

September 30, 2021

Ms. Margaret Doane
Executive Director of Operations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Use of NDT Funds During Operations to Dispose of Major Radioactive Components

Project Number: 689

Dear Ms. Doane:

On February 22, 2019, *EnergySolutions* submitted a petition requesting amendments to 10 CFR 50.2 and §50.82 to allow the use of decommissioning funds to dispose of major radioactive components that are removed from commercial power reactors prior to the permanent cessation of operations (PRM-50-119).¹ On June 3, 2021, *EnergySolutions* submitted a letter containing additional information supporting its February 2019 petition.²

I am writing to express NEI's³ support for the premise put forth in PRM-50-119 and *EnergySolutions'* June 2021, letter. Specifically, NEI fully supports the NRC's reconsideration of whether, under certain conditions, the agency should permit licensees to use decommissioning funds for the disposal of major radioactive components (MRC) that are taken out of service prior to permanent cessation of plant operations.

As described in *EnergySolutions'* June 2021 letter, there are approximately 15 reactor heads and approximately 127 steam generators stored on nuclear power plant sites across the country and awaiting disposal. These MRCs constitute approximately 631,000 cubic feet of radioactive waste. Currently, licensees are not permitted to use decommissioning funds to dispose of these MRCs until after permanent shutdown of the facility.⁴ As a result, most of these components will be stored on-site until licensees gain access to decommissioning funds after permanent shutdown.

¹ *Rulemaking Petition to Amend 10 C.F.R. § 50.2 and 10 C.F.R. § 50.82*, Feb. 22, 2019 (PRM-50-119).

² Letter from G. van Noordennen (*EnergySolutions*) to A.L. Vietti-Cook (NRC), *Rulemaking Petition to Amend 10 C.F.R. § 50.2 and 50.82*, June 3, 2021.

³ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

⁴ See 10 C.F.R. § 50.82(a)(8).

With many plants extending their operation from 40 to 60 or even 80 years, the industry expects additional turnover of MRCs prior to permanent cessation of plant operations. At the same time, the extended investment horizon presented by license renewal and subsequent license renewal will likely result in healthy decommissioning trust funds growing to levels that significantly exceed the amount necessary to provide reasonable funding assurance.⁵ Thus, NEI believes it is timely for the NRC to review its position on this issue.

The benefits of facilitating MRC disposal during plant operation include:

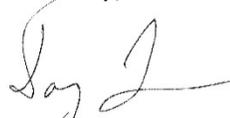
- Reducing the inventory of stored radioactive materials at nuclear power plant sites;
- Spreading the flow of MRC to disposal sites over time, avoiding potential transportation and processing constraints in the future as more plants decommission simultaneously; and
- Avoiding uncertainty associated with future changes in waste transportation and disposal costs.

We understand that the NRC's first priority is to ensure that decommissioning trust funds are maintained at a level that provides reasonable assurance that adequate funds will be available for decommissioning when necessary. The industry shares this priority and the Petition appropriately focuses on the importance of ensuring the adequacy of decommissioning trust funds. Further, we believe that criteria can be developed to allow use of decommissioning funds for MRC disposal during operation in a manner that does not jeopardize the licensees' ability to adequately fund site decommissioning. NEI is prepared to contribute to the development of such criteria.

In closing, we are aware that there is significant interest in this concept among both licensees that are currently storing MRCs and companies that provide disposal services.

Thank you for your consideration of our views on this matter. If you have any questions or would like to discuss this issue further, please contact Bruce Montgomery of my staff at bsm@nei.org.

Sincerely,



Douglas E. True

Cc: John Lubinski, NMSS
John Tappert, NMSS/REFS
Patricia Holahan, NMSS/DUWP

⁵ While maintaining its position that, generally, the staff should strictly construe the agency's regulations to prohibit withdrawal of funds while decommissioning trusts are accumulating, the Commission has recognized that the extended investment timelines associated with license renewal could result in the accumulation of "gains that cause the decommissioning fund to far exceed any amount necessary to weather severe economic downturns and decommissioning cost increases and thus, on a case-by-case basis, some withdrawals could be appropriate." *Staff Requirements - SECY-02-0085 – Recent Issues with Respect to Decommissioning Funding Assurance that have Arisen as Part of License Transfer Applications and Other Licensing Requests*, Jan. 3, 2003.