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NEI

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DOCKET NUMBER
PROPOSED RULE PR 30,40+70
(67FR 62403)

DOCKETED
USNRC

December 26, 2002 (8:44AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

December 23, 2002

Ms. Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

ATTENTION: Rulemaking and Adjudications Staff

REFERENCE: Request for Comments; Financial Assurance Amendments for Materials Licensees (67 *Federal Register* Page 62403, October 7, 2002)

Dear Ms. Vietti-Cook:

The Nuclear Energy Institute (NEI)[1] is submitting the following comments on the "Financial Assurance Amendments for Materials Licensees" that appeared in the October 7, 2002 *Federal Register*. NEI supports adequate funding for decommissioning of nuclear facilities and, for the most part, supports what the NRC is proposing. There are two aspects of this proposed rulemaking that the industry considers to be an unjustified burden: the change in status of large sealed source licensees, and the required three-year update of decommissioning funding estimates.

The proposed rule removes the ability of large sealed source licensees—large irradiators—to use the prior \$75,000 certification, which the NRC proposes to increase to \$113,000, by imposition of the additional upper limitation of "10^{12} times the applicable quantities of appendix B to Part 30." The justification for the upper limit is based on the studies conducted by ICF Consulting and Pacific Northwest National Laboratory. These two studies considered all aspects of decommissioning, including transportation and disposal. However, the studies did not give proper credit for the residual value of the sealed source. In fact, the study penalizes larger sources as it almost doubles the decommissioning cost when the curie content

[1] NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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doubles. This is not the case. Due to the higher activity of the sources there may be a slightly higher shipping cost to transfer the source, but this source also has a higher residual value. Therefore, the decommissioning costs for large sealed source facilities are driven more by the size and complexity of the facility rather than the size of the source used. A newer facility with twice as large a source as an older facility may require half the cost to decommission. This is due to design features which eliminate crud traps and other areas where radioactive waste may be collected. Therefore, the upper limit of "10^{12} times the applicable quantities of appendix B to part 30" is arbitrary and should be removed from the proposed 30.35 (d).

NEI supports the timely review of decommissioning costs and the updating of financial instruments. However, the proposal in Parts 30, 40 and 70 to perform this on a three-year cycle is burdensome. Most of these facilities will operate well over forty years and, as the NRC knows, the funds for decommissioning are required to be established prior to issuance of the initial license. The history of investments over a long period of time is very positive. The current market conditions should not drive the NRC to short-term investment thinking. The NRC proposal appears to be driven by short-term investment performance and anticipation of higher waste disposal cost. These waste costs have escalated greater than other decommissioning costs, which is why licensees are making very dedicated efforts to reduce waste generation. The cost of decommissioning has escalated, as one would expect; however, industry has recognized this and continues to take steps to reduce the volume of decommissioning waste that will be generated and continues to find ways to recycle materials to other nuclear facilities. Both the long life of these facilities and the reduction in waste generation indicates that a three-year review is unnecessary and burdensome. Therefore, the NRC should revise this provision throughout Parts 30, 40 and 70 to require the decommissioning financial review be performed during each license renewal or every five years whichever is least.

In conclusion, the NRC should remove the constraint on large sealed source licensees and should provide for timely updates on a five-year rather than three-year basis. Please let me know of any questions or comments the NRC may have.

Sincerely,

Felix M. Killar, Jr.

Felix M. Killar, Jr.

c: Facilities Operations Committee
Radionuclides and Radiopharmaceuticals Committee
Fuel Cycle Facility Forum