NEI 15-06 [Revision 0]

Use of the Nuclear Decommissioning Trust Fund

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Nuclear Energy Institute

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NOTICE

EXECUTIVE SUMMARY

This technical report provides guidance to assist licensees in identifying cost which are appropriate reimbursed from a nuclear decommissioning trust (NDT) consistent with the definition of decommissioning in 10 CFR § 50.2 and 10 CFR § 72.3 for ISFSIs. This report also provides guidance on how licensees (or their cost estimate vendor) should clearly identify these activities in the site-specific decommissioning cost estimate and specify the funds that are set aside for these costs in the nuclear decommissioning trust or other appropriate funding mechanism.

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USE OF THE NUCLEAR DECOMMISSIONING TRUST FUND

1 INTRODUCTION

The purpose of this document is to provide guidance on appropriate use of decommissioning trust funds established by licensees. While these funds are typically collected and disbursed for three purposes – radiological decommissioning, spent fuel management, and site restoration – this guidance document is primarily focused on disbursement of funds for the purpose of NRC Radiological Decommissioning (as defined in 10 CFR § 50.2 and 10 CFR § 72.3). The document is not intended to address the disbursement of funds for spent fuel management and site restoration, or the NRC's reporting and recordkeeping requirements applicable to decommissioning planning during operation (*see* 10 CFR § 50.75 and 10 CFR § 72.30).

Licensees are required to provide financial assurance for NRC Radiological Decommissioning through meeting the requirements of 10 CFR § 50.75 while a facility is operating. The decommissioning process, including the use of decommissioning funds, is governed primarily by 10 CFR § 50.82 and 10 CFR § 72.30 for ISFSIs. The most common method of meeting financial assurance requirements is with a trust, typically called a Nuclear Decommissioning Trust (NDT). Once licensees commence decommissioning, they should have a robust process for requesting and accounting for reimbursements from their NDT.

2 DEFINITIONS

- NRC Radiological Decommissioning – those activities meeting the NRC definition of decommissioning in 10 CFR § 50.2 and 10 CFR § 72.30:

  Decommission means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits—

  (1) Release of the property for unrestricted use and termination of the license; or

  (2) Release of the property under restricted conditions and termination of the license.

  Section 50.82(a) identifies permissible uses of the decommissioning trust funds:

  (8)(i) Decommissioning trust funds may be used by licensees if—

  (A) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2;

  NRC Regulatory Guide 1.184, Rev. 1 (at p. 6) further explains that decommissioning trust funds may be used for "actual decommissioning or readying the facility for long-term storage."

  The regulations in 10 CFR Part 50 do not specifically itemize which particular activities are "legitimate decommissioning activities." However, activities that go

beyond the scope of decommissioning, as defined in 10 CFR § 50.2, such as restoration costs to prepare the site for its next use after license termination is complete, are not appropriate for inclusion in the decommissioning cost estimate as decommissioning activities. Decommissioning activities also do not include the removal, storage, management and disposal of spent fuel, or the disposal during operation of radiologically contaminated materials or the removal and disposal of nonradioactive structures and materials beyond that necessary to terminate the NRC license. Disposal of nonradioactive hazardous waste not necessary for NRC license termination is not covered by these regulations but would be treated by other appropriate agencies having responsibility over these wastes.

Licensees should recognize that this is the regulatory definition for NRC purposes under 10 CFR § 50.2 and 10 CFR § 72.30. Other government agencies (e.g. the IRS or FERC) may have different definitions of the term "decommissioning" and the liability required to be reported on a licensee's financial statements (i.e. on its balance sheet) currently utilizes a different definition and process.

- Spent Fuel Management – Activities performed to manage inventories of irradiated fuel and Greater than Class C Waste (GTCC) at the reactor site following permanent cessation of operation of the reactor until title and possession of the fuel and GTCC is transferred to the Secretary of Energy for its ultimate disposal in a repository. Funding for spent fuel management activities are addressed in a separate regulation, 10 CFR § 50.54(bb).

- Site Restoration – Activities performed to prepare the site for its next use or some desired end state beyond license termination. Such activities extend beyond what is required to complete decommissioning as defined in 10 CFR § 50.2.

