

October 11, 1995

Mr. C. Scott Eves
V.P., Environmental Services
Shieldalloy Metallurgical Corporation
P.O. Box 768
Newfield, New Jersey 08344

SUBJECT: CLARIFICATION OF DECOMMISSIONING FUNDING REQUIREMENTS (L21474)

Dear Mr. Eves:

As discussed in our meeting with you on October 5, 1995, the Nuclear Regulatory Commission has issued a "Clarification of Decommissioning Funding Requirements," (60 FR 38235), dated July 26, 1995. A copy of this Notice is enclosed.

As part of the clarification, Title 10 of the Code of Federal Regulations, Part 40.36(c)(4) (10 CFR 40.36(c)(4)) was added to require the licensees who were in timely renewal with an application on file prior to July 27, 1990, to provide financial assurance for decommissioning by November 24, 1995. As your license falls under this requirement, you should immediately submit a Decommissioning Funding Plan as described in 10 CFR 40.36(d).

If you have any questions, please call me at 301-415-8106.

Sincerely,

Original signed by:

Gary C. Comfort, Jr.
Licensing Section 2
Licensing Branch
Division of Fuel Cycle Safety
and Safeguards, NMSS

Docket 40-7102
License SMB-743

Enclosure: As stated

cc w/encl:
U.S. Attorney's Office
Southern District of New York
ATTN: David S. Koenigsberg
Asst. U.S. Attorney
100 Church Street, 19th Floor
New York, NY 10007

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**NUCLEAR REGULATORY
COMMISSION****10 CFR Parts 30, 40, 70, and 72****RIN 3150-AE95****Clarification of Decommissioning
Funding Requirements****AGENCY:** Nuclear Regulatory
Commission.**ACTION:** Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations applicable to decommissioning funding assurance and the expiration and termination of licenses for nonreactor licensees. These amendments clarify requirements that financial assurance must be in place during licensed operations and updated when the licensee decides to cease operations and begin decommissioning. These regulations require that licensees who have been in timely renewal since the promulgation of the earlier decommissioning funding rule or who have ceased operation without having adequate decommissioning funding arrangements in place must provide the NRC with certification of adequate financial assurance for decommissioning by the effective date of this rule.

EFFECTIVE DATE: November 24, 1995.

FOR FURTHER INFORMATION CONTACT:
Mary L. Thomas, Office of Nuclear
Regulatory Research, U.S. Nuclear
Regulatory Commission, Washington,
DC 20555-0001, telephone (301) 415-
6230, E-mail MLT1@NRC.GOV.

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I. Background

In 1983, the Commission amended 10 CFR parts 30, 40, and 70 to add requirements addressing "Expiration and Termination of Licenses" (10 CFR 30.36, 40.42, and 70.38 (48 FR 32324; July 15, 1983)). Similar provisions were added to 10 CFR part 72 (10 CFR 72.54 (53 FR 24018; June 27, 1988)). These requirements set out the procedures to be followed by a licensee who decides to decommission a facility and seek

termination of the applicable license. If a part 30, 40, 70, or 72 licensee has more than a modest amount of radioactive contamination to remediate, the licensee is required to submit a decommissioning plan that sets out the methods and measures for decontamination of the property and equipment.

In the final rule published June 27, 1988, the Commission addressed "Financial Assurance and Recordkeeping for Decommissioning" (10 CFR 30.35, 40.36, 70.25 and 72.30 (53 FR 24018; June 27, 1988)). The rule established a graded structure for financial assurance that is based on the assumption that the kinds and quantities of radioactive materials authorized in the license provide a reasonably good correlation to the amount of contamination that has to be remediated. Before the license is issued or renewed, the applicant shall provide financial assurance in one or more of the forms required by the rule (prepayment, surety, insurance or other guarantee, or external sinking fund with a backup surety).

The June 27, 1988, rule also required that certain licensees, upon their decision to cease operations, must submit decommissioning plans that include an updated detailed cost estimate for decommissioning, a comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for the completion of decommissioning.

**II. Summary of Requirements and
Discussion of Comments**

At the time the decommissioning funding rules were promulgated, it was not anticipated that a licensee would move to decommissioning without having complied with the financial assurance requirements. Since that time a number of licensees who were in timely renewal when the June 27, 1988, rule became effective have decided to terminate their activities and begin decommissioning. Other licensees who only provided certification for the minimum amounts of financial assurance have also decided to terminate activities and begin decommissioning. In both situations, insufficient funding was in place when the licensee ceased operations and began decommissioning. These amendments require that financial assurances must be in place and updated when the licensee decides to cease operations and begin decommissioning to assure that adequate funding is available in the

event the licensee is no longer financially viable.

