



UNITED STATES NUCLEAR REGULATORY COMMISSION

Date: June 2019

SUBJECT: INTERIM STAFF GUIDANCE ON DECOMMISSIONING FUNDING PLANS FOR MATERIALS LICENSEES

Background

Since 1988, U.S. Nuclear Regulatory Commission (NRC) licensees have been required to provide financial assurance for decommissioning activities. The NRC published its "Decommissioning Planning Rule" in the *Federal Register* on June 17, 2011 (76 FR 35512). The rule became effective on December 17, 2012. The rule's purpose is to minimize the likelihood of new "legacy sites," those sites owned or controlled by licensees with insufficient resources to complete decommissioning. Successful completion of decommissioning is a prerequisite to the NRC terminating the license.

Nuclear facilities licensed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," 10 CFR Part 40, "Domestic Licensing of Source Material," and 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material" are required to provide adequate financial assurance for decommissioning activities, pursuant to 10 CFR 30.35, 10 CFR 40.36 and 10 CFR 70.25, "Financial Assurance and Recordkeeping for Decommissioning." The NRC staff utilizes NUREG-1757, Vol. 3, Rev. 1, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness" (NUREG-1757, Vol. 3) as guidance to evaluate decommissioning funding plans (DFP) submitted by 10 CFR Part 30, 40, and 70 licensees. The NRC Regulatory Guide (RG) 4.22, "Decommissioning Planning During Operations," provides guidance to licensees for use during licensed operations to minimize radiological contamination, including subsurface radiological contamination, and to properly retain survey results. For those licensees having or likely to have significant residual radioactivity, RG 4.22 provides guidance on arranging for sufficient funding to complete decommissioning, thereby allowing the NRC to terminate the license.

Purpose and Scope

The NRC's radioactive materials licensing regulations, 10 CFR Parts 30, 40, and 70, require licensees to provide financial assurance for all decommissioning activities. The purpose of this interim staff guidance (ISG) is to provide NRC staff and industry with guidance based on developments and lessons learned in financial assurance since the last update to NUREG-1757, Vol. 3. This includes decommissioning cost estimates (DCE) reflecting current facility conditions, efficiencies in developing DFPs and updates for certain financial instruments.¹

Discussion

This guidance is divided into three topical areas: 1. DCE reflecting current facility conditions, 2. evaluating events since the last DFP approval, and 3. updates to financial instruments.

1. DCE Reflecting Current Facility Conditions

The DCE should accurately describe the current facility condition. The relevant Decommissioning Planning Rule provisions are:

-NRC regulations 10 CFR 30.35(e)(1)(ii), 10 CFR 40.36(d)(1)(ii), and 10 CFR 70.25(e)(1)(ii), which require licensees to identify and justify the key assumptions used in preparing the DCE.

-NRC regulations 10 CFR 30.35(e)(2)(v), 10 CFR 40.36(d)(2)(v), and 10 CFR 70.25(e)(2)(v), which require licensees to specifically consider changes in authorized possession limits.

The standard review plan, NUREG-1757, Vol. 3, currently provides the following guidance:

- No credit should be taken for salvage value.
- Cost estimate should include a substantial level of detail to allow NRC to fully evaluate the adequacy of the estimate.
- In general, above a threshold quantity of radioactive material, the licensee must provide increasing amounts of financial assurance as its authorized possession limit increases.
- Cost estimate reflects decommissioning under appropriate facility conditions. For a DFP, routine facility conditions should be assumed. For a Decommissioning Plan (DP), facility conditions at the end of licensed operations should be assumed. In other words, the DCE should not assume inventory is offsite (end of licensed operations) until the DP is submitted.
- The site-specific cost estimate required for a DFP must assume that the work will be performed by an independent contractor and should represent the licensee's best approximation of all direct and indirect costs of decommissioning its facilities

¹ The DCE is a component of the DFP (see 10 CFR 30.35(e)(1), 10 CFR 40.36(d)(1), and 10 CFR 70.25(e)(1)).

under routine facility conditions. The assumption that routine facility conditions will prevail at the time of decommissioning implies that the cost estimate need not consider a worst-case decommissioning scenario. Similarly, the estimate should not be based on a scenario that is more optimistic than would be consistent with routine facility conditions. For example, the NRC believes it is reasonable for DCEs to assume that inventories of materials and wastes at the time of decommissioning will be in amounts that are consistent with routine facility conditions over time.

