



***RADIATION PROTECTION SECTION
RADIOACTIVE MATERIALS BRANCH***

INFORMATION NOTICE 06-03

TO: Certain Radioactive Materials Licensees

FROM: W. Lee Cox, III, Branch Manager

DATE: December 11, 2006

IN RE: **Financial Assurance**

We are issuing this information notice in response to recent queries on financial assurance. This notice discusses the major changes for licensees who must supply financial assurance to the agency. A specific response to this notice is not required. However, licensees are encouraged to proceed with making adjustments in their surety amounts as soon as possible. We also encourage licensees to submit a "draft" to the agency for review prior to executing a legal / financial document.

In October, 2003, the US Nuclear Regulatory Commission (NRC) published proposed regulations for financial assurance. North Carolina, as an Agreement State, was required to adopt compatible regulations. On May 1, 2006, the amended Rule .0353 became effective. This regulation concerns the amounts of financial assurance that are required to be submitted to the agency.

There are two main issues that we would like to call your attention to. First, Subparagraphs (b) through (d) addresses the certification amounts based on licensed activity. The amended regulation increases certification amounts irregardless of the level of financial assurance that must be provided.

The second aspect of the amended rule is the timeline for compliance. Subparagraphs (f) through (h) discuss the timelines for having a surety in place. Some licensees must comply by May 1, 2007 and the remainder of the licensees must comply by November 1, 2007.

We are enclosing a copy of the regulation along with this memorandum for your convenience. If you have questions, please contact J. Marion Eaddy III, Health Physicist of the staff for guidance.



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15A NCAC 11 .0353 FINANCIAL ASSURANCE AND RECORD-KEEPING FOR DECOMMISSIONING

(a) For the purposes of this Rule, R is defined as the sum of the ratios of the quantity of each isotope with half-life greater than 120 days to the applicable value in the table in Appendix C to 10 CFR §§ 20.1001 – 20.2401, as shown in the following formula:

$$R = \sum_{i=1}^n \left(\frac{\text{Possession limit of Isotope } i}{\text{Appendix C value for Isotope } i} + \frac{\text{Possession limit of Isotope } 2}{\text{Appendix C value for Isotope } 2} \dots + \frac{\text{Possession limit of Isotope } n}{\text{Appendix C value for Isotope } n} \right)$$

(b) For unsealed radioactive materials, other than source material, the quantities requiring financial assurance and the financial assurance amounts are as follows:

- (1) If R divided by 10^5 is greater than one, then the minimum financial assurance amount is one million one hundred twenty-five thousand dollars (\$1,125,000) and shall be as stated in a decommissioning funding plan as described in Paragraph (i) of this Rule;
- (2) If R divided by 10^4 is greater than one, but R divided by 10^5 is less than or equal to one, then the financial assurance amount is one million one hundred twenty-five thousand dollars (\$1,125,000); or
- (3) If R divided by 10^3 is greater than one, but R divided by 10^4 is less than or equal to one, then the financial assurance amount is two hundred twenty-five thousand dollars (\$225,000).

(c) For sealed radioactive materials, the quantities requiring financial assurance and the financial assurance amounts are as follows:

- (1) If R divided by 10^{12} is greater than one, the licensee shall submit a decommissioning funding plan in accordance with Paragraph (i) of this Rule; or
- (2) If R divided by 10^{10} is greater than one, but R divided by 10^{12} is less than or equal to one, then the financial assurance amount is one hundred thirteen thousand dollars (\$113,000).

(d) For source material in a readily dispersible form, the quantities requiring financial assurance and the financial assurance amounts are as follows:

- (1) If a specific license authorizes possession and use of more than 100 millicuries, then the minimum financial assurance amount is one million one hundred twenty-five thousand dollars (\$1,125,000) and shall be as stated in a decommissioning funding plan as described in Paragraph (i) of this Rule; or
- (2) If a specific license authorizes possession and use of more than 10 millicuries, but less than or equal to 100 millicuries, then the licensee shall either:
 - (a) submit a decommissioning funding plan in accordance with Paragraph (i) of this Rule; or
 - (b) submit certification of financial assurance in the amount of two hundred twenty-five thousand dollars (\$225,000).

(e) Each applicant for a specific license authorizing possession and use of radioactive material of half-life greater than 120 days and in quantities specified in Paragraphs (b) or (c) or source material in quantities specified in Paragraph (d) of this Rule shall either:

- (1) submit a decommissioning funding plan as described in Paragraph (i) of this Rule; or
- (2) submit a certification that financial assurance for decommissioning has been provided in the amount prescribed by Paragraphs (b) through (d) of this Rule using one of the methods described in Rule .0354 of this Section. For an applicant, this certification may state that the appropriate assurance will be obtained after the application has been approved and the license issued but prior to the receipt of licensed material. As part of the certification, the applicant shall submit to this agency, a copy of the financial instrument obtained to satisfy the requirements of Paragraph (i) of this Rule.



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(f) Each holder of a specific license issued before the effective date of this Rule, and of a type described in Paragraphs (b)(1), (b)(2), (c)(1), or (d)(1) of this Rule shall submit, no later than May 1, 2007, a certification of financial assurance for decommissioning or a decommissioning funding plan in accordance with the criteria set forth in this Rule.

(g) Each holder of a specific license issued before the effective date of this Rule, and of a type described in Paragraphs (b)(3), (c)(2) or (d)(2) of this Rule shall submit, no later than November 1, 2007, a certification of financial assurance in accordance with the criteria set forth in this Rule.

(h) Each holder of a specific license issued on or after the effective date of this Rule, which is of a type described in Paragraphs (b) through (d) of this Rule, shall provide financial assurance for decommissioning in accordance with the criteria set forth in this Rule.

(i) Each decommissioning funding plan shall contain a cost estimate for decommissioning and documentation of an approved method assuring funds for decommissioning as referenced in Rule .0354 of this Section, including means of adjusting cost estimates and associated funding levels at intervals not to exceed three years.

(j) Each person licensed under this Section of this Chapter shall keep records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the agency. If records of relevant information are kept for other purposes, reference to these records and their locations may be used. Information the agency considers important to decommissioning includes:

- (1) Records of spills or other occurrences involving the spread of contamination in and around the facility, equipment, or site.
 - (A) These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete.
 - (B) These records shall include any known information on identification of involved nuclides, quantities, forms, and concentrations.
- (2) As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are being used or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination.
 - (A) If required drawings are referenced, each relevant document need not be indexed individually.
 - (B) If drawings are not available, the licensee shall substitute records of available information concerning these areas and locations.
- (3) Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- (4) Except for areas containing only sealed sources (provided the sealed sources have not leaked or no contamination remains after cleanup of any leak) or radioactive materials having only half-lives of less than 65 days, or depleted uranium used only for shielding, licensees shall be required to establish and maintain a list, contained in a single document. The list shall be updated every two years, and include the following information:
 - (A) All areas designated and formerly designated as restricted areas as defined in Rule .0104 of this Chapter;
 - (B) All areas outside of restricted areas that require documentation under Paragraph (j) of this Rule;
 - (C) All areas outside of restricted areas where current and previous wastes have been buried as documented in Rule .1642 of this Chapter; and



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- (D) All areas outside of restricted areas which contain material that, if the license expired, the licensee would be required to decontaminate either the area to unrestricted release levels or to apply to the agency for approval for disposal as required in Rule .1629 of this Chapter.
- (k) Prior to license termination, each licensee authorized to possess radioactive material in an unsealed form, shall forward to the agency the records required in Paragraph (j) of this Rule.
- (l) Before licensed activities are transferred, licensees shall transfer all records required in Paragraph (j) of this Rule. In this case, the new licensee shall maintain the records until the license is terminated.

*History Note: Authority G.S. 104E-7; 104E-18;
Eff. May 1, 1992;
Amended Eff. May 1, 2006; April 1, 1999; August 1, 1998; January 1, 1994.*