Six comment letters were received on the proposed rule. This section presents a summary of the requirements in the proposed rule and a discussion of the significant issues raised by public comment and how they were resolved. The bases and origins of the requirements are also explained. The proposed rule was discussed during the October 25-27, 1993 Agreement States meeting in Tempe, Arizona. No additional comments were received from the Agreement States during the public comment period. In addition, the draft final rule was sent out to the Agreement States for comment regarding the division of compatibility assigned on April 14, 1995. The comment period ended May 15, 1995. Five comment letters were received. These comment letters are addressed in section III, Agreement State Compatibility, of the Federal Register Notice. Copies of the public comments received on the proposed rule are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20037.

**1. Submission of an Executed Original
Copy of the Financial Instrument**

As proposed, §§ 30.35(b)(2), 40.36(b)(2), 70.25(b)(2) would require each licensee to submit an executed original copy of the financial instrument obtained to satisfy the requirements of §§ 30.35(f), 40.36(e), or 70.25(f) respectively. Sections 30.35(c) (2 and 3), 40.36(c) (2 and 3), and 70.25(c) (2 and 3) would require that the licensee submit a decommissioning funding plan as described in paragraph (e) of these sections. Sections 30.35(e), 40.36(d), and 70.25(e) would require the decommissioning funding plan to include a cost estimate and a signed original of the financial instrument obtained to satisfy the requirements of §§ 30.35(f), 40.36(e), or 70.25(f) respectively.

Comments: One commenter stated that the requirement means that every time a licensee restructures the finances, that support the decommissioning funding requirement, it would have to file a report with the NRC. Another commenter stated that the requirement to submit an executed original of the financial instrument obtained to satisfy the decommissioning funding requirement is overly burdensome and can easily lead to confusion and excess paper work. In addition, this commenter stated that some licensees may have multiple funding sources with different renewal dates and that every time a

licensee restructures financially, it will have to submit new documentation that the funding for decommissioning is provided. Both commenters suggested that the licensee should be able to provide a single certification to the NRC stating the funding is available to cover the decommissioning costs.

Response: Submittal of this information will only be necessary in the event the old instruments would no longer be valid. The language of the final rule has been changed to state that licensees will be required to submit a signed original rather than an executed original copy of the financial instrument to make it clear that the signed original is sufficient provided that it contains the appropriate signatures.

2. Decommissioning Funding Plan

As proposed, §§ 30.35(c)(4), 40.36(c)(4), and 70.25(c)(4) would require licensees who have submitted a renewal application before June 27, 1990, to submit a decommissioning funding plan.

Comments: One commenter believes this is a retroactive requirement and that licensees who have applied for renewal should not be required to have funding in place.

Response: Although this requirement was not included in the June 27, 1988, decommissioning rule the Commission anticipated that few licensees would not have funding in place within the normal license renewal frequency of 5 years. A small number of licensees who were in timely renewal when the rule became effective still have not provided assurance that they have adequately addressed the issue of decommissioning funding. The licensees who have not provided a decommissioning funding plan may have only submitted a certification based on the table amounts listed in the June 27, 1988, rule which may underestimate the actual cost to decommission their facility. This requirement will ensure that these licensees will have adequate funding in place through submittal of a decommissioning funding plan. The requirement does not apply retroactively to make some prior conduct improper. Rather, it provides that at a future date November 24, 1995 licensees currently in a "timely renewal" status must provide financial assurance in accordance with these regulations.

3. Expiration and Termination of Licenses—90-Day Time Period

As proposed, §§ 30.36(b)(2), 40.42(b)(2), 70.38(b)(2) and 72.54(b)(2) would require licensees, on providing a notice of termination of activities and

request to terminate the license, to maintain in effect all decommissioning financial assurances and to increase or decrease the amount of the financial assurance, as appropriate, within 90 days of the above notice, to cover the detailed cost estimate for decommissioning submitted with the proposed decommissioning plan.

With the publication of the final rule, "Timeliness in Decommissioning of Materials Facilities," on July 15, 1994; 59 FR 36026, these sections were revised to require licensees to submit a proposed decommissioning plan within 12 months of the time that they notify the Commission that they have not conducted licensed activities for 24 months or to commence decommissioning if they are not required to submit a decommissioning plan. These requirements are now located in §§ 30.35(e), 40.42(e), 70.38(e) and 72.54(e) in this final rule.