In past reviews of Part 70 DCEs, the NRC staff issued requests for additional information (RAI) regarding how inventory was included in the DCE or if the licensee was relying upon an existing plan to move the inventory offsite, in support of its DCE. The DCE submittals assumed that the inventory would be offsite prior to the start of decommissioning, without discussing the basis for the assumption. Between 2016 and 2018, the NRC staff has approved a number of DCEs that provided assumptions with reasonable justifications for how the inventory is to be handled. Further, the NRC staff corresponded with the Nuclear Energy Institute on this matter (see Agency-Wide Documents Access and Management System (ADAMS), Accession No. ML16307A014) describing how onsite inventory can be addressed in DCE submittals.

For Part 70 licensees, there are three general types of inventory: licensee-owned, customer-owned, and inventory in-process. For these three categories of inventory, the following support may justify how the costs are covered.

Licensee-owned inventory—licensee-owned radioactive material, which may be used by the licensee to “level off” production (i.e., to mix or blend with customer-owned radioactive material as part of licensed activities). If, under current facility conditions, licensee-owned inventory is onsite, the licensee should address how it proposes to establish an acceptable “end destination” for that material. As this Interim Staff Guidance (ISG) is applicable to materials licensees, Parts 30, 40 and 70, establishing an acceptable “end destination” means: 1) disposal of the material in accordance with the regulations in 10 CFR Part 20, Subpart K; 2) transferring the material for disposal to an NRC or Agreement State low-level radioactive waste land disposal facility; or 3) if the material is not low-level radioactive waste, transferring the ownership and possession of the material to an NRC or Agreement State licensee that is authorized to receive and possess the material. For Part 70 licensees, generally, sending inventory to an “end destination” will involve transferring the ownership and possession of the material to another NRC or Agreement State licensee that is authorized to receive and possess the material.

In preparing an “end destination” cost estimate, the licensee may: 1) include the costs for any disposal of material in accordance with 10 CFR Part 20, Subpart K; 2) include the costs for packaging, loading, and transporting the material to an appropriate end destination facility that can accept the material under its license; or 3) demonstrate another reasonable alternative showing how these costs are covered. For example, a reasonable alternative may be an existing contract in which another party pays for packing, loading and shipping the material to an appropriate end destination facility or licensee. The licensee should provide enough detail to adequately support the assumptions made in the DCE.

Customer-owned inventory—customer-owned radioactive material that is processed at the licensee’s facility. Customer-owned inventory may be mixed or blended with licensee-

owned inventory to create inventory in-process (see paragraph below). If, under current facility conditions, customer-owned inventory is onsite, the licensee should address how it will remove or arrange for the removal of the material to an NRC or Agreement State licensee that is authorized to receive and possess the material. The licensee may: 1) include the costs for packaging, loading, and transporting the material to a facility or site owned or controlled by an NRC or Agreement State licensee that is authorized to receive and possess the material or 2) demonstrate another reasonable alternative showing how these costs are covered. For example, a reasonable alternative may be an existing contract under which the customer is responsible for packing, loading and shipping the material. The licensee should provide enough detail to adequately support assumptions made in the DCE.

Inventory in-process—inventory in-process is radioactive material that occurs as a result of the licensed process, including radioactive material resulting from the mixture or blending of both licensee-owned and customer-owned inventory. Under the contractual arrangements in place, the finished product will either be owned by the licensee or customer. If inventory in-process is onsite, the licensee can include in its DCE those costs associated with completing any inventory in-process or can provide a reasonable justification, such that, after a brief period of time (i.e., not to exceed sixty days), the material is processed into “finished product” and can thus be classified as either licensee-owned inventory or customer-owned inventory.

