



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 19, 1999

COMSECY 99-029

*Approved subject to
attached comments.*

MEMORANDUM TO: Chairman Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

Elle Rafferty

FROM: William D. Travers
Executive Director for Operations

Frank J. Meraglia Jr.

RELEASED TO PUBLIC
10/5/99 *DKW*

SUBJECT: CONTINUED STATE PRESENCE AT PERMANENTLY SHUT
DOWN NUCLEAR POWER FACILITIES UNDERGOING
DECOMMISSIONING

The Commission's policy on cooperation with States at commercial nuclear power plants and other nuclear production and utilization facilities (54 FR 7530, February 22, 1989)¹ established the general framework for the Nuclear Regulatory Commission (NRC) to enter into agreements with States to perform inspections for and on behalf of the NRC under the authority granted to the Commission in Section 274i of the Atomic Energy Act of 1954, as amended. Such an instrument of cooperation requires a formal memorandum of understanding (MOU) signed by the NRC and the State. The Commission's policy also created a uniform method for allowing State representatives to observe NRC inspections at nuclear power plants. Requests from States to observe inspections and/or inspection entrance and exit meetings conducted by the NRC require the approval of the appropriate Regional Administrator and require the State observer to sign an inspection observation protocol. Current instruments of cooperation with States have dealt primarily with inspections at operating nuclear power plants. The purpose of this memorandum is to inform the Commission how the staff intends to address continued presence by the States of Illinois, Connecticut and Maine at permanently shutdown nuclear power plants which are undergoing decommissioning within the framework established by the Commission's policy on cooperation with States. The staff has negotiated an addendum to the existing MOU with Illinois for inspections at shutdown plants in Illinois undergoing decommissioning. The staff has also drafted a letter to Connecticut and Maine to address continued State observation of NRC inspections at facilities undergoing decommissioning in those States.

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¹ The Commission amended the policy (57 FR 6493, February 25, 1992) to allow State representatives in adjacent States to observe NRC inspections at licensed facilities. An adjacent State is defined as a State within the plume exposure pathway emergency planning zone of a licensed facility in another State.

Commissioner McGaffigan's Comments on COMSECY-99-029

As more nuclear power plants enter the decommissioning phase and the resident inspectors are withdrawn, the relationship between the NRC and the States will also continue to change. The formal memorandum of understanding with each affected State will need revision to reflect the changes in regulatory activities. For example, States may elect to maintain an on-site presence after the NRC on site presence is terminated. The status of such State inspectors, who will sometimes accompany NRC inspectors and participate in NRC inspections, needs to be clear. This need is particularly acute with regards to the status of their activities when the on site State inspector is not participating in an NRC inspection. For this reason, I approve the COMSECY-99-029 subject to the following clarifications:

(1) In Attachment 1, Section III (Modifications), Subpart H, add "and approval" so that the sentence concludes as follows:

"... scheduled inspection to allow sufficient time for NRC review and approval."

(2) In Attachment 1, Section III (Modifications), Subpart I, insert "only" so that the sentence reads as follows:

"The State will perform decommissioning safety inspections only in accordance with the inspection plans using applicable procedures in the NRC Inspection Manual."

