

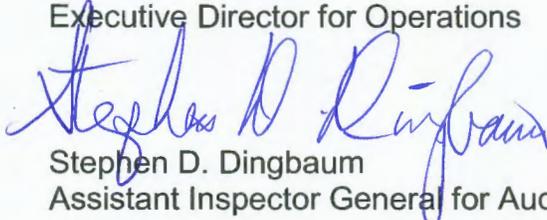


**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

**OFFICE OF THE
INSPECTOR GENERAL**

August 8, 2016

MEMORANDUM TO: Victor M. McCree
Executive Director for Operations

FROM: 
Stephen D. Dingbaum
Assistant Inspector General for Audits

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S
DECOMMISSIONING FUNDS PROGRAM (OIG-16-A-16)

REFERENCE: DEPUTY EXECUTIVE DIRECTOR FOR REACTOR AND
PREPAREDNESS PROGRAMS MEMORANDUM DATED
JULY 7, 2016

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in the agency's response dated July 7, 2016. Based on this response, recommendations 1 through 9 remain in a resolved status. Please provide an updated status of the resolved recommendations by December 2, 2016.

If you have any questions or concerns, please contact me at 415-5915 or Eric Rivera, Team Leader, at 415-7032.

Attachments: As stated

cc: R. Lewis, OEDO
H. Rasouli, OEDO
J. Jolicoeur, OEDO
J. Bowen, OEDO
EDO_ACS_Distribution

Audit Report

AUDIT OF NRC'S DECOMMISSIONING FUNDS PROGRAM

OIG-16-A-16

Status of Recommendations

Recommendation 1: Clarify guidance to further define "legitimate decommissioning activities" by developing objective criteria for this term.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

The NRC's regulation at 10 CFR § 50.82(a)(8)(i)(A) states that decommissioning trust funds may be used by licensees if the withdrawals "are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in § 50.2." Section 50.2 states that "decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for restricted or unrestricted use and that permits license termination. Additionally, under 10 CFR § 50.75(h), the licensee may use the decommissioning trust fund for ordinary administrative costs (including taxes) and other incidental expenses of the fund (including legal, accounting, actuarial, and trustee expenses) in connection with the operation of the fund.

Planned actions: The staff will continue to work in a public forum with industry and other interested stakeholders to develop objective criteria for legitimate decommissioning activities for inclusion into guidance.

Target date for completion: February 21, 2017

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the clarified guidance and determines that it further defines "legitimate decommissioning activities."

Status:

Resolved.

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Status of Recommendations

Recommendation 2: Develop and issue clarifying guidance to NRC staff and licensees specifying the instances when an exemption is not needed.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation regarding decommissioning trust fund usage exemptions.

NRC regulations cited in response to Recommendation 1 above, and in 10 CFR 50.75(c), limit the use of decommissioning trust funds. Exemptions have been issued to allow trust fund withdrawals, provided the expenditure would not reduce the value of the fund below an amount necessary to place and maintain the reactor in a safe storage condition and would not inhibit the ability of the licensees to complete funding of any shortfalls in funds needed to decommission the facility and terminate the license.

NRC Regulatory Issue Summary 2001-07, "10 CFR 50.75 Report and Recordkeeping for Decommissioning Planning," Revision 1, dated January 8, 2009, indicates that licensees may commingle funds for state site restoration costs (state costs) and spent fuel management costs within a decommissioning trust fund as long as such funds are separately identified and accounted for within the trust.

Planned actions: NRC staff will develop a generic communication for industry stakeholders to clarify guidance on the appropriate use of the decommissioning trust fund and when an exemption is not needed.

Target date of completion: February 15, 2017

OIG Analysis: The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the clarifying guidance to NRC staff and licensees specifying the instances when an exemption is not needed.

Status: Resolved.