Comments: Four commenters stated that they did not understand the 90-day time period to obtain financial assurance as discussed in the proposed rule. One asked why a 90-day time period was chosen as opposed to 180 days. Another indicated that the time period presumes that the licensee's proposed decommissioning plan will be approved by the NRC without modification.

Response: The final rule was modified to permit some additional time for licensees who have already submitted a decommissioning plan to update their financial assurance to meet the detailed cost estimate included in the proposed decommissioning plan. The final rule will require licensees to increase, or allow them to decrease, the amount of financial assurance to correspond to the detailed cost estimate submitted with the decommissioning plan. The NRC lengthened the time period for obtaining financial assurance from 90 days to 120 days, but did not adopt the comment to lengthen the time period to 180 days. Because this requirement only addresses licensees who have already submitted a decommissioning plan with an updated cost estimate, a period of 120 days to acquire the funding seems to be a reasonable amount of time and lowers the risk that any change in the licensee's financial status could jeopardize their ability to provide for adequate funding. For the aforementioned reason, the Commission did not adopt the comment to permit time for NRC approval of the decommissioning plan. It should be noted that a provision is included that would permit a reduction in the amount of financial assurance following decommissioning plan approval.

4. Frequency for Applying for Reduction in Funds

As proposed, §§ 30.36(b)(2)(ii), 40.42(b)(2)(ii), 70.38(b)(2)(ii), and 72.54(b)(2)(ii) would allow licensees to apply for a reduction in decommissioning funds with a reduction in radioactive contamination levels as decommissioning proceeds. The proposed rule would have established a semiannual frequency for these reductions.

Comments: One commenter stated that permitting access to the funds only on a semiannual basis seemed unnecessarily restrictive. Another commenter stated that this aspect of the rule appears to require that funds be accessed prior to the performance of previously approved decommissioning tasks for which the funds were intended to be used, and that licensees be allowed to access the funds as they are needed.

Response: In response to comments, the NRC has revised the final rule to remove restrictions in frequency for these requests. Currently, a set amount of money is required in advance that must be available through the end of decommissioning and could result in an unnecessary burden on the licensee. This modification permits a reduction in these funds provided the radioactive contamination has been reduced at the site. Because licensees must obtain approval from the Commission to reduce funds, there will be adequate assurance that the licensee has sufficient funds available to cover the cost to complete decommissioning of the facility. These requirements are now located in §§ 30.35(e)(2), 40.42(e)(2), 70.38(e)(2) and 72.54(e)(2) in this final rule.

5. Small Entities

Comment: One commenter and the State of New York asked that small entities be exempt from decommissioning financial assurance.

Response: The majority of small entities are already exempted from the decommissioning funding requirements because they possess limited quantities of radioactive materials. These amendments would not impact the remainder of small entities that have already complied with the applicable funding requirements.

III. Agreement State Compatibility

The draft final rule was sent out to the Agreement States on April 14, 1995 for comment. Five comment letters were received. The State of Tennessee suggested that each individual State be allowed to establish its own

methodology. The State of New York suggested that the rule give the States the latitude to accomplish the rule's intent by other means such as licensing actions. The State of Washington suggested that the rule should be made Division 3 compatibility because the rule is addressing financing, not health and safety; the rule overlooks other mechanisms for protecting the public, such as whatever means necessary to effect decommissioning; and the specific changes are applicable to NRC licensees and not Washington licensees. The States of Nebraska and Maryland suggested that the rule remain Division 2 compatibility.

The NRC has reviewed the definitions of divisions of Agreement State compatibility and has considered the comments from the States and has determined that the rule should be a matter of Division 2 compatibility between the Federal and State because these requirements are the minimum requirements necessary to ensure adequate protection of the public health and safety. Under this level of compatibility, the Agreement States would be expected to adopt decommissioning funding assurance requirements that are as stringent as NRC's, but would be permitted flexibility to apply more stringent requirements if deemed appropriate by the State.

IV. Implementation

This rule will become effective 120 days after publication in the Federal Register. Thus, licensees who do not currently have sufficient financial assurance for decommissioning, but who currently have submitted decommissioning plans or are in timely renewal, have 120 days to revise and submit to NRC their financial arrangements for funding decommissioning.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment was prepared for this rule.

