



11803 Wayland Street
Oakton, VA, 22124
July 23, 2018

Ms. Margaret M. Doane
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001

Dear Ms. Doane;

On behalf of the Decommissioning Plant Coalition¹ (DPC), I am writing to express our serious concerns regarding the scope of the draft guidance documents the staff released on June 14, 2018 to accompany the proposed rule on reactor decommissioning. There are multiple instances in which the proposed guidance documents do not align with the stated scope and intent of the draft proposed rule in SECY-18-0055. If not resolved, these inconsistencies could potentially result in changes to and divergences from current licensing bases across the spectrum of our member sites.

I have attached a copy of an April 24, 2018 letter sent on behalf of the DPC to Victor M. McCree that provides a template depicting the current requirements for those plants defined in the Decommissioning Rulemaking Regulatory Basis document as "Standalone ISFSI/Decommissioned Reactor Sites" (Standalone ISFSI). The template focuses on the nine specific areas in which the staff has proposed rulemaking changes for sites going through the decommissioning transition.

The NRC staff has previously indicated it is sensitive to, and agrees in principle with, the DPC position that the regulatory bases for decommissioning sites that reach "Standalone ISFSI" status under the draft proposed rule should be aligned with the regulatory bases for those that previously reached such status. However, the combination of the draft proposed rule and associated draft regulatory guidance documents does not achieve that objective. We are concerned that the draft

¹ The DPC was established in 2001 out of the recognition that the overwhelming attention of the regulator, the industry, and policy makers would be focused on the operating fleet and provides a forum for the identification of federal policy and regulatory issues of unique or special concern to decommissioning civilian nuclear facilities. Since its inception, plants that have been represented in the work of the DPC include: Big Rock (MI), Connecticut Yankee (CY), Crystal River (FL), Dairyland (WI), Humboldt Bay (CA), Maine Yankee (ME), Rancho Seco (CA), San Onofre (CA), Vermont Yankee (VT), Yankee Rowe (MA), and Zion (IL). Our primary goal remains to hasten the day when the spent fuel stored on-site will be successfully removed and no longer our companies' liability. The importance of this goal cannot be overstated; several of our member companies are simply awaiting the fulfillment of that goal to go out of business; some others find that spent fuel and GTCC storage consume up to 20% of corporate attention and resources, a disparate amount especially in view of the fact that these facilities no longer produce revenue. However, until the day comes that the Government meets its obligation to remove the SNF/HLW from our sites the DPC remains committed to engaging in industry activities that directly affect those sites

proposed rule and draft guidance documents, read together, will lead to an outcome whereby the NRC will treat some Standalone ISFSI sites differently than others despite essentially the same safety and security bases. Under these conditions, the NRC will inevitably find itself with some licensees requesting exemptions from requirements that apply to them, but not to others, as well as stakeholders seeking to apply requirements to sites that are not subject to a particular set of requirements. This outcome would be contrary to the stated goal of improving regulatory clarity and enhance overall regulatory transparency. In addition, in some instances the language used in the draft regulatory guide would, if applied by the NRC staff to certain sites, effectively change the regulatory bases of other NRC requirements that are not part of the ongoing decommissioning rulemaking. The NRC should not adopt new regulatory positions through guidance documents. If the NRC desires to make changes to existing regulatory positions, those changes should be made through a rulemaking that includes development of a safety and security basis for the change, rather than through the current draft proposed rule that aims only to improve clarify and promote consistency in NRC requirements.

Two examples of our concerns—by no means the most serious or the only examples, but two that we've commented on consistently—involves the treatment of topic of Certified Fuel Handlers (CFH) including the authorities of the CFH position in the draft proposed rule and draft guidance, and the other the treatment of the Irradiated Fuel Management Plan (IFMP).

Once the fuel and any GTCC waste have been loaded into dry casks, there is no remaining task that a CFH can perform relative to the safety of the material and there is no need for a licensee to keep a CFH on staff. This reality is reflected in the absence of any requirement for a CHF at existing "ISFSI-only" and "Standalone ISFSI/Decommissioned Reactor" sites. There is, however, no passage in the draft guidance acknowledging that a CFH is no longer required as a site achieves "ISFSI-only" and "Standalone ISFSI/Decommissioned Reactor" status in the future. The failure to clarify that the CHF position is no longer needed implicitly suggests that the position cannot be eliminated without some additional approval, such as an exemption. The same lack of clarity could provide a basis for the NRC or other stakeholders to seek to require a licensee to maintain a CFH position, even at those sites that have already achieved "ISFSI-only" and "Standalone ISFSI/Decommissioned Reactor" status. In this regard, the draft proposed rule and draft guidance fail to achieve the goal of clarifying NRC requirements or ensuring consistent regulatory bases among "ISFSI-only" and "Standalone ISFSI/Decommissioned Reactor" sites.

The proposed rule and draft guidance documents indicate a significant expansion of licensee responsibilities with respect their treatment of the IFMP. As we commented when this appeared in the Regulatory Basis, the staff is asking licensees to prepare a plan that is largely within the scope of the federal government's contractual obligation to remove spent fuel and GTCC from our sites. These will impose new requirements on decommissioning licensees. It stands as a prime example of the situation we describe in the third paragraph of this letter. It will have other unintended consequences with respect to the Commission's stated policy of not endorsing indefinite on-site storage of spent fuel. This will undermine previous NRC Safety Evaluation Reports that accepted the DOE's responsibility for removal satisfies the IFMP requirements. There is no safety benefit that accompanies such changes in rule or guidance.

