

December 8, 1998

MEMORANDUM John Hoyle, Secretary

TO:

FROM: Edward McGaffigan, Jr. /S/

SUBJECT: SECY-98-258, "DSI-24 IMPLEMENTATION: DECOMMISSIONING LICENSING ACTIONS AND PRIORITIES AND MILESTONES FOR ADDRESSING RULEMAKING AND GUIDANCE DEVELOPMENT"

I do not object to the staff's plan and integrated set of milestones for addressing various decommissioning issues presented in the subject paper. But given that the plan has not been subjected to review by stakeholders, including NEI's newly formed Decommissioning Working Group and the States, represented by Dr. Lipoti at the most recent stakeholders meeting, I would hope that the staff regards this plan as a living document that can be amended based on stakeholder comments on the relative priority of various activities.

The staff has outlined a comprehensive plan that does not appear to have any obvious gaps. I applaud the increased resources being devoted to support the burgeoning decommissioning reactor workload and the high priority being given to decommissioning licensing actions and rulemaking. I welcome the designation of emergency preparedness as the highest priority rulemaking. I note the staff's caveat that the "schedules discussed in this paper are dependent on maintaining the existing level of planned resource commitments in the agency's current budget." The staff should call the Commission's attention to any resource issues that might impact these schedules as budget and program execution goes forward and as stakeholder comments are received on the proposed schedules.

I am encouraged by the staff's decision to effectively "cut its losses" on the current approach to await insights from the Trojan decommissioning experience before renewing the site-specific decommissioning cost estimate rulemaking. While I do not object to the two step approach described in SECY-98-258 that the staff intends to adopt as an alternative to the Commission's decision on SECY-97-251, the staff should ensure that NEI-supplied cost information which forms the basis for any contemplated rulemaking is both scrutable and auditable.

I question the staff's conclusion that it "has taken timely regulatory action to address decommissioning licensing actions." Indeed, a staff panel recently observed that, with respect to the technical facts surrounding the Maine Yankee emergency preparedness exemption request, the staff "had ample opportunity to establish reasonable assurance that public health and safety was protected without going into such technical depth." The delay is an issue of great concern to me. More fundamentally, the issue of how to make judgments on how quickly to reduce various requirements at a permanently shutdown plant is central to various rulemakings planned or under way. Indeed, the staff notes with regard to financial protection (insurance) rulemaking begun in 1997 that "additional public comment may be needed for the criteria for reducing financial protection requirements to be consistent with the approach being developed in the EP and safeguards decommissioning rulemakings." The Commission may well need a briefing early next year on these criteria and how staff proposes to implement them in light of the Maine Yankee experience.

cc: Chairman Jackson  
Commissioner Dicus  
Commissioner Diaz  
Commissioner Merrifield  
OGC  
EDO  
OCA  
CFO