



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

September 12, 2023

MEMORANDUM TO: Hruta Virkar, CPA
Assistant Inspector General for Audits
Office of the Inspector General

FROM: John W. Lubinski, Director
Office of Nuclear Material Safety
and Safeguards

A handwritten signature in blue ink, appearing to be "J. Lubinski".

Signed by Lubinski, John
on 09/12/23

SUBJECT: STATUS OF RECOMMENDATION NUMBER 4:
OFFICE OF THE INSPECTOR GENERAL'S AUDIT OF
THE U.S. NUCLEAR REGULATORY COMMISSION'S
OVERSIGHT OF THE ADEQUACY OF
DECOMMISSIONING TRUST FUNDS (OIG-21-A-14)

Enclosed is the U.S. Nuclear Regulatory Commission's (NRC's) status of Recommendation 4 from the Office of the Inspector General's (OIG) Audit of NRC's Oversight of the Adequacy of Decommissioning Trust Funds (OIG-21-A-14), dated August 19, 2021. If you have any questions regarding this document, please contact the individual identified below.

Enclosure:
As stated

CONTACT: Richard Turtill, NMSS/REFS
301-415-2308

SUBJECT: STATUS OF RECOMMENDATION NUMBER 4: OFFICE OF THE INSPECTOR GENERAL'S AUDIT OF THE U.S. NUCLEAR REGULATORY COMMISSION'S OVERSIGHT OF THE ADEQUACY OF DECOM MISSIONING TRUST FUNDS (OIG-21-A-14).

DATED: September 12, 2023

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NAME	RTurtill	FMiller	CRegan	JLubinski
DATE	08/01/2023	08/01/2023	08/03/2023	09/12/2023

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**STATUS OF RECOMMENDATION NUMBER 4:
OFFICE OF THE INSPECTOR GENERAL'S AUDIT OF
THE U.S. NUCLEAR REGULATORY COMMISSION'S OVERSIGHT OF THE
ADEQUACY OF DECOMMISSIONING TRUST FUNDS (OIG-21-A-14)**

Recommendation 4:

Periodically assess, through communication with cognizant regulators or by other means, trustee compliance with the master trust fund agreements in accordance with investment restrictions in Title 10 of the *Code of Federal Regulations Section 50.75*, "Reporting and recordkeeping for decommissioning planning."

Response

The staff has engaged federal oversight agencies and decommissioning trust fund (DTF) trustees throughout 2021, 2022, and into 2023, to address recommendation 4. However, the staff's exhaustive efforts have not resulted in the identification of an effective and efficient means of periodically assessing, through communication with cognizant regulators or by other means, trustee compliance with the master trust fund agreements in accordance with investment restrictions in 10 CFR 50.75. Staff engaged with representatives of the Federal Energy Regulatory Commission and the U.S. Federal Reserve Board, two federal regulatory agencies considered cognizant on NRC investment restrictions, about oversight, resources, and reporting that could be provided to the NRC regarding DTF investment compliance. However, as the staff previously noted in its response dated March 20, 2023, these agencies are unable to provide the support or commitment needed to assist the NRC in meeting the objective of the recommendation. The staff also engaged in outreach with DTF trustees to learn whether they could provide information regarding trustee compliance with NRC investment restrictions. One of the larger trust companies that provide licensees with DTF trustee services indicated it would be unable to report to the NRC assessments of DTF investment compliance with NRC investment regulations, and suggested possible NRC engagement with investment managers hired by the licensees to learn of DTF investment compliance. The staff considered the company's response to be indicative of the services provided industry-wide and insufficient in providing information needed to address OIG's recommendation. Further, the staff also considered other means to periodically assess trustee compliance including discussions directly between the NRC staff and trust fund investment managers, and review by staff of agreements between investment managers and licensees that could shed light on adherence to investment restriction practices. Based on its assessment, the staff determined that these resource-intensive efforts, potentially requiring information collection authority and/or rulemaking, would not yield information sufficient for the staff to reach a finding regarding trustee compliance. Therefore, the staff does not plan to implement any programmatic changes in this area. Nevertheless, the staff notes that as part of the NRC's ongoing oversight, the staff has the ability to inspect licensees' DTF investment practices, and would do so, if appropriate.

The staff's actions have been responsive to OIG's recommendation. Based on its assessment, the staff determined that future dedication of additional resources is highly unlikely to result in the identification of any new information or methods that would be responsive to the recommendation. Accordingly, in light of extensive government partner agency engagement, considerable industry outreach and communication, and staff analysis and consideration of internal assessment methods, the staff has ceased development of a procedure on how best to periodically assess trustee compliance and will terminate further assessment activities.

The staff has completed this action.

Point of Contact: Richard Turtill, NMSS/REFS
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