

JUN 21 1994

License Nos. SMB-179  
SUB-1452  
Docket Nos. 040-00672  
040-08866  
Control Nos. 117006  
113010

MEMORANDUM FOR: James H. Joyner, Chief  
Facilities Radiological Safety and Safeguards Branch

FROM: John D. Kinneman, Chief  
Site Decommissioning Section

SUBJECT: NUCLEAR METALS, INC.; FINANCIAL ASSURANCE FOR  
DECOMMISSIONING FUNDING PLAN

Nuclear Metals, Inc. (NMI) recently responded to Region I's March 2, 1994 letter (copy enclosed) which requested a number of specific items regarding the Decommissioning Funding Plan (DFP) submitted in a letter dated July 1, 1993. The July 1, 1993 DFP estimates the cost of decommissioning the NMI facility at \$30,000,000 or \$39,000,000, depending on how it is read. NMI's May 15, 1994 letter provides a cost estimate of \$13,707,324. Although NMI submitted a Letter of Credit in 1990 for \$750,000, and in spite of specific requests and explanations by Region I in letters dated June 7, 1991, May 13, 1992 and March 2, 1994, NMI has not submitted financial assurance to cover the costs of decommissioning. The following chronology outlines correspondence between NMI and NRC concerning the DFP and financial assurance. Please note that the cost estimates are considered proprietary by NMI and should not be disclosed outside NRC.

July 26, 1990: NMI submits a Letter of Credit for \$750,000. The licensee states in its letter that a Decommissioning Funding Plan (DFP) is not required until the next renewal period because they submitted their license renewals on May 16, 1989 and March 19, 1990, respectively, prior to the effective date of the DFP rule. Their position is based on discussions with Region I personnel, and we agree with the NMI position.

July 27, 1990: Financial assurance requirements became effective. Requirements for source material licensees are detailed in 10 CFR 40.36.

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Nuclear Metals, Inc.

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- June 7, 1991. Region I deficiency letter requests that the licensee submit an additional \$750,000 of financial assurance and states that a DFP is, in fact, required. (Region I's original guidance in 1990 to NMI with regard to submitting a DFP was later determined to be incorrect.)
- May 13, 1992: Based on information provided by the licensee, Region I amends licenses granting NMI an extension of time to submit a DFP by July 1, 1993.
- July 27, 1992: NMI submits draft changes to Letter of Credit in response to the June 7, 1991 NRC letter.
- July 1, 1993: NMI submits a DFP which includes a cost estimate for decommissioning of either \$30,000,000 or \$39,000,000, but does not include either an acceptable financial assurance mechanism in the correct amount or adequate information to support the cost estimate.
- March 2, 1994. Region I deficiency letter sent to NMI requesting additional information concerning the cost estimate and other subjects, modification of the DFP and submission of an acceptable financial assurance mechanism. A copy of this letter is enclosed.
- April 15, 1994: Partial response by NMI to NRC's March 2, 1994 letter. Does not provide a financial instrument assuring availability of the required funds, but states "that a statement of intent to provide for decommissioning funding [is expected] to come from the Department of the Army during 1995". There is no specific information which indicates this is a reasonable expectation. The response does not specifically address the items detailed in the March 2, 1994 letter.
- May 15, 1994. Another partial response to NRC's March 2, 1994 letter. The licensee provides a revised cost estimate of \$13,707,324, substantially less than the original (July 1, 1993) estimate. Does not provide a financial instrument assuring availability of the required funds, but states "We are currently working with the financial institution and expect to provide a revised STA [Standby Trust Agreement] as soon as the changes are made."
- May 17, 1994. Telephone conversation between Duncan White of Region I and Frank Vumbaco, licensee's Vice President for Health and Safety. Mr. Vumbaco states that a Standby Trust Agreement (STA) for \$750,000 should be finalized and sent to Region I within two weeks. The STA is intended to cover only decommissioning costs related to non-government work.

