

August 21, 2013

SEE ATTACHED LIST OF ADDRESSEES

SUBJECT: CLARIFICATION REGARDING THE TIMING OF SUBMITTAL OF A DECOMMISSIONING FUNDING PLAN PER TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS* SECTION 72.30(b) FOR FUTURE INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS

The purpose of this letter is to provide clarification regarding the timing of submittal of a decommissioning funding plan, per the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 72.30(b), to licensees who do not yet have an operating Independent Spent Fuel Storage Installation (ISFSI). As you are either planning for an ISFSI at your site, or may plan for an ISFSI in the future but have not announced plans to do so, you are being sent this letter for your information and ISFSI planning. This letter does not require any specific action or written response on the part of the addressees.

The Decommissioning Planning Final Rule (76 FR 35512; June 17, 2011) revised decommissioning financial assurance requirements in 10 CFR 72.30. The rule became effective on December 17, 2012. The revised 10 CFR 72.30(b) requires holders of, or applicants for, 10 CFR Part 72 licenses to submit a decommissioning funding plan for U.S. Nuclear Regulatory Commission (NRC) review and approval. The revised requirements in 10 CFR 72.30(b) are applicable to both specific-licensed and general-licensed ISFSIs under 10 CFR Part 72. By December 17, 2012, the effective date of the Decommissioning Planning Final Rule, existing ISFSI licensees were required to submit a decommissioning funding plan for NRC review and approval.

For 10 CFR Part 72 specific license applicants, a decommissioning funding plan must be provided to the NRC at the time of license application, consistent with 10 CFR 72.30(b) and the guidance in NUREG-1567, "Standard Review Plan for Spent Fuel Dry Storage Facilities" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML003686776).

For 10 CFR Part 72 general licensees, there is no associated license application. Rather, under 10 CFR 72.210, a general license is issued for the storage of spent fuel in an ISFSI at power reactor sites to persons authorized to possess or operate a reactor under 10 CFR Part 50 or Part 52. Also, 10 CFR 72.30(b) does not include a submission date by which future Part 72 general licensees (i.e., licensees whose Part 72 general license commences after December 17, 2012, the effective date of the Decommissioning Planning Final Rule) must submit a decommissioning funding plan. Therefore, consistent with the general license commencement date in 10 CFR 72.212(a)(3), general licensees should submit a decommissioning funding plan to the NRC no later than the date that the general licensee first uses a spent fuel storage cask to store spent fuel.

The Decommissioning Planning Final Rule may be accessed at <http://www.gpo.gov/fdsys/pkg/FR-2011-06-17/pdf/2011-14267.pdf>. Guidance on financial assurance and compliance with 10 CFR 72.30(b) is provided in NUREG-1757, Vol. 3, Rev. 1,

“Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness,” located at ADAMS Accession No. ML12048A683. Note that NUREG-1757, Vol. 3, Rev. 1, includes guidance on funding methods, but it may not include all of the funding methods approved for use by certain ISFSI licensees, such as ISFSI licensees who are issued a power reactor license under 10 CFR Part 50, or ISFSI licensees who are an electric utility, as defined in 10 CFR Part 50, with a specific license under 10 CFR Part 72. Guidance on additional funding methods that may be applicable to these licensees is provided in Regulatory Guide 1.159, “Assuring the Availability of Funds for Decommissioning Nuclear Reactors,” available at ADAMS Accession No. ML112160012.

If you have any questions regarding this letter, you may contact me at (301) 287-0673, or Kristina Banovac of my staff at (301) 287-0686 or Kristina.Banovac@nrc.gov.

Sincerely,

/RA/

Mark Lombard, Director
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety
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"Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness," located at ADAMS Accession No. ML12048A683. Note that NUREG-1757, Vol. 3, Rev. 1, includes guidance on funding methods, but it may not include all of the funding methods approved for use by certain ISFSI licensees, such as ISFSI licensees who are issued a power reactor license under 10 CFR Part 50, or ISFSI licensees who are an electric utility, as defined in 10 CFR Part 50, with a specific license under 10 CFR Part 72. Guidance on additional funding methods that may be applicable to these licensees is provided in Regulatory Guide 1.159, "Assuring the Availability of Funds for Decommissioning Nuclear Reactors," available at ADAMS Accession No. ML112160012.

If you have any questions regarding this letter, you may contact me at (301) 287-0673, or Kristina Banovac of my staff at (301) 287-0686 or Kristina.Banovac@nrc.gov.

Sincerely,

/RA/

Mark Lombard, Director
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OFC	NMSS/SFST	NMSS/SFST	NMSS/SFST	NMSS/SFST	FSME/DWMEP
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DATE	7 / 3 /13	7 / 8 /13	7 / 11 /13	7 / 10 /13	7 / 18 /13
OFC	NRR/DIRS	FSME/DWMEP	NRR/DORL	OGC	NMSS/SFST
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OFFICIAL RECORD COPY

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