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Status of Recommendations

Recommendation 3:

Prepare and document an analysis to evaluate:

- a. If requiring a site-specific cost estimate is more efficient and effective than using the formula.
- b. If using a range of costs based on MWt is more efficient and effective than using the formula.
- c. If the formula needs updating.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

The Table of Minimum Amounts (commonly referred to as the NRC minimum formula for decommissioning) and adjustment factors are in 10 CFR 50.75(b) and (c). The NRC minimum formula was developed to assure that adequate funds were set aside by licensees throughout power reactor operations to pay for radiological decommissioning. The NRCs' minimum formula does not represent the actual cost of decommissioning for specific reactors, but rather is a reference level established to assure that licensees demonstrate adequate financial responsibility that the bulk of the funds necessary for a safe decommissioning are being considered and planned for early in a facility's life. Thus, the NRC minimum formula provides adequate assurance that the facility would not become a risk to public health and safety when it is decommissioned.

A site-specific decommissioning cost estimate typically is greater than the NRC minimum amount since the formula only captures the bulk of funds necessary for decommissioning. Also, the formula amount does not include funds needed for spent fuel management or site restoration. Site-specific cost estimates can be provided for decommissioning funding assurance early throughout plant operations; however, NRC regulations require their submission at or about 5 years before the projected end of operations, or within 2 years following permanent cessation of operations, unless used by licensees in lieu of the NRC minimum formula. Licensees must also submit biennial decommissioning funding status reports prior to permanent cessation of operations and annual reports thereafter.

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Status of Recommendations

Recommendation 3 (con't):

Further, licensees must submit an updated site-specific cost estimate of remaining decommissioning costs as part of the license termination plan.

Planned Actions: The staff will prepare an analysis to evaluate the proposed recommendations as described above.

Target date of completion: March 22, 2017

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the agency's documented analysis to evaluate: (a) If requiring a site-specific cost estimate is more efficient and effective than using the formula; (b) If using a range of costs based on MWt is more efficient and effective than using the formula; (c) If the formula needs updating.

Status:

Resolved.

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Status of Recommendations

Recommendation 4: Update LIC-205 to assure that the staff's independent verification of licensees' decommissioning funding assurance includes steps to verify data is accurate and current.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

The guidance in LIC-205, "Procedures for NRC's Independent Analysis of Decommissioning Funding Assurance for Operating Nuclear Power Reactors," Revision 5, dated January 2015 currently provides staff instructions on how to perform its independent analysis of each operating power reactor licensee's decommissioning funding status report required under 10 CFR 50.75(f)(1).

Planned Actions: Staff is currently updating LIC-205, Revision 5, to include guidance for verifying that data staff relies upon to perform its review (e.g., MWt values) is current and accurate. This information will be used to support staff's independent verification of licensees' decommissioning funding status reports.

Target date of completion: November 16, 2016

OIG Analysis: The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the updated LIC-205 and determines it contains guidance to assure that the staff's independent verification of licensees' decommissioning funding assurance includes steps to verify data is accurate and current.

Status: Resolved.

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Status of Recommendations

Recommendation 5: Develop and implement controls to protect data integrity in the Excel master data sheet.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

The NRC staff developed an Excel spreadsheet as an efficient means for independently calculating decommissioning funding assurance required of licensees under 10 CFR 50.75. This includes staff verification of the licensee's calculated minimum funding needed for decommissioning. The Excel spreadsheet is accessible to branch staff reviewers (whether or not qualified) and also includes formulas in cells that are not password protected.

Planned Actions: Staff will take appropriate action to limit access to the Excel spreadsheet used for decommissioning funding assurance reviews to only qualified reviewers within the responsible NRC organization (Office of Nuclear Reactor Regulation (NRR)/Division of Inspection and Regional Support/ Financial Analysis and International Projects Branch) and protect cells containing formulas and other calculated values to better preserve data integrity.

Target date of completion: August 17, 2016

OIG Analysis: The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG verifies that the agency has developed and implemented controls to protect data integrity in the Excel master data sheet.

Status: Resolved.

Audit Report

AUDIT OF NRC'S DECOMMISSIONING FUNDS PROGRAM

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Status of Recommendations

Recommendation 6:

- Revise NRR Office Instruction LIC-205 to include
- a. Guidance on conducting annual decommissioning financial assurance reviews for plants in decommissioning.
 - b. Reference to training qualifications/certifications described in ADM-504, *Qualification Program*, Revision 3.
 - c. Recordkeeping requirements to document employee completed training.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

The NRC issued LIC-205, "Procedures for the NRC's Independent Analysis of Decommissioning Funding Assurance for Operating Nuclear Power Reactors," Revision 1, to establish a formal procedure for reviewing the biennial filings submitted by each licensee pursuant to 10 CFR 50.75. This guidance has been used by staff to perform annual financial assurance reviews for plants in decommissioning with the recognition that 10 CFR 50.82 requires licensee decommissioning reports to focus more on decommissioning spending and remaining trust fund balances rather than trust fund contributions and growth. In addition, although LIC-205 does include a reference to staff training and documentation of that training, the guidance does not reference the staff's formal decommissioning funding training described in ADM-504, "Qualification Program," Revision 3, or the recordkeeping requirements associated with this training.

