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Jeb Bush  
Governor

John O. Agwunobi, M.D., M.B.A.  
Secretary

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(66FR 52551)

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USNRC

January 31, 2002 (1:50PM)

Attention: Rulemakings and Adjudications Staff  
The Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

RE: NRC ANPR "Entombment Options for  
Power Reactors" (FR 10/16/01 Vol. 66,  
No. 200, pp. 52551 - 52554)

Dear Mr. Secretary:

We support the Nuclear Regulatory Commission (NRC) amending their regulations to clarify the use of entombment as a decommissioning option for nuclear power reactors.

After reviewing the Advance Notice of Proposed Rulemaking, we support option 2. While this option does not address the issue of Greater Than Class C (GTCC) waste, it provides the most flexibility for both licensees and the NRC. GTCC materials should continue to be licensed by the NRC until such time that a facility is built and licensed to receive the material. We believe that the entombment option and GTCC waste storage option should only be available to nuclear power reactor licensees. Finally, all disposal and storage options need to be evaluated in light of the September 11 attacks.

A.1. *Does the existing 10 CFR 50.82(a)(3) provide an adequate basis to allow periods of entombment beyond 60 years? If not, in what way should the regulations be changed?*

No, 10 CFR 50.82(a)(3) should be amended to address alternative time frames unique to entombment. The time frame should not be open-ended. This approach keeps doses ALARA for workers decommissioning the facility, and for the general public, should the materials be transported on highways.

A.2. *Is 10 CFR part 20, subpart E, adequate to achieve license termination using an entombment approach? If not, how and why should this rule be modified?*

Yes, 10 CFR part 20, subpart E is adequate and presents an approach consistent with what is afforded to other licensees.

A.3. *Should entombed facilities be required to maintain some type of NRC license after the facility meets the dose criteria of part 20, subpart E? If so, what conditions need to prevail before the license may be terminated? What alternatives might exist for adequately managing the radioactive materials left in the entombed structure?*

No, except as described in response to question C.1. below for GTCC materials. See the response to question C.1. for more details.

- A.4. *A new part is being considered in the regulations to establish performance objectives and requirements for licensing an entombed disposal facility. Should this option replace subpart E for purposes of entombment or should a licensee have a choice between using Subpart E approach or the entombed facility license approach? Should the dose based criteria for the entombed facility license be based on subpart E dose limits? If not, what should be the basis for those limits?*

No; we support option 2 and not option 3, to which this question refers.

- A.5. *Should the entombed facility option be available only to power reactors? If not, under what circumstances should it be applied to other than power reactors?*

The entombment option should only be available for power reactors currently licensed under 10 CFR part 50, because of the need to deal with the unique facilities and equipment involved. Other decommissioning or license termination options are available for non-part 50 licensees.

- A.6. *Are there other options that the Commission should consider in developing an approach to entombment that will provide for its viability while maintaining the public health and safety?*

No other approach is needed, provided Subpart E is used with adequate input from stakeholders and grounded in sound science.

- B.1. *To what degree should credit be given to engineered barriers for the purposes of dose reduction to meet the license termination criteria of 10 CFR part 20, subpart E?*

The amount of "credit" given to engineered barriers should be considered on a case-by-case basis, relying on evaluation of the information and analysis provided by the licensee.

- C.1. *Should material that could be classified as GTCC waste be considered in the entombment approach? Are there circumstances under which residual radioactivity that could be classified as GTCC be allowed to be entombed on site? If so, under what conditions?*

GTCC materials should not be considered in the entombment process unless they are stored in a manner that can be recovered and sent to a disposal site for GTCC material. The exceptions are reactor vessels and other facility components that are approved on a case-by-case basis with stakeholder input. The GTCC materials generated or licensed under 10 CFR part 50 should be licensed under a modified 10 CFR part 50 license until their disposal. These facilities also need appropriate financial assurances.

- D.1. *Power reactor licensees are exclusively regulated by the NRC (under 10 CFR part 50), even in Agreement States. The NRC consults with stakeholders, including Agreement and non-Agreement States, about regulatory actions under consideration that may impact stakeholders. What additional role, if any, should the affected States have in the license termination process based on entombment for power reactors? In addition*

*should an Agreement State be permitted to issue a license for an entombed disposal facility?*

As stakeholders, affected states need to be involved in the process. We recommend a partnering approach such as the EPA uses in their decommissioning projects. States should not be required to issue a license for entombed facilities, whose licensure should remain under NRC jurisdiction.

*D.2. Under 10 CFR part 20, subpart E, the entombment contains material having residual radioactivity and is suitable for license termination if the dose criteria are met. However, under other statutes, such as the LLW Policy Act, the material might be considered to be low level waste. What issues exist for entombment in a State where existing State legislation prohibits LLW disposal?*

We do not foresee problems associated with entombed materials and the LLW Policy Act as it affects Florida.

*D.3. Are there other issues for an entombment that impact Low Level Waste Compacts?*

Not that we foresee.

*D.4. If the entombment disposal facility option does not include GTCC waste and the disposal license is issued by an Agreement State, what compatibility categories, as described in NRC's "Policy Statement on Adequacy and Compatibility of Agreement State Programs," published September 3, 1997 (62 FR 46517), and in NRC's Management Directive 5.9, "Adequacy and Compatibility of Agreement State Programs," should be assigned?*

Agreement states should not be required to issue a license. Requiring states to issue licenses for byproduct or special nuclear materials generated or previously licensed under Part 50 constitutes an unfunded mandate and would be opposed. Thus, compatibility categories would not be an issue. If compatibility categories are assigned, they should be category D.

*E.1. Please provide any other considerations or rule changes that the Commission should consider to facilitate license termination based on an entombment approach, while maintaining the requisite protection of the public health and safety.*

The definition of "principal activity" listed in 10 CFR Part 20 will need to be expanded to authorize licensees previously licensed under 10 CFR part 50 to store GTCC as a principal activity.

*E.2. The NRC is interested in the likelihood that licensees would pursue entombment to assist it in formulating its decision regarding the entombment options. Please provide your assessment as to the number of licensees likely to pursue entombment as a option. Specifically, it is requested that reactor licensees indicate their potential interest in choosing the entombment option.*

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Florida has two NRC licensees that operate five power reactors between them. Both licensees have expressed interest in pursuing the entombment option.

If you have any questions regarding the above comments, please contact me at (850) 245-4266.

Sincerely,

A handwritten signature in cursive script that reads "William A. Passetti".

William A. Passetti, Chief  
Bureau of Radiation Control

WAP/mns