

§ 72.30 Financial assurance and record-keeping for decommissioning.

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(b) Each holder of, or applicant for, a license under this part must submit for NRC review and approval a decommissioning funding plan that must contain:

(1) Information on how reasonable assurance will be provided that funds will be available to decommission the ISFSI or MRS.

(2) A detailed cost estimate for decommissioning, in an amount reflecting:

- (i) The cost of an independent contractor to perform all decommissioning activities;
- (ii) An adequate contingency factor; and
- (iii) The cost of meeting the § 20.1402 of this chapter criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of § 20.1403 of this chapter, the cost estimate may be based on meeting the § 20.1403 criteria.

(3) Identification of and justification for using the key assumptions contained in the DCE.

(4) A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility.

(5) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination.

(6) A certification that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning.

(c) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan and must specifically consider the effect of the following events on decommissioning costs:

(1) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material.

(2) Facility modifications.

(3) Changes in authorized possession limits.

(4) Actual remediation costs that exceed the previous cost estimate.

(d) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in soils or groundwater is detected at levels that would require such radioactivity to be reduced to a

level permitting release of the property for unrestricted use under the decommissioning requirements in part 20 of this chapter, the licensee must submit a new or revised decommissioning funding plan within one year of when the survey is completed.

(e) The financial instrument must include the licensee's name, license number, and docket number; and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. Financial assurance for decommissioning must be provided by one or more of the following methods:

(1) *Prepayment.* Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Commission.

(2) *A surety method, insurance, or other guarantee method.* These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix A to part 30 of this chapter. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are as contained in Appendix C to part 30 of this chapter. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are as contained in Appendix D to part 30 of this chapter. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with other financial methods to satisfy the requirements of this section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:

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(3) *An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may decrease by the amount being accumulated in the sinking fund.*

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An external sinking fund is a fund established and maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in paragraph (e)(2) of this section.

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(5) In the case of licensees who are issued a power reactor license under part 50 of this chapter or ISFSI licensees who are an electric utility, as defined in part 50 of this chapter, with a specific license issued under this part, the methods of 10 CFR 50.75(b), (e), and (h), as applicable. In the event that funds remaining to be placed into the licensee's ISFSI decommissioning external sinking fund are no longer approved for recovery in rates by a competent rate making authority, the licensee must make changes to provide financial assurance using one or more of the methods stated in paragraphs (1) through (4) of this section.

(f) * * *

(3) * * *

(ii) All areas outside of restricted areas that require documentation under § 72.30(f)(1).

(4) Records of the cost estimate performed for the decommissioning funding plan and records of the funding method used for assuring funds are available for decommissioning.

(g) In providing financial assurance under this section, each licensee must use the financial assurance funds only for decommissioning activities and each licensee must monitor the balance of funds held to account for market variations. The licensee must replenish the funds, and report such actions to the NRC, as follows:

(1) If, at the end of a calendar year, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee must increase the balance to cover the cost, and must do so within 30 days after the end of the calendar year.

(2) If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee must increase the balance to cover the cost, and must do so within 30 days of the occurrence.

(3) Within 30 days of taking the actions required by paragraph (g)(1) or (g)(2) of this section, the licensee must provide a written report of such actions to the Director, Office of Federal and State Materials and Environ-

mental Management Programs, and state the new balance of the fund.

§ 72.32 Emergency Plan.

(a) Each application for an ISFSI that is licensed under this part which is: Not located on the site of a nuclear power reactor, or not located within the exclusion area as defined in 10 CFR part 100 of a nuclear power reactor, or located on the site of a nuclear power reactor which does not have an operating license, or located on the site of a nuclear power reactor that is not authorized to operate must be accompanied by an Emergency Plan that includes the following information:

(1) *Facility description.* A brief description of the licensee's facility and area near the site.

(2) *Types of accidents.* An identification of each type of radioactive materials accident.

(3) *Classification of accidents.* A classification system for classifying accidents as "alerts."

(4) *Detection of accidents.* Identification of the means of detecting an accident condition.

(5) *Mitigation of consequences.* A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(6) *Assessment of releases.* A brief description of the methods and equipment to assess releases of radioactive materials.

(7) *Responsibilities.* A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(8) *Notification and coordination.* A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of