

these efforts do not necessarily offset all (or even most) of the waste disposal cost increases for these licensees. Moreover, other licensees have not implemented such efforts. NRC believes that the greatest waste reduction efforts have been made by larger licensees, who are the least likely to use the certification amounts.

Second, increased disposal costs are not NRC's only justification for increasing the certification amounts. Inflation that has occurred since the promulgation of the original certification amounts exceeds 50 percent, based on the Consumer Price Index.⁷ Specific information on decommissioning costs also shows a substantial increase. NRC regulations for decommissioning of nuclear power reactor licensees at 10 CFR 50.75 contain a cost adjustment factor for licensees to update the minimum amount of financial assurance required. This adjustment factor, which takes into account labor, energy, and waste disposal costs, shows a minimum increase of approximately 65 percent in reactor decommissioning costs from 1986 to 2000.⁸ Thus, inflation, by itself is more than adequate as a justification for the rule's 50 percent increase in the certification amounts. In addition, other research conducted by NRC for this rulemaking indicates that licensees using certifications have substantially less financial assurance than is warranted based on their estimated decommissioning costs.⁹

2. NRC's Financial Assurance Rules too Complicated

Comment: One commenter stated that the regulations addressing decommissioning plans and financial assurance are unnecessarily complicated. The commenter suggested that the rules be consolidated within a single chapter of 10 CFR, instead of spread through four chapters and appendices. The commenter suggested listing requirements in simpler language instead of burying them in complicated prose. The commenter also offered assistance to NRC.

Response: The NRC agrees that plain language improvements may be needed. This rulemaking makes changes in only a part of NRC's overall financial assurance requirements. Its objective is to bring financial assurance requirements more in line with actual

decommissioning costs. NRC is trying to close any such gaps in a timely manner. Any future rulemakings covering more general changes in the financial assurance requirements will be carried out with a view toward clarification and simplification, where practical. As an aid to understanding its requirements, the NRC staff has developed a guidance document, "NMSS Decommissioning Standard Review Plan," NUREG-1727,¹⁰ that explains how licensees can meet decommissioning requirements, including financial assurance requirements.

3. Consider Costs to Agreement State Licensees

Comment: One commenter stated that it appears NRC considered the cost of the rule only to its own licensees, and not to Agreement State licensees. It is unrealistic to expect Agreement States not to adopt the rule (even though they are not required to do so based upon its category D rating), so NRC should consider costs to all licensees.

Response: NRC has considered these costs, and has provided several opportunities for Agreement States to comment. The comments that NRC has received from Agreement States have generally supported this rulemaking. However, NRC has revised the Regulatory Analysis for the rule to more clearly estimate costs to Agreement State licensees that adopt the rule.

4. Comment Period Should Be Extended

Comment: One commenter requested that the public comment period for the proposed rule be extended until 60 days after NUREG/CR-6477 is made available for review by the public.

Response: NUREG/CR-6477 was published in mid-January, and placed on the website for this rulemaking. A **Federal Register** notice of availability of the NUREG report, with a 30-day public comment period, was published on January 30, 2003 (68 FR 4801). No comments were received on the report.

Changes From the Proposed Rule

The definition of waste broker in § 30.4 is being removed. In § 30.35(c)(5),

the terms waste processors¹¹ and waste collectors¹², as defined in 10 CFR part 20, appendix G, are being used instead. Implementation dates have been inserted at appropriate places in the rule as described below.

Implementation

The NRC is implementing these requirements in a way intended to minimize the burden on licensees and regulators. Licensees are being given a reasonable period of time to submit new decommissioning cost estimates and to obtain any additional financial assurance that may be required. The NRC is establishing different effective dates for revised financial assurance requirements, depending on the type of licensee, so that new financial assurance submittals would not all be filed at one time. Licensees currently using the \$750K certification amount are required to obtain additional financial assurance to comply with the revised \$1,125K certification amount within 12 months of the effective date of the final rule. Licensees currently using the \$75K or \$150K certification amounts are required to obtain additional financial assurance to comply with the revised \$113K or \$225K certification amounts within 18 months of the effective date of the final rule. In either case, these licensees could choose the option of basing financial assurance on a decommissioning cost estimate. Licensees that can no longer use the certification amounts, such as large irradiators and waste brokers, are allowed up to 24 months to submit a decommissioning cost estimate.

Discussion of Amendments by Section

Section 30.35 Financial Assurance and Recordkeeping for Decommissioning

Paragraph (a) is amended to require licensees possessing large numbers of sealed sources to base financial assurance on a decommissioning funding plan. Section 30.35(c)(2) revises the certification amount. A new § 30.35(c)(5) requires waste processors and waste collectors to base financial

⁷ "CPI Inflation Calculator," U.S. Department of Labor, Bureau of Labor Statistics, <http://www.bls.gov/cpi>.

⁸ NUREG-1307, Revision 9, p. 6.

⁹ "Analysis of Decommissioning Certification Amounts for Materials Licensees (parts 30, 40, and 70)," ICF Consulting, 2000.

¹⁰ NUREG-1727 is available in the NRC Public Document Room, Room O-1F23, 11555 Rockville Pike, Rockville, MD. The NRC maintains an Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdrc@nrc.gov.

¹¹ Waste processor means an entity, operating under a Commission or Agreement State license, whose principal purpose is to process, repackage, or otherwise treat low-level radioactive material or waste generated by others prior to eventual transfer of waste to a licensed low-level radioactive waste land disposal facility.

¹² Waste collector means an entity, operating under a Commission or Agreement State license, whose principal purpose is to collect and consolidate waste generated by others, and to transfer this waste, without processing or repackaging the collected waste, to another licensed waste collector, licensed waste processor, or licensed land disposal facility.