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December 21, 2021

Cardelia Maupin
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Maupin,

The OAS Executive Board (Board) appreciates the opportunity to comment on the Nuclear Regulatory Commission's (NRC) Regulatory Basis for the Decommissioning Financial Assurance for Sealed and Unsealed Radioactive Materials (RCPD-21-008).

In 2017 the Board petitioned the NRC to amend its decommissioning financial assurance regulations to provide specific possession values for radionuclides that are not currently listed in Appendix B, to 10 CFR Part 30 so that licensees using these isotopes would not have to apply the appendix's default values to calculate decommissioning funding requirements or request exemptions on a case-by-case basis. We appreciate that Commission approved the initiation of rulemaking and, NRC staff's effort in preparing this regulatory basis.

After reviewing the regulatory basis, the Board offers the following comments:

The Board does not concur with the NRC's proposed option for rulemaking. The NRC has proposed that its option is Alternative 2. This option would revise the current table in Appendix B to Part 30 using the radionuclides and quantities from Appendix B to Part 30, remove all radionuclides with a half-life of 120 days or less from the appendix, and provide an up-to-date table with more risk-informed values for use when assessing decommissioning financial assurance.

While we agree that this option is a quick and simple way to address the petition, we do not agree that this option is risk informed. The only consideration regarding setting the values is based on "a more recent understanding of radionuclide biokinetics" from ICRP Publications 26 (1977) and 30 (1979). This option also does nothing to address the addition of a separate category for generators, which in the Board's opinion is a risk informed option, and addresses stakeholder input. We also disagree with the statement that this rulemaking option would reduce, if not eliminate, the need to process exemption requests from licensees. If the values in Appendix C of Part 20 are used, the value for Ge-68 would change from 0.1 uCi to 10 uCi. A typical new generator contains 50 mCi of Ge-68, so it is unclear how the rulemaking would eliminate the need to process exemption requests from licensees.

We disagree that this rulemaking minimizes the need for additional rulemakings in the future, or that it will effectively address emerging medical and industrial technologies. One of the listed disadvantages for this option is that it "Does not provide an option for rulemaking without adding additional rulemaking".

Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, Wyoming

The Board supports Alternative 5 as the best option for rulemaking. Alternative 5 provides a prompt interim resolution by moving forward with Alternative 2, while also providing a modern, risk informed, resolution for the future with Alternative 4. Alternative 4, as described by the NRC is "...a more modern, risk-informed approach for developing and maintaining an up-to-date DFP (decommissioning funding plan)".

The Board believes that the development of new methodology based on decommissioning risk factors, elimination of the use of generic tables, and establishment of a new framework for determining decommissioning funding costs is the best path forward for the National Materials Program. We understand that this option is believed to be beyond the scope of the Board's 2017 petition and the Commission's direction. The Board will file a separate petition for Alternative 4 if it is not possible at this time for the NRC to move forward with Alternative 5.

Once again, the Board appreciates this opportunity to comment. We are available should you have any questions or need clarifications to our responses.

Sincerely,

A handwritten signature in blue ink, appearing to read "Augustinus Ong", with a horizontal line underneath.

Augustinus Ong, Chair
Organization of Agreement States
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