VI. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.). These requirements were approved by the Office of Management and Budget

approval numbers 3150-0009, -0017, -0020, and -0132.

The public reporting burden for this collection of information is estimated to average 6 hours per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestion for reducing the burden, to the Information Records and Management Branch (T-6-F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0017, 8150-0020, 3150-0009, and 3150-0132), Office of Management and Budget, Washington, DC 20503.

VII. Regulatory Analysis

The Commission has prepared this regulation to clarify its decommissioning funding requirements for persons licensed under Parts 30, 40, 70, and 72. Although it does alter existing requirements, the regulatory analyses developed in support of prior decommissioning regulations remain valid and appropriate for this rulemaking because these analyses assumed that all licensees would submit a certification of financial assurance to the NRC of a rule prescribed amount, or licensee estimated and NRC approved amount, necessary to provide adequate funds to decommission the licensed facility and that licensees would have complied with the decommissioning funding requirements prior to ceasing operations and commencing decommissioning. These prior analyses, developed for the rules on expiration and termination of licenses and financial assurances for decommissioning, remain available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. This discussion constitutes the regulatory analysis for this rule.

VIII. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC carefully considered the effect on small entities in developing the final rule on decommissioning funding and scaled the requirements to reduce the impact on small entities to the extent possible while adequately protecting health and safety. Because this action imposes no new financial burden, it is not expected to have an impact on

licensees not already considered in the regulatory flexibility analysis for the decommissioning funding rule as published in the Federal Register on June 27, 1988 (53 FR 24018).

Accordingly, the Commission certifies that this rule will not have any additional significant economic impact upon a substantial number of small entities.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, and therefore, a backfit analysis is not required for this rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials - transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 70

Criminal penalties, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, and Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 30, 40, 70, and 72.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. Section 30.35 is amended by revising paragraphs (b)(2), (c)(2), (c)(3), and (e) and by adding a new paragraph (c)(4) to read as follows:

§ 30.35 Financial assurance and recordkeeping for decommissioning.

(b) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by paragraph (d) of this section using one of the methods described in paragraph (f) of this section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section must be submitted to NRC before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to NRC, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section.

(2) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (a) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan as described in paragraph (e) of this section or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance

rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in any application for license renewal.

(3) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (b) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan as described in paragraph (e) of this section, or a certification of financial assurance for decommissioning in accordance with the criteria set forth in this section.

(4) Any licensee who has submitted an application before July 27, 1990, for renewal of license in accordance with § 30.37 shall provide financial assurance for decommissioning in accordance with paragraphs (a) and (b) of this section. This assurance must be submitted when this rule becomes effective November 24, 1995.

(e) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan must also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section.

3. Section 30.36 is amended by redesignating paragraphs (e) through (j) as (f) through (k) and adding a new paragraph (e) to read as follows:

§ 30.36 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(e) Coincident with the notification required by paragraph (d) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to § 30.35 in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (g)(4)(v) of this section.

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted

with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Commission.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

4. The authority citation for part 40 continues to read as follows:

Authority: Secs. 52, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e2, 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 68 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

5. Section 40.36 is amended by revising paragraphs (b)(2), (c)(2), (c)(3), and (d) and by adding a new paragraph (c)(4) to read as follows:

§ 40.36 Financial assurance and recordkeeping for decommissioning.

(2) Submit a certification that financial assurance for decommissioning has been provided in the amount of \$150,000 using one of the methods described in paragraph (e) of this section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section must be submitted to NRC prior to receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to NRC, as part of the certification, a signed original of the financial

instrument obtained to satisfy the requirements of paragraph (e) of this section.

(c) * * *

(2) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (a) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan as described in paragraph (d) of this section or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan, the licensee shall include a decommissioning funding plan in any application for license renewal.

(3) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (b) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan, as described in paragraph (d) of this section, or a certification of financial assurance for decommissioning in accordance with the criteria set forth in this section.

(4) Any licensee who has submitted an application before July 27, 1990, for renewal of license in accordance with § 40.43 shall provide financial assurance for decommissioning in accordance with paragraphs (a) and (b) of this section. This assurance must be submitted when this rule becomes effective November 24, 1995.

(d) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan must also contain a certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of paragraph (e) of this section.

6. Section 40.42 is amended by redesignating paragraphs (e) through (k) as (f) through (l) and adding a new paragraph (e) to read as follows:

§ 40.42 Expiration and termination of licenses and decommissioning of sites and separate or outdoor areas.

