



## UNITED STATES NUCLEAR REGULATORY COMMISSION

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**Date:** August 5, 2024

**SUBJECT: INTERIM STAFF GUIDANCE ON THE USE OF THE DECOMMISSIONING TRUST FUND DURING OPERATIONS FOR MAJOR RADIOACTIVE COMPONENT DISPOSAL (REFS-ISG-2024-01)**

### **Purpose**

The U.S. Nuclear Regulatory Commission (NRC, or Commission) staff is providing this interim staff guidance (ISG) to provide clarifying guidance to facilitate stakeholder understanding of the NRC's position on the use of the decommissioning trust fund (DTF) during operations for major radioactive component<sup>1</sup> (MRC) disposal, including what information would assist the NRC staff in assessing a licensee's request for exemption from the regulations related to the activity.

### **Background and Scope**

The NRC's reactor licensing regulations in Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) establish requirements for providing assurance that funding will be available to radiologically decommission a reactor facility and terminate the Part 50 license. Specifically, these requirements address the amount of decommissioning funding to be provided, the methods to be used for assuring sufficient funding, and provisions restricting the use of the DTF during operations.

On February 22, 2019, a petition for rulemaking (PRM) was filed with the NRC requesting that the NRC revise the definition of *Decommissioning* in 10 CFR 50.2, "Definitions," and amend 10 CFR 50.82, "Termination of License," to allow access to the DTF to pay for the cost of the disposal of MRCs before the permanent

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<sup>1</sup> As the term is currently defined in § 50.2: *Major radioactive components* means, for a nuclear power reactor facility, the reactor vessel and internals, steam generators, pressurizers, large bore reactor coolant system piping, and other large components that are radioactive to a comparable degree."

cessation of operations at nuclear power plants.<sup>2</sup> Subsequently on February 4, 2022, the Commission denied the petition, stating that the petition does not raise a significant safety or security concern, and the subject area is adequately covered by existing regulations.<sup>3</sup>

Currently, the NRC does not have guidance specifically related to the use of the DTF during operations for MRC disposal. Guidance related to the subject would primarily be discussed in Regulatory Guide (RG) 1.159, “Assuring the Availability of Funds for Decommissioning Nuclear Reactors.” However, a revision to RG 1.159 is currently part of another rulemaking effort<sup>4</sup>, and additional revisions cannot be considered while the rulemaking is in process. For these reasons, this ISG provides guidance for stakeholders on the subject while the revisions to RG 1.159 are being completed.<sup>5</sup>

## **Discussion**

### **NRC Position on the Use of the DTF During Operations for MRC Disposal**

The NRC has a comprehensive, regulation-based framework that provides oversight of a licensee’s decommissioning funding during operation and decommissioning. Compliance with NRC decommissioning funding regulations in 10 CFR Part 50 provides reasonable assurance that sufficient funding will be available for the radiological decommissioning of a reactor facility upon permanent cessation of operations. The withdrawal of funds from the DTF during operations, for purposes other than those allowed by NRC regulations, could undermine the primary objective of the decommissioning funding regulations. Therefore, only under *extraordinary circumstances* would a withdrawal from the DTF prior to permanent cessation of operations be permissible.

### **Options for Using the DTF During Operations for MRC Disposal**

The NRC’s regulations at 10 CFR 50.82 describe the process for termination of a power reactor license after the licensee has determined to permanently cease operations and submitted written certification to the NRC. Specific requirements after fuel is permanently removed from the reactor vessel are described, including the submission of certifications to the NRC, and the submission of a post-shutdown decommissioning activities report (PSDAR) to the NRC, in addition, the NRC will provide an opportunity for public comment on the PSDAR. Importantly, 10 CFR 50.82(a)(8)(i) states: “Decommissioning trust funds may be used by licensees if – (A) The

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<sup>2</sup> PRM-50-119 - Gerard Van Noordennen on behalf of EnergySolutions - Petition for Rulemaking - PRM-50-119 - Access to the Decommissioning Trust Fund for the Disposal of Large Components (Feb. 22, 2019) (ADAMS Accession no. ML19079A293).

<sup>3</sup> Access to the Decommissioning Trust Fund for the Disposal of Large Components, 87 Fed. Reg. 6,434 (Feb. 4, 2022) (Denial of PRM-50-119). The NRC previously addressed this issue in Thomas E. Magette on Behalf of EnergySolutions, LLC; Notice of Denial of Petition for Rulemaking, 73 Fed. Reg. 62,220 (Oct. 20, 2008).

<sup>4</sup> NRC, Proposed Rulemaking: Regulatory improvements for Production and Utilization Facilities Transitioning to Decommissioning (2022), available at <https://www.nrc.gov/waste/decommissioning/reg-guides-comm/regulations/reg-improv-trans-to-decom.html>.

