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(65FR49207)

May 23, 2000

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attn: Rulemakings and Adjudications Staff

Dear Sirs,

The following is a petition to modify 10 CFR 30.35
Financial Assurance and Recordkeeping for Decommissioning.

I represent a radioactive license from an Agreement State
(Texas).

When the original rules for financial assurance were being
developed the NRC put the proposed rules out for comment.
Comments were accepted only from NRC licensees and from
Agreement State regulatory personnel.

NRC licensees hold only 27% of the radioactive licenses in
the United States. The Agreement State licensees hold
almost 75%.

The opportunity to comment was not afforded to the
Agreement State licensees because the Agreement State
regulatory agencies did not request comments from their
licensees at that time. They did not recognize the impact
that such a ruling represented.

When the State of Texas published the proposed rule change
to the Texas Regulations for the Control of Radiation we
requested to comment. We were told at that time that our
comments would make no difference since the changes were
required by NRC as a matter of "compatibility" with the
federal regulations.

As a result almost 75% of the affected licensees had no
opportunity to comment on this (and most all other) NRC
rulemaking.

This lack of "getting the word out" is a serious failure in the rulemaking procedure, if not a failure of the constitutional process.

At this time I would like to bring your attention to three areas of the regulation that I would like to see modified:

1. Although I agree with the intent of the financial assurance requirements that funds should be available to decommission a facility, I believe that requiring security from specific types of licensees based on the quantity of licensed material is arbitrary. The premise that because one licensee is licensed for greater quantities than another licensee he is a greater risk than the smaller quantity licensee, and therefore to be considered more of a financial risk; is false. More often the larger the quantity of radioactive material a licensee processes, the larger his safety program, the more careful his handling procedures, the more elaborate his equipment and the more extensive his experience and education.

Example:

A 100 milliCurie Cesium 137 source, which would not require any financial assurance, is quite capable of producing a million dollar decontamination problem, in the wrong hands.

If we are to require financial assurance of some licensees, we should require it of all.

2. The methods for providing surety are too burdensome for the small business operator. By requiring payment to be made at one time and not to be funded over a longer timeframe, such as the life of the facility as used by the EPA and their designated state agencies, places an undue and sometimes insurmountable hardship on the small business owner. Large businesses and public institutions are the only ones that can obtain bonds, parent company guarantees, ...etc. Decades of neglect can not be corrected overnight by waving a regulatory "magic" wand. If the purpose of the

financial assurance rules is to require licensees to clean up after themselves rather than the taxpayers, then the rules must allow a method of financial assurance that does not force the small business licensee out of business.

If the rules force a licensee out of business, it could very well precipitate the very situation they intended to avoid. The taxpayers footing the clean up bill

3. The NRC did not address the issue of "orphan" waste (greater than Class C) in these rules. Licensees that use radioactive materials that will fall into the category of "orphan" waste at the time of disposal, should be exempted from the rule since the disposal of greater than Class C waste is the responsibility of the U.S. Department of Energy.

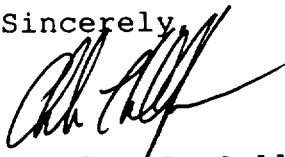
Example:

Currently the USDOE has initiated an Americium 241 neutron source recovery program. The USDOE has compiled a list of unwanted or abandoned AmBe sources throughout the U.S. and are actively consolidating these sources for the ultimate recovery of the Am-241. By initiating this program the USDOE has effectively recognized that they are responsible for their disposal.

A licensee that has or will have wastes of these types should not be required to calculate and fund their disposal when there is no disposal site to accept them.

Your timely consideration of this petition will be appreciated.

Sincerely,



Charles T. Gallagher
President
Gammatron, Inc.