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DEPARTMENT OF NUCLEAR SAFETY

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George H. Ryan
Governor



Thomas W. Ortziger
Director

Rules and Directives
Branch
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January 7, 2002

TO: USNRC

FROM: Gordon Appel
Deputy Director
Illinois Dept. of Nuclear Safety
217/524-4723

Response to Comments on NUREG-0586

We mailed the response on December 28, 2001. Due to the mail, we are faxing this letter to you.

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(including transmittal sheet)



Template = ADM-013

E-RTDS = ADM-03
Add = M. Masnik (MTM2)

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE • SPRINGFIELD, ILLINOIS 62704
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George H. Ryan
Governor

Thomas W. Ortziger
Director

December 28, 2001

Chief, Rules and Directives Branch
Division of Administrative Services
Mailstop T 6 D 59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Chief, Rules and Directives Branch:

The NRC published a Notice of Availability of the Draft Supplement 1 to the Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities (NUREG-0586) on November 9, 2001 and invited comments from interested parties. In addition, the NRC hosted a series of public meetings to solicit comments from the public. The Department of Nuclear Safety was represented at one of these meetings and would like to offer these additional comments on the Draft Supplement.

As mentioned at the December 6, 2001 public meeting in Chicago, the scope of the Draft Supplement is inadequate in its evaluation of the long-term radiological exposure to the public for the reactor entombment decommissioning method. The scope of the radiological impact studies in the supplement appear to focus solely on the actual decommissioning process, not the resultant site conditions remaining after the decommissioning is completed. Specifically, section 4.3.8 Radiological on page 4-26 states:

"The NRC considers radiological doses to workers and members of the public when evaluating the potential consequence of decommissioning activities. Radioactive materials are present in the reactor and support facilities after operations cease and the fuel has been removed from the reactor core. Exposure to these radioactive materials during decommissioning may have consequences for workers. Members of the public may also be exposed to radioactive materials that are released to the environment during the decommissioning process. All decommissioning activities were assessed to determine their potential for radiation exposures that may result in health effects to workers and the public. This section

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considers the impacts to workers and the public during decommission activities performed up to the time of the termination of the license. Any potential radiological impacts following license termination are not considered in this Supplement. Such impacts are covered by the *Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities*, NUREG-1496."

For purposes of this GEIS, the NRC is only focussing on the environmental impact of the actual decommissioning activities between the cessation of operations and license termination. This approach completely and inappropriately ignores the environmental impact associated with any radioactive material remaining following license termination.

For a site decommissioning that results in a license termination for unrestricted use, the long-term radiological impacts to the public may well be within acceptable limits. However, for a decommissioning that results in a license termination with restricted site use the potential exists for long-term radiological impacts to the public to be far above acceptable limits. The draft Supplement does not consider this potential. While narrowly focussing the radiological studies to the decommissioning process, the NRC does not consider those potential long-term impacts to the public.

When the original GEIS was issued in 1988, the NRC viewed entombment as an unlikely decommissioning method. The issue of entombment was not publicly discussed in the 1997 timeframe that NUREG-1496 was published. It is unlikely that NUREG-1496 addresses the long-term radiological impacts associated with entombment. In 1999, the NRC began to consider entombment as possible decommissioning options or methods and conducted a workshop in December 1999 to gain input from the public. On October 16, 2001, the NRC published an advance notice of proposed rulemaking regarding entombment options for power reactors. Even with that notice and this draft Supplement, the NRC has yet to evaluate the long-term environmental impacts associated with entombment of power reactors. In this Supplement, the NRC fails to consider whether it has the statutory or regulatory authority to terminate a license that allows for unrestricted site use with residual contamination present on site or to terminate the license with restricted site use in an Agreement State. Residual contamination left at a site whose license was terminated for unrestricted use could be perceived as disposal of low-level radioactive waste. By definition

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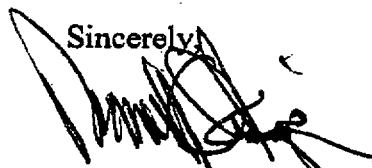
entombment is disposal of low-level radioactive waste in the containment structure. The Atomic Energy Act allows states to assume regulatory authority over the disposal of low-level radioactive waste in their state. In an Agreement State it is the Agreement State not the NRC that has the jurisdiction over disposal of low-level radioactive waste at reactor sites.

The federal government has established policies regarding the disposal of low-level radioactive waste. The federal Low-Level Radioactive Waste Policy Act of 1980 and the Amendments Act of 1985 require the states to provide for the disposal of low-level radioactive waste generated within their borders. States were encouraged to form regional compacts to limit the number of disposal facilities developed. As an incentive to form compacts, compacts were given certain rights to control the import and export of low-level radioactive waste into or out of their region as well as to establish policies regarding the management of waste within their region. To date, 10 such compacts have been formed and ratified by Congress. Most compacts envision having one regional disposal facility that would accept and safely dispose of their region's waste. Allowing NRC to determine whether waste can or will remain after a reactor license is terminated is contrary to the policy of the respective compacts and in direct disregard of the federal low-level radioactive waste framework established by Congress.

As the NRC evaluates the comments received on the GEIS, it should look beyond the actual decommissioning process and focus on what condition the site would be in following license termination. If the possibility exists that radioactive material will remain on site under an unrestricted or restricted use condition, the GEIS should consider the associated long-term environmental impacts. In addition, the NRC should reevaluated their legal standing in deciding what radioactive material would remain at a reactor site located in an Agreement State and whether their proposed action would be contrary to the waste management policies of the applicable compact.

Any question you may have regarding this letter may be directed to me at 217/785-9868.

Sincerely,



Thomas W. Ortziger
Director

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