Historically, nearly all of NMI's contracts have been from the U.S. Department of the Army for depleted uranium (DU) penetrators. In 1993, government contracts for DU penetrators were significantly reduced, leading to a reduction in revenues for NMI and possible financial difficulties. Based on their April 15, 1994 letter, NMI clearly is depending on the Army to provide decommissioning funding in the future based on their historical support of NMI's requests for individual decontamination and decommissioning (D&D) projects. Financial assurance for the DFP would presumably be in the form of a Statement of Intent from the Army. However, there is no assurance in NMI's correspondence that the Army actually intends to provide a Statement of Intent. The requirements of 10 CFR 40.36 (d) and (e) are rather explicit with regard to an adequate financial mechanism for assuring availability of funding for decommissioning. NMI has failed to meet this requirement. In order to ensure compliance with financial assurance requirements, the following course of action is proposed

1. Division Director contacts the President of NMI by telephone to discuss the NRC concerns regarding the licensee's failure to provide adequate financial assurance and inform him that he is signing a Demand for Information. We need the information described in the Demand (and previously clearly requested (actually demanded) in our letter dated March 2, 1994) in order to evaluate NMI's financial condition.
2. Issue Demand for Information. A proposed Demand for Information and cover letter are enclosed.
3. Schedule an enforcement conference with the licensee shortly after the deadline for responding to the Demand for Information, unless adequate financial assurance is provided.
4. Accept NMI's request to withhold cost estimate and supporting data from public disclosure. This is being pursued separately.
5. Request additional information concerning the cost estimate. This is being pursued separately.

Based on NMI's April 15, 1994 letter, it is unlikely that NMI can provide an adequate financial assurance mechanism. Due to the significant environmental remediation required on the site (the holding basin and the presence of DU in the groundwater), the NRC's interests would be best served if we negotiate with the licensee a series of milestones that will result in achieving adequate funding for the DFP and address the remediation of the holding basin and assessment of the DU contamination of the groundwater under the site, and then confirm these in the license or an order.

Nuclear Metals, Inc.

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We are, of course, available to discuss any of these issues with you at your convenience.

Original Signed By:

John D. Kinneman, Chief  
Site Decommissioning Section

Enclosures:

1. Region I letter to NMI dated March 2, 1994.
2. Draft Region I letter with Demand for Information.

cc w/enclosures:

M. Shanbaky, RI  
A. Dimitriadis, RI

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ML 10

Nuclear Metals, Inc.

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bcc w/enclosures:

Region I Docket Room (w/concurrences)

*J*  
RE: DRSS  
White

06/10/94

RE: DRSS  
Kinneman

06/10/94

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License Nos. SMB-179  
SUB-1452

Docket Nos. 040-00672  
040-08866

Control Nos. 117006  
113010

Nuclear Metals, Incorporated  
ATTN: Frank J. Vumbaco, Vice President  
Health and Safety  
2229 Main Street  
Concord, Massachusetts 01742

Dear Mr. Vumbaco:

Subject: Financial Assurance for Decommissioning

This is in reference to your submittals dated July 26, 1990, July 27, 1992 and July 1, 1993 to provide financial assurance for License Nos. SMB-179 and SUB-1452.

We assume the July 1, 1993 submission is the Decommissioning Funding Plan (DFP) which you are required to submit by 10 CFR 40.36(a) and (d). The date for the submission of the DFP was extended to July 1, 1993 by Condition 15 of License No. SMB 179 and Condition 15 of License No. SUB 1452. My letters dated May 13, 1992 which transmitted the license amendments granting the extension of time to file the DFP, stated, "By that date you must submit the cost estimate, the basis for the estimate, and a financial instrument or instruments assuring availability of the required funds" (emphasis added). We have reviewed the documents submitted and find that they do not provide satisfactory financial assurance for your licenses. One particular reason that they do not provide satisfactory assurance is that the DFP does not include a financial instrument or instruments assuring availability of the required funds. The funds required are the amount given by a properly determined cost estimate for decommissioning the Nuclear Metals, Inc. (NMI) licensed facility. Therefore, you should pay particular attention to the responses required regarding a financial instrument discussed in item 1.d below. Failure to supply an adequate financial assurance mechanism is a significant matter to the Commission and may result in enforcement action.

You must modify your submittals to address and/or respond to the following specific items.

