

May 10, 1993

SECY-93-127

**FOR:** The Commissioners

**FROM:** William C. Parler  
General Counsel

James M. Taylor  
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**SUBJECT:** FINANCIAL PROTECTION REQUIRED OF LICENSEES OF LARGE  
NUCLEAR POWER PLANTS DURING DECOMMISSIONING

**PURPOSE:**

To inform the Commission of its available options under the Price-Anderson Act with regard to the amount of financial protection to be required of a licensee whose large nuclear power plant is in the process of being decommissioned. To seek Commission approval of an option that may be consistently applied by the staff to both the decommissioning requests now pending before it and to future decommissioning requests when they arise.

**ISSUES:**

1. Should the Commission require licensees of large nuclear power plants that have been permanently shut down to continue to have and maintain the maximum amount of primary financial protection and to provide secondary financial protection?
2. After a nuclear power plant licensee is no longer required to provide the maximum amount of primary financial protection, what level of primary financial protection should be required?

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**BACKGROUND:**

When an operating license ("OL") applicant for a large nuclear power plant<sup>1</sup>, licensed under section 103 or 104b. of the Atomic Energy Act of 1954, as amended ("AEAct"), is initially authorized by the Commission to bring unirradiated fuel onto the facility site, the OL applicant is required to have and maintain (for the duration of the license) financial protection as required by the Commission and to execute an indemnity agreement with the Commission pursuant to the provisions of the Price-Anderson Act (sec. 170 of the AEAct).

When the Price-Anderson Act ("the Act") was enacted in 1957<sup>2</sup>, there was no discussion of concepts such as license renewal or premature decommissioning. From provisions in the standard form nuclear liability insurance policy (10 CFR 140.91)<sup>3</sup> and the standard form indemnity agreement (10 CFR 140.92)<sup>4</sup>, one may infer that the Commission contemplated some public liability coverage for a nuclear incident involving a nuclear power plant from the construction permit stage of the nuclear power plant through the operational stage to the ultimate decommissioning of the nuclear power plant (including removal of all radioactive material from the site) before termination of the insurance policy and indemnity agreement (the instruments which provide financial protection and indemnity coverage for a nuclear power plant<sup>5</sup>). Subsequent amendments to the Act in 1975<sup>6</sup> and

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<sup>1</sup> As used in this paper, the terms "large nuclear power plant" and "nuclear power plant" mean a nuclear reactor facility that was designed for producing 100,000 electrical kilowatts or more.

<sup>2</sup> Public Law 85-256 (72 Stat. 576) (1957), secs. 1 - 4.

<sup>3</sup> These provisions have been in effect since 1960 when the Commission promulgated the regulations which constituted its first comprehensive implementation of the Price-Anderson amendments to the AEAct. 25 FR 2948 (April 7, 1960).

<sup>4</sup> Initially promulgated on April 22, 1961. 26 FR 3457.

<sup>5</sup> Initially the amount of financial protection required of large nuclear power plant licensees was \$60 million per facility site -- an amount equal to the maximum amount of liability

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1988<sup>7</sup> similarly do not deal with nor do their legislative histories indicate an explicit consideration of the status of facilities during the period after plant shut down and amendment of the facility license to prohibit operation.

The Price-Anderson Act provides for satisfaction of public liability claims resulting from a nuclear incident at a large nuclear power plant (having a "rated capacity" of 100,000 electrical kilowatts or more) from funds to be derived from two sources: (1) primary financial protection (in the form of private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures) in an amount equal to the maximum amount of liability insurance available from private sources and (2) secondary financial protection consisting of funds from a nuclear industry retrospective rating plan -- a form of nuclear industry self-insurance in which the licensee of each facility covered by the plan would be required to contribute up to \$63 million for each large nuclear unit in the event of a large nuclear accident at any licensed nuclear power plant covered by the plan. Currently, the amount of primary financial protection required of licensees of large nuclear power plants is \$200 million. For facility licensees required to provide secondary financial protection, the total financial protection would equal the aggregate limit on liability under the Act [\$200 million + (\$63 million x the number of reactors covered) = about \$7.2 billion], and there would be no recourse to Federal government indemnity.

