

U.S. Nuclear Regulatory Commission Public Meeting Summary

January 7, 2021

Title: Discuss Approaches for Rulemaking on Decommissioning Financial Assurance Requirements for Sealed and Unsealed Radioactive Materials

Meeting Identifier: NA

Date of Meeting: January 7, 2021

Location: Webinar

Type of Meeting: Category 3

Purpose of the Meeting(s): Discuss approaches for amending decommissioning financial assurance regulations for facilities licensed to use radioactive materials for industrial, medical, or research purposes.

General Details: The meeting was attended by approximately 105 people, including 23 U.S. Nuclear Regulatory Commission (NRC) staff and a representative from the Organization of Agreement States. Members of the public represented licensees (medical community and researchers) and the Agreement States. Some members of the public did not provide a specific affiliation.

Summary of NRC Presentation: The NRC staff discussed regulatory issues and proposed rulemaking options related to the current financial assurance requirements and specific radionuclides not listed in Appendix B, "Quantities of Licensed Material Requiring Labeling," to Part 30, "Rules of General Applicability To Domestic Licensing of Byproduct Material," to Title 10 of the *Code of Federal Regulations* (10 CFR). The staff discussed potential rulemaking options for updating Appendix B, including developing a new risk methodology for calculating new Appendix B values and updating the Appendix B values using the values currently listed in Appendix C, "Quantities of Licensed Material Requiring Labeling," to 10 CFR Part 20, "Standards for Protection Against Radiation." The staff also discussed an option to create a separate category within 10 CFR 30.35, "Financial assurance and recordkeeping for decommissioning," paragraph (d) for radiopharmaceutical generators, given the engineering confinement of generators.

Summary of Public Feedback:

In general, the meeting participants supported the rulemaking, noting that updating Appendix B to 10 CFR Part 30 to include radionuclides not currently listed will help with decommissioning financial assurance funding by eliminating the need to use default values. The participants noted that decommissioning financial assurance funding for germanium-68/gallium-67 generators needs to be addressed as soon as possible, given that current funding requirements for these radionuclides are excessive, when compared to their risk based on their engineering design. Several commenters supported a separate category for germanium-68/gallium-67 generators within 10 CFR 30.35(d), with one commenter suggesting that the NRC evaluate conducting a direct final rule for these items. Commenters also noted that financial assurance

requirements related to lutetium-177 also need to be addressed soon, given the likelihood that there will be an increase in its use upon approval of new medical treatments.

Participants did not express a strong preference for either of the potential rulemaking options but said that a faster update to Appendix B to 10 CFR Part 30 would be helpful. Several commenters noted that updating Appendix B with values from Appendix C to 10 CFR Part 20 would not help provide lower decommissioning financial assurance funding overall because some values could decrease but other values could increase. Therefore, the overall amount of required funding may not change. However, one commenter noted that updating Appendix B with the values in Appendix C to 10 CFR Part 20 would enable their facility to use more isotopes in their research without changing the decommissioning funding amounts given the use of the unity rule¹ in the regulations.

Separate from the specific issues being discussed, a commenter mentioned the use of the terms dispersible and non-dispersible in 10 CFR Part 40, "Domestic Licensing of Source Material," and whether the NRC should consider whether the radioactive material is dispersible or not in setting decommissioning funding requirements. Another commenter recommended that the NRC update Schedule B (Section 30.71, "Schedule B") to 10 CFR Part 30 to include radium-223, actinium-225, and thorium-227.

Action Items/Next Steps:

The staff will consider comments from this public meeting in developing the regulatory basis for this rulemaking. The public will have an opportunity to comment on the regulatory basis when it is noticed in the *Federal Register*. This activity can be tracked in www.regulations.gov by searching on the NRC Docket ID, NRC-2017-0031.

Additional Information:

Documents related to this public meeting may be found in the Agencywide Documents Access and Management System (<https://www.nrc.gov/reading-rm/adams.html>) at the accession numbers noted below:

1. Meeting notice and agenda: ML20346A092
2. NRC staff presentation: ML21005A004
3. Public meeting transcript: ML21026A343
4. List of attendees: ML21026A341

¹ The unity rule is described in 10 CFR 30.35(a)(1): "...The decommissioning funding plan must also be submitted when a combination of isotopes is involved if R divided by 10⁵ is greater than 1 (unity rule), where R is defined here as the sum of the ratios of the quantity of each isotope to the applicable value in appendix B to part 30."

SUMMARY OF CATEGORY 3 PUBLIC MEETING: ALTERNATIVES FOR
 DECOMMISSIONING FINANCIAL ASSURANCE REQUIREMENTS FOR SEALED AND
 UNSEALED RADIOACTIVE MATERIAL; DOCKET ID: NRC-2017-0031; RIN 3150-AK52;
 DATED FEBRUARY 3, 2021

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