2. Evaluating Events Since Last DFP Approval

NRC regulations 10 CFR 30.35(e)(2), 10 CFR 40.36(d)(2) and 10 CFR 70.25(e)(2) require the DFP resubmittals (and at license renewal) to specifically consider the effects of eight events on decommissioning costs.² Past experience has shown that many DFP submittals did not explicitly address these events and that consideration of the events led to changes in the DCE, thereby requiring the NRC staff to send RAIs to the licensee. In order to reduce the number of RAIs and otherwise expedite the DFP approval process, licensees submitting DFPs should address these eight events in narrative form. If the event did not occur, then the DFP submittal should affirmatively state that the event did not occur and provide any supporting basis, if appropriate. The eight events are:

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

The DFP should contain a narrative describing any spills of radioactive material that have led to subsurface contamination. This narrative should be consistent with surveys and onsite records and should be updated in each DFP cycle. If there is subsurface contamination, a detailed breakdown of the estimated remediation costs should be provided. If the licensee remediated the spill, a summary or reference of the results of the remediation should be provided in the narrative.

2. Waste inventory increasing above the amount previously estimated

² In accordance with 10 CFR 30.35(e)(1)(A), 10 CFR 40.36(d)(1)(A), and 10 CFR 70.25(e)(1)(A), the DCE must reflect the cost of an independent contractor to perform all decommissioning activities.

The DFP should contain a narrative describing the current amount of waste inventory onsite, including, if available, the reason for the waste inventory increasing above the amount previously estimated. The narrative should compare this amount to the previous DFP. If there is waste inventory, a detailed breakdown of the estimated costs should be provided as outlined in Section A.3.14, Packaging, Shipping, and Disposal of Radioactive Wastes of NUREG-1757, Vol. 3.

3. Waste disposal costs increasing above the amount previously estimated

The DFP should contain a narrative describing the current waste disposal costs. The narrative should compare this amount to the previous DFP waste disposal costs and state whether costs have increased above the amount previously estimated, and if so, the reason for such increase. A detailed breakdown of the estimated waste disposal costs should be provided.

4. Facility modifications

A narrative describing the facility should be included in the DFP. If there have been facility modifications since the previous DFP, the latest DFP should clearly describe the changes, and the detailed breakdown of costs should include decommissioning any modifications to the facility.

5. Changes in authorized possession limits

The DFP should contain a narrative describing any changes in possession limits. The narrative should compare the possession limit amounts to those covered by the previous DFP. The licensee should provide a detailed breakdown of the estimated costs to disposition onsite radioactive material, or an applicable justification of the assumption that the costs do not need to be included in the DCE as described in the "DCE Reflecting Current Facility Conditions" section above.

6. Actual remediation costs that exceed the previous cost estimate

The DFP should contain a narrative describing any actual remediation costs that exceeded the previous cost estimate. If actual remediation costs exceeded the previous cost estimate, then the narrative should compare the actual cost amount to those covered by the previous DFP. A detailed breakdown of estimated remediation costs should be provided for all remediation work which has not been completed and this estimate should consider any applicable actual remediation cost data and the reasons that led to the increased costs.

7. Onsite disposal

A narrative describing any onsite disposal should be included in the DFP. The narrative should compare this amount to what has been covered in the previous DFP. For any onsite disposal, a detailed breakdown of the estimated costs should be provided if remediation will be necessary for decommissioning.

8. Use of a settling pond

The DFP should contain a narrative describing the use of any settling ponds and if settling ponds are used, the narrative should including information obtained from samplings, surveys, and site records. A detailed breakdown of the estimated costs to remediate any settling ponds should be included.

As required by 10 CFR 30.35(e)(1)(i)(C), 10 CFR 40.36(d)(1)(i)(C), and 10 CFR 70.25(e)(1)(i)(C), the DCE must include an estimate of the volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the 10 CFR Part 20, Subpart E criteria for license termination. The estimated amount of radioactive contamination in onsite subsurface material should be based on subsurface surveys, as reasonable under the circumstances, and the DCE should describe these subsurface surveys.

Regulatory Guide 4.22 states that licensees should: “periodically conduct surveys that are reasonable under the circumstances in accordance with 10 CFR 20.1501(a) to identify the horizontal and vertical extent of significant residual radioactivity throughout the site taking into consideration the temporal distribution of radioactive contaminants...The survey design should consider areas likely to contain residual radioactivity, such as, but not limited to...[s]ubsurface media, especially around building footers, subsurface pipes and conduits, pipe tunnels linking buildings that process radioactive materials, and below-grade tanks.” As to the “reasonable under the circumstances” standard, the NRC recognizes that an area within the footprint of a building, during licensed operations, may not be a suitable area for subsurface residual radioactivity surveys if the process of sampling would have an adverse impact on facility operations.

The decision to perform subsurface residual radioactivity sampling in a particular area should be balanced against the potential to jeopardize the safe operation of the facility. To reduce the number of RAIs, licensees should provide a narrative in the DFP describing the surveys conducted to estimate the volume of onsite subsurface material. This narrative will assist the NRC staff in completing the DFP approval process, including the Safety Evaluation Report. While reviewing recent DFPs, the NRC staff has found that many submittals did not indicate whether onsite subsurface surveys were performed.

Following the submission of an RAI, the licensee may request clarification by phone or e-mail as to what information the NRC staff is requesting and how that information ties into the applicable regulatory requirements. In accordance with NRC Management Directive 3.5, “Attendance at NRC Staff-Sponsored Meetings,” such communications are limited to clarifying the RAI (i.e., ensuring that the licensee understands the request).³

³ MD 3.5, Handbook, § II.C.12. (December 23, 2011).

3. Updates to Financial Instruments

Through reviews performed since the Decommissioning Planning Rule, 76 *Federal Register* 35511 – 35575, June 17, 2011 became effective, the NRC staff has identified six topical areas to update pertaining to financial instruments:

1. Submission of hard copy instruments to the NRC: Per Section B, Security of the Decommissioning Financial Assurance Instrument, of Management Directive 8.12, “Decommissioning Financial Assurance Instrument Security Program,” the NRC site project manager is responsible for providing the NRC decommissioning cost estimating staff the original signed documents for storage and inventory. To ensure timely and proper handling, hard copy original financial instruments (e.g., signed Standby Trust Agreements, Letters of Credit, Surety Bonds, etc.) should be sent directly to the NRC site Project Manager (licensee’s point of contact at NRC), not NRC Document Control as NRC Document Control does not maintain original hard-copy documents.

Note: for all other submissions, continue to follow the normal process of primarily sending the document to NRC Document Control.

2. Submissions must include all instruments and agreements: All instruments and agreements are to be submitted as required by 10 CFR 30.35(e)(1)(v), 10 CFR 40.36(d)(1)(v), and 10 CFR 70.25(e)(1)(v) to demonstrate that the licensee can meet its financial assurance obligations. Some financial institutions issue agreements that may impact the primary financial instrument, such as a side letter. For approval, NRC staff needs to review all agreements, including ancillary agreements, such as side letters, to ensure they do not impede decommissioning funding.
3. If necessary, a sight draft can be developed by the NRC staff using the template below, with specific modifications as necessary, to comply with any requirements specific to the financial institution. Earlier guidance documents, including NUREG-1757, Volume 3 and NUREG-1556, Vol. 15, Rev. 1, “*Consolidated Guidance About Materials Licenses: Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses*,” do not include a sight draft template.

A sight draft is typically required by a financial institution in order to draw on the financial instrument. The following is a general template and it is important to note that each bank has its own requirement for drawing on instruments. Therefore, it is imperative for the NRC staff to contact the financial institution to determine their specific requirements for drawing on the instrument early in the process. If NRC is considering drawing on a financial instrument, the staff should contact the issuing financial institution early in the process. The following template can be used as a general guideline in preparing a sight draft after receiving instructions from the issuing bank, including location and number of signatures. Based on previous experience, signatures may be required on both the front and back of the sight draft.

