NUCLEAR ENERGY INSTITUTE

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Ms. Cindy Bladey, Chief
Rules, Directives and Announcements Branch
Division of Administrative Services
Office of Administration
U.S. Nuclear Regulatory Commission
Mail Stop TWB–05–B01M
Washington, DC 20555-0001

Subject: Comments on Proposed Regulatory Information Summary – "Reporting for Decommissioning Funding Status Reports – Decommissioning Funding Calculations" (75 *Fed. Reg.* 72,737, November 26, 2010)

Project Number 689

Dear Ms. Bladey:

The Nuclear Energy Institute (NEI),[1] on behalf of the nuclear energy industry, is pleased to provide comments on the U.S. Nuclear Regulatory Commission's (NRC) proposed regulatory information summary (RIS) regarding communications reporting for decommissioning funding status reports. We appreciate the NRC's efforts to ensure the reporting system is efficient. During industry review we identified an issue regarding end-of-life funding calculations that requires revision of NRC's proposed language, as described below.

NRC regulations provide for the application of a 2 percent real rate of return, unless another amount has been authorized by the rate-setting authority, to decommissioning funds both during plant operation, and following plant shutdown (*see* 10 C.F.R. §§ 50.75 (e)(1)(i) and (ii)). The regulations do not define the precise method of applying the real rate of return either during plant operation or following plant shutdown. The NRC has, however, provided general guidance on application of the real rate of return (for purposes of NRC Staff review), in LIC-205,

[1] NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

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E-RIDS= ADM-03
Add= A. Szabo (ALS5)

"Procedures for NRC's Independent Analysis of Decommissioning Funding Assurance for Operating Nuclear Power Reactors," Revision 3, March 8, 2010.

The methodology described in LIC-205 for calculating earnings following plant shutdown (i.e., the immediate dismantlement [DECON] option) assumes the licensee will withdraw funds for decommissioning on an even drawdown basis throughout the 7-year period of active decommissioning. Thus, for the assumed 7-year DECON period, LIC-205 simplifies the earnings calculation by applying the 2 percent real rate of return to a 3½ year period (LIC-205, Rev. 3, at p. 9). This methodology implies, and is equivalent to, the assumption that withdrawals during decommissioning – i.e., following plant shutdown – occur at the mid-point of each year during the period of active decommissioning. LIC-205 indicates further that the 3½-year period may be longer "if a licensee has declared and documented additional years into decommissioning based upon a site-specific study" (LIC-205 at p. 9).

The proposed RIS, however, limits use of the LIC-205 guidance to calculating earnings *during plant operation*. 75 *Fed. Reg.* 72,738, col. 3. The proposed RIS deviates from longstanding guidance and practice, and establishes a different methodology for the decommissioning period. Specifically, in contrast to the guidance provided in LIC-205, the RIS suggests that licensees should assume that any costs incurred during the decommissioning period (whether during DECON or SAFSTOR) will be withdrawn *at the beginning of the year in which they are incurred*. This proposed methodology is a new position and is unrealistic in light of power reactor decommissioning experience.

Specifically, power reactor decommissioning experience has demonstrated that withdrawals to pay for expenses incurred in any given year of decommissioning are never made solely at the beginning the year; rather, they are made over the course of the year as they are incurred. Although the LIC-205 assumption regarding *pro rata*, mid-year distributions over a 7-year DECON period is a simplification of distributions actually made from any given trust, it is a *reasonable, conservative* assumption given the long term predictive nature of decommissioning funding estimates; the reality that funds are typically not withdrawn solely at the beginning or end of any given year; and that independent third-party decommissioning cost estimates for DECON typically result in lower present value costs than predicted by the NRC's minimum funding assurance calculations contained in 10 C.F.R. § 50.75.

Thus, NEI recommends that the paragraph of the proposed RIS describing application of the 2 percent real rate of return be revised to read:

> "The detailed site-specific study should have a year-by-year cost breakdown combined with the overnight cost (cost without inflation or cost escalation) of decommissioning the plant using constant dollars for the year reported. The NRC staff evaluates the site-specific method~~, using the following steps: (1) Applying the current revision of NRR OI LIC-205 to calculate the growth of the fund during operations, (2) for each year during decommissioning, (a) subtracting the annual cost to be incurred and than (b) providing a 2 percent real rate of return, unless a higher rate of return has been allowed, and (3) repeating step (2) for each year of the decommissioning period until either the decommissioning period is completed or the DTF if depleted~~ applying the approach described in the most recent revision of NRR OI LIC-205."

We appreciate the opportunity to comment on the proposed RIS. If you have any questions, please contact me at 202-739-8115 or email lck@nei.org.

Sincerely,

Leslie C. Kass

Leslie C. Kass

c: Mr. Aaron Szabo, RES/DE/RGDB, NRC