Planned Actions: Staff is currently updating LIC-205, Revision 5, to include guidance on conducting annual decommissioning financial assurance reviews for plants in decommissioning. Additionally, LIC-205 will be revised to reference ADM-504 and recordkeeping requirements associated with completed staff training.

Target date of completion: November 16, 2016

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Status of Recommendations

Recommendation 6 (con't):

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the revised NRR Office Instruction LIC-205 and determines that it includes (a) Guidance on conducting annual decommissioning financial assurance reviews for plants in decommissioning; (b) Reference to training qualifications/certifications described in ADM-504, *Qualification Program*, Revision 3; and (c) Recordkeeping requirements to document employee completed training.

Status:

Resolved.

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Status of Recommendations

Recommendation 7: Develop procedures for maintaining documentation of decommissioning financial assurance reviews performed by NMSS.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

While guidance in NUREG-1757, Volume 3, Revision 1, *Consolidated Decommissioning Guidance, Financial Assurance, Recordkeeping, and Timeliness*, provides review criteria and example finding language for documenting individual reviews, NMSS does not have procedures for centrally maintaining documentation of decommissioning financial assurance reviews performed by NMSS staff.

Planned Actions: NMSS will develop a procedure on maintaining documentation of financial assurance reviews, including the use of the SharePoint site developed for Recommendation 8.

Target date of completion: March 31, 2017

OIG Analysis: The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the procedures for maintaining documentation of decommissioning financial assurance reviews performed by NMSS.

Status: Resolved.

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Status of Recommendations

Recommendation 8: Develop and implement a mechanism to track NMSS decommissioning financial assurance reviews.

Agency Response Dated
July 7, 2016:

The staff agrees with this recommendation.

Currently, NMSS does not have a central mechanism to track decommissioning financial assurance reviews. Most non-reactor licensees are required to provide updates to their decommissioning funding at least every 3 years (or annually for uranium recovery licensees) or at license renewal. The date is license-specific and is currently tracked by the project manager.

Planned Actions: NMSS will develop a SharePoint site to track the current status of sites that require a site-specific decommissioning cost-estimate. These sites will include the full range of licensees addressed by the Performance Assessment Branch (e.g., material sites, uranium recovery sites, fuel cycle facilities, and special nuclear material licensees). Reactors and independent spent fuel storage installations will not be part of the database, as those reviews are performed by NRR. The database will track the current status of any review currently with the NRC, as well as the last review, and the date of the site's next required update to the decommissioning funding plan.

Target date of completion: January 13, 2017

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews documentation indicating that the agency developed and implemented a mechanism to track NMSS decommissioning financial assurance reviews.

Status:

Resolved.

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Status of Recommendations

Recommendation 9: Comply with Management Directive 8.12 provisions related to conducting internal and external inventory, including recordkeeping requirements.

Agency Response Dated
July 7, 2016:

Proper custodial duties for the safe are very important as part of the overall objective of the financial assurance program of providing reasonable assurance that financial resources for decommissioning will be available when needed. The internal and external reviews reduce the risk of misplaced or lost records and ensure NRC has a complete set of financial instruments for each licensee, as appropriate.

Planned Actions: NMSS is in the process of requesting NRR to perform the external inventory review required by Management Directive 8.12 for 2016. The report for the 2015 annual internal review was issued. The staff will perform the 2016 annual internal review by the end of the fiscal year. Future internal and external review due dates will be tracked within the SharePoint site developed for Recommendation 8.

Target date of completion: October 7, 2016

OIG Analysis: The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews documentation showing that the agency complies with Management Directive 8.12 provisions related to conducting internal and external inventory, including recordkeeping requirements.

Status: Resolved.