- Commingling of Funds – The inclusion in the NDT of monies to provide for activities beyond NRC Radiological Decommissioning, such as spent fuel management (see Reg Guide 1.184).

- Nuclear Decommissioning Trust (NDT) – A method of providing financial assurance, where an account or accounts are segregated from licensee assets and outside the administrative control of the licensee and its subsidiaries or affiliates, such that the amount of funds would be sufficient to pay for decommissioning costs at the time of permanent cessation of operations or sufficient as otherwise described in 10 CFR § 50.75(e)(1). Use of NDT funds is governed by 10 CFR § 50.82(a)(8) and 10 CFR 50.75(h).

- Decommissioning Funding Assurance – The specific requirements to provide for decommissioning funding to permit license termination are under 10 CFR § 50.75(e)(1). These requirements do not apply to irradiated fuel management, which is addressed under 10 CFR § 50.54(bb).

- Independent Spent Fuel Storage Installation (ISFSI) Decommissioning Funding Assurance – Financial assurance and recordkeeping requirements for decommissioning an ISFSI (or Monitored Retrievable Storage facility) following

the removal of spent fuel, high-level radioactive waste, and reactor-related Greater Than Class C (GTCC) waste are addressed in 10 CFR § 72.30.

- Post-shutdown Decommissioning Activities Report (PSDAR) – The report required within 2 years following permanent cessation of operations, pursuant to 10 CFR § 50.82(a)(4). It is required to be submitted to the NRC and made available for public comment in accordance with 10 CFR § 50.82(a)(4) prior to or within 2 years following permanent cessation of operations. The purpose of the PSDAR is to provide a general overview for the NRC and the public of the licensee's proposed decommissioning activities. After the 90 day wait period has expired, without objection from the NRC, the licensee is allowed to perform major decommissioning activities and to reimburse license termination expenditures from the NDT.

- Site-Specific Decommissioning Cost Estimate (DCE) – The estimate required to be submitted within 2 years following permanent cessation of operations, pursuant to 10 CFR § 50.82(a)(8)(iii). The purpose of the site-specific decommissioning cost estimate is to calculate the cost required to complete license termination and spent fuel management. A DCE may also include site restoration. The DCE categorizes the cost by decommissioning period, is used to establish the asset retirement obligation and provides a basis for financial assurance evaluations.

- Planning expenses for decommissioning – Expenses authorized up to 3% of the generically prescribed decommissioning funds (see 10 CFR § 50.75(c)) to be available to the licensee for planning purposes ("paper studies") before permanent cessation of power reactor operations, as specified in 10 CFR § 50.82(a)(8)(ii).

3 NRC REQUIREMENTS FOR DECOMMISSIONING COST ESTIMATE AND FINANCIAL ASSURANCE DURING DECOMMISSIONING

The regulations at 10 CFR § 50.82(a)(4)(i) require a site-specific decommissioning cost estimate (DCE) be submitted in conjunction with the Post-Shutdown Decommissioning Activities Report (PSDAR):

> *Prior to or within 2 years following permanent cessation of operations, the licensee shall submit a post-shutdown decommissioning activities report (PSDAR) to the NRC, and a copy to the affected State(s). The PSDAR must contain a description of the planned decommissioning activities along with a schedule for their accomplishment, a discussion that provides the reasons for concluding that the environmental impacts associated with site-specific decommissioning activities will be bounded by appropriate previously issued environmental impact statements, and a site-specific DCE, including the projected cost of managing irradiated fuel.*

The regulations at 10 CFR § 50.75(f)(1) and (f)(2) require decommissioning funding status reports biennially, then annually if within 5 years of projected end of operations or the plant has closed down. This applies even before the site specific DCE is submitted.

After the site-specific DCE is submitted, 10 CFR § 50.82(a)(8)(v) requires an annual financial assurance status report which requires the licensee to demonstrate that there is funding available to terminate the 10 CFR Part 50 license. The financial assurance requirements are based on the DCE.

