September 11, 2000

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: William D. Travers */RA/*
Executive Director for Operations

SUBJECT: COMPLETION SCHEDULES FOR STUDY ON SPENT FUEL POOL ACCIDENT RISK AT DECOMMISSIONING NUCLEAR POWER PLANTS (WITS 9900132) AND PLAN OF ACTION FOR THE DECOMMISSIONING REGULATORY IMPROVEMENT INITIATIVE (WITS 9900133)

In my August 15, 2000, memorandum on the status of the study on spent fuel pool (SFP) accident risk at decommissioning plants, I informed you of a public meeting to be held on August 23, 2000. The Nuclear Energy Institute (NEI) had requested this meeting to present its views on the seismic risk estimates used in the staff's February 2000 draft final study on SFP decommissioning risk. As I had noted in my August 15 memo, both NEI and the Advisory Committee on Reactor Safeguards (ACRS) had commented that the seismic risk estimates were conservative.

In the August 23, 2000, public meeting, NEI compared the Electric Power Research Institute's (EPRI's) seismic hazard curves for nuclear power plants to Lawrence Livermore National Laboratory's (LLNL's) seismic hazard curves which were the basis for the seismic results in the draft final study. The EPRI curves use lower frequency estimates than the LLNL curves. Although both curves are best estimates and both have large uncertainties due to data extrapolation and modeling assumptions for low-frequency earthquakes, staff and industry hazard experts generally consider both sets of curves valid. At the meeting, the industry also repeated its contention that relief from emergency planning requirements could justifiably be granted earlier than 1 year after decommissioning.

Since the EPRI seismic frequency estimates are considered valid by staff and industry experts, the staff believes that it should revise the study to present evaluations based upon both the LLNL and EPRI curves. The staff also plans to analyze SFP risk during the first 12 months after decommissioning and the value of full emergency planning (EP) during that time. The results of these analyses will be used in developing rulemaking recommendations for the Commission.

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Arc # ML003745612 Incl public

The staff expects to complete the additional analyses and forward the SFP decommissioning risk study to the Commission for information by October 31, 2000.

In my August 15, 2000, memorandum, I also stated that the staff would provide a date for submitting its plan of action for the decommissioning regulatory improvement initiative first proposed in SECY-99-168, "Improving Decommissioning Regulations for Nuclear Power Plants." In SECY-99-168, the staff recommended that the regulations applicable to decommissioning nuclear power plants be revised in two rulemaking initiatives. The first initiative would be an integrated rulemaking plan, combining previous rulemaking efforts in the areas of EP, security, insurance, staffing, training, and backfitting. The staff submitted the integrated rulemaking plan for decommissioning in SECY-00-145, "Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning," on June 28, 2000. The second initiative, the decommissioning regulatory improvement effort, would be a rulemaking based on a review of all decommissioning regulations as necessary, followed by relocation of the applicable regulations to a separate section of Title 10 of the Code of Federal Regulations (10 CFR).

The following items have recently emerged as complicating factors which must be resolved before moving forward with either initiative.

a) Based on its assessment of comments on the draft study, the staff recognizes that significant changes to the draft study conclusions regarding the timing and nature of the regulatory relief in the integrated rulemaking areas and in the broader-scope decommissioning regulatory improvement initiative may be forthcoming. The technical study therefore needs to be completed as discussed above before finalizing any decommissioning rulemaking proposals.

b) NEI has proposed that the staff no longer pursue relocating decommissioning regulations to a separate section of 10 CFR, as recommended in SECY-99-168. NEI believes that relocating decommissioning regulations to a separate, free-standing section of 10 CFR might result in new interpretations of the regulations.

c) NEI also has asked that the decommissioning regulatory improvement initiative and the integrated rulemaking effort be combined into a single rulemaking. According to NEI, the benefits of a single rulemaking would be increased efficiency and consistency, a more focused review, and more effective issue resolution.

d) The staff and NEI have not yet agreed on which decommissioning regulations need to be improved. A Brookhaven National Laboratory (BNL) report issued in July 2000 assessed the applicability of the regulations in 10 CFR to decommissioning nuclear power plants and suggested regulations which may need to be revised. At the August 23, 2000 meeting, the staff requested NEI's input on which of the regulations identified in the BNL report the industry believes should be revised and on how to prioritize the revisions.

Therefore, the staff plans to proceed as follows:

- Finalize the study on SFP accident risk at decommissioning plants. (WITS 9900132). October 31, 2000

- Continue to interact with stakeholders to assure that all party's views are fully considered in the development of the integrated rulemaking plan and future decommissioning rulemaking efforts. Such interactions include a September 27, 2000, public meeting with NEI and possibly other public meetings or interactions as deemed necessary by the staff or, as requested by members of the public.

- Three months after the risk study is finalized, provide the Commission with a SECY paper with recommendations on how to proceed on the integrated rulemaking plan and a broad plan of action for the decommissioning regulatory improvement initiative. (WITS 9900133) Three months following completion of WITS 9900132

With regard to SECY-00-145, based on the above schedule, it is recommended that the Commission defer action on the integrated rulemaking activities presented in SECY-00-145 until the staff resolves the issues discussed above and submits its recommendations regarding decommissioning regulatory improvement to the Commission.

cc: OGC
OCA
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* See previous concurrences

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