OFFICIAL RECORD COPY S \PENDING\NUCLMET.FA March 2, 1994

ML 10

1. **Submit a Letter of Credit or other acceptable financial assurance mechanism in the correct amount.**
  - a. You submitted a copy of an Irrevocable Standby Letter of Credit with your letter dated July 26, 1990. The amount of that Letter of Credit is now substantially less than the amount of the cost estimate enclosed with your letter dated July 1, 1993. Submit an originally signed copy of a Letter of Credit or other acceptable financial assurance mechanism in an amount which coincides with your cost estimate. Acceptable financial assurance mechanisms are described in 10 CFR 40.36(e); recommended wording and forms for most acceptable financial assurance mechanisms are found in Regulatory Guide 3.66 (copy enclosed). It is not acceptable to wait until the NRC has indicated agreement with your cost estimate to obtain a financial assurance mechanism
  - b. Your letter dated July 1, 1993 discusses the fact that much of your work is conducted under contract to the U.S. Government and indicates that the Government may pay a substantial fraction of the costs to remove contaminated equipment and/or decommission your facility. If a U.S. Government agency agrees and is willing to furnish a Statement of Intent for your facility, we will consider accepting that Statement as your financial assurance mechanism. In order to consider such a Statement it must clearly demonstrate the authority of the individual signing the Statement to make the commitment. We are aware that any commitment made by a Government representative is subject to the availability of appropriations. However, the individual signing the Statement must be an actual Government representative and must have the authority to request and expend the funds if they are appropriated. If a Government Statement of Intent only assures a portion of the estimated costs, another mechanism is required to assure the remainder.

A possible wording for such a Statement of Intent is enclosed. Even if a Statement with acceptable wording is provided, this method of financial assurance is not included in the regulations for private companies and may require granting of an exemption by the NRC. Therefore, we cannot guarantee that we will approve it, however, we will give such a proposal careful consideration. An accurate and complete cost estimate is required to support the Statement of Intent; it is not acceptable for the Statement to assure "all" or a fraction of the final cost without an actual estimate.
  - c. If you propose to provide a self guarantee as stated in your letter dated July 1, 1993, the rule allowing self-guarantees became effective January 28, 1994 (See 58 FR 68726-32). In order to use this option NMJ must pass the specified financial test and submit all of the documentation required by the rule.

d. Within thirty days of the date of this letter, NMI must either provide satisfactory financial assurance or a written description of the mechanism which you expect to provide and the date when it will be provided. If, at that time, you do not have a clear commitment from a financial institution or Government agency to provide a financial assurance instrument, you must provide a complete description of why you have not obtained the financial assurance, including:

i. The names, addresses, and telephone numbers of the financial institutions and individual persons at those financial institutions NMI or its representatives have contacted in order to obtain the required instruments and the dates of the principal contacts.

ii. If NMI has applied to one or more financial institutions for a financial assurance instrument and the application or applications have been denied, copies of:

(1) the applications and denials;

(2) NMI's most recent audited balance sheet showing all assets and liabilities;

(3) NMI's most recent audited profit and loss statement;

(4) NMI's federal tax returns for the last three years; and,

(5) an explanation of why the applications were denied.

iii. If NMI has not applied for financial assurance instruments, a complete explanation of the steps taken to obtain financial assurance and the documents described in items 1.d.ii.(2), (3) and (4) above.

In the event that the statements described in this section are necessary, they are required to be made by an officer of the corporation under oath or affirmation as to their correctness and completeness.

2. Resubmit a Standby Trust Agreement and related documentation.

You submitted a Standby Trust Agreement dated July 25, 1990 which follows the general format contained in Regulatory Guide 3.66, but which contains language which is significantly different from the recommended wording found in that document on pages 4-18 through 4-23. If the financial assurance mechanism you

select and submit continues to require a Standby Trust Agreement, modify and resubmit the Agreement as discussed below:

- a. Neither a "specimen certificate of events" nor "specimen certificate of resolution" are included with the Standby Trust Agreement. Section 5 of the Agreement refers to an attached "specimen certificate of events," which must be executed in order to initiate payments from the fund. The recommended certificate of events on page 4-24 of Regulatory Guide 3.66 requires submission of a certificate of resolution authorizing the commencement of decommissioning. Provide both specimen certificates (which should contain blank spaces for dates and signatures until decommissioning activities commence) worded similarly to the examples on pages 4-24 and 4-25 of Regulatory Guide 3.66. The specimen certificates will assist the trustee in evaluating whether a release of funds from the trust is appropriate.
- b. Submit a copy of the corporate bylaws or other evidence which indicates that the parties signing the Standby Trust Agreement for NMI are authorized to represent the organization in the transaction.
- c. NMI's Standby Trust Agreement includes a blank letter of acknowledgement. As recommended on page 4-27 of Regulatory Guide 3.66, the acknowledgement is needed to verify the execution of the Standby Trust Agreement and to certify the trustee's signature and authority to enter into the agreement. Submit a completed letter of acknowledgement.
- d. NMI's Standby Trust Agreement omits the following statement found in Section 6 of the recommended wording in Regulatory Guide 3.66 on page 4-20. The recommended wording indicates that the trustee must manage the trust "...solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and like aims." Modify the Agreement to include the recommended wording.
- e. Section 15 of NMI's Standby Trust Agreement requires only 30 days notice of the trustee's resignation or replacement. Regulatory Guide 3.66, page 4-22, recommends 90 days notice. The 30 days afforded in your submittal may not allow NRC or NMI adequate time to secure an alternate trustee. Modify the Agreement to provide 90 days notification of trustee resignation or replacement. We note that the draft Standby Trust Agreement submitted with your letter dated July 27, 1992 proposed such a change.

