

June 16, 2006

MEMORANDUM TO: Stephen D. Dingbaum
Assistant Inspector General for Audits

FROM: J. E. Dyer, Director */RA MWeber for/*
Office of Nuclear Reactor Regulation

SUBJECT: STATUS OF RESPONSES TO RECOMMENDATIONS:
FOLLOW-UP AUDIT OF THE NUCLEAR REGULATORY
COMMISSION'S DECOMMISSIONING FUND PROGRAM
(OIG-06-A-07)

In audit report OIG-06-A-07, "Follow-up Audit of the Nuclear Regulatory Commission's Decommissioning Fund Program," dated February 6, 2006, the Office of the Inspector General (OIG) made five recommendations related to the decommissioning funding assurance program managed by the Office of Nuclear Reactor Regulation (NRR).

The U.S. Nuclear Regulatory Commission (NRC) staff addressed each of the recommendations in a memorandum to the OIG dated March 23, 2006. The staff agreed with the recommendations on quality assurance relating to the staff's review of the biennial decommissioning funding status reports, and the recommendation to update the decommissioning cost formula. The staff disagreed with the recommendations to require verification of decommissioning trust fund balances from trustees, and to require specific prudent investment restrictions for decommissioning trust funds. The staff informed the OIG that because the latter two recommendations involved policy matters, the staff would seek Commission direction as to whether to undertake efforts to implement these two recommendations. In this regard, the staff prepared a Commission paper, SECY-06-0065, dated March 23, 2006, and provided a copy to the OIG. In response to SECY-06-0065, the Commission issued a staff requirements memorandum dated May 17, 2006, which is discussed in the enclosure to this memorandum.

By memorandum dated April 11, 2006, the OIG requested a status update of all staff responses to its recommendations by June 30, 2006. The OIG specifically is interested in any policy direction provided by the Commission in response to SECY-06-0065; reviewing LIC-205, Revision 1, "Procedures for NRC's Independent Analysis of Decommissioning Funding Assurance for Operating Nuclear Power Reactors," to determine whether it fully addresses the quality assurance issues raised by the OIG; and an anticipated completion date for the staff's reassessment of the decommissioning cost formula contained in 10 CFR 50.75.

CONTACT: Steven R. Hom, NRR/DPR
(301) 415-1537

S. Dingbaum

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The enclosure provides an update of the staff's responses to each of the OIG's recommendations.

Enclosure:

Update of Responses to Follow-up Audit of the Nuclear Regulatory Commission's Decommissioning Fund Program, OIG-06-A-07

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Update of Responses to Follow-up Audit of the Nuclear Regulatory Commission's Decommissioning Fund Program, OIG-06-A-07

Recommendations 1 and 2:

The Office of the Inspector General (OIG) recommended that the Executive Director for Operations (EDO) seek, and the Commission provide, direction on whether to--

1. Require verification of decommissioning trust fund balances from trustees.
2. Require specific prudent investment restrictions for decommissioning trust funds.

The staff prepared a Commission paper, SECY-06-0065, dated March 23, 2006 on Recommendations 1 and 2. In SECY-06-0065, the staff recommended that the Commission make no changes with regard to the verification of trust balances by trustees, which has never been required, or the imposition of new specific investment restrictions as proposed by the OIG. In response to SECY-06-0065, the Commission issued a staff requirements memorandum (SRM) dated May 17, 2006. In the SRM, the Commission approved the staff's recommendations. Accordingly, the staff does not plan to take any action at this time with respect to Recommendations 1 and 2.

In the SRM, the Commission also directed the staff to provide a more detailed discussion of oversight activities performed by the Federal Energy Regulatory Commission, State public utility commissions, and other organizations, as appropriate, regarding decommissioning trust fund balances and trust fund investments. The staff is to provide the Commission this information with any recommendations for further Commission action no later than the next staff paper to the Commission summarizing the March 31, 2007, decommissioning funding status reports for nuclear power reactors. The staff will provide the OIG a copy of the requested information and any recommendations at the same time these items are sent to the Commission.

Recommendations 3 and 4

The OIG recommended that the EDO--

3. Prescribe and implement a timeframe within which quality assurance [of the staff's initial analysis of decommissioning funding reports] will be performed.
4. Clearly document quality assurance work performed.

The staff revised NRR Office Instruction LIC-205, "Procedures for NRC's Independent Analysis of Decommissioning Funding Assurance for Operating Nuclear Power Reactors," and issued it on April 24, 2006 (ML060940529) (LIC-205, Revision 1). LIC-205, Revision 1, among other things, prescribes a timeframe within which quality assurance will be performed. As stated on page 2 of LIC-205, Revision 1, the "Quality Assurance (QA) audit will be initiated following the completion of the staff's independent analysis [of the biennial reports] and will be completed by the end of the fourth month [after the biennial reports were received]." LIC-205, Revision 1,

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also specifically requires clear documentation of quality assurance work performed. See Attachment 3 to LIC-205, Revision 1, which describes the Quality Assurance Plan's review process and required documentation. Accordingly, the staff has fully addressed Recommendations 3 and 4 with LIC-205, Revision 1.

Recommendation 5

The OIG recommended that the EDO--

5. Update NRC's decommissioning formula considering the relationship between formula based and site-specific estimates.

The staff informed the OIG previously that the staff planned to assess, beginning in Fiscal Year 2008, whether the formula needs to be updated. In the SRM, the Commission, however, directed the staff to review the formula and adjust it, if necessary, "[i]n the future (circa 2011) when more cost return information is available" The staff anticipates that the completion date of any such effort is 3 years (approximately 2014) after initial efforts are to be undertaken as directed by the Commission. The 3 year completion time is based on the amount of time that was needed to complete the most recent re-analysis of the formula (1993-1995), and time allowed for necessary contracting efforts.