SIGHT DRAFT – [INSERT TYPE OF FINANCIAL INSTRUMENT “LETTER OF CREDIT”,
“SURETY BOND...”]

DRAWN UNDER: [insert name of financial institution, type of instrument, instrument number], Dated [insert date of instrument], for the account of [insert name of licensee], Address of Licensee [insert address], NRC License Number [insert number], Docket Number [insert number], and Site Name [insert name]

DATE: [insert date]

At sight, Pay to the Order of: U.S. Nuclear Regulatory Commission, as beneficiary under Bank Account No. [insert account number for the standby trust account] at [insert name of financial institution]

By wire transfer of immediately available funds:

TO: [insert name of standby trust bank]

To credit account number: Bank Account No. [insert number]

U.S. \$ [insert amount of financial instrument]

[spell out dollar amount] U.S. Dollars

TO: [insert name of trustee]
[insert address of trustee]

U.S. Nuclear Regulatory Commission
Drawn under [insert type of financial instrument and instrument number] dated [insert date of instrument] and the total of this draft and all other drafts previously drawn under this [insert type of instrument] does not exceed \$[insert amount of financial instrument].

By: /RA/

Certified Mail
Return Receipt Requested

Name, Title
Office Name
U.S. Nuclear Regulatory Commission

4. Guarantees and Off-Balance Sheet Transactions

The NRC regulations, 10 CFR Part 30, Appendices A, C, D and E, cover the use of guarantees as a form of decommissioning financial assurance. These appendices require an independent certified public accountant to evaluate the company's off-balance sheet transactions and provide an opinion on whether these transactions could materially adversely affect the company's ability to pay for decommissioning costs. The 10 CFR Part 30, Appendices A, C, D and E are applicable to all NRC materials licensees (10 CFR 40.36(e)(2) and 10 CFR 70.25(f)(2) cross-reference these Part 30 appendices for source materials licensees and special nuclear materials licensees, respectively).

The following provides guidance on an accountant's evaluation of the company's off-balance sheet transactions and demonstrating off-balance sheet transactions do not materially adversely affect the company's ability to pay for decommissioning costs. An example for staff is items 5, 6 and 7 on pages 7 and 8 of ADAMS, Accession No. ML15090A165.

The accountant should first determine the dollar amount of the off-sheet balance sheet transactions with an emphasis on potential liabilities. This determination may be done by reviewing the footnotes to the company's annual report, company internal accounting records and reports, and by discussions with company management. Once this dollar amount is determined, the accountant can subtract this amount from each numeric part of the financial test. Using 10 CFR Part 30 Appendix C as an example, there are two main numeric parts to the financial test: net worth and assets. The numeric parts are further broken down into total net worth, tangible net worth, and total assets in the United States.

Net Worth Requirements (10 CFR Part 30 Appendix C)

Tangible net worth of at least \$21 million, and total net worth at least 10 times the amount of decommissioning funds being assured by the guarantee.

A simple example follows:

- off-balance sheet transactions = \$100,000
- tangible net worth = \$30,100,000
- aggregate amount of all decommissioning cost estimates = \$2,000,000

The accountant would show the company has total net worth of at least \$21 million and tangible net worth of at least 10 times the company's aggregate decommissioning costs, both after subtracting out the off-balance sheet transactions.

$$\$30,100,000 - \$100,000 = \$30,000,000$$

$$\$30,000,000 > \$21,000,000$$

$$10 \times \$2,000,000 = \$20,000,000$$

$$\$30,000,000 > \$20,000,000$$

In this example, the company passes the total net worth of at least \$21 million and tangible net worth test of 10 times the amount of decommissioning funds being assured by the guarantee both after subtracting out the off-balance sheet transactions. By the accountant showing the math, the accountant is evaluating the off-balance sheet transactions and demonstrating the off-balance sheet transactions do not materially adversely affect the company's ability to pay for decommissioning costs.

Assets in the United States Requirement (10 CFR Part 30 Appendix C)

Assets located in the United States amounting to at least 90 percent of total assets or at least 10 times the amount of decommissioning funds being assured by the guarantee.

A simple example follows:

- off-balance sheet transactions = \$100,000
- total assets = \$40,000,000
- assets in U.S. = \$38,100,000

The accountant would take the total U.S. asset dollar amount and subtract out the off balance sheet transactions, $\$38,100,000 - \$100,000 = \$38,000,000$. In this example, we will show the company having both 90% of total assets in the U.S. and U.S. assets exceeding 10 times the aggregate decommissioning cost estimate amounts.

$\$40,000,000 \times .90 = \$36,000,000$ and $\$38,000,000$ exceeds $\$36,000,000$. In this example, the 90% test is passed.

$\$38,000,000$ also exceeds $\$20,000,000$. Again, $\$20,000,000$ is 10 times the aggregate decommissioning cost estimate amounts. In this example, the test for assets of at least 10 times the amount of decommissioning funds being assured by the guarantee is also passed.

By the accountant showing the math, the accountant is evaluating the off-balance sheet transactions and demonstrating the off-balance sheet transactions do not materially adversely affect the company's ability to pay for decommissioning costs.

As the other guarantee appendices to 10 CFR Part 30, Appendices A, D and E, have similar numeric requirements, this same methodology of showing the calculation of subtracting out the off-balance sheet transactions can be applied to these other appendices in order to meet the off-balance sheet requirement.

5. Supporting Documentation for Statements of Intent

The following guidance supplements the existing guidance provided in Section A.11.3, Recommended Documentation, of NUREG-1757, Volume 3. To adequately demonstrate that a government licensee can request funding for decommissioning from its funding body when necessary, the licensee should provide supporting documentation along with the statement of intent which demonstrates the signatory of the statement of intent and his or her office has authority to request funding from the organization's external funding body (e.g., the Congress of the United States of America, State legislature). The supporting documentation should show that the signatory determines the content of the

licensee's proposed budget in accordance with administrative guidelines on the preparation and submission of the budget, and has the authority to make a budget request to an external funding body. An example for staff can be found in ADAMS, Accession No. ML16279A280. Supporting documentation to be submitted with the statement of intent should include citations to Federal or State statutes that define budget authority within a government agency. For example, in the case of a Federal government agency, the licensee would cite the relevant U.S. code. To demonstrate that the signatory of the statement of intent has the authority to request and obtain decommissioning funds from the appropriate funding body when necessary, the licensee should also provide documentation describing the organization and function of the office headed by the signatory. The supporting documentation should show that the office plans, organizes, and carries out annual and multi-year budgeting in support of the licensee. For example, the licensee should submit with the statement of intent copies of the government agency's administrative procedures or guidelines that define the office's role in the budgetary process. While reviewing recent statement of intent submittals, NRC staff found that some submittals did not show the authority of the signatory to request funding from the ultimate funding body and an RAI needed to be issued.

6. Trust operations are regulated and examined by a Federal or State agency

The following guidance updates websites and contact information needed to confirm the qualifications of a trustee in Section 4.3.2.1, Trust Funds, (see p. 4-17) and 4.3.2.10, Standby Trust Funds, (see p. 4-25 – 4-26) as well as all existing guidance provided in Section A.4.1 and Section A.12.1, Qualifications of the Trustee, of NUREG-1757, Volume 3.

The regulations for decommissioning financial assurance decommissioning (10 CFR 30.35(f)(2)(ii), 10 CFR 40.36(e)(2)(ii), and 10 CFR 70.25(f)(2)(ii)) require that the trustee and trust must be acceptable to the NRC. Acceptable trustees include appropriate Federal or State government agencies and financial institutions that have the authority to act as trustees and whose trust operations are regulated and examined by a Federal or State agency. Trust operations are regulated separately from other banking operations, and it is very common for a regulated bank not to have the authority to act as a trustee. In addition, the NRC's requirement for trustees is not usually met by individuals who are not acting as a representative of a financial institution.

The licensee may need or choose to replace the current trustee with a new trustee. To be acceptable to the NRC, any successor trustee must meet the same standard as the original trustee (i.e., the new trustee must be an appropriate Federal or State government agency or an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency). To ensure the change in trustee does not negatively impact the trust, the licensee should replace the trustee only after sufficient notification (i.e., 90 days or more) has been provided to both the NRC and the current trustee.

To determine which entity regulates a financial institution and should be contacted to see that the institution has full trust powers, enter the name of the institution into the Federal Financial Institution Examination Council's (FFIEC's) Consumer Help Center search function online at <https://www.ffiec.gov/consumercenter/default.aspx>. The search will identify one of the following as the appropriate regulator to contact for more information:

- **Office of the Comptroller of the Currency (OCC):** Licensees may contact the appropriate OCC district office and confirm that the institution (1) is Federally regulated, and (2) has Federally regulated trust operations. As of the date of this revision, the four district offices of the OCC, along with the States and territories under their jurisdiction are as follows:
 - Northeastern District Office (Telephone: (212) 790-4000)—responsible for nationally-chartered institutions headquartered in CT, DE, eastern KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, SC, VT, VA, WV, District of Columbia, and a number of national trust companies outside the northeast region.
 - Southern District Office (Telephone: (214) 720-0656)—responsible for national banks headquartered in AL, AR, FL, GA, LA, MS, OK, TN, and TX.
 - Central District Office (Telephone: (312) 360-8800)—responsible for national banks headquartered in IL, IN, KY, MI, MN, eastern MO, ND, OH, and WI.
 - Western District Office (Telephone: (720) 475-7600)—responsible for national banks headquartered in AK, AZ, CA, CO, HI, ID, IA, KS, western MN, western MO, MT, NE, NM, NV, OR, SD, UT, WA, and WY.

- **Federal Reserve Board:** The Federal Reserve Board supervises State-chartered banks that are members of the Federal Reserve System. Licensees may contact the Federal Reserve Board at (202) 452-3000 or submit a request through their website at: <https://www.federalreserve.gov/aboutthefed/contact-us-topics.htm> to confirm that the institution (1) is State regulated, and (2) has State-regulated trust operations.

- **Federal Deposit Insurance Corporation (FDIC):** The FDIC supervises State-chartered banks that are not members of the Federal Reserve System. Licensees may submit an email inquiry to FDICinforeq@FDIC.gov or call (877) 275-3342 to confirm that the institution (1) is State regulated, and (2) has State-regulated trust operations.

Financial institutions that cannot be found using the FFIEC’s Consumer Help Center search function online are likely to be State-chartered trust companies that may not be regulated or examined by a Federal regulator. In this case, licensees may contact the applicable State banking authority and confirm that the institution (1) is State regulated, and (2) has State-regulated trust operations.

References

(NRC, 2012) Regulation Guidance 4.22, “*Decommissioning Planning During Operations*”, dated December 2012.

(NRC, 2012) NUREG-1757, Volume 3, Rev. 1, “*Consolidated NMSS Decommissioning Guidance Financial Assurance, Recordkeeping, and Timeliness*”, dated February 2012.

(NRC, 2016) NUREG-1556, Vol. 15, Rev. 1, “*Consolidated Guidance About Materials Licenses: Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses*”, dated June 2016

10 CFR Part 30 “*Rules of General Applicability to Domestic Licensing of Byproduct Material.*”

10 CFR Part 40 “*Domestic Licensing of Source Material.*”

Response to Comments

On August 1, 2018, a *Federal Register* notice (FRN) was published soliciting comments by September 17, 2018 on the ISG. On August 18, 2018, a FRN was published extending the comment period until October 5, 2018. NRC received comments from three organizations which can be viewed on the following website: <https://www.regulations.gov> by searching Docket ID [NRC-2018-0159](#). The summaries of the comments and the NRC staff’s responses are as follows:

Comments on Inventory: Two organizations stated that moving inventory offsite is an operational cost and not a decommissioning cost. Additionally, one of the commenters noted that the NRC’s materials decommissioning cost estimates require a contingency factor, and that this contingency factor covers unexpected or unanticipated events. Finally, one commenter indicated one of the eight factors is possession limits and not inventory.