- f. The Standby Trust Agreement submitted is a copy. Submit originaly signed duplicates of a modified Standby Trust Agreement with all appropriate seals.

3. Adjust the assumptions for your cost estimate.

Your letter dated July 1, 1993 states that "decommissioning...will be a phased approach over time." "The NMI site and remaining facilities will always be used for commercial and/or industrial purposes." "NMI views itself as an industrial company continuing in existence as a licensee into the indefinite future." The "Decommissioning Information" enclosed with that letter states, on page 1-6, that it "...assumes that all machinery that is not required to support decontamination activities will be removed prior to initiation of any future site decommissioning." While these statements may in fact describe the intentions and future of NMI, the decommissioning cost estimate must be prepared as though NMI is unable to continue operations and has no assets to conduct decommissioning on an unexpected or nearly unexpected basis. The financial assurance mechanism must be sufficient to provide funds for the corporation or another entity to properly remediate the site, dispose of all radioactive material and waste on hand and generated in the remediation process and release the site for unrestricted use.

Your July 1, 1993 letter further states that your Preliminary Decommissioning Plan (PDP), which was not submitted, does not address the remediation of the holding basin since remediation plans for that area are well under way and funds have been requested from the Army for that project. While we have no objection to separate cost estimates and financial assurance mechanisms for different portions of the site, estimated costs of future remediation of the site must be assured. Of course, the amount of money assured may be reduced as funds are actually expended and portions of the site are remediated, resulting in lower future estimated costs. Financial assurance is particularly appropriate for a remediation project such as the holding basin which, while it is expected to begin soon, will apparently take a number of years to complete.

Your letter dated July 1, 1993 also states that, "There may be some costs for decommissioning associated with the small amount of commercial activities ... performed by NMI involving DU materials. NMI intends to cover these costs as routine business expenses, as the need arises." As stated previously, NMI's cost estimate and financial assurance mechanisms, must include all costs to decommission your entire facility, as if the decommissioning were to be done immediately.

Modify you. cost estimate to include all costs necessary to decommission the facility.

4. **Submit additional detail to support your cost estimate.**

The decommissioning cost estimate included with your July 1, 1993 letter does not include sufficient detail to allow an adequate evaluation of the costs involved to perform the activities described in the cost estimate. In particular, the submittal does not include the following information:

- a. Descriptions of the facilities, the activities that occur at the facilities, and the levels of contamination that may be present (reasonable summaries are acceptable);
- b. The number or dimensions of facility components (e.g., floors, walls, fume hoods, glove boxes, laboratory benches, ductwork) that may need to be decontaminated;
- c. A worker unit cost schedule and a table of worker days/hours for each task,
- d. A detailed list of the types and amounts (volume estimates) of radioactive waste that will need to be disposed, including the waste generated by decommissioning activities.

In order to allow an adequate evaluation of the estimated decommissioning costs, submit a complete cost estimate which includes the information listed above. Increase the level of detail in your submission, especially for decontamination and dismantling activities, to be consistent with the cost estimating tables in Appendix F of Regulatory Guide 3.66. The enclosed NUREG/CR-1754, Addendum 1, may be helpful in preparing your cost estimate.

5. **Include the costs of conducting final radiation survey(s).**

Regulatory Guide 3.66 recommends that decommissioning cost estimates include estimated costs of conducting final radiation survey(s) (see pages 1-9 and F-5). Your cost estimate does not include costs for this activity. To ensure that the cost estimate is adequate to cover all required decommissioning activities, include in your cost estimate the costs of conducting final radiation survey(s).

