to accept a regulatory framework that lacks clarity, predictability, and discipline. I am not willing to accept such a framework. Thus, I believe the staff should establish a more aggressive schedule for the integrated rulemaking and not be constrained by its current "series" approach.

3. I approve Option 2 of the initiative for improving nuclear power plant decommissioning regulations including the comprehensive decommissioning regulatory review (Phase 1). I join Commissioner Diaz in believing it is premature to select which of the three alternatives presented would be the best approach for "restructuring" decommissioning requirements. After the staff completes the comprehensive decommissioning regulatory review, it should solicit feedback from stakeholders on potential alternatives. The staff should then provide the Commission with a proposal which clearly lays out the advantages and disadvantages of the alternatives considered, the resources that would be needed to carry out the alternatives, and the projected schedules.

I am looking forward to the upcoming Commission meeting on improving decommissioning regulations. I believe it will serve as an excellent forum to discuss current stakeholder concerns pertaining to the staff's ongoing risk assessment as well as issues with broader policy implications. Since SECY-99-168 simply lays out a **process** by which our decommissioning regulations can be improved, I was not inclined to hold my vote until after the meeting. I am confident that stakeholder insights from that meeting can be effectively utilized by the staff regardless of the **process** approved by the Commission in SECY-99-168.

The area of decommissioning regulations is clearly one which warrants extensive communication and interaction with a wide range of stakeholders, good coordination between NRR and NMSS, and close oversight by the Commission. As the staff proceeds with its efforts in this area, they should keep the Commission informed of matters which may warrant our attention.

10/21/99

0/14