

July 29, 1999

SECY-99-195

FOR: The Commissioners

FROM: William D. Travers /s/
Executive Director for Operations

SUBJECT: NOTATION VOTE ON AN EXEMPTION FOR DECOMMISSIONING
MANAGEMENT PROGRAM SITES WITH DECOMMISSIONING PLANS
UNDER NUCLEAR REGULATORY COMMISSION REVIEW AND
ELIGIBLE FOR GRANDFATHERING, PURSUANT TO 10 CFR
20.1401(b)(3)

PURPOSE:

To request Commission approval, by notation vote, for the staff to issue an exemption to 10 CFR 20.1401(b)(3), which requires submittal of a license termination plan (LTP) or a decommissioning plan (DP) before August 20, 1998, and that such plan is approved by the Commission before August 20, 1999. This request pertains to the August 20, 1999, deadline.

BACKGROUND:

Site Decommissioning Management Plan (SDMP) sites fall into one of two categories: 1) decommissioning under the Nuclear Regulatory Commission's (NRC) SDMP Action Plan Criteria (APC) ["grandfathered," pursuant to 10 CFR 20.1401(b)]; or 2) decommissioning under NRC's license termination rule (LTR) criteria published in July 1997. In developing the LTR, the Commission believed that the "grandfathering" provisions should apply to licensees who submitted LTPs or DPs before August 20, 1998. As a practical matter, the staff believed that all LTPs and DPs submitted by August 20, 1998, and found acceptable by the staff for review, could be approved by the staff by August 20, 1999. All of the licensees addressed in this paper

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submitted a DP acceptable for review before August 20, 1998. Because of conditions related to resources and time required to resolve technical issues, most of these cases, which are now near completion, may not be completed by the August 20, 1999, deadline.

DISCUSSION:

As of July 1, 1999, there were 12 sites eligible for grandfathering pursuant to 10 CFR 20.1401(b)(3). Of these 12 sites, 8 are SDMP sites that have DPs for the entire site, 3 are SDMP sites that have DPs for a portion of the site (partial plans; grandfathering provisions of the LTR also apply to partial plans), and 1 is a non-SDMP site that has a DP for the entire site. Staff is currently reviewing the DPs for all of these sites. The 12 sites are shown in the attachment.

While the staff has placed a high priority on review of these 12 cases, several factors have delayed the review process and approval of DPs: (a) timeliness of licensee responses to staff requests for additional information (RAI) and the time required to resolve technical concerns with the licensee; (b) review schedules of the Office of Nuclear Material Safety and Safeguards' Environmental Impact Statement Review Group, which reviews all environmental assessments (EA) prepared for DPs; (c) the time required for dose modeling reviews; and (d) turnaround times for State reviews of draft EAs.

Because of these factors, the staff now projects that these cases may not be completed by the August 20, 1999, deadline. Projected dates for approval of the sites' DPs are given in the attachment. Staff intends to manage the review process to meet these dates for DP approval. Staff believes these dates are realistic, since the review process for each site is now much farther along than it was several months ago, and because of license review streamlining efforts. For most sites, RAIs have been sent to licensees; some licensees have responded to the RAIs and staff has already prepared draft EAs for these sites. Staff will continue to place high priority on completing these cases.

The consequence of not completing approval of DPs by the August 20, 1999, deadline is that licensees will not be able to remediate under NRC's APC, but rather will be required to decommission under the LTR. This could substantially increase licensees' costs for remediation, due to the need to develop new criteria (based on the LTR, possibly through modeling) and new final survey plans. In addition to this extra licensee burden, additional NRC staff resources will be needed to review the revised submittals. Since substantial progress has already been made in the review of the 12 cited DPs, there is no significant safety improvement or other benefit to modifying the submittals to meet the LTR requirements.

To date, more than 20 sites have been released following NRC's APC without negative consequences, and except for one case (Apollo), with minimal stakeholder objections or concerns. The use of the APC approach was explained during the LTR rulemaking effort which culminated in 1997. That rulemaking process allowed ample opportunity for public comments, and resulted in NRC moving forward with the "grandfathering" approach.

While the staff's projected dates for approval of DPs are based on how the review process for each site is currently proceeding, there may be conditions that would require extending the DP approval time. Therefore, the staff intends to issue an exemption to the requirements in 10 CFR 20.1401(b)(3) through an order issued to each of the affected SDMP sites extending

the August 20, 1999, deadline to August 20, 2000. The review process for each site, however, will be managed to the DP approval dates. The staff will keep the Commission apprised of the results of decommissioning actions and seek approval for license termination for each of the sites.

RECOMMENDATION:

The staff recommends that the Commission approve staff's request to issue an order granting an exemption to 10 CFR 20.1401(b)(3), extending the August 20, 1999, deadline to August 20, 2000, to grandfathered sites whose DPs cannot be approved by the August 20, 1999, deadline.

William D. Travers
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for Operations

Attachment:
Projected Approval Dates for SDMP Sites
with DPs under NRC Review Eligible for
Grandfathering Pursuant to 10 CFR 20.1401(b)

PROJECTED APPROVAL DATES
FOR SDMP SITES WITH DECOMMISSIONING PLANS
UNDER NRC REVIEW ELIGIBLE FOR GRANDFATHERING
PURSUANT TO 10 CFR 20.1401(b)

| Site | Projected Approval Date of Decommissioning Plan |
|-------------------------------------|---|
| Fansteel (partial) | 11/01/99 |
| Heritage Minerals, Inc | 11/01/99 |
| Kaiser Aluminum Specialty (partial) | 10/01/99 |
| Kerr-McGee Cimarron | 09/13/99 |
| Kerr-McGee Cushing | 11/01/99 |
| Lake City Army Ammunition Plant | 12/13/99 |
| Molycorp (Washington) (partial) | 02/14/00 |
| Molycorp (York) | 10/04/99 |
| NEORSD (to be transferred to Ohio) | N/A |
| UCAR (Tennessee; non SDMP) | 12/13/99 |
| Watertown Arsenal Mall | 02/14/00 |
| Watertown GSA | 02/14/00 |