6. **Incorporate a contingency factor into the decommissioning cost estimate.**

It appears that you have not made any allowance in your cost estimate for contingencies. Regulatory Guide 3.66 recommends that a contingency factor be included in the decommissioning cost estimate. Incorporating a contingency factor in the cost estimate helps to ensure that licensees are prepared for unexpected

circumstances that could raise decommissioning costs. NUREG/CR-1754 uses a contingency factor of 25 percent in its cost estimates for each of six reference laboratories. Incorporate a contingency factor of 25 percent into the decommissioning cost estimate. You may choose to use a lower contingency factor if you can show that a lower factor is appropriate.

7. Describe the means to be used for adjusting your cost estimate and associated funding levels over the life of the facility.

10 CFR 40.36(d) requires that you describe the means you will use to adjust decommissioning cost estimates and associated funding levels over the life of the facility. While your letter dated July 1, 1993 states that your Preliminary Decommissioning Plan, which was not submitted, will be reviewed annually and modified when needed, you did not provide an adequate description of the review. Regulatory Guide 3.66 suggests that adjustments be made at the time of license renewal, or when the amounts/types of material at the facility change. Adjustments should be made to account for inflation, for other changes in prices of goods and services, for changes in facility conditions, and for changes in expected decommissioning procedures. Submit a description of the review which will be conducted and state the frequency.

8. Confirm that credit was not taken for salvage value.

The cost estimate does not state whether credit was taken for salvage value that may be realized from the sale of potential assets after decommissioning. If estimated credits are taken for salvage value, but are not fully realized at the time of decommissioning, the cost estimate may be significantly low. To ensure the adequacy of the cost estimate, Regulatory Guide 3.66, page 1-10, states that cost estimates should not incorporate any credit for salvage value. Confirm that no credit was taken for salvage value from the sale of potential assets after decommissioning.

Satisfactory financial assurance is required for NMI's licenses. As discussed above, you must respond within 30 calendar days of the date of this letter regarding your financial assurance mechanism. If you are unable to provide a complete response to the other portions of this letter within 60 days, provide a complete statement of what responses will be delayed and a clear reason for the delay. Based on the various documents described in your letter dated July 1, 1993, it appears that much of the work associated with preparing the detailed cost estimate has been completed and provided to your customers within the Government. Therefore, if you request additional time to provide that information, provide a detailed description of the work which must be done to develop the response and estimate the staff hours necessary to accomplish that work.

Your letter dated July 1, 1993 states that the decommissioning cost estimate is considered competition sensitive and requests that NRC treat the material in Appendix 2 to the letter as Company Proprietary. Since there is no document labelled Appendix 2, we assume this refers to Attachment 2. In order for us to consider withholding this information from public disclosure you must submit an application for withholding and an affidavit as described in 10 CFR 2.790(b)(1).

Please reply in duplicate to my attention at the Region I office and be sure to submit originally signed duplicate documents with all appropriate seals for the financial assurance mechanism and Standby Trust Agreement. Refer to Mail Control Nos. 117006 and 113010 in your response.

The responses directed by this letter are not subject to the clearance procedures of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

If you have any questions regarding this matter, please contact Duncan White of my staff at (610) 337-5042 or me at (610) 337-5252. Please note the change in our Area Code.

Sincerely,

Original Signed By:  
John D. Kinneman

John D. Kinneman, Chief  
Site Decommissioning Section  
Division of Radiation Safety  
and Safeguards

Enclosures:

1. Possible Wording for a Statement of Intent by a Government Agency for a Private Licensee
2. Regulatory Guide 3.66
3. NUREG/CR-1754
4. NUREG/CR-1754, Addendum 1

Nuclear Metals, Incorporated

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cc: w/enclosure 1 only  
Commonwealth of Massachusetts  
Department of the Attorney General  
ATTN: Betsy Harper  
Assistant Attorney General  
Environmental Protection Division  
One Ashburton Place  
Boston, Massachusetts 02108

Commonwealth of Massachusetts  
Department of Environmental Protection  
ATTN: Rodene A. DeRice  
Environmental Analyst  
10 Commerce Way  
Woburn, Massachusetts 01801

