AFFIRMATION VOTE

RESPONSE SHEET

TO: SAMUEL J. CHILK, SECRETARY OF THE COMMISSION

FROM: THE CHAIRMAN

SUBJECT: SECY-93-284 - FINAL RULE, 10 CFR PARTS 30, 40, 50, 70, AND 72, "SELF-GUARANTEE AS AN ADDITIONAL FINANCIAL ASSURANCE MECHANISM"

APPROVED X(w/comments) DISAPPROVED ____ ABSTAIN ____

NOT PARTICIPATING ____ REQUEST DISCUSSION ____

COMMENTS:

I approve issuance of the final rule subject to the attached mark-up of the Federal Register clarifying the response to public comments. I agree with Commissioner Rogers' comment on the public announcement.

Selin
SIGNATURE

RELEASE VOTE /_X_/

11/4/93
DATE

WITHHOLD VOTE /___/

ENTERED ON "AS" YES ✓ NO ___

DF02 1/0

Use of Self-Guarantee by Electric Power Utility Licensees

One commenter indicated that electric utilities licensed under Part 50, which are prohibited from using the proposed self-guarantee, should be allowed to use that option. The commenter, pointing to the Regulatory Analysis, argued that NRC's stated reasons do not create a strong technical basis for not allowing nuclear power licensees to use self-guarantee.

Response The objective of the rule is to reduce the licensee's cost burden without causing adverse effects on public health and safety. The Commission already allows electric utilities to accumulate decommissioning funds in an external sinking fund. Unlike other licensees who are subject to financial assurance for decommissioning, electric utilities do not have to provide the full amount of required financial assurance "up front" but can instead build up their sinking funds over time. Thus, electric utilities already are permitted a cost-reducing financial assurance mechanism.

Requirement that 90 Percent of Total Assets be in the U.S.

One commenter suggested dropping what is described as the requirement that self-guarantors demonstrate that 90 percent of their total assets are located in the United States, because otherwise some large, multinational companies will be excluded from using the self-guarantee simply because a majority of their assets may be outside the U.S.

Response The proposed self-guarantee financial test included a provision requiring the self-guarantor to show that it had assets located in the United States amounting ~~of~~ to at least 90 percent of total assets or at least 10 times the total current decommissioning cost estimate (or the current amount required if certification is used) for all decommissioning activities several alternative criteria, including size of endowments, that they said could be used to assess the financial strength of non-profit entities.

Response. NRC plans to begin shortly a study of extending the availability of cost-saving financial assurance alternatives to non-profit entities other than universities. A similar study for universities will be deferred until after planned rulemaking on fee recovery. ~~However, including these non-profit entities in the self-guarantee program established by this rulemaking presents certain problems~~. delete The analysis which was prepared to evaluate the financial criteria in the proposed rule did not include non-profit entities. In order to extend the use of self-guarantees to non-profit entities, new criteria would have to be developed to assess the financial strength of the non-profit licensees. Development of financial criteria to assess the qualifications of a non-profit entity to provide a self-guarantee is likely to require detailed consideration of the different financial accounting methods used by medical institutions. The financial accounting and reporting of non-profit entities are unique and substantially different from the accounting and reporting of for-profit entities.

The financial reporting practices of public and private hospitals generally follow standards for these institutions established by the American Institute of Certified Public Accountants. Development of financial criteria for a self-guarantee for hospitals also would involve analysis of the various accounting funds utilized and establishment of adequate criteria.

NRC's review of decommissioning financial assurance submissions identified third-party financial mechanisms, such as surety bonds and letters of credit, as well as escrows and trusts, as the financial mechanisms used most often by private non-profit entities. In a few instances, private non-