A third example is the emergence of discussions in the draft guide 1346 on a Health Physics drill or exercise and a medical emergency drill exercise with a contaminated person. There is no technical justification provided here or in the Regulatory Basis explaining how a contaminated injury might occur once all fuel has been moved to dry cask storage, and is contrary to the set of credible accidents in the storage systems' Final Safety Evaluation Reports.

We believe the draft proposed rule and its accompanying guidance must reflect the current regulatory basis applied to sites where the sole radiological risk at an otherwise decommissioned site is the Standalone ISFSI and should ensure consistent application of that regulatory basis to both current and future "ISFSI-only" and "Standalone ISFSI/Decommissioned Reactor" sites. To ensure that this regulatory basis is maintained going forward, the statement of considerations should explain that the significantly reduced level of risk at "ISFSI-only" and "Standalone ISFSI/Decommissioned Reactor" sites dictates that the current regulatory basis should endure absent a clearly demonstrated change in that risk and subsequent rulemaking.

We strongly encourage the NRC staff, and by copy of this letter the Chairman and Commissioners, to carefully reevaluate the draft proposed rule and associated draft guidance to ensure our mutual aim that there be clarity and consistency among regulatory bases for any rule changes and no unintended adverse consequences for existing sites as decommissioning work proceeds toward and results in the eventual Stand Alone ISFSI/Decommissioned Reactor Site status.

As always, we offer this input and raise these concerns in hopes of continuing our mutual constructive dialogue and engagement in helping to ensure a successful result for this important rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to be 'WN', written in a cursive style.

Wayne Norton
DPC Steering Committee Chair

CC: Chairman Svinicki
Commissioner Burns,
Commissioner Baran
Commissioner Wright
Commissioner Caputo

Attachment: As stated



April 24, 2018

Mr. Victor M. McCree
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001

Dear Mr. McCree;

On behalf of the Decommissioning Plant Coalition (DPC)¹, I am writing pursuant to the DPC's March 8, 2018 letter to you in which we committed to develop a template of applicability as it relates to the regulations for the various phases of decommissioning to help ensure that the impacts of the proposed regulatory changes are clearly understood.

A template is attached that depicts the current requirements for our plants at "Level 4," in the nine specific areas in which the staff is contemplating changes for sites going through the Decommissioning transition. We trust that this template can be used as a tool to aid in the staff's stated goal of ensuring that there are no unintended consequences to Level 4 sites as a result of the decommissioning rulemaking effort. The staff has indicated it is sensitive to the DPC position that as decommissioning sites reach what is now defined as, "Standalone ISFSI/Decommissioned Reactor Sites," they are identical in their regulatory bases to those that previously reached that defined status. We believe this template can be especially useful in such an effort.

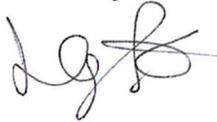
This template does not address our endorsement of additional specific staff initiatives outlined in its rulemaking effort that we previously addressed in the

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March 8 letter. For example, we endorsed the staff's intent to further develop Option 3 as stated in Section 4.3 in Appendix G of the staff's November Regulatory Basis. We see this as a regulatory improvement that will not bring about unintended and inefficient consequences.

We will be providing comments on the draft final rule to ensure our mutual aim that there be no unintended consequences as decommissioning work proceeds toward the eventual Stand Alone ISFSI/Decommissioned Reactor Site status. Similar to the March 8 letter, the DPC is not looking for a response to this letter but would be pleased to answer any questions. As before, we offer this feedback in hopes of continuing the constructive dialogue and engagement in the implementation of this important rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read 'Wayne Norton', with a stylized flourish at the end.

Wayne Norton
DPC Steering Committee Chair

cc: Chairman Svinicki
Commissioner Burns
Commissioner Baran

Attachment: As stated

DECOMMISSIONING RULEMAKING TEMPLATE WITH EXISTING STAND-ALONE ISFSI LICENSING BASIS

DECOMMISSIONING STATUS					
REG BASIS RULEMAKING AREAS	Shut Down Fuel Permanently Out of Reactor		ISFSI-Only All Fuel and GTCC in Dry Storage Reactor Not Decommissioned	Stand-Alone ISFSI/ Decommissioned Reactor	All SNF & HLW Removed - ISFSI to be Decommissioned & License Terminated
	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4	LEVEL 5
	Docketing of 50.82 & 52.110 Certifications	Permanent Cessation of Operations + 10 months BWR or 16 months PWR		Stand-Alone ISFSI Sites Part 50 General & Part 72 Specific Licensee Existing Licensing Basis	
Emergency Preparedness				Exemptions to 50.47 and App.E or meet 72.32 to reflect on-site EP only	
Physical Security				NRC 9/11/01 orders and exemptions to 73.55 and App B and Approved Alternative Measures to closely resemble 73.51 PSPs	
Cybersecurity				Cybersecurity requirements not applicable	
Drug & Alcohol Testing				10 CFR 26.3 FFD Program requirements do not apply	
Fatigue Requirements				No regulations applicable	
Certified Fuel Handlers				No minimum staffing requirements apply - no CFHs at the sites	
Decommissioning Trust Funds				10 CFR 50.75 applies to general and 72.30 to specific licensees - only the ISFSI to be decommissioned	
Onsite/Offsite Insurance				\$50 Million Primary Property Insurance - \$100 Million Primary Liability Insurance	
Backfitting Provisions				50.109 applies to general and 72.62 to specific licensees	