Commonwealth of Massachusetts  
Department of Health  
ATTN: Robert Hallisey  
Director  
Radiation Protection Program  
150 Tremont Street  
Boston, Massachusetts 02111

Concord Free Public Library  
ATTN: Ray Gerke  
129 Main Street  
Concord, Massachusetts 01742

Nuclear Metals, Incorporated

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bcc: w/enclosure 1 only

Region I Docket Room (w/concurrences)

J. Austin, NMSS

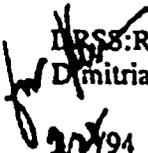
L. Bykoski, NMSS

M. Shanbaky, RI

J. Kinneman, RI

D. White, RI

A. Dimitriadis, RI

  
DRSS:RI  
Dimitriadis/bj  
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DRSS:RI  
White  
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DRSS:RI  
Kinneman  
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DRSS:RI  
Joyner  
3/1/94

POSSIBLE WORDING FOR A STATEMENT OF INTENT  
BY A GOVERNMENT AGENCY FOR A PRIVATE LICENSEE

[DATE]

TO: U.S. NUCLEAR REGULATORY COMMISSION  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406

STATEMENT OF INTENT

As  [Title]  of  [Government Agency Name] , I exercise express authority and responsibility to approve funding for decommissioning activities associated with operations at facilities operated by  [Name of Licensee]  where activities authorized by U.S. Nuclear Regulatory Commission (USNRC) License No(s).  [License Number(s)]  are carried out. This authority is established by  [Name of Document(s) Governing Control of Funds] . Within this authority, I intend to have funds made available when necessary in an amount up to  [Dollar Amount]  to decommission  [Description of Facilities]  in accordance with USNRC requirements. I intend to request and obtain these funds sufficiently in advance of decommissioning to prevent delay of required activities.

Copies of  [Name of Documents]  are attached as evidence that I am authorized to represent  [Government Agency Name]  in this transaction and that I have sufficient authority to make these commitments.

[SIGNATURE]

[NAME]  
[TITLE]

Attachment(s): As Stated



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION I  
475 ALLENDALE ROAD  
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

JUN 21 1994

License Nos. SMB-179  
                  SUB-1452  
Docket Nos. 040-00672  
                  040-08866  
Control Nos. 117006  
                  113010

Nuclear Metals, Inc.  
ATTN: Wilson B. Tuffin  
      President  
2229 Main Street  
Concord, Massachusetts 01742

Dear Mr. Tuffin:

**SUBJECT:** Financial Assurance, Demand for Information

As of July 27, 1990, you were required to comply with 10 CFR 40.36, which requires that licensees, authorized to possess the amounts of licensed material listed in the above referenced licenses, submit a Decommissioning Funding Plan (DFP). The above licenses were amended to delay submission of a DFP and financial assurance until July 1, 1993. We received and reviewed your initial responses to this requirement in letters dated July 26, 1990, July 27, 1992 and July 1, 1993 and requested specific information, including an appropriate financial assurance mechanism, in our letter dated March 2, 1994. Your letters dated April 15, 1994 and May 15, 1994 fail to provide all the information required to respond to our letter dated March 2, 1994. Particularly, you did not provide satisfactory financial assurance in that the DFP does not include a financial instrument or instruments assuring availability of the required funds. You, therefore, appear to be in violation of 10 CFR 40.36.

The Commission considers noncompliance with 10 CFR 40.36 to be a significant regulatory concern because of the importance of assuring that licensees pay for decommissioning of licensed facilities. To determine whether your license should be modified, suspended or revoked, or other enforcement action should be considered, you are required to respond in writing, and under oath or affirmation, within 15 days of the date of this letter with the information described in the enclosed Demand for Information. We note that the information described in the Demand was requested in our letter dated March 2, 1994. Failure to provide the information in the Demand may result in significant enforcement action.

Nuclear Metals, Inc.

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Your response should be addressed to Region I at the above address and should be clearly marked, "Response to Demand for Information". Technical questions concerning the cost estimate enclosed with your letter dated May 15, 1984 will be provided in separate correspondence.

The responses directed by this letter and the enclosed Demand for Information are not subject to the clearance procedures of the Office of Management and Budget, as required by the Paperwork Reduction Act of 1980, PL 96-511.

If you have any questions regarding the enclosed Demand, please contact Duncan White of my staff at (610) 337-5042.

