



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 30, 1993

MEMORANDUM FOR: Richard L. Bangart, Director
Office of State Programs

FROM: Hugh L. Thompson, Jr.
Deputy Executive Director for
Nuclear Materials Safety, Safeguards,
and Operations Support

SUBJECT: AGREEMENT STATE RULEMAKING REGARDING FINANCIAL ASSURANCE

It has been brought to my attention that NRC's Financial Assurance Rule, 10 CFR Part 30.35, requires financial surety for situations of relatively minor concern. It was not the intent of the rule to include these situations. In particular cobalt-60 (Co-60) teletherapy source changes and licensees possessing krypton-85 (Kr-85).

Licensees, on average, replace their cobalt-60 teletherapy sources every 5 years. Teletherapy machines typically contain 22.2E7-55.5E7 megabecquerels [6,000-15,000 curies]. Most of the machines contain quantities within the range of 29.6E7-37.0E7 megabecquerels [8,000-10,000 curies]. During the relatively short period of source exchange, the licensee may simultaneously possess both the new sources to be installed and the old sources that are to be removed. At this time the licensee may exceed the limit established in the regulations (37.0E7 megabecquerels [10,000 curies]) for which financial surety is required. Currently, in order for the licensee not to be in violation of the regulations, the licensee either has to comply with the decommissioning financial assurance requirements, or have an approved exemption request. The NRC has granted numerous exemptions for Co-60 teletherapy source changes because of its finding that the requirements for decommissioning financial assurance were not intended to be applied to teletherapy source changes. Kr-85.

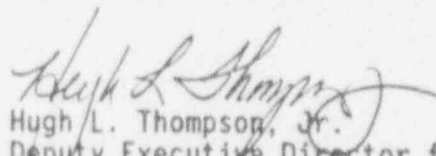
Licensees possessing Kr-85 in excess of the limits have also been faced with either complying with the requirements of the decommissioning financial assurance requirements, or have an approved exemption request. Because krypton-85 is highly dispersible, the residual krypton-85 contamination that would require decontamination before decommissioning is expected to be very low and inexpensive. NRC has granted exemptions for licensees possessing Kr-85 because of its findings that 1) decommissioning involves releasing the gas in accordance with the appropriate regulations or transferring the gas to another specific licensee authorized to possess the gas, and 2) because of the decommissioning for Kr-85 is inexpensive, and therefore, should not require financial surety.

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The magnitude of the problem as a result of the above situations is expected to decline since 1) many exemptions have already been approved and are listed in a license condition on the licensee's license, and 2) recent surveys of teletherapy manufacturers and distributors indicate a decline in the sale of teletherapy machines.

NRC has deferred rulemaking at this time in light of the relatively low priority given to this administrative rule change due to low health and safety concern and the potentially shrinking magnitude of the problem. However, it is suggested that for those Agreement States that do not have this rule in place, for them to take these situations into consideration when developing their rule.

Please feel free to discuss this matter with me if you so desire.


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