> *After submitting its site-specific DCE required by paragraph (a)(4)(i) of this section, and until the licensee has completed its final radiation survey and demonstrated that residual radioactivity has been reduced to a level that permits termination of its license, the licensee must annually submit to the NRC, by March 31, a financial assurance status report. The report must include the following information, current through the end of the previous calendar year:*
>
> *(A) The amount spent on decommissioning, both cumulative and over the previous calendar year, the remaining balance of any decommissioning funds, and the amount provided by other financial assurance methods being relied upon;*
>
> *(B) An estimate of the costs to complete decommissioning, reflecting any difference between actual and estimated costs for work performed during the year, and the decommissioning criteria upon which the estimate is based;*
>
> *(C) Any modifications occurring to a licensee's current method of providing financial assurance since the last submitted report; and*
>
> *(D) Any material changes to trust agreements or financial assurance contracts.*

If the annual financial assurance status report shows a projected shortfall in the amount of remaining funds to complete decommissioning, then 10 CFR § 50.82(a)(8)(vi) requires that the licensee include additional financial assurance to cover the shortfall:

> *If the sum of the balance of any remaining decommissioning funds, plus earnings on such funds calculated at not greater than a 2 percent real rate of return, together with the amount provided by other financial assurance methods being relied upon, does not cover the estimated cost to complete the decommissioning, the financial assurance status report must include additional financial assurance to cover the estimated cost of completion*.

DECOMMISSIONING COST ESTIMATE DISCUSSION

The licensees should make their site specific DCE as comprehensive as practical to comply with regulatory requirements and to provide a transparent view of the decommissioning project for all stakeholders. During the course of developing the site-specific DCE in accordance with the NRC guidance in Regulatory Guide (RG) 1.202, licensees should clearly account for and include in the DCE those activities that are necessary to decommission the facility pursuant to the definition provided in 10 CFR § 50.2, or are clearly necessary to remove the facility or site safely from service in order to facilitate decommissioning. Examples of such activities include maintaining emergency preparedness capabilities, physical security, property taxes, insurance and fees for attorneys and consultants.

The regulations do not prohibit, and some licensees have, separate subaccounts for other activities in the decommissioning trust fund. Licensees may include in their NDT, and

separately account for, funds to provide for activities that do not fall within the 10 CFR § 50.2 definition of decommissioning (NRC Radiological Decommissioning). The practice of combining these funds is commonly known as commingling, which is generally permitted under NRC's regulations as described by NRC Regulatory Information Summary (RIS) 2001-07, Rev.1:

> *The NRC has not precluded the commingling in a single account of funds accumulated to comply with NRC radiological decommissioning requirements and funds accumulated to address State site restoration costs (State costs) and spent fuel management costs, as long as the licensee is able to identify and account for the NRC radiological decommissioning funds that are contained within a single account.*

Based on the information in RIS 2001-7, Rev. 1, the key to appropriately managing commingled funds is to assure that funds for NRC Radiological Decommissioning are identified and accounted for by the licensee, despite being commingled with funds that are set aside for other purposes (i.e., spent fuel management and site restoration).

Submittal of the site-specific DCE triggers annual financial assurance reports that require licensees to show that there are sufficient funds available in the NDT, or provided by another financial assurance method, to complete NRC Radiological Decommissioning based on the estimated cost to complete those activities as described in the DCE.

Activities associated with management of spent (irradiated) fuel and site restoration are not within the scope of the NRC definition of decommissioning. It is common practice, however, to provide the DCE subdivided into categories like license termination (i.e., NRC Radiological Decommissioning), spent fuel management and site restoration. Site restoration is generally taken to mean activities undertaken to allow the site to be used for other purposes (e.g., industrial) following termination of the Part 50 license.

The requirements to show plans for how different categories of cost (license termination, spent fuel management, and site restoration) will be funded vary with the most demanding requirements applied to license termination. Financial Assurance requirements for license termination costs are specifically articulated in 10 CFR § 50.75(e)(1). These requirements do not apply to an irradiated fuel management plan under 10 CFR § 50.54(bb). Since site restoration activities are outside the regulatory scope of the NRC, there is no NRC-based requirement beyond the expectation of accounting for those funds separately from NRC obligations.

Consistent with the PSDAR being an informational filing, the associated plans should inform the regulator and stakeholders of how the licensee expects to fund the spending necessary to complete license termination.

In the case of a delayed decommissioning plan, RG 1.185 has additional specific guidance:

> *Following submission of a site-specific cost estimate, if the licensee specifies the delayed completion of decommissioning in its PSDAR, it must provide a means of adjusting cost estimates and associated funding levels over the duration of the storage or surveillance period to ensure that the appropriate amount of funding*

will be available to terminate the license as required by 10 CFR 50.82(a)(8)(iv). The PSDAR should describe that mechanism.