Response: The NRC staff agrees that it is possible for licensees to cover these costs during operations. For materials decommissioning cost estimates, the NRC staff does not distinguish between operational and post-closure costs. Operational events drive decommissioning costs. As such, the decommissioning cost estimate includes the costs to handle operational events, such as leaks and spills, until these events are remediated. For materials decommissioning cost estimates, the licensee is required to have full funding, prior to bringing licensed material onsite, for radiological cleanup of the site to meet license termination requirements. In order for the NRC to terminate a license, licensed material must be removed from the site or otherwise disposed of in accordance with the NRC regulations at 10 CFR Part 20, Subpart K. This ISG outlines a few different methodologies the NRC staff finds acceptable for covering onsite inventory, most of which are based on operational practices. If a licensee has these operational practices in place, a licensee can simply describe these practices in the narrative to its decommissioning cost estimate. If operational planning has an established pathway to move the inventory offsite to an end destination, no additional costs need to be included in the decommissioning cost estimate.

Because the licensee is expected to be aware of its own inventory, the NRC staff does not consider a plan to remove or otherwise dispose of onsite inventory to be an unexpected or unanticipated event. The contingency factor is intended to cover cost increases, such as the cost of labor or the price of gasoline increasing before the next decommissioning cost estimate update.

This ISG bases inventory on current facility conditions rather than on a licensee’s possession limits as a licensee’s current facility conditions may include inventory that is below the actual possession limits of its license. A DCE based on possession limits may cause a licensee to cover a greater amount of inventory than it actually ever has onsite. That is one reason the NRC considers routine facility conditions, including current inventory (rather than possession limits), in its evaluation of licensee DCE updates.

Comment on Applicability: One organization commented about the applicability of this ISG with respect to an Agreement State, namely, that this ISG should not apply to uranium

recovery facilities and that uranium recovery licenses should include the address for NRC's site project manager.

Response: An Agreement State has the option of implementing NRC guidance or developing its own guidance. This ISG is to supplement NUREG-1757, Vol. 3 Rev. 1. Footnote 4 of Table 2, Content and Applicability of Key Decommissioning Guidance Documents, on page XI of NUREG-1757, Vol. 3, Rev.1, indicates that guidance on financial assurance for uranium recovery facilities under 10 CFR Part 40 is not covered by NUREG-1757, Vol. 3, Rev. 1. Financial assurance for uranium recovery facilities is covered by NUREG-1620, Rev. 1, "Standard Review Plan for the Review of a Reclamation Plan for Mill Tailings Sites Under Title II of the Uranium Mill Tailings Radiation Control Act of 1978." Although not applicable to uranium recovery licensees, there are portions of this ISG that may be helpful with respect to uranium recovery financial assurance reviews, such as the general methodology to update cost estimates. In addition, the ISG may be useful as it provides a template sight draft, identifies how to perform an analysis of off-balance sheet transactions when using a guarantee mechanism, contains certain supporting documentation for statements of intent and includes updated website addresses to confirm the qualifications of a trustee. Finally, as a uranium recovery licensee has an upcoming action to amend its license (license renewal, license amendment or surety update), the NRC site project manager can update the license to not only reflect the action, but also to include his/her address where documents can be sent.

Comment on Facility Modification: One organization commented that the facility modification requirement contained in the DCE should only include a detailed breakdown of costs for facility modifications rather than a detailed breakdown of decommissioning costs for the entire facility.

Response: The NRC staff agrees. At routine intervals, a licensee is required to provide a detailed cost estimate for the entire facility, but when specifically addressing the facility modification requirement, the licensee does not need to reiterate the entire facility DCE. For the facility modification requirement, the licensee should provide a narrative statement describing the facility modifications from its previous narrative description of the facility and include a detailed breakdown of expected decommission costs covering these new facility modifications.

SUBJECT: INTERIM STAFF GUIDANCE ON DECOMMISSIONING FUNDING PLANS FOR MATERIALS LICENSEES

ADAMS Accession No.: ML19079A313

***via email**

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