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insurance available from private sources. In addition to the financial protection required of these licensees, Federal government indemnity in an amount not to exceed \$500 million was available to satisfy public liability claims above the \$60 million in financial protection required of the licensees.

<sup>6</sup> Public Law 97-197 (89 Stat. 1111) (1975).

<sup>7</sup> Public Law 100-408 (102 Stat. 1066) (1988).

For other indemnified licensed facilities (not "designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more"), the funds to pay public liability claims would be derived from (1) primary financial protection maintained by the licensee in an amount which the Commission has the discretion to determine and (2) Federal government indemnity. The maximum amount of public liability claims that could be satisfied by funds from these sources, the aggregate limit on liability, would be \$500 million plus the amount of financial protection required of the licensee but would not exceed \$560 million or the amount of financial protection, whichever amount is more.

Neither the facility licensee nor any other person could be held liable for any claims in excess of the aggregate limit on liability. However, the legislative history of the Act contains statements by the Congress that "in the event of a nuclear incident involving damages in excess of that amount of aggregate liability, the Congress will thoroughly review the particular incident and will take whatever action is deemed necessary and appropriate to protect the public from the consequences of a disaster of such magnitude." AEAAct (1976), sec. 170e.

As a consequence of the premature decommissioning of Rancho Seco, Shoreham, Yankee Rowe, San Onofre 1, and Fort St. Vrain nuclear power plants, the staff has pending before it requests from the Sacramento Municipal Utility District ("SMUD"), the Long Island Lighting Company and the Long Island Power Authority ("LILCO/LIPA"), the Yankee Atomic Electric Company ("YAEC"), the Southern California Edison Company ("SCE"), and the Public Service Company of Colorado ("PSC") to be exempted from participation in the secondary layer of financial protection when a Part 50 possession-only license ("POL") is issued for the particular facility being decommissioned. SMUD, PSC, and YAEC also have requested a reduction in the amount of primary financial protection that they must have and maintain from \$200 million to \$50 million, \$50 million, and \$4.5 million, respectively. A similar request is also expected from the Portland General Electric Company ("PGE") for the Trojan nuclear power plant. The questions raised by these requests pose legal and policy choices for the Commission in interpreting and applying the relevant provisions of Section 170 of the AEAAct.

It is the staff's understanding that a licensee of a large nuclear power plant licensed to operate at its rated capacity pays the nuclear liability insurance pools an annual premium of approximately \$700,000 to \$900,000 for \$200 million in primary financial protection. It is our understanding that when a facility OL is converted to a POL, the annual premium for \$200 million in primary financial protection is reduced to approximately \$250,000 to \$400,000. It is also our understanding

that a further reduction in the amount of primary financial protection (e.g., from \$200 million to \$50 million) for a facility having a POL would result in an additional 15 to 20 percent reduction in the licensee annual premium for primary financial protection. If the operating experience of the nuclear power industry is good (i.e., few public liability claims are asserted and the aggregate amount of these claims is low), then after 10 years the insurance pools will refund as much as 45 percent of the original annual premium to the individual nuclear power plant licensees.

The nuclear insurance pools charge no premium<sup>8</sup> for the non-funded secondary layer of financial protection. Thus, elimination of the requirement that a large nuclear power plant licensee participate in the secondary layer of financial protection would not result in any significant savings in its annual liability insurance premium but would eliminate a potential financial liability of up to \$63 million that could result from a large nuclear incident at that nuclear power plant or at another nuclear power plant within the United States.

### **DISCUSSION:**

The options available to the Commission under the Price-Anderson Act for establishing the amount of financial protection to be required of a licensee whose large nuclear power plant is being decommissioned depend upon the resolution of several issues of statutory construction presented by the Act. These in turn involve a number of legal, technical, and policy issues that the Commission must address. The legal issues are discussed at length in Enclosure 1, the technical issues are discussed in Enclosure 2, and both are summarized below.

#### **A. Legal Issues**

Each nuclear reactor licensee must, as a condition of its license, have and maintain financial protection of such type and in such amounts as the Commission in the exercise of its licensing and regulatory authority and responsibility shall require to cover public liability claims. Licensees of facilities designed for producing substantial amounts of electricity and "having a rated capacity of 100,000 electrical kilowatts or more" (i.e., large nuclear power plants) must have and maintain primary financial protection in an amount equal to the maximum amount of liability insurance available (on reasonable terms) from private sources (currently \$200 million).

For licensees of nuclear reactor facilities neither designed to produce substantial amounts of electricity nor "having a rated capacity of 100,000 electrical kilowatts or more," the Commission

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<sup>8</sup> The nuclear insurance pools charge each large nuclear power plant licensee participating in the secondary layer of financial protection about \$7,500 annually. This charge is not an annual premium for the \$63 million required of licensees participating in the secondary layer but is a fee charged by the pools in return for their guarantee to pay up to \$30 million in defaults in the secondary layer should they occur if and when it becomes necessary for the pools to collect funds comprising the secondary layer from the plant licensees following a large nuclear incident or a precautionary evacuation where public liability claims exceeded the level of primary financial protection.

may require a lesser amount based on a number of specified factors, including factors "pertaining to the hazard." AEAct, sec. 170b.(1). A licensee of a nuclear power plant required to maintain the maximum amount of primary financial protection is also required to maintain secondary financial protection by participating in a nuclear industry retrospective rating plan -- a form of industry self-insurance -- in the amount of \$63 million per facility unit per incident.

The first legal issue presented by the requested exemptions is whether a nuclear power plant that previously generated in excess of 100,000 electrical kilowatts, but is now permanently shut down and has a POL status continues to be a facility "having a rated capacity of 100,000 kilowatts or more." If it is, the requested exemptions must be denied. If such a facility does not have a "rated capacity" of 100,000 electrical kilowatts or more, then a second legal issue arises: may the Commission require the facility licensee to provide the maximum amount of primary financial protection and to participate in the secondary layer of financial protection if the Commission concludes that the facility in the shutdown condition still presents a potential hazard that should be insured against? Third, if the Commission continues to require the maximum amount of primary financial protection of a facility licensee, may the Commission permit the licensee to withdraw from participation in the secondary layer of financial protection or to provide an amount less than \$63 million?

The term "rated capacity" is not defined by statute nor by Commission regulation nor can the meaning of this term be discerned from any prior Commission interpretation of the Act. There is no guidance to the meaning of the term from the context of its use in the Act, nor have we found any common usage of the term that would unambiguously resolve the issue of the "rated capacity" of a shutdown facility. Although the legislative history of the Price-Anderson Act does not directly address the meaning of this term, it does, however, contain two clearly stated points which bear upon the ultimate choices before the Commission: (1) the costs of secondary financial protection were thought to be reasonable and acceptable when applied to a facility in operation and (2) the costs of providing public liability protection for an accident at a commercial nuclear power facility were to be borne by funds from the nuclear industry's self-insurance plan rather than by Federal government (indemnity) funds.

There is support for the licensees' position in the language of 10 CFR 140.11(a)(4) requiring that a licensee whose nuclear power plant "is licensed to operate and which is designed for the production of electric energy and has a rated capacity of 100,000 electrical kilowatts or more" to provide \$200 million in primary

financial protection and to fully participate in the secondary layer of financial protection. We do not agree, however, that this provision conclusively demonstrates that a nuclear power plant in POL status is entitled to provide financial protection at a level less than the maximum amount of primary financial protection and is entitled to withdraw from participation in the secondary financial protection layer.

In previous actions as described in Enclosure 2, the NRC established primary levels of financial protection using the formula in 10 CFR 140.12 based on the original licensed power levels for the La Crosse and Humbolt Bay plants. After permanent shutdown of these plants and amendment of their licenses to preclude power operation, the Commission did not revise the required amounts of financial protection by recalculating the formula amounts using the reduced licensed power levels.

Even if the Commission concludes that a shutdown nuclear power plant does not have a "rated capacity" of 100,000 electrical kilowatts or more, the nuclear power plant licensee must provide primary financial protection equal to the maximum amount of liability insurance available from private sources (\$200 million), unless the Commission establishes a lesser amount on the basis of specified factors, including factors pertaining to the hazard. Reduction in the level of primary financial protection below \$200 million is a matter of Commission discretion. If the Commission does not exercise its discretion to establish a lesser amount, the licensee must provide \$200 million in primary financial protection and must provide secondary financial protection through the industry retrospective rating plan. The Commission may not establish a level of secondary financial protection, if required, less than the statutory amount of \$63 million.

In summary, the language of the statute does not resolve the legal issues raised by the requested exemptions. The issue of "rated capacity" is sufficiently ambiguous that reasonable interpretation based on the Commission judgment, consistent with the legislative history, would likely be upheld. Similarly, even if the Commission determines that a shutdown nuclear power plant does not have a rated capacity, the Commission's reasoned decision to exercise or to withhold its discretion to establish a level of primary financial protection less than \$200 million, consistent with the legislative history, also should be upheld. The Act's legislative history establishes a legal framework for responding to licensee requests for reduction in the level of primary financial protection required that turns on a technical/policy judgment by the Commission whether there exists

a potential which should be insured against<sup>9</sup> for an accident, including precautionary evacuations, whose damages could exceed the \$200 million associated with a shutdown nuclear power plant.

If the Commission concludes that the potential for such an accident is sufficiently remote or hypothetical only and that there is no need to insure against that potential, the legislative history is quite clear that Price-Anderson protection is not required. Licensees of shutdown nuclear power plants should not be required to provide \$200 million in primary financial protection and should be allowed to withdraw from participation in the secondary layer of financial protection. The NRC should exercise its discretionary authority to establish an appropriate level of financial protection for such facilities.

However, if the Commission concludes that there exists a potential which should be insured against, the legislative history is sufficiently ambiguous either (1) to permit the Commission to interpret the Act in such a way as to require the licensee of a shutdown nuclear power plant to continue to provide secondary financial protection or (2) to permit the Commission to interpret the Act to allow the licensee of a shutdown nuclear power plant to withdraw from continuing to provide secondary financial protection. If the Commission decides to interpret the term "rated capacity" so that it continues to apply to a shutdown nuclear power plant, the plant's licensee could be required to provide the maximum amount of primary financial protection and to participate in the secondary financial protection plan. As an alternative, the Commission could avoid the issue of "rated capacity" and refuse to exercise its discretion to reduce the amount of primary financial protection, because of the hazard associated with the shutdown nuclear power plant. The Commission could refuse to exercise its discretion so long as the potential hazard existed, and at such time as the hazard no longer existed the Commission could then exercise its discretion to reduce the amount of primary financial protection required of the licensee and to permit the licensee to withdraw from participation in the secondary financial protection layer.

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<sup>9</sup> It is clear that the accidents insured against under Price-Anderson go beyond design basis accidents, and beyond those considered "credible" as that term is used in 10 CFR Part 100 and cases interpreting the application of that regulation. In essence the Price-Anderson Act treats as something that should be insured against, to the level of about \$7.2 billion (depending on the number of licensed reactors covered), the hazard associated with the operation of a 100 electrical megawatt nuclear power plant. There is no indication that Congress considered comparative hazards of a 100 electrical megawatt plant with those of a larger plant.