Sincerely,



Charles W. Hehl, Director  
Division of Radiation Safety  
and Safeguards

Enclosure:  
Demand for Information

cc (w/enclosure):  
Public Document Room (PDR)  
Nuclear Safety Information Center (NSIC)

Commonwealth of Massachusetts  
Department of the Attorney General  
ATTN: Betsy Harper  
Assistant Attorney General  
Environmental Protection Division  
One Ashburton Place  
Boston, Massachusetts 02108

Commonwealth of Massachusetts  
Department of Environmental Protection  
ATTN: Cynthia Weidner  
Environmental Analyst  
10 Commerce Way  
Woburn, Massachusetts 01801

**Nuclear Metals, Inc.**

**3**

**Commonwealth of Massachusetts  
Department of Health  
ATTN: Robert Hallisey  
Director**

**Radiation Protection Program  
150 Tremont Street  
Boston, Massachusetts 02111**

**Concord Board of Health  
133 Keyes Road  
Concord, Massachusetts 01742**

**Concord Free Public Library  
ATTN: Reference Librarian  
129 Main Street  
Concord, Massachusetts 01742**

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

In the Matter of  
Nuclear Metals, Inc.  
Concord, Massachusetts

) Docket Nos. 040-00672  
) 040-08866  
) License Nos. SMB-179  
) SUB-1452

DEMAND FOR INFORMATION

I

Nuclear Metals, Inc. (Licensee) holds source material licenses No. SMB-179 and SUB-1452 (Licenses) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 40. The licenses authorize the licensee to use and possess byproduct and source material in accordance with the terms and conditions specified therein and the applicable NRC regulations.

II

As of July 27, 1990, the Licensee was required to comply with 10 CFR 40.36 of the Commission's regulations, which requires licensees authorized to possess certain quantities of licensed material to submit either a Decommissioning Funding Plan (DFP) or a certification of financial assurance for decommissioning in the amount prescribed in 10 CFR 40.36, in accordance with the criteria set forth in that section. The licenses authorize quantities which require submission of a DFP and appropriate financial assurance. The licenses were amended to delay the requirement for submission of a DFP and associated financial assurance until July 1, 1993. The NRC staff has not yet received an acceptable response to this requirement from the Licensee. Specifically, the licensee has not provided financial assurance in the amount of the cost estimate contained in the DFP. Therefore, the Licensee appears to be in violation of this requirement.

The violation of the requirements of 10 CFR 40.36 is a significant regulatory concern to the NRC staff. Therefore, further information is needed to determine whether the Commission can have reasonable assurance that the Licensee will satisfy the requirement of 10 CFR 40.36 and otherwise conduct its activities in accordance with the Commission's requirements.

III

Accordingly, pursuant to sections 161c, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 40.36, in order for the Commission to determine whether the Licenses should be modified, suspended or revoked, or other enforcement action taken to ensure compliance with NRC regulatory requirements, the Licensee is required to submit to the Administrator, Region I, 475 Allendale Road, King

of Prussia, Pennsylvania 19406, within 15 days of the date of this Demand for Information, the following information, in writing and under oath or affirmation:

- A. The names, addresses, and telephone numbers of the financial institutions and the individual persons at those financial institutions the Licensee or its representatives have contacted in order to obtain the required instruments and the dates of the principal contacts. If no financial institutions were contacted, the response shall so state.
- B. If the Licensee has applied to one or more financial institutions for a financial assurance instrument and the application or applications have been denied, copies of
  - 1. the applications and denials; and
  - 2. an explanation of why the applications were denied.
- C. If the Licensee has not applied for financial assurance instruments, a complete explanation of the steps taken to obtain financial assurance, including a complete discussion of all contacts with the U.S. Government or its representatives regarding funding of decommissioning or a Statement of Intent. If any representative of the U.S. Government has provided a written response to requests from the Licensee to guarantee funding for decommissioning in the future, a copy of each such answer.
- D. The Licensee's most recent audited balance sheet showing all assets and liabilities.
- E. The Licensee's most recent audited profit and loss statement.
- F. The Licensee's federal tax returns for the last three years.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

FOR THE NUCLEAR REGULATORY COMMISSION

" Original Signed By:   
Charles W. Hehl

Division of Radiation Safety and Safeguards  
Region I  
King of Prussia, Pennsylvania 19406

Dated at King of Prussia, Pennsylvania  
this 1<sup>st</sup> day of Dec 1994

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