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Submitter Information

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General Comment

See attached file(s)

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2

Attachments

CD15-0235 Comments on Financial Planning for Management of Radioactive Byproduct Material NRC
Docket No NRC-2015-0182

SUNSI Review Complete

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Add= R. White (AR W2)

J. Shaffer (JAS 11)



October 16, 2015

CD15-0235

Cindy Bladey, Office of Administration
OWFN-12-H08
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

**Subject: Comments on Financial Planning for Management of Radioactive
Byproduct Material**

Reference: Docket No. NRC-2015-0182

Dear Ms. Bladey:

EnergySolutions hereby provides comments regarding the Financial Planning for Management of Radioactive Byproduct Material. Our detailed responses to the questions in the *Federal Register* notice are provided in the attachment.

EnergySolutions is in favor of the U.S. Nuclear Regulatory Commission (NRC) initiating a rulemaking that would impose financial planning requirements for decommissioning and end-of-life management for radioactive byproduct material. We believe that regulatory requirements are necessary because not all licensees have taken the appropriate steps necessary to ensure that these materials are disposed in a timely fashion. While instances that pose a threat to human health and safety have been rare, that is not an acceptable standard for the industry to satisfy. Even well intentioned licensees can find themselves in unexpected financial distress that leaves them unable to address proper disposal if that action has been continually deferred and sufficient funds have not been reserved. Thus, we conclude that additional regulatory control is appropriate.

Thank you for this opportunity to comment. Questions regarding these comments may be directed to me at (801) 649-2109 or dshrum@energysolutions.com.

Sincerely,


Daniel B. Shrum
Senior Vice President
Regulatory Affairs

Dan Shrum
Oct 16 2015 8:00 AM

CsSten

**COMMENTS ON THE FINANCIAL PLANNING FOR MANAGEMENT
OF RADIOACTIVE BYPRODUCT MATERIAL**

EnergySolutions appreciates the opportunity to provide comments on potential changes to the financial planning requirements for decommissioning and end-of-life management for some radioactive byproduct material. As requested in the Federal Register, we are providing our comments to five of the eight questions the NRC has identified.

Question 2: What should be the primary considerations in establishing and imposing appropriate and equitable financial planning requirements on radioactive sealed sources?

The primary consideration for imposing financial planning requirements is the protection of human health and safety. The most appropriate way to do so is to require that licensees set aside sufficient funds to ensure that radioactive material under their control is appropriately managed throughout its life cycle. Therefore, EnergySolutions recommends the imposition of a requirement that all non-utility Low-Level Radioactive Waste (LLRW) generators have sufficient financial assurance to cover the removal and appropriate disposition of radioactive material from their sites.

Question 4: How should source characteristics be factored into establishing equitable financial planning requirements for end-of-life management?

EnergySolutions believes that the NRC should propose a standard for source characteristics and solicit public comment on its technical proposal. As noted in the FR notice, physical characteristics can vary widely and will change over time given radioactive decay. Nonetheless, the risk of even low-activity sources can be nontrivial if they are not handled properly. There clearly is some risk that licensees will not manage sources properly because they do not have the financial motive to do so.

Consistent with current regulatory approaches, NRC should take a risk-based approach in establishing source characteristics, but the risk should be in the aggregate for sources held by a licensee. Identification of source characteristics should take into account the following concerns:

- Risk can increase over time due to changes in licensee financial conditions even if the radiological risk is diminishing. Thus, it is not appropriate to assume that the problem can be completely addressed by radioactive decay.
- Licensees should be motivated to classify sources as disused and arrange for their proper disposal as soon as feasible, rather than relying on unreasonable assumptions regarding potential reuse.

- Licensees also need not defer action because of concerns over the availability of disposal capacity. Disposal access is no longer a problem for the vast majority of sources. In fact, for most sources, there are multiple disposal alternatives.

All of these reasons argue for setting a low threshold for activity levels of concern. NRC currently imposes financial assurance considerations in 10 CFR 30.35 for byproduct material; however, the limits are not low enough to address the concerns that have been raised by the recent studies cited in the FR notice. It would seem reasonable for the NRC to reevaluate the existing regulatory thresholds and propose revisions to these existing limits.

Question 5: If NRC rulemaking is initiated as a result of this scoping study, how should NRC engage with and consider the impact on Agreement States? What would be the primary considerations in establishing compatibility levels for rule requirements?

The NRC has well established policies and procedures for engaging Agreement States in its rulemaking proceedings. The issues related to a rulemaking anticipated to address financial requirements regarding the disposal of sealed sources and other byproduct material does not raise issues that would not be adequately addressed via the current approaches. Other rulemakings impose requirements on Agreement States; a prime example is the ongoing rulemaking regarding Low Level Radioactive Waste Disposal, 10 CFR Part 61. Agreement States should be afforded the opportunity to comment, as well as to meet with the NRC staff on a regulator-to-regulator basis to make their views known.

As with the question of Agreement State role, there also are well established mechanisms for determining compatibility requirements. In this case, we believe that the issues of transboundary impacts should carry significant weight. Sealed sources are manufactured and stored in many states, and used in all states. It does not seem rational that the standards for financial assurance should vary from state to state when the risk does not. As such, the compatibility requirement should be B.

Question 6: When necessary, what mechanism should be used to administer financial planning requirements on general licensees?

and

Question 7: What are the ideal characteristics and qualifications for an entity that will act as the custodian for any funds earmarked for long-term management of disused sealed sources? For instance, what characteristics and qualifications should be taken into consideration regarding the custodian's relationship to the licensee (e.g., the ability of the custodian to access the funds, or the custodian's independent financial viability)? In the event that there is a residual amount remaining in the fund following payment of disposition cost, what should be the fate of the residual funds?



The NRC has an appropriate model for how best to manage funds in its existing regulations. *EnergySolutions* proposes that the approach to funding assurance contained in 10 CFR 30.35 is suitable. If the NRC were to adjust the activity thresholds, it is not clear why the existing standards should not apply.