



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

DEC 5 1990

MEMORANDUM FOR: John E. Glenn, Chief  
Medical, Academic, and Commercial  
Use Safety Branch  
Division of Industrial and  
Medical Nuclear Safety, NMSS

FROM: John H. Austin, Chief  
Regulatory Branch  
Division of Low-Level Waste Management  
and Decommissioning, NMSS

SUBJECT: RESPONSE TO TECHNICAL ASSISTANCE REQUEST REGARDING  
APPLICATION OF FINANCIAL ASSURANCE REQUIREMENTS FOR WASTE  
BROKERS LOCATED IN AGREEMENT STATES

This memorandum is in response to your November 8, 1990, inquiry about the applicability of the financial assurance requirements in 10 CFR Parts 30, 40, and 70, with regard to two waste brokers located in the Agreement State of New York.

Upon consultation with the Office of the General Counsel, it has been determined that the Decommissioning Rule requirements apply to these waste broker licensees. Implementation of the regulation occurs when possession limit thresholds are met, not by the storage or transportation status described in this situation. Since the licensees' possession quantities of radioactive materials exceeds  $10^5$  times the applicable quantities set forth in Appendix C to 10 CFR Part 20, they are required to provide pursuant to 10 CFR Section 30.35(a), a decommissioning funding plan for the eventual decontamination and disposal of their trucks and facilities. Each decommissioning plan pursuant to 10 CFR 30.35 (e) must provide a cost estimate for decommissioning (the cost estimate may be greater or lesser than the amounts of financial assurance prescribed by paragraph (d) of 10 CFR 30.35), a selection of a financial assurance method for assuring funds for decommissioning, a copy of the method used to obtain the dollar value that is reflected in the cost estimate, and a means of adjusting the cost estimates and associated funding levels periodically over the life of the facilities. Licensees are always entitled, pursuant to 10 CFR 30.11 (a), to request an exemption to the Decommissioning Rule requirements. Such requests are evaluated on the merits of each specific case.

It should also be noted that the Decommissioning Rule is a matter of compatibility with Agreement States.

If you have any questions with regard to the above, please contact Tim Johnson on extension 20558 or Louis Bykoski on extension 20572.

John H. Austin, Chief  
Regulatory Branch  
Division of Low-Level Waste Management  
and Decommissioning, NMSS

9012130292  
XA 1P