Since the legislative background does not explicitly consider potential hazards that might exist after termination of operation, the Commission may also conclude that, despite the existence of a potential hazard that should be insured against, the matter should be resolved by legislation. This course would result in the surest resolution of the questions of statutory interpretation presented by the licensees' requests for relief from the financial protection requirements of the Act. However, some actions would still be needed in the interim.

The Commission should make the necessary modifications to 10 CFR Part 140 either to clarify the need to continue the maximum amount of primary financial protection and secondary financial protection for permanently shutdown nuclear power plants, if it chooses this alternative, or to establish the required lesser amount of primary financial protection, if it chooses to exercise its discretion to establish a lesser amount.

#### B. Technical Issues

The staff evaluated the offsite consequences associated with normal and abnormal operations, design basis accidents, and beyond design basis accidents for reactors that have been permanently shut down and defueled. The staff concluded that, aside from the handling, storage, and transportation of spent fuel and radioactive materials, no reasonably conceivable potential accident exists that could cause significant offsite damage.

A severe transportation accident could potentially result in local contamination requiring cleanup and offsite liabilities resulting from traffic disruption. This type of accident would warrant maintaining some level of liability insurance. The liabilities and indemnification requirements associated with the transfer of spent fuel from the licensee to the Department of Energy will be evaluated on a case-by-case basis at a future time when spent fuel is shipped to a repository.

The most significant accident sequence for a permanently defueled and shutdown reactor involves the complete loss of water from a light water reactor spent fuel pool. This beyond design basis accident sequence could result in a zirconium fuel cladding fire that could propagate through the spent fuel storage pool and result in significant offsite consequences. The potential consequences of such an accident could range up to \$30 billion (1988) dollars. Although such an accident is beyond the design bases, it may be considered "reasonably conceivable" and could warrant requiring substantial financial protection. Such an accident is possible during the first year after reactor shut down for a low density spent fuel storage configuration and

during the first two to three years after shut down for spent fuel stored in certain high density configurations. Concerns for adequacy of heat removal mechanisms as well as uncertainties in the spent fuel storage studies indicate a need for additional cooling time for the high density storage configuration. Due to significant uncertainties and variabilities associated with spent fuel pool designs and loading configurations, the staff believes that individual licensees should also be allowed to propose alternative plant-specific cooling times if they are properly justified by supporting analyses.

Once the requisite cooling period after reactor shut down has elapsed, the zirconium fuel cladding fire sequence is no longer a concern since the fuel would air cool sufficiently to avoid zirconium fuel cladding combustion. Possible accident scenarios, after these cooling periods have elapsed, have greatly reduced consequences, but could result in small releases or precautionary evacuations which could result in offsite liability.<sup>10</sup> The staff concluded that the liability claims experience of Three Mile Island Unit 2 provides a reasonable basis for determining the liability insurance coverage level appropriate for permanently shutdown reactors that have completed their respective spent fuel cooling periods. As illustrated by the TMI-2 case, such costs can be incurred whether or not warranted by the actual event at the time of the evacuation decision. These issues are discussed in greater detail in Enclosure 2, "Discussion of Technical and Policy Issues."

It should be noted that continuing a requirement for financial protection after the spent fuel has cooled sufficiently to avoid concern for zirconium cladding fires would not be fully consistent with the decision not to require financial protection for Independent Spent Fuel Storage Installations ("ISFSIs") licensed pursuant to 10 CFR Part 72. Fuel may be stored in such installations after a one year cooling period. 10 CFR 72.2. Generally, for air-cooled ISFSIs license conditions limit storage of spent nuclear fuel to fuel which has cooled for approximately 5 years. However, eliminating the requirement for financial protection for reactors after the spent fuel has cooled sufficiently to avoid concern for zirconium cladding fires would require a change to an important principle of the Commission's

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<sup>10</sup> Accident scenarios involving blockage of coolant channels in conjunction with loss of spent fuel pool water could hypothetically extend further the time at which a zirconium fuel cladding fire could occur. However, in addition to being of even lower likelihood than loss of water, air flow to react with the zirconium and to disperse fission products would likely be inhibited by such blockage. The staff believes that this sequence approaches the strictly hypothetical.

