

December 20, 1990

MEMORANDUM: Those on the Attached List

FROM: John H. Austin, Chief
Regulatory Branch
Division of Low-Level Waste Management
and Decommissioning, NMSS

SUBJECT: CLARIFICATION OF THE TIMING REQUIREMENT FOR A DECOMMISSIONING
FUNDING PLAN (DFP) IN APPLICATION FOR A LICENSE RENEWAL

On December 4, 1990, during the monthly conference call with the Regions, we were asked whether and when DFP's had to be submitted to NRC if a licensee was in timely renewal. We consulted with the Office of General Counsel (OGC) in our follow-up to this question. The OGC interpretation is that if a licensee is in a category requiring a DFP and is in timely renewal, the licensee must submit a DFP before its license can be renewed, regardless of whether it had earlier provided a certification of financial assurance to meet the July 27, 1990 deadline. According to 10 CFR 30.35(c), licensees shall include a DFP in any application for license renewal and that the DFP shall be prepared in accordance with 10 CFR 30.35(e) and (f).

Licensing offices should inform licensees in timely renewal status that if a mandatory funding plan has not been submitted, it must be submitted within 60 days of the deficiency letter. Headquarters should be consulted regarding any requests for additional time to prepare funding plans.

The guidance provided in Directive FC 90-2 is not consistent with OGC's interpretation of the rule, and Headquarters will prepare an appropriate revision. In the meantime, all licensing staff should be instructed that no license renewals requiring a decommissioning funding plan should be issued unless a complete funding plan is submitted. All licensing offices are requested to provide the Director of the Division of Industrial and Medical Nuclear Safety with a list of all licensees who are in timely renewal and must submit a decommissioning funding plan. Any financial assurance already submitted should be indicated. This list should also identify any license renewals that were pending on July 27, 1990, and have already been renewed with a certification for \$750,000 instead of a mandatory funding plan. At this time, we do not plan to reopen any renewals that have already been issued.

If you have any questions with regard to the above contact Timothy Johnson x-20558 or Kevin Ramsey x-20534.

John H. Austin, Chief
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Division of Low-Level Waste Management
and Decommissioning, NMSS

Distribution: Central File# NMSS r/f LLWM r/f JGreeves
RBangart LLRB r/f LBykoski TCJohnson RFonner
JAustin JSurmeier PLohaus RECunningham JHickey
KRamsey JLieberman

PDR YES NO Category: Proprietary or CF Only

ACNW YES NO

SUBJECT ABSTRACT: CLARIFICATION OF TIMING REQUIREMENT

* See Previous Concurrence

OFC :LLRB*	:LLRB*	:OGC *	:LLRB*	IMNS*	IMNS*
NAME:LBykoski/cv:TJohnson:RFonner	:JAustin	KRamsey	JHickey		
DATE:12/12/90	:12/12/90	:12/12/90	:12/20/90	:12/20/90	:12/20/90

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WM-3
2/16/4
NW 4/1

Multiple Addressees - Memorandum dated: 12/20/90

John W. N. Hickey, IMNS

John E. Glenn, IMNS

Charles J. Haughney, IMNS

Ronald R. Bellamy, RI

John D. Kinneman, RI

William E. Cline, RII

Carol Connell, RII

John A. Grobe, RIII

John R. Madera, RIII

William L. Fisher, RIV

Robert J. Pate, RV

Beth A. Riedlinger, RV

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OFC :LLRB* :LLRB* :OGC* :LLRB *JA* :IMNS *AmR* :IMNS

NAME: LBykoski/cv: TJohnson: RFonner :JAustin :KRamsey :JHickey

DATE: 12/12/90 :12/12/90:12/ /90 :12/20/90 :12/20/90 :12/21/90

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Kevin Ramsey x20534,

John H. Austin, Chief
Regulatory Branch
Division of Low-Level Waste Management
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Distribution:	Central File#	NMSS r/f	LLWM r/f	JGreeves	<i>K Ramsey</i>
RBangart	LLRB r/f	LBykoski	TCJohnson	RFonner	<i>J Lieberman</i>
JAustin	JSurmeier	PLohaus	<i>RF Cunningham</i>	<i>J Hickey</i>	
PDR YES	<input checked="" type="checkbox"/>	NO	Category: Proprietary	___	or CF Only ___
ACNW YES	___	NO			
		<input checked="" type="checkbox"/>			

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NAME:LBykoski/cv:TJohnson:	<i>RFonner</i>	:JAustin		<i>K Ramsey</i>	<i>J Hickey</i>
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