

**POLICY ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**

**TO:** Annette L. Vietti-Cook, Secretary  
**FROM:** COMMISSIONER CAPUTO  
**SUBJECT:** SECY-19-0125: Petition for Rulemaking and Rulemaking Plan on Decommissioning Financial Assurance for Sealed and Unsealed Radioactive Material (PRM-30-66; NRC-2017-0159)

Approved XX Disapproved \_\_\_\_\_ Abstain \_\_\_\_\_ Not Participating \_\_\_\_\_

COMMENTS: Below XX Attached XX None \_\_\_\_\_

See attached.

**Entered in STARS**

Yes   X  

No \_\_\_\_\_

Annie Caputo Digitally signed by Annie Caputo  
Date: 2020.05.14 16:25:54 -04'00'

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**DATE**

**Comments of Commissioner Caputo on SECY-19-0125:  
Petition for Rulemaking and Rulemaking Plan on Decommissioning Financial Assurance  
Requirements for Sealed and Unsealed Radioactive Material  
(PRM-30-66; NRC-2017-0159)**

In PRM-30-66, the Organization of Agreement States (OAS) petitioned the agency to amend 10 CFR Part 30 Appendix B to add unlisted isotopes and assign them risk-informed specific possession values. Doing so would result in decommissioning funding requirements that better reflect expected costs. In SECY-19-0125, the staff evaluated the OAS petition and recommends granting the petition and initiating a rulemaking.

As background information, the staff provided a recitation of compelling arguments from the OAS petition:

*The OAS petition asserts that without new possession values for isotopes not listed in 10 CFR Part 30, Appendix B, "regulators are forced to evaluate new products against these [default Appendix B] criteria and apply overly burdensome financial assurance obligations or to evaluate case by case [sic] special exemptions." Because of the need for exemptions, "[t]he OAS believes that patient health and safety is being compromised due to licensing delays of important diagnostic and therapeutic products that utilize radioisotopes not listed in the 10 CFR 30 Appendix B table . . . . Further, development of new products could be discouraged due to these obstacles, diminishing the possibility of new innovative and beneficial options in both medical and industrial applications."<sup>1</sup>*

Licensees seeking to use isotopes not specifically listed in Appendix B must use generic default values for determining adequate decommissioning funding. This requirement is neither risk-informed or technology-based, resulting in overly burdensome and unrealistic requirements. As the staff notes, the Appendix B possession values were never intended nor developed for determining any decommissioning financial assurance requirement. The staff also indicated: "The rulemaking would largely eliminate the cost of continuing to conduct exemption reviews for the materials proposed to be added to Appendix B and would establish a stronger regulatory framework for supporting new technologies."<sup>2</sup>

I approve the staff's proposal to initiate a rulemaking that would grant the OAS petition to amend Appendix B to add unlisted isotopes and assign them risk-informed specific possession values. The proposed revisions to Appendix B should also re-set existing values for listed isotopes using the same method to ensure that all listed values are consistently risk-informed. During the rulemaking process, staff should consider removing Appendix B from Part 30 and place this list of isotopes into a stand-alone NUREG that would then be incorporated by reference in Part 30. This action would make future changes to Appendix B more timely and responsive to changes in patient health care by separating needed revisions from the resource-intensive rulemaking process.

I also approve publication of the Federal Register notice announcing this decision. The recommended rulemaking does not raise health and safety or common defense and security

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<sup>1</sup> SECY 19-0125.

<sup>2</sup> Id.

concerns but simply addresses inefficiencies. As such, the staff should strive to conduct this rulemaking as timely and cost-effectively as possible, working to identify resources available within for FY 2020 or FY2021 budgets. Completion of this rulemaking will result in decommissioning funding requirements that better reflect expected costs, making new medical and industrial technologies available faster, and at lower cost, without compromising safety.