

NEI
DOCKETED
USNRC
NUCLEAR ENERGY INSTITUTE

97 JUL 30 A11:21

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Felix M. Kilar, Jr.
DIRECTOR,
Material Licenses & Nuclear Insurance
Direct Line 202 739 8126
Internet fmk@nei.org

July 29, 1997

Mr. John C. Hoyle
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

DOCKET NUMBER
PROPOSED RULE **PR 30, 40, 50, 70 + 72**
(62 FR 23394)

11

ATTENTION: Docketing and Service Branch

SUBJECT: Comments on Proposed Rules for Self-Guarantee of
Decommissioning Funding by Non-Bond Issuing Licensees
(62 FR 23394)

By a Federal Register Notice published April 30, 1997, the Nuclear Regulatory Commission (NRC) requested comment on a proposed rule change that would extend current authority for licensees to "self-guarantee" decommissioning funding. Under this approach, certain financially strong licensees are not required to provide financial assurance for the decommissioning of their facilities through one of the mechanisms allowed by rule (e.g., surety bond, letter of credit, pre-payment). Licensees using self-guarantees are permitted to rely upon corporate funds to cover decommissioning costs. The current criteria allowing licensees to use self-guarantees are based on corporate bond ratings. This option is therefore not available to non-profit organizations and corporate entities that do not issue bonds. The proposed rule would add qualifying criteria to permit certain of these licensees also to use self-guarantees.

The Nuclear Energy Institute¹ (NEI) supports the extension of the self-guarantee principle to additional licensees. NEI recognizes NRC's responsibility to provide for reasonable assurance that funds will be available to decommission licensed facilities. This assurance should be provided with the minimum burden necessary on licensees. Allowing additional licensees to utilize self-guarantees is a laudable step in that direction. However, we believe that NRC should reconsider the conservative nature of some assumptions required to be made in estimating decommissioning costs. More

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

9707310084 970729
PDR PR
30 62FR23394 PDR

1776 J STREET, NW SUITE 400

WASHINGTON, DC 20006-3708

PHONE 202 739 8000

FAX 202 785 4019

DS10

Mr. John C. Hoyle

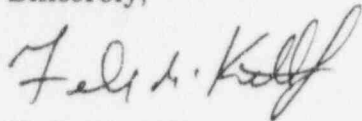
July 29, 1997

Page 2

realistic assumptions would have the effect of estimating costs more realistically and reducing the projected funds for which assurance must be sought. Specific comments on such assumptions and other issues are presented in the enclosure to this letter.

NEI commends the NRC for this initiative, and appreciates the opportunity to provide comments. If there are any questions regarding our comments, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Felix M. Killar".

Felix M. Killar

Director,

Material Licensees & Nuclear Insurance

Enclosure

c: Marvin Fertel

Specific Comments on NRC Proposal to Extend Self-Guarantee

1. Estimated decommissioning costs should be based on best available information. Use of conservative assumptions such as the prime rates charged by contractors or unreasonably high estimates of waste disposal costs should not be required. Other considerations that would result in more realistic cost estimates (such as delays to allow short-lived radioactivity to decay as discussed below) should be allowed. In general, decommissioning cost estimates should be based on actual experience, rather than conservative worst-case assumptions.
2. Estimates of decommissioning costs should not be required to assume disposal of the maximum amount of material permitted by the license. Typically, the licensee seldom comes close to having the maximum amount of material permitted by the license. It is more reasonable to assume that the licensee would have minimal licensed material on site when going into decommissioning. Additionally, licensees are engaged in commercial activities to produce products. It is reasonable to assume that some portion of the licensed maximum quantity will be in the form of finished product that will have value and will not be disposed of. In fact, assuming otherwise would be an unreasonable assumption.
3. Decommissioning costs can be reduced significantly by allowing a period for short-lived isotopes to decay before decommissioning and dismantlement begins. Such delay, to reduce ultimate cost, is the likely scenario in cases where licensed activities occupy only a small portion of the licensee's facility. Licensees should be permitted to consider choosing to implement those procedures rather than be required to base their cost estimates on assuming immediate decommissioning.
4. The requirements for licensees pursuing self-guarantees should reflect the realities of the licensee community. In particular, the proposed requirement (Appendices D and E) that licensees conduct accounting per U.S. generally accepted accounting principles (GAAP) does not recognize the increasingly multi-national nature of materials licensees. Foreign ownership of major material licensees is currently a reality (e.g., Siemens, ABB, Framatome) and can be expected to increase in the future. The selection of accounting practices to be used is a significant corporate decision affected by many factors. It is unreasonable to require that corporate practices of major multi-national firms be changed for a licensee to be allowed to provide self-guarantee of decommissioning funding. The rule should allow that adequate assurance that funds will be available can be provided using other recognized and accepted accounting practices.
5. The proposed regulations should be assigned a compatibility status of Level 1 with Agreement States. This will assure consistent requirements for financial surety arrangements, and will preclude the unintended creation of competitive disadvantages between facilities in Agreement States and Non-Agreement States.