ISFSI DECOMMISSIONING DISCUSSION

Currently there is no mechanism to remove Spent Nuclear Fuel from a reactor site. Consequently, licensees may have completed decontamination and dismantlement of their facility with only an ISFSI remaining under their 10 CFR Part 50 license or they may have transitioned to an ISFSI only license under 10 CFR Part 72. As described in the definitions section, 10 CFR § 72.30 imposes specific decommissioning financial assurance and recordkeeping requirements for both general and specific ISFSI licensees. Section 72.13(c) identifies that Sections 72.30(b), (c), (d), (e) and (f) are applicable to general licensees under 10 CFR § 72. In addition, Section 72.30(e)(5) states, however, that Part 50 power reactor licensees and ISFSI specific licensees who meet the definition of an "electric utility" (as defined in Part 50) may use the funding assurance methods provided in § 50.75(b), (e), and (h).

The regulations at 10 CFR § 72.30(b) requires each holder of, or applicant for, a license under this part to submit for NRC review and approval a decommissioning funding plan that must contain:

(1) Information on how reasonable assurance will be provided that funds will be available to decommission the ISFSI or MRS.

(2) A detailed cost estimate for decommissioning, in an amount reflecting:

(i) The cost of an independent contractor to perform all decommissioning activities;

(ii) An adequate contingency factor; and

(iii) The cost of meeting the § 20.1402 of this chapter criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of § 20.1403 of this chapter, the cost estimate may be based on meeting the § 20.1403 criteria.

(3) Identification of and justification for using the key assumptions contained in the DCE.

(4) A description of the method of assuring funds for decommissioning from paragraph (e) of this section, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility.

(5) The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination.

(6) A certification that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning.

After the site-specific ISFSI decommissioning funding plan is submitted, 10 CFR § 72.30(c) requires:

(c) At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this can not be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan and must specifically consider the effect of the following events on decommissioning costs:

(1) Spills of radioactive material producing additional residual radioactivity in onsite subsurface material.

(2) Facility modifications.

(3) Changes in authorized possession limits.

(4) Actual remediation costs that exceed the previous cost estimate.

In addition, the decommissioning funding plan is required to be updated in accordance with 10 CFR § 72.30(d) if groundwater is detected at levels that would require such radioactivity to be reduced to a level permitting release of the property for unrestricted release.

(d) If, in surveys made under 10 CFR 20.1501(a), residual radioactivity in soils or groundwater is detected at levels that would require such radioactivity to be reduced to a level permitting release of the property for unrestricted use under the decommissioning requirements in part 20 of this chapter, the licensee must submit a new or revised decommissioning funding plan within one year of when the survey is completed.

10 CFR § 72.30(e)(5) defines that the methods of 10 CFR § 50.75(b), (e), and (h), as applicable, apply to licensees who are issued a power reactor license under 10 CFR § 50.

4 DEVELOPMENT OF THE DECOMMISSIONING COST ESTIMATE AND USE OF THE DECOMMISSIONING TRUST FUND FOR RADIOLOGICAL DECOMMISSIONING

As previously noted, NRC regulations in 10 CFR § 50.2 and 10 CFR § 72.30 establish the legally binding definition of NRC Radiological Decommissioning. 10 CFR § 50.75 and 10 CFR § 72.30 establish reporting and recordkeeping requirements for decommissioning planning, including minimum financial assurance requirements while a facility remains in operation. 10 CFR § 50.82 governs the decommissioning process. Most pertinently, that regulation limits the use of decommissioning trust funds to "legitimate decommissioning activities, consistent with the definition of decommissioning in 10 CFR § 50.2." 10 CFR § 50.82(a)(8)(i)(A).

The NRC has also published multiple guidance documents that licensees should consider in the development of the site specific DCE and in the appropriate use of NDT funds. In general, guidance documents provide NRC interpretations of the regulatory requirements

and may describe methods that the Staff has found acceptable for implementing specific regulations. Licensees should review the applicable guidance documents to determine whether proposed reimbursements from the NDT for decommissioning activities are consistent with the definition of decommissioning in 10 CFR §§ 50.2, 10 CFR § 72.30 and 50.82(a)(8)(i)(A). A non-exhaustive list of relevant guidance is provided below.