Price-Anderson regulations -- indemnity coverage remains until all radioactive material has been removed from the site. 10 CFR 140.92, Article VII.

**OPTIONS:**

Issue 1. Should the Commission require licensees of large nuclear power plants that have been permanently shut down to continue to have and maintain the maximum amount of primary financial protection and to provide secondary financial protection?

Option A - The Commission may determine that the potential for substantial offsite financial damages resulting from an accident at a permanently shutdown large nuclear power plant is too remote and speculative to warrant requiring the licensee to have and maintain secondary financial protection.

Pro:

- a. Would permit shutdown nuclear power plants to terminate secondary financial protection and would thereby eliminate the licensee's potential liability to fund a pro rata share of an accident.
- b. Would establish a clear example of the kind of accidental circumstances that the Commission concludes do not require substantial financial protection.
- c. Requires little in the way of difficult statutory interpretation.

Con:

- a. Could be seen as inconsistent with the large amount of secondary financial protection required by statute for unlikely events at operating nuclear power plants.
- b. Leaves the highly unlikely, but conceivable, chance that public funds would be required for compensation for an event with large offsite financial damages.
- c. Would tend to decrease the size of the secondary financial protection layer earlier than would be the case under Option B.

Option B - The Commission may determine that the potential for substantial offsite financial damages from fuel damage before the fuel has cooled warrants requiring secondary financial protection.

Pro:

- a. Assures that the potential for substantial offsite financial damages (up to some \$6 billion) from an unlikely serious accident at a commercial nuclear power plant is insured against by the nuclear industry self-insurance pool and not Federal government indemnity.

Con:

- a. Involves difficult, complex interpretation of the Act.<sup>11</sup>
- b. Exposes licensees of shutdown nuclear power plants to liability for pro rata share of \$63 million in the event of a severe nuclear accident.

Option C - The Commission may determine that due to the uncertainty about the application of the Act to permanently shutdown facilities, the matter should be resolved by legislation and direct the staff to develop an appropriate legislative proposal.

Pro:

- a. Avoids complex statutory interpretation.
- b. Minimizes potential for legal challenge in the future.

Con:

- a. In the interim, until the issue is resolved by Congress, licensees of shutdown facilities would (depending on the Commission's decision) (1) be required to maintain full coverage or (2) be exempt from the requirement to provide secondary financial protection. The latter would leave the unlikely, but potential, chance that Federal government indemnity would be required for compensation for an event with large offsite financial damages.
- b. Legislative proposal may provide opportunity to reopen other controversial aspects of the Price-Anderson Act.

Issue 2. After a nuclear power plant licensee is no longer required to provide the maximum amount of primary financial

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<sup>11</sup> The Commission may wish to consider requesting an opinion of the Attorney General before going forward with this option.

protection, what level of primary financial protection should be required?

Option A - The Commission may determine that the level of primary financial protection required of shutdown nuclear power plants (after the fuel has cooled sufficiently) should be determined on a case-by-case basis, using as guidance the TMI-2 liability experience, but permit licensees or the NRC to justify a different amount based on plant specific considerations.

Pro:

- a. Would assure the liability costs that may be associated with a precautionary evacuation or limited offsite consequences would be paid from private financial protection rather than Federal government indemnity.

Con:

- a. Would require modification of the current regulations and interim actions, such as exemptions and orders.
- b. TMI-2 experience may not be generic.

Option B - The Commission may determine to make no change in 10 CFR 140.11 and 140.12 and permit licensees of shutdown nuclear power plants to reduce primary financial protection to \$4.5 million.

