

October 12, 2000

MEMORANDUM TO: Those on the Attached List

FROM: David J. Wrona, Project Manager */RA/*
Decommissioning Section
Project Directorate IV & Decommissioning
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

SUBJECT: PROPOSED POWER REACTOR DECOMMISSIONING REGULATORY
IMPROVEMENT INITIATIVE RULEMAKING OPTIONS FOR COMMENT

The purpose of this memorandum is to seek comments from interested stakeholders on the proposed options for the decommissioning regulatory improvement initiative discussed below.

In SECY-99-168, "Improving Decommissioning Regulations for Nuclear Power Plants" (ADAMS Accession No. ML992800087), the Nuclear Regulatory Commission (NRC) staff recommended that the regulations applicable to decommissioning nuclear power reactors be revised in two rulemaking initiatives. The first initiative was an integrated rulemaking plan associated with decommissioning nuclear power reactors that included emergency preparedness, security, insurance, staffing and training, and backfitting. The second initiative was to determine the applicability of *Code of Federal Regulations*, Title 10 regulations to decommissioning power reactors and then consolidate and relocate these regulations to a new section within Title 10.

In a Staff Requirements Memorandum dated December 21, 1999 (ADAMS Accession No. ML003752190), the Commission responded to SECY-99-168 and approved the development of a single, integrated, risk-informed decommissioning rule for emergency preparedness, insurance, safeguards, operator training and staffing, and backfit. In the SRM the Commission also approved a comprehensive decommissioning regulatory review and directed the staff to submit a plan of action, taking into account input from NRC stakeholders, for restructuring the decommissioning requirements following completion of the regulatory review.

To address the first initiative discussed above, the staff submitted SECY-00-145, "Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning," on June 28, 2000 (ADAMS Accession No. ML003721626). In SECY-00-145, the staff recommended that the Commission defer approval of the integrated rulemaking plan until the staff has provided a more comprehensive assessment of the decommissioning regulatory improvement initiative. The Commission issued a Staff Requirements Memorandum, dated September 27, 2000 (ADAMS Accession No. ML003754381), which returned SECY-00-145 to the staff without vote.

Currently, the NRC staff is developing a plan of action for the second initiative discussed above. This plan of action will also address how to proceed with the integrated rulemaking plan. On September 27, 2000, the NRC staff met with representatives of the Nuclear Energy Institute

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TOTAL

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(NEI) and members of the public to inform and receive feedback about ongoing NRC efforts to determine the risk posed by permanently shutdown nuclear power plants and the status of NRC efforts to amend its regulations to properly reflect the risk posed by these facilities (Meeting Summary dated October 11, 2000, ADAMS Accession No. ML003759130). During the meeting, NRC summarized the regulatory improvement initiative rulemaking options currently under consideration. The staff has identified six options on how to proceed in the area of rulemaking once the spent fuel pool risk study is completed. The options range from no rulemaking activity to adding an entire new section to the regulations. These options are presented in an attachment to this memorandum. The NRC staff plans to submit the regulatory improvement initiative to the Commission 3 months after the spent fuel pool risk study is finalized. The spent fuel pool risk study is currently scheduled to be finalized on October 31, 2000.

The NRC staff is seeking comments on the proposed options from interested stakeholders, and is particularly looking for recommendations for other options not currently being considered. Persons or organizations that have comments on the options can provide them to Mr. Richard Dudley, U.S. Nuclear Regulatory Commission, Mail Stop O-7C2, Washington, DC 20555 (301-415-1116; rfd@NRC.gov). Comments are requested to be submitted within 45 days after the date of this memorandum.

Attachment: Regulatory Improvement Rulemaking Options

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Attachment: Regulatory Improvement Rulemaking Options

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Addressees: Memorandum Dated October 12, 2000

SUBJECT: PROPOSED POWER REACTOR DECOMMISSIONING REGULATORY
IMPROVEMENT INITIATIVE RULEMAKING OPTIONS FOR COMMENT

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Regulatory Improvement Initiative Options

For Options 1 - 3 below, the Integrated Rulemaking plan would not be pursued.

- Option 1: In the absence of any anticipated nuclear power plant decommissionings in the near term, suspend any further decommissioning rulemaking efforts at this time and divert the associated decommissioning section resources to higher priority agency needs. A regulatory guide discussing applicability of regulations and guidance for exemptions would be considered.
- Option 2: Pursue the NEI "clean slate" approach that is predicated on the risk of decommissioning nuclear power plants being so low that most regulations are not applicable. The minimum set of regulations necessary to preserve the assumptions of the spent fuel pool risk study would be identified and developed into prescriptive, predictable requirements.
- Option 3: Pursue a "performance-based, clean slate" approach that would develop a new performance-based regulatory framework for decommissioning that captures the seven cornerstones of good licensee performance. The upper-tier decommissioning regulations would be the minimum needed to preserve the conclusions of the spent fuel pool risk study report (similar to the NEI approach) but would be oriented more towards performance measuring indicators and inspections.

The following Options (4 - 6) assume that the Integrated Rulemaking plan is implemented (although some modifications to the plan may be necessary depending upon the final results of the spent fuel pool risk study)

- Option 4: Proceed with the integrated rulemaking plan and discontinue any additional broad-scoped decommissioning regulatory improvement efforts.
- Option 5: Proceed with the integrated rulemaking plan, but for subsequent decommissioning regulatory improvement rulemaking, adopt an incremental approach. Develop a broad-scope plan of action over a multi-year time frame that identifies the regulations to be modified and prioritizes them based on a combination of industry input and assessment against the four NRC pillars. Subsequent rulemaking will be accomplished sequentially in manageable increments based on the availability of staff resources and contract funds.
- Option 6: Modify, as necessary, all the regulations in 10 CFR applicable to decommissioning nuclear power plants (based on the Brookhaven National Laboratory report, ADAMS Accession No. ML003730203, and as otherwise necessary based on recent decommissioning experience) in one large rulemaking effort.