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PROPOSED RULE **(50 FR 5600) (134)**

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NRC-85-82

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Mr. Samuel J. Chilk
Secretary of the Commission
U.S. NUCLEAR REGULATORY COMMISSION
Washington, D.C. 20555

Attention: Docketing and Service Branch

Gentlemen:

COMMENTS ON PROPOSED RULE
DECOMMISSIONING CRITERIA FOR NUCLEAR FACILITIES

In the Federal Register, Vol. 50, No. 28, dated February 11, 1985, the U.S. Nuclear Regulatory Commission (NRC) published proposed amendments to its regulations that would set forth technical and financial criteria for decommissioning licensed facilities. The proposed amendments address decommissioning planning needs, timing, funding mechanisms, and environmental review requirements. Wisconsin Electric Power Company, owner and operator of the Point Beach Nuclear Plant, has reviewed the proposed amendments and offers the following comments.

We are pleased to note the recognition in the proposed amendment that an internal reserve is the most cost beneficial method of funding for decommissioning. We support this approach and believe that determination of the details of the exact accrual methodology is properly left to arrangement between the utility and the appropriate rate-regulating agency. As other industry commenters have pointed out, electric utilities are subject to a comprehensive regulatory process which provides reasonable assurance of adequate decommissioning funding. Certainly every funding method has at least some amount of associated risk; we believe that risk is minimized with the internal reserve option, yet has the advantage of maximizing benefit to the ratepayer. In fact, it has been wryly observed that the best investment for an external fund might be the utility itself! Any external fund, however, would not maximize benefit to the ratepayer. If we ascribe to the principle that beneficiaries should bear the costs, then we must also support the corollary that ratepayers are entitled to the benefits. Thus, an internal reserve is the logical method of choice.

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The straight line negative salvage method is the method currently used and preferred by Wisconsin Electric and many other utilities because it has a low cost to ratepayers while still providing adequate assurance that funds will be available when needed.

We note a rather wide variety of opinion exists both within and without the industry regarding the cost of decommissioning. While the ease of using a generic figure is extremely attractive, we somewhat reluctantly conclude that the diversity of situations will not support such a simple approach. While we suspect that \$100 million per unit is too high, others have found such an amount too low for their circumstances. In the case of our own Point Beach Nuclear Plant, the extensive sharing of facilities between the two units and the likelihood of continued use of the site by our utility (which enhances the practicability of entombment) will tend to minimize decommissioning costs. A certain amount of this controversy is based on the desire to apply, at an excessive level of accuracy, the principle that beneficiaries should bear costs. However, attempting to account for virtually the last dollar of a project decades in the future is simply unreasonable in view of moving economies, developing technologies, and changing regulations. Furthermore, an attempt at overaccuracy fails to recognize that the body of beneficiaries will not change overnight at the time of decommissioning. Specifically, there is nothing inherently wrong in assuming that some correction for over or under accrual can appropriately be made in the first decade or so after cessation of operation. For these reasons, we recommend that site specific estimates be made without any generic amount established by regulation. Furthermore, we recommend that the regulation carefully avoid the explicit or implicit requirement of unwarranted accuracy. The level of detail required in specific studies should be left to arrangement between the utility and the rate-regulating agency. It is, after all, at this level that the collection of costs is approved and carried out. For the same or similar reasons, specific inflation indices and multipliers are inappropriate considerations for NRC regulation.

In the Supplementary Information accompanying the proposal, new acronyms of SAFSTOR, DECON, and ENTOMB are proposed and defined but are not used in the proposed regulation. We consider the categories and their definitions appropriate, but we recommend that ordinary phraseology be used in lieu of acronyms and that these definitions be included in the regulation.

It appears likely at this time that the most cost effective method of decommissioning would entail a short period of either safe storage or entombment followed by further decontamination and/or removal. The regulation should clearly permit this approach without implication of need for immediate dismantlement. At the same time, changing technology, regulations, and political and environmental perceptions within the overall sphere of waste disposal suggest that the possibility of permanent entombment should not be disregarded or precluded.

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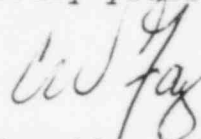
As a result of the current level of interest in both waste disposal and decommissioning, there is an urgent need for regulatory definition of de minimis levels of radioactivity. We urge NRC to work toward this goal and note that there is no need to undertake the difficult task of establishing a single limit to apply to all situations. It would be acceptable to develop one set of limits for ordinary landfills, another set for decommissioning with continued site ownership, and another set for decommissioning with total site restoration. The establishment of such levels will have considerable impact on the costs of decommissioning.

At section 50.54, we recommend that NRC provide additional clarification such that approved changes to funding plans, cost estimates, and records cannot be construed as license amendments. The issue is not safety-related and should not be subject to the license amendment process.

In Section 50.82, an internal reserve would be converted to an external fund after cessation of operation. This would be an unnecessarily cumbersome requirement. A utility-licensee deemed sufficiently sound to manage an internal reserve during operation logically can and should continue to manage the reserve after cessation of operation. The timing and manner of payment of these funds is properly left to arrangement between the utility and the appropriate rate-regulating agency. We therefore recommend that the requirement for later establishment of an external fund be eliminated.

Thank you for this opportunity to comment. If you have any questions on our views, please feel free to contact us.

Very truly yours,



Vice President-Nuclear Power

C. W. Fay

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Copy to Public Service Commission
of Wisconsin