Pro:

- a. Requires no change in Commission regulations relating to level of primary financial protection.
- b. Provides \$4.5 million in private financial protection for limited offsite damages for a limited precautionary evacuation.
- c. Some modest savings in liability insurance premium.

Con:

- a. May not provide sufficient financial protection (private funds) to cover the cost of precautionary evacuation, including personal and business disruption costs.
- b. Leaves the potential that Federal government indemnity would be required to satisfy liability claims from an event with large offsite damages.

**STAFF ANALYSIS:**

The staff believes that the full scope of the Price-Anderson Act coverage should be applied generically to shutdown reactors for a specified period, one year for reactor facilities with low density spent fuel storage and three years for reactor facilities with high density spent fuel storage configurations. However, the staff believes that a licensee should be permitted to perform an evaluation based on its site specific configuration and recommend an alternative to the generic cooling time criteria. The staff has also concluded that the TMI-2 claims settlement experience provides a reasonable basis for establishing a lower level of primary financial protection of at least \$60 million under Price-Anderson. Because a large number of TMI-2 claims are still unsettled, a somewhat higher figure may be appropriate.

After the specified spent fuel cooling period has elapsed and concurrent with the reduction of primary financial protection, termination of secondary financial protection would be permitted.

Because the level of primary financial protection after a cooling period relates primarily to offsite actions in response to perceived, rather than an actual hazard, the staff concludes that rulemaking to establish the appropriate level should be pursued. Development of such a rule should consider whether shutdown reactors with cooled spent fuel should be treated differently from ISFSIs or whether ISFSI licensees should provide some financial protection consistent with the level chosen for licensees of shutdown nuclear power plants. In the interim, exemptions could be granted for reductions in the amount of primary financial protection required to a level which would not prejudice the outcome of the rulemaking. The staff believes that a level of \$100 million would be adequate.

**RECOMMENDATION:** That the Commission:

1. Approve Option B to Issue 1 as follows: After the requisite minimum spent fuel cooling period has elapsed, allow a reduction in the amount of financial protection required of licensees of large nuclear power plants that have been permanently shut down by allowing these licensees to withdraw from participation in secondary financial protection layer.
2. Approve Option A to Issue 2 as follows: Approve a reduction of primary level coverage to \$100 million through the exemption process, after the appropriate spent fuel cooling period and termination of secondary level participation. Direct the staff to proceed with rulemaking to determine more precisely the appropriate cooling period and appropriate level

of primary insurance coverage after such cooling period. Such a rulemaking would also revisit the need for primary financial protection for ISFSIs.

3. Note that if this course of action is approved, the staff will draft letters to the Congressional oversight committees and issue a press release.
4. Note that using the standards set forth in this paper, participation in the secondary layer of financial protection could be terminated for Fort St. Vrain, Shoreham, Rancho Seco, TMI-2 and Yankee Rowe. After the requisite spent fuel cooling period, participation in the secondary layer could be terminated for San Onofre 1 and Trojan. The staff will accomplish these actions by exemption or order. The action previously taken on Indian Point 1, to allow the licensee to withdraw from participation in the secondary layer of financial protection, is consistent with these actions and would not be revisited.
5. Note that using the standards set forth in this paper, primary financial protection could be reduced to \$100 million for Fort St. Vrain, Shoreham, Rancho Seco, and Yankee Rowe. After the requisite spent fuel cooling period, a similar reduction could be effected for Trojan. For Indian Point 1, Dresden 1, TMI-2, and San Onofre 1 primary financial protection covering the site will remain at \$200 million because there is at least one other operating reactor on each site.
6. Note that the existing financial protection requirements for the La Crosse and Humbolt Bay reactors (\$40 and 50 million, respectively, with no secondary financial protection) will remain unchanged.

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Enclosures:

1. Discussion of Legal Issues
2. Discussion of Technical and  
Policy Issues