



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

**OFFICE OF THE
INSPECTOR GENERAL**

March 16, 2017

MEMORANDUM TO: Victor M. McCree
Executive Director for Operations

FROM: Dr. Brett M. Baker */RA/*
Assistant Inspector General for Audits

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

REFERENCE: DIRECTOR, OFFICE OF NUCLEAR REACTOR REGULATION,
MEMORANDUM DATED DECEMBER 21, 2016, AND
SUPPLEMENTARY RESPONSES ON JANUARY 12-13, 2017

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in the agency's response dated December 21, 2016, and supplementary responses on January 12-13, 2017. Based on this response, recommendations 5 and 9 are closed and recommendations 1-4 and 6-8 remain in a resolved status. Please provide an updated status of the resolved recommendations by April 28, 2017.

If you have any questions or concerns, please contact me at (301) 415-5915 or Eric Rivera, Team Leader, at (301) 415-7032.

Attachments: As stated

cc: R. Lewis, OEDO
H. Rasouli, OEDO
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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
December 21, 2016:

Staff continues to work with industry and other stakeholders to better clarify objective criteria for identifying "legitimate decommissioning activities" that may be expended from decommissioning trust funds (DTFs). As part of that effort, the Nuclear Energy Institute (NEI) submitted to the U.S. Nuclear Regulatory Commission (NRC) for its consideration and possible endorsement, NEI 15-06, "Use of the Nuclear Decommissioning Trust Fund (October 2016)." This document attempts to provide guidance to assist licensees in identifying costs to be appropriately reimbursed from a nuclear decommissioning trust consistent with the definition of decommissioning in 10 CFR 50.2, "Definitions." This document is also informed by the experience of a number of nuclear plants that are, or have transitioned from operations to decommissioning. Staff is currently considering whether NEI 15-06 is sufficient and responsive to this recommendation, and can be incorporated into staff guidance.

Additional time to complete this item is warranted to facilitate further staff collaboration with stakeholders in a public forum and to update staff guidance, as appropriate. Revision to staff guidance and processing of this information would require approximately 6 to 8 months to complete, including a 30 to 60 day public comment period.

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Status of Recommendations

Recommendation 1 (con't):

Target date for completion: February 21, 2017

New target date of completion: August 24, 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
December 21, 2016:

The staff is preparing a draft industry generic communication in the form of a Regulatory Issue Summary (RIS) to clarify guidance on the appropriate use of the decommissioning trust fund. The RIS will be informed by recent operating experience associated with licensing actions to withdrawal or redistribute funds within a master decommissioning trust, the transition of operating reactors to decommissioning and use of the DTF for non-radiological purposes, the concept of commingling funds, recent staff interpretations of NRC decommissioning funding regulations at 10 CFR 50.75, 10 CFR 50.82, and 10 CFR 72.30, and stakeholder interest in trust fund investment restrictions.

The staff's prior effort in this regard was placed on hold by NRR management since some of the information expected to be contained in the RIS was the subject of ongoing litigation before the Commission, and therefore, not appropriate for inclusion at that time. The litigation is no longer pending and staff is able to resume work on RIS development. The draft RIS will be published for public comment prior to being finalized towards the end of June 2017. Therefore, additional time will be warranted to complete this action.

Original target date of completion: February 15, 2017

New target date of completion: June 27, 2017

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Status of Recommendations

Recommendation 2: (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 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
December 21, 2016:

The staff is currently evaluating the efficacy of using the minimum formula approach for estimating the bulk of radiological decommissioning cost, comparing that approach to the possible use of site-specific decommissioning planning and cost data generated by licensees, and considering potential requirements that licensees fund to the SSCE level throughout the life of the facility. As part of that evaluation, staff is investigating the prevalence within the nuclear power industry of licensee-generated SSCEs, the cost, and hence licensee burden, of SSCEs, and the regularity by which licensees perform revisions to their SSCEs throughout the life of the facility.

In parallel, based in part on the identification by PNNL, GAO, and the OIG of discrepancies between licensee-generated SSCEs and the NRC minimum formula, and on a PNNL proposed change to the formula reflected within its latest study, staff is evaluating how it may adjust and update the minimum formula. In considering the use of a formula-derived cost approach, staff is also evaluating how the formula amount may be more effectively represented by use of a range of costs based on the size (MWt) of U.S. reactor licensees.

The staff continues to evaluate current and alternative decommissioning funding options through these two, parallel efforts, and will develop a documented analysis with recommendations.

Target date of completion: March 22, 2017

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Status of Recommendations

Recommendation 3 (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 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
December 21, 2016:

The staff prepared a draft update to LIC-205 to include provisions for verifying that data (e.g., MWt values) relied upon for its independent verification of a licensees' decommissioning funding assurance is current and accurate. The draft update to LIC-205 is pending NRR management review and concurrence.

