

QUESTION 5. If a licensee determines that a nuclear facility should be closed and decommissioned, does the NRC have the authority to compel that licensee to continue to operate the facility because the NRC determines that the power generated by the facility is needed?

ANSWER.

As stated in response to Question 3, in accordance with Section 188 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2238, the Commission, upon a determination that the public convenience and necessity requires, "may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility operated for such period of time as the public convenience and necessity . . . may, in the judgment of the Commission, require...." The exercise of this authority is contingent upon the predicate that the license for such facility had been revoked pursuant to Section 186 of the AEA, 42 U.S.C. § 2236 and requires the payment of just compensation.