(e) Coincident with the notification required by paragraph (d) of this

section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to § 40.36 in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (g)(4)(v) of this section.

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Commission.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

7. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); Secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841), 5842, 5845, 5846).

Sections 70.1(c) and 70.20(b) also issued under secs. 135, 141 Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 86 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 106, 68 Stat. 939, as amended (42 U.S.C. 2138).

8. Section 70.25 is amended by revising paragraphs (b)(2), (c)(2), (c)(3), and (e) and by adding a new paragraph (c)(4) to read as follows:

§ 70.25 Financial assurance and recordkeeping for decommissioning.

* * * * *

(b) * * *
(2) Submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by paragraph (d) of this section using one of the methods described in paragraph (f) of this section. For an applicant, this

certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but before the receipt of licensed material. If the applicant defers execution of the financial instrument until after the license has been issued, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section must be submitted to NRC before receipt of licensed material. If the applicant does not defer execution of the financial instrument, the applicant shall submit to NRC, as part of the certification, a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section.

(c) * * *

(2) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (a) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan as described in paragraph (e) of this section or a certification of financial assurance for decommissioning in an amount at least equal to \$750,000 in accordance with the criteria set forth in this section. If the licensee submits the certification of financial assurance rather than a decommissioning funding plan at this time, the licensee shall include a decommissioning funding plan in any application for license renewal.

(3) Each holder of a specific license issued before July 27, 1990, and of a type described in paragraph (b) of this section shall submit, on or before July 27, 1990, a decommissioning funding plan, described in paragraph (e) of this section, or a certification of financial assurance for decommissioning in accordance with the criteria set forth in this section.

(4) Any licensee who has submitted an application before July 27, 1990, for renewal of license in accordance with § 70.33 shall provide financial assurance for decommissioning in accordance with paragraphs (a) and (b) of this section. This assurance must be submitted when this rule becomes effective November 24, 1995.

* * * * *

(e) Each decommissioning funding plan must contain a cost estimate for decommissioning and a description of the method of assuring funds for decommissioning from paragraph (f) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility. The decommissioning funding plan must also contain a

certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning and a signed original of the financial instrument obtained to satisfy the requirements of paragraph (f) of this section.

9. Section 70.38 is amended by redesignating paragraph (e) through (j) as (f) through (k) and adding a new paragraph (e) to read as follows:

§ 70.38 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(e) Coincident with the notification required by paragraph (d) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to § 30.35 in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (g)(4)(v) of this section.

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Commission.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

10. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended, (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274 Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135,

137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(a) and 148 (c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134 Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart j also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(e), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

11. Section 72.54 is amended by redesignating paragraph (e) through (l) as (f) through (m) and adding a new paragraph (e) to read as follows:

§ 72.54 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(e) Coincident with the notification required by paragraph (d) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to § 72.30 in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (g)(5) of this section.

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Commission.

Dated at Rockville, MD., this 20th day of July, 1995.

For the Nuclear Regulatory Commission,
John C. Hoyle,
Secretary of the Commission.
 [FR Doc. 95-18315 Filed 7-25-95; 8:45 am]
BILLING CODE 7880-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

[Docket No. 950616158-5158-01]

RIN 0648-A104

Coastal Energy Impact Program

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final Rule; removal.

SUMMARY: This final rule removes regulations implementing the Coastal Energy Impact Program (CEIP), which was established in 1976 under then-section 308 of the Coastal Zone Management Act (CZMA) to provide coastal states and units of general purpose local governments (local governments) in such states with Federal financial assistance to meet certain needs that result from specified energy development activities. In the 1990 amendments to the CZMA the CEIP was terminated and, therefore, the implementing regulations are, for the most part, obsolete. Further, for those particular coastal states and local governments with outstanding CEIP loans, NOAA will continue to apply relevant provisions to such CEIP loan holders by providing actual and timely notice of their continued applicability. Therefore, the regulations need no longer be retained in the Code of Federal Regulations (CFR).

EFFECTIVE DATE: July 26, 1995.

FOR FURTHER INFORMATION CONTACT: James Lawless, Deputy Director, Office of Ocean and Coastal Resource Management, at (301) 713-3155.

SUPPLEMENTARY INFORMATION: In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for immediate, comprehensive regulatory reform. The President directed all agencies to undertake an exhaustive review of all their regulations—with an emphasis on eliminating or modifying those that are obsolete or otherwise in need of reform. This final rule represents one of the first steps in NOAA's response to this new directive.