Rulemaking Documents (provide explanation and interpretation of NRC regulations at the time rules are promulgated)

- General Requirements for Decommissioning Nuclear Facilities – Final Rule, 53 FR 24018 (June 27, 1988): promulgated 10 CFR §§ 50.2 and 50.75 and significantly revised Section 50.82.
    - References several NRC and Pacific Northwest Laboratory (PNL) studies at 53 FR 24041.
    - Note: As stated in the Final Rule (see 53 FR 24027), "The PNL reports on decommissioning a reference PWR and reference BWR are detailed engineering studies of the conceptual decommissioning of a large PWR (the 1174 MWe Trojan Nuclear Plant is used as the reference plant) and a large BWR (the 1150 MWe WNP-2 plant is used as reference)." Subsequent NUREG/CR reports have been produced as a result of reviews and reevaluations of these reports. (See NUREG/CR-5884 and NUREG/CR-6174 cited below).
- Decommissioning of Nuclear Power Reactors – Final Rule, 61 FR 39278 (July 29, 1996): significant amendments to the decommissioning rules
- Financial Assurance Requirements for Decommissioning Nuclear Power Reactors – Final Rule, 63 FR 50465 (Sept. 22, 1998): amends rules governing financial assurance for decommissioning, for example, requiring periodic reporting.
- Decommissioning Trust Provisions – Final Rule, 67 FR 78332 (Dec. 24, 2002): amended rules governing decommissioning trust funds to account for licensees that are no longer rate regulated. The rulemaking also amends notice requirements for certain decommissioning trust fund withdrawals.
- Decommissioning Planning – Final Rule, 76 FR 35512 (June 17, 2011): amended decommissioning planning rules, including reporting requirements for DCEs and imposing new requirements to report spent fuel management costs and to provide for ISFSI decommissioning funding assurance.

Regulatory Guides (describe to the public methods that the staff considers acceptable for use in implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific problems or postulated accidents, and to provide guidance to applicants).

Note: Current revisions are listed below. Licensees should verify they are referencing the most recent revision of any Regulatory Guidance.

- Regulatory Guide 1.159, Assuring the Availability of Funds for Decommissioning Nuclear Reactors, Rev. 2 (Oct. 2011)

- Regulatory Guide 1.184, Decommissioning of Nuclear Power Reactors, Rev. 1 (Oct. 2013)

- Regulatory Guide 1.185, Standard Format and Content for Post-Shutdown Decommissioning Activities Report, Rev. 1 (June 2013)

- Regulatory Guide 1.202, Standard Format and Content of Decommissioning Cost Estimates for Nuclear Power Reactors (Feb. 2002)

- Regulatory Guide 1.179, Standard Format and Content of License Termination Plans for Nuclear Power Reactors, Rev. 1 (June 2011)

- Regulatory Issue Summary (RIS) 2001-07, Rev. 1, 10 CFR 50.75 Reporting and Recordkeeping for Decommissioning Planning (Jan. 8, 2009): clarifies the need to preserve the distinction between funds accumulated for radiological decommissioning, which licensees are required to report, and funds accumulated for other purposes.

NUREG Publications (guidance or other publications prepared by the NRC Staff)

- NUREG-1713, Standard Review Plan for Decommissioning Cost Estimates for Nuclear Power Reactors (Dec. 2004)

    - This document also includes references to several other supporting studies, including NUREG-0586, NUREG/CR-0130, NUREG/CR-0672, NUREG/CR-5884, and NUREG/CR-6174, and NUREG-1307

- NUREG-1307, Report on Waste Disposal Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities, Rev. 15 (Jan. 2013) (revised periodically)

- NUREG-0586, Final Generic Environmental Impact Statement [GEIS] on Decommissioning of Nuclear Facilities (Initial Report, Aug. 1988; supp. 1, Nov. 2002).

    - This GEIS supported the 1988 decommissioning rulemaking, and referenced several PNL and other supporting studies, including NUREG/CR-0130 and NUREG/CR-0672 listed below.

- NUREG-1700, Standard Review Plan for Evaluating Nuclear Power Reactor License Termination Plans, Rev. 1 (Apr. 2003)

- NUREG-1577, Standard Review Plan on Power Reactor Licensee Financial Qualifications and Decommissioning Funding Assurance, Rev. 1 (Feb. 1999)

- NUREG-1757, Volume 3, Consolidated Decommissioning Guidance - Financial Assurance, Recordkeeping and Timeliness, Rev. 1 (February 2012)

NUREG/CR Publications (guidance or other publications prepared by NRC contractors)

- NUREG/CR-0130, Technology, Safety and Costs of Decommissioning a Reference Pressurized-Water Reactor Power Station (June 1978, several addenda published, later updated in NUREG/CR-5884)

- NUREG/CR-0672, Technology, Safety and Costs of Decommissioning a Reference Boiling-Water Reactor Power Station (June 1980, several addenda published, later updated in NUREG/CR-6174)

- NUREG/CR-5884, Revised Analyses of Decommissioning for the Reference Pressurized Water Reactor Power Station (November 1995; issued as part of a review and reevaluation of NUREG/CR-0130)

- NUREG/CR-6174, Revised Analyses of Decommissioning for the Reference Boiling Water Reactor Power Station (July 1996; issued as part of a review and reevaluation of PNL 1980 decommissioning study of WNP-2 (NUREG/CR-0672))

- NUREG/CR-6054, Estimating Pressurized Water Reactor Decommissioning Costs (Nov. 1995)

- NUREG/CR-6270, Estimating Boiling Water Reactor Decommissioning Costs (June 1996)

Other Publications (material not prepared by NRC or NRC contractors, but which may be helpful)

- "Analysis of Allowable Uses of Nuclear Decommissioning Trust Funds" provides an analysis of recent areas of concern that have been discussed with in the industry. Thomas E Magette, PWC & Adam Levin, AHL Consulting (April 21, 2015). While this is not an NRC document, it may be helpful as roadmap to addressing very granular questions licensees may have on specific costs. It is attached to this document as Appendix B.

5 LICENSEE REIMBURSEMENT PROCESS

There are other constraints on the licensee beyond NRC regulations, which could drive a licensee to decide that some costs incurred during decommissioning will not be funded by the NDT, but may seem appropriately included in the DCE. For licensees utilizing a tax qualified trust, IRS regulations are a major factor in how the licensee will decide what can be reimbursed from the NDT and this will vary from licensee to licensee depending on their specific business model, the manner in which tax rules apply to that business model, and how their recordkeeping systems work (mainly for allocated costs).

For licensees in cost of service regulation, the entity responsible for that regulation (e.g. Public Utility Commission) will likely influence use of the funds. Beyond that, the licensee may have agreements with host states or communities about the use of NDT funds or there may be other unique factors. Including these costs in the DCE, even if they will not be paid for through NDT funds, is consistent with the guidance to make the

DCE as complete as reasonable. However, there is no requirement to do so and licensees should consider identifying them as non-NRC Radiological Decommissioning costs which are not subject to the NRC Radiological Decommissioning Financial Assurance requirements.

Recent experience for licensees undergoing decommissioning suggests that different functional disciplines within the licensee must be involved in the reimbursement process to ensure all requirements are fully understood and observed. At a minimum, the following perspectives should be considered:

NRC Regulations: This would typically involve the regulatory assurance/licensing organization or legal staff of the licensee and would ensure compliance with NRC regulations and guidance.

Tax Regulations: Most licensees have a decommissioning trust that is qualified under IRS regulations at 26 CFR § 1.468(A) and certain guidance about the criteria for reimbursement (e.g. economic performance) exists. Representatives of the licensee's tax department should be involved in ensuring compliance. There is little precedent regarding breaches of IRS qualified fund rules and the consequences could potentially be significant.

State/Local Regulations: For licensees operating under cost of service regulation or having any continued obligations to ratepayers, the relevant part of the licensee's external affairs/regulatory affairs or legal department should be involved to ensure compliance with any applicable regulations or other requirements.

Financial Review: Appropriate staff should review each reimbursement request to determine if the costs being reimbursed were appropriate, accurate and consistent with the DCE. While DCEs will not contain the granularity to provide dollar by dollar verification, this practice will provide additional validation of the licensee's standard approval authorization process.