Additional time is warranted to facilitate an appropriate internal review, staff comment resolution, and final document approval through the NRR Director. Although staff worked to prepare a draft document as previously scheduled, preparation of this document and internal review were delayed due to competing priorities associated with various accelerated licensing reviews, support of new reactor licensing activities, and the support of NRR led International Activities. Completion by the proposed due date will provide sufficient time for staff familiarity prior to performance of the 2017 Decommissioning Funding Status report reviews expected to begin in April 2017.

Original Target date of completion: November 16, 2016

New target date of completion: February 25, 2017

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Status of Recommendations

Recommendation 4 (con't):

OIG Analysis:

OIG spoke with a representative from NRR and was informed that the updated LIC-205 will be issued by March 31, 2017. 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
December 21, 2016:

The staff took action to limit access to the master Excel spreadsheets and its data used for decommissioning funding assurance reviews to only those staff considered to be qualified reviewers pursuant to ADM-504, "Qualification Program," within the responsible NRC organization (NRR/DIRS/IFIB). Specifically, staff engaged the appropriate NRC information technology personnel to create an access restricted folder that contains the master Excel spreadsheets and also security groups that limit user access to the files. Qualified staff reviewers are assigned to a security group that is able to execute, read, and edit the files accordingly, while non-qualified staff are only able to read the files with no edit capability. Further, the staff password protected this spreadsheet and locked appropriate individual cells contained within to prohibit unintended changes or deletions. Distribution of the password to allow access to these datasheets was limited to three select branch staff who have served as lead analysts for performing decommissioning funding reviews and the branch chief.

The staff considers this item complete. The staff believes the actions taken to maintain data integrity of the master Excel spreadsheets meet the intent of the OIG recommendation.

Date of completion: December 7, 2016

OIG Analysis:

OIG reviewed agency provided documentation that shows the agency developed and implemented controls to protect data integrity in the Excel master data sheet, and determined that it meets the intent of this recommendation. Therefore, this recommendation is considered closed.

Status:

Closed.

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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
December 21, 2016:

The staff prepared a draft update to 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; and c) recordkeeping requirements to document employee completed training. The draft update to LIC-205 is pending NRR management review and concurrence.

Additional time is warranted to facilitate an appropriate internal review, staff comment resolution, and final document approval through the NRR Director. Although staff worked to prepare a draft document as previously scheduled, staff's preparation of this document and internal review was delayed due to competing priorities associated with various accelerated licensing reviews, support of new reactor licensing activities, and the support of NRR led International Activities. Completion by the proposed due date will provide sufficient time for staff familiarity prior to performance of the 2017 Decommissioning Funding Status report reviews expected to begin in April 2017.

Original target date of completion: November 16, 2016

New target date of completion: February 25, 2017

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Status of Recommendations

Recommendation 6 (con't):

OIG Analysis:

OIG spoke with a representative from NRR and was informed that the updated LIC-205 will be issued by March 31, 2017. 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
December 21, 2016:

Staff continues to draft procedures for maintaining documentation of decommissioning financial assurance reviews performed by NMSS in response to this recommendation. The staff's product will address the guidance to be used for the various reviews performed by the staff, the use of the SharePoint site to track final approvals (Recommendation 8), and the documentation for items maintained within the safe. The staff is in the early stages of this work and is on track to issue a final procedure by the target date.

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
December 21, 2016:

Staff continues to develop a mechanism to track decommissioning funding assurance reviews. The staff is currently gathering the data from all the associated licenses for the SharePoint site. The staff is gathering data from the individual licenses of the associated due date(s) for the next financial action(s), and identifying the ADAMS ML# of the latest safety evaluation report approving the last set of financial actions. In addition to tracking financial actions related to individual licensees, the SharePoint site will have a section to track the timeliness of the internal and external audits performed per Management Directive 8.12 (Recommendation 9). The SharePoint site will be active by the target date of completion.

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
December 21, 2016:

On October 7, 2016, NMSS confirmed with Nuclear Reactor Regulation closure of the items necessary to complete the activities for this recommendation. NMSS signed out the internal audit for FY 2016, and NRR signed documentation reflecting completion of the external audit of NMSS' files. By completing these actions, the short-term NRC response is complete. The e-mail reflecting this is attached. The SharePoint site being developed for Recommendation 8 will assist in long-term compliance.

Date of completion: October 7, 2016

OIG Analysis: OIG reviewed the following documentation which was in accordance with Management Directive 8.12 Provisions and Recordkeeping Requirements:

- a. NMSS' internal evaluation of the decommissioning financial assurance instrument inventory, dated October 6, 2016, and
- b. NRR's external evaluation of the decommissioning financial assurance instrument inventory, dated October 7, 2016.

This documentation meets the intent of the recommendation. Therefore, this recommendation is considered closed.

Status: Closed.