

November 17, 2003

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - SECY-03-0069 - RESULTS OF THE
LICENSE TERMINATION RULE ANALYSIS

The Commission has approved the options and issue-specific implementation actions identified in SECY-03-0069 subject to the comments provided below.

1. The Commission has approved the staff's recommendations for restricted release and institutional control as described in attachment 1. The staff should gather comments on the recommended actions from the public, Agreement States, licensees and any other interested stakeholders and share the results with the Commission before issuing final guidance.
2. The Commission has approved the staff's recommendations for on-site disposal under 10 CFR 20.2002 as described in attachment 4. The guidance should be published in a Regulatory Issue Summary in such a manner that allows for public input and comment. Also, the staff should add a third option to allow that if the material to be disposed on site is mainly short lived activity which will significantly decay in a few years, then the staff could approve on-site disposal with a maximum dose rate of 25 mrem/year without requiring additional financial assurance for license termination so long as the likelihood of creating a legacy site is low. For example, this option would assume that license termination is not imminent.
3. The Commission has approved the staff's recommendation for controlling the disposition of solid materials as described in attachment 5 and the resources applied to the development of the proposed Regulatory Issues Summary should be constrained. When developing the Regulatory Issue Summary to address this recommendation, the staff will need to provide some additional detail, not contained in the paper, which describes the conservatism in the license termination analysis related to off-site release of the material after license termination and how it may be possible to reduce some of the conservatism and still retain adequate assurance of protection of public health and safety with the unrestricted release of the material.
4. The Commission has approved the staff's recommendation for use of realistic exposure scenarios as described in attachment 6.
5. The Commission has approved the staff's recommendations for changes in financial assurance as described in attachment 7. Changes in financial assurance requirements

must be carefully coordinated among NRR, NMSS, and OGC to ensure there are consistent standards being applied across the Agency. The staff should develop options for existing licensees to develop a decommissioning funding plan based on restricted release only if they can reasonably demonstrate that restricted release is viable for the site. For new licensees, the preferred decommissioning plan should be for unrestricted release but the final regulations should allow for the potential of restricted release in the event of unusual circumstances (i.e., a major incident resulting in a significant environmental impact) or a determination that the facility is needed in the national interest. With respect to the unavailability of funds in bankruptcy where financial assurance is provided by a parent company or through self-guarantee, the staff will need to document more than just a general concern to justify significant regulatory changes in this area. Any regulatory change to address investment loss in trust account balances must be carefully worded so that it focuses on long-term market changes and not short-term changes or seasonal adjustments. Public comments in this area will be important to properly focus the regulation so that it does not cause unnecessary recalculations of funds needed for decommissioning but will trigger action when appropriate.

6. The Commission has not objected to the staff developing a proposed rule related to property damage coverage for accidental release and publishing it for public comment, but the Commission intends to reserve final judgement on this issue until after review of the public comments.
7. The Commission has approved the staff's recommendation related to changes in licensee operations as described in attachment 8. However, in addition to incorporating risk-informed approaches, the staff should ensure that they are performance-based. The staff will have to be very careful when crafting the guidance documents so that it is clear to the licensees and to the staff how much characterization information is enough. The staff should only ask for limited information. Licensees should not be required to submit the equivalent of a full scale MARSSIM survey every year.

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR