

March 12, 2008

MEMORANDUM TO: Annette Vietti-Cook
Secretary of the Commission

FROM: Charles L. Miller, Director **/RA George Pangburn for/**
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: AGENCY RESPONSE TO FEBRUARY 29, 2008, LETTER FROM
THE NUCLEAR ENERGY INSTITUTE REQUESTING 90 DAY
EXTENSION IN PUBLIC COMMENT PERIOD FOR
DECOMMISSIONING PLANNING PROPOSED RULE
(3150-AH45)

Enclosed with this memorandum is a proposed response to the letter you received from the Nuclear Energy Institute (NEI) requesting additional time to prepare comments on the Decommissioning Planning proposed rule. The response would provide a 30-day extension in the public comment period rather than the 90 days requested by the NEI. This extension will allow more time for the licensed community to consider and comment on the proposed rule, which may result in improvements to the final rule. It should also allow us to stay on schedule for our September 30, 2008 due date to provide the final rule to the Commission.

The issues of groundwater contamination at licensee facilities and loss of decommissioning financial assurance funds due to bankruptcy have been discussed with industry in public forums since 2004. These forums included a January 2007 one day workshop that explored many of the issues in the proposed rule with NEI and other external stakeholders. The staff believes that an extension of the public comment period is reasonable, but considering the opportunities provided for interaction to date and the need to maintain our schedule, proposes that the extension be limited to 30 days. The public comment period would be extended from the current April 7, 2008, until May 8, 2008. Depending on the number and complexity of comments received, it is possible that an extension in the public comment period could necessitate an extension to the due date of the final rule to the Commission. We will apprise you as soon as possible of the need for such an extension.

As noted in the proposed response to NEI, the staff has aggressively encouraged public comments on this rulemaking, and has contacted approximately 60 stakeholders by telephone and e-mail to inform them of the proposed rule publication in the *Federal Register* on January 22, 2008 (73 FR 3812). Upon your signature extending the comment period by 30 days, the staff will be contacting the 60 stakeholders again to inform them of the extension.

Enclosure: Proposed Letter from SECY to NEI

CONTACT: Kevin O'Sullivan, FSME/DILR
(301) 415-8112

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