

October 14, 2015

MEMORANDUM TO: Anthony J. Mendiola, Chief
Licensing Processes Branch
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

FROM: Joseph J. Holonich, Senior Project Manager */RA/*
Licensing Processes Branch
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SUBJECT: SUMMARY OF AUGUST 25, 2015, MEETING WITH THE NUCLEAR
ENERGY INSTITUTE TO DISCUSS ITS PROPOSAL TO DEVELOP
INDUSTRY GUIDANCE FOR DECOMMISSIONING FUNDING

On August 25, 2015, U.S. Nuclear Regulatory Commission (NRC) staff met with representatives from the Nuclear Energy Institute (NEI) and industry. The purpose of the meeting was for NEI to discuss its initial draft of an industry guidance document on decommissioning funding, as stated in the April 17, 2015, NEI letter to the NRC (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15209A887). Information related to the meeting, including presentations and attendees list, can be found in the ADAMS package at Accession No. ML15201A106.

In its opening remarks, the NRC staff stated that its objective for the meeting was to listen to the NEI presentation on the NEI guidance for decommissioning funding. The NRC staff emphasized that the meeting would not discuss any site-specific issues or actions currently underway by NRC staff or the Commission. The NRC staff concluded its opening remarks by stating that constructive stakeholder comments related to NEI's proposed industry guidance on decommissioning funding would be welcome at the end of the meeting.

In the NEI opening remarks, the NEI representative explained that the goal of the guidance was to ensure plant owners had access to the funds while adhering to the regulations and ensuring funds were available for decommissioning. The NEI representative reported that the industry believed the regulatory framework was sound but the guidance would document the criteria for the disbursement of decommissioning funding. In particular, the NEI representative stated that the industry believes there are conflicts among the different NRC guidance documents related to decommissioning funding.

Continuing, the NEI representative said that the NEI guidance would help with future decommissioning fund distribution and would provide all stakeholders with visibility of the process. Also, the NEI representative noted that many issues on decommissioning funding were site-specific and did not lend themselves to inflexible and overly specific guidance. The NEI representative stated that NEI planned to submit its guidance on decommissioning funding to the NRC staff for endorsement,

In response to the NEI opening remarks, the NRC staff requested that NEI provide additional information on the conflicts among NRC guidance on decommissioning funding. In particular, the NRC staff asked about the NEI statement that there was confusion about what can and cannot be included in decommissioning funding. Thus, the NRC staff indicated that knowing the particular guidance documents would be useful in helping the NRC staff identify inconsistencies.

NEI provided some insights by citing that the regulations allowed a 3-percent maximum per plant fund withdrawal, while the submission of a post-shutdown decommissioning activities report (PSDAR) allowed for an additional 20-percent withdrawal of decommissioning funds. The decommissioning cost estimate (DCE) allowed access to the balance of funds, which would be 77 percent.

An inconsistency NEI identified was that the regulatory guidance for PSDAR said that the PSDAR was incomplete without the DCE. If that was correct, then the intermediate withdrawal of 20 percent would not be achievable because a PSDAR could not be submitted without a DCE. As an action item from the meeting, NEI agreed to identify in its letter requesting NRC staff endorsement of the industry guidance areas where it believed there were conflicts with the regulatory guidance on PSDAR completeness.

After the opening remarks and related discussions concluded, the NEI representative made a presentation on the guidance. Copies of the presentation can be found in the ADAMS package previously cited. Overall, the NEI representative stated that the guidance was a summary of the current regulations, including definitions, and guidance related to decommissioning funding. The initial pages provide guidance for plants to determine what could be included in decommissioning costs.

During the presentation, one discussion emerged on whether studies conducted on Section 50.75, "Reporting and Recordkeeping for Decommissioning Planning," of Title 10 of the *Code of Federal Regulations* (10 CFR 50.75) remained valid. The NEI representative noted that some studies were done before 1997 and redone in a recent study. Specifically, the NEI representative asked if the Commission table of minimum amounts was still valid.

The NRC staff responded that, yes, the table of minimum amounts was still valid. Furthermore, the NRC staff noted that at the time of the last 10 CFR 50.75 study, the NRC evaluated the table and reported the lower costs so that the table would be applicable to all plants. Thus, the NRC staff stated it had confidence in its decommissioning estimates but could be open to changes if warranted based on additional information.

Another discussion during the presentation related to NEI indicating that the guidance was not intended to offer a different interpretation of the regulations or guidance. Rather, the NEI representative stated that the implementation of the guidance would vary from plant to plant. The new guidance is intended to show what is acceptable for implementation in different circumstances, it said. The NEI representative clarified that NEI was not asking the NRC staff for guidance.

In response, the NRC staff stated that in any proposed NEI guidance, the NRC staff would want to see a clear accounting for how the decommissioning funding was used. The NEI representative agreed with the NRC staff and explained that that was NEI's intent with its guidance. Given that, the NRC staff asked NEI what it desired from the NRC staff.

The NEI representative stated that NEI wanted to get the NRC staff's endorsement of the guidance. In particular, the NEI representative said that the goal for the endorsement would be to provide assurance that, if the NEI guidance were followed, then the NRC staff would agree that plants met the NRC regulations and guidance.

Continuing, the NEI representative said that NEI was looking for a specifically worded endorsement that said plants could follow the NEI guidance to meet NRC regulations. NEI said its objective is for the guidance to serve as a tool for industry.

In closing the discussions, the NEI representative said that NEI would be incorporating the feedback received at this meeting into the guidance. Once a revision was complete, NEI would look for a second meeting with the NRC staff (a meeting action item).

After the meeting discussion ended, the NRC staff provided an opportunity for stakeholder comments. Representatives from the State of Vermont stated that the meeting touched on the complexities of decommissioning and its concerns. The representatives stated that other stakeholders needed to participate in the endorsement process and asked what opportunities there would be to be involved in evaluating what NEI provided for endorsement.

In response to this question, the NRC staff stated that the usual process for endorsing NEI guidance was for the agency to issue a new or revised regulatory guide. If that process was used in this case, there would be an opportunity for stakeholders to provide comments on drafts of the regulatory guide. By commenting, stakeholders could engage in the NRC staff determination on whether to endorse the guidance.

The NEI representative stated that NEI welcomes full participation in the endorsement of the NEI guidance.

A second stakeholder asked for the definition of radiological decommissioning. The stakeholder agreed to work with NRC staff directly on getting this answer.

A third stakeholder raised concerns that the process was not introducing any new information and that meetings with stakeholders were not scheduled with the NRC staff while NEI was provided a meeting. The NRC staff responded that the regulatory process provides for stakeholder involvement as did public meetings such as this one.

The meeting identified the following action items:

- In its letter requesting NRC staff endorsement of the guidance, NEI will identify instances in which there are conflicts within the regulatory guidance on decommissioning funding. NEI will provide examples of inconsistencies of PSDAR completeness.
- NEI will work with the NRC staff to schedule a second meeting when NEI has considered the input received from this meeting and revised the guidance.

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