Management Review: It is suggested that in addition to the technical reviews for compliance that the preceding groups would provide, that the licensee also review the reimbursement requests for any appearance of impropriety. This may be especially important when other divisions or entities within the licensee's corporate organization are providing services to the decommissioning project.

Review of reimbursement requests may also provide an early indication of whether the project is incurring any material costs that were not contemplated in the DCE, or if costs are occurring at a time or in an amount inconsistent with DCE. This early indication of a variance from the DCE will be a valuable tool in project management.

Licensees should consider having each of these internal organizations review the DCE to ensure the planned reimbursement of costs incurred are consistent with the NRC, IRS, FERC and State regulations governing use of the NDT funds for decommissioning activities. Following submittal of the PSDAR, it will also be necessary to provide ongoing reviews of any activities that may result in a significant change from the actions

and schedules described in the PSDAR (refer to 10 CFR § 50.82(a)(7)) or activities for which additional detail has been made available.

Licensees should keep records of all reimbursement requests and underlying supporting documentation to support audits and to allow progress reports on the decommissioning project to be prepared, both for internal review and potential publication to provide additional data on the adequacy of financial assurance. Any internal audits should confirm that there is a clear accounting for funds in each of the decommissioning categories – NRC radiological decommissioning, spent fuel management, ISFSI decommissioning, and site restoration.

APPENDIX A – SUPPLEMENTAL INFORMATION REGARDING FINANCIAL DISCLOSURE

Related Issue: **Caution about Financial Reporting Requirements**

Licensees that prepare financial statements under GAAP reporting rules will record the obligation to decommission the facility in those statements as an Asset Retirement Obligation (ARO). The methodology used for calculating the ARO is defined in accounting literature and is not necessarily consistent with the NRC conceptions of decommissioning costs. As is apparent from the following description of how the ARO is calculated and maintained over time, a licensee's ARO may differ from metrics like the NRC minimum decommissioning formula amount or the DCE. Licensees should be aware that several metrics to calculate decommissioning liability exist.

Under ASC 410-20 (the standard for how companies prepare their financial statements), the decommissioning liability is computed by developing expected scenarios for decommissioning the plant and producing expected cash flows for each scenario. Each of the cash flow scenarios is weighted based on the likelihood of that outcome and the present value of the combined cash flow stream is calculated using a Credit Adjusted Risk Free (CARF) rate. Examples of possible scenarios that may be probabilistically weighted include: license renewal followed by SAFSTOR, license renewal followed by prompt decommissioning, or SAFSTOR at the end of current license. If the likelihood of a scenario changes, or the potential scenarios themselves change, then the probabilities must be updated to adjust the liability. A new CARF is applied, but only to the incremental increase in cash flows (existing cash flows are discounted at the original rate).

Related Issue: **Review of Collection Schedules**

It may be appropriate for licensees to review the basis for collections that were deposited into the NDT. While there is not necessarily an NRC regulatory requirement to match the use of funds with the stated purpose that funds were collected, the decisions in rate-making proceedings may contain assumptions about what costs were considered when collection schedules were set. This information may address (1) questions about whether the NDT includes funds collected for spent fuel management or site restoration and (2) disputes involving intergenerational issues between ratepayers subject to collections during plant operation, ratepayers subject to collections after cessation of operations and ratepayers receiving refunds of any over collection.

Related Issue: **Merchant and Cost of Service Environments**

Under NRC regulations, the NRC examines the overall financial viability of an entity during initial licensing, a license transfer, or when there is evidence of safety concerns that potentially stem from financial distress. Since current NRC regulations allow certain funding assurance mechanisms that only apply to plants under cost of service regulation, the NRC already makes a regulatory distinction between plants in different environments.

In the case of a license transfer to a merchant entity, NRC can impose conditions (typically an NDT that meets the NRC minimum, a financing mechanism to ensure liquidity for the period between an unplanned shutdown and access to the NDT, and a reasonable projection of financial

viability over a five year horizon) or deny the transfer. In the case of safety concerns arising from financial distress during operation, the regulatory framework allows the NRC to require plant shutdown and allows the NRC to force the licensee to either find capital to resolve the safety issue or declare permanent cessation of operations and proceed into decommissioning.

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