<sup>5</sup> RG 1.159 will be updated when the Commission approves the current decommissioning rulemaking.

withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in Section 50.2.”

The NRC staff determined that the removal and replacement of MRCs during the operational phase of a reactor facility to ensure ongoing safe operation of a reactor is a cost of doing business. Once the MRC is removed from service during reactor operations, a licensee has the option to (1) either immediately dispose of the MRC at a designated off-site facility or (2) store the MRC onsite until disposal is performed. Neither of these options constitute legitimate decommissioning activities as contemplated by the NRC’s regulations. The removal and disposal of the MRC or removal of and storage of the MCR until decommissioning when performed during the operational phase of the reactor facility is a business decision and should be funded by a licensee as a business activity. The NRC recognizes that after a reactor facility permanently ceases operations and is in the decommissioning phase, the off-site disposal of MRCs is a legitimate decommissioning expense and therefore, the use of funds from the DTF is permissible, either directly or as a reimbursement for a prior expense. Accordingly, a licensee has two options on when to undertake MRC disposal: (1) during operations when the funds for MRC disposal come from operational funds or (2) once decommissioning is initiated and the costs of disposal may be taken from the DTF.

### **NRC-Recognized Mechanisms for Using Funds in the DTF for Disposal of MRC during Operations at a Reactor Facility**

- **DTF Subaccounts**

Licensees may establish subaccounts in existing decommissioning trusts funds to pay for decommissioning activities other than radiological decommissioning of the facility, including MRC off-site disposal during operations. The NRC’s regulations restrict the withdrawal of decommissioning trust funds dedicated to the radiological decommissioning of a facility prior to permanent cessation of operations. However, DTF subaccounts designated for activities other than radiological decommissioning may be used at the discretion of the licensee at any time during operations or decommissioning.

Funding DTF subaccounts can be accomplished in a variety of ways. Rate-regulated licensees typically have subaccounts funded by rate collections authorized by the Federal Energy Regulatory Commission (FERC) or state and local public utility commissions. Rate-regulated licensees may establish subaccounts after demonstrating that the portion of the trust dedicated to radiological decommissioning is sufficiently funded under NRC’s regulations. Merchant nuclear plants, those not rate-regulated by FERC or a public utility commission, may fund subaccounts in addition to radiological decommissioning accounts. For example, a merchant plant may establish and fund subaccounts in a DTF with cash injections. In the alternative, it may seek reallocation of their DTF into subaccounts by the specific exemption process under 10 CFR 50.12, “Specific exemptions.” Therefore, permission to reallocate funds within a merchant plant’s decommissioning trust fund accounts, which are not permissible under the NRC’s regulations, may be requested under the 10 CFR 50.12 special exemption process.

- **Exemption from NRC Regulations**

A licensee may request an exemption in accordance with 10 CFR 50.12, to permit withdrawal of funds from the DTF for the removal and disposal of MRCs, prior to the cessation of operations and initiation of decommissioning. The withdrawal of funds from the DTF may only be used to pay for the offsite disposal of MRCs when the NRC has determined the total DTF contains funds

in excess of cost estimates to complete all required radiological decommissioning. In addition, licensees may use economic projections for future years in calculating the amount of excess funds in the DTF. However, significant changes in the economic conditions of a licensee, combined with withdrawals from the trust fund, have the potential to result in future shortfalls in the DTF. The Commission has stated trust fund withdrawals for the disposal of MRCs would be granted only “in extraordinary circumstances” (73 FR 62221, 62222, and 62224; October 20, 2008)<sup>6</sup>. For these reasons, the staff evaluates each exemption request for a DTF withdrawal based on a totality of facts in determining whether to grant or deny a request.<sup>7</sup>

The NRC’s regulations at 10 CFR 50.12(a)(2) state: “The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present wherever” at least one of the criteria in 10 CFR 50.12(a)(2)(i) - (vi) is met. In the following section the staff presents additional information the staff may consider.

**Information a Licensee May Provide to the NRC Staff to Support an Exemption Request:**

- A licensee demonstrates the requirements for specific exemptions in 10 CFR 50.12(a)(1) are met;
- A licensee identifies and the NRC confirms that a large projected surplus in DTF reserves compared with the site-specific cost estimate for a facility;
- A licensee identifies the site-specific cost estimate for decommissioning includes the cost of the expense for which a withdrawal is requested;
- A licensee provides evidence that funds in the comingled DTF were collected or set aside for specific decommissioning activity(ies) identified in the decommissioning cost estimates;
- A licensee demonstrates that the time period, estimated before the permanent cessation of operations and commencement of major radiological decommissioning activities will begin, is sufficiently long to provide for the accumulation of funds in the DTF;
  - For example, when a licensee projects 20 additional years of operations before the cessation of operations, the opportunity for growth of the DTF will be significantly higher than for a facility that will cease operations in 5 years.
- A licensee demonstