



NUCLEAR ENERGY INSTITUTE

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October 15, 1999

Mr. Larry W. Camper
Chief, Decommissioning Branch
Division of Waste Management
Office of Nuclear Materials Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

REFERENCE: Request for Comments; Standard Review Plan: Licensee
Requests to Delay Initiation of Decommissioning Activities

Dear Mr. Camper:

The Nuclear Energy Institute (NEI),¹ is submitting the following comments in response to the Nuclear Regulatory Commission's (NRC) request for comments on the Standard Review Plan: Licensee Requests to Delay Initiation of Decommissioning Activities. In May 1996, NEI petitioned the NRC for rulemaking that would provide a clear basis for delaying decommissioning while providing an adequate level of protection to the public and the environment during the delay. The NRC rejected NEI's petition and instead indicated it would develop a Standard Review Plan (SRP) to address the concerns raised in NEI's petition.

NEI reviewed the SRP with this concept as the basis for our review. The NRC has provided the guidance we were seeking and established acceptance criteria for granting a delay in the initiation of decommissioning. However, it appears that the SRP has imposed a regulatory requirement that could make the licensee's ability to

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.



Mr. Larry Camper

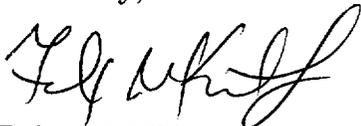
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gain a delay extremely difficult. In Section 4.1.3 the NRC uses the approval criteria that "(1) the alternative schedule provides a benefit to the public." This is a departure from the regulation (10 CFR Part 30.36(f)), which states "The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest." This wording is consistent with the regulatory mandate to the NRC, protection of the public health and safety, while a criterion of "providing a benefit to the public" is clearly more nebulous and potentially significantly broader than either the statutory authority of the NRC or the content of the regulation for which the SPR has been written. Therefore, this criterion should be removed from the SRP. Additional comments are contained in the attachment.

Please let me know of any questions or comments the NRC may have.

Sincerely,



Felix M. Killar, Jr.

Attachment

c: Marvin Fertel
Dr. Carl J. Paperiello, Deputy Executive Director, Materials, Research and
State Programs, NRC
Mr. William Kane, Director, NMSS/NRC

nrc10159

Attachment
Felix Killar - NEI to Larry Camper - NRC
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Section 4.1.3, Item (a): The last phrase of the last sentence ("*...thereby reducing the public funds needed for decommissioning the facility...*") seems to suggest that public funds rather than the financial assurances provided by the licensee by means of the Decommissioning Funding Plan (DFP) will be required. This may be the case in the event of bankruptcy of the licensee, but we don't think the SRP should convey the impression that the public should fund site decommissioning. In the case of bankruptcy there should be no reason for delaying decommissioning. Therefore this should be deleted from the SRP.

Section 4.1.3, Item (d): The first item to be discussed ("*...extent and nature of contamination...*") will most likely not be well known before the Decommissioning Plan (DP) is prepared. Any discussion of the extent and nature of the contamination should rely on the records of unusual events or accidents rather than the results of detailed soil and ground water sampling programs that will be required as part of the DP development. We suggest that this Item (1) be clarified to limit the expectations of the NRC reviewer on contamination data.

Section 5.2, Paragraph 5: Suggests that decommissioning costs will always rise. New technologies have and will result in a decrease in anticipated decommissioning costs. We recommend the last sentence of this paragraph be revised to read: "*...vary the amount of financial surety during standby, if necessary, to cover changing decommissioning costs with time...*" The licensee will be making periodic updates to the DFP and financial assurances.

Section 4, Final Paragraph: (grammatical note only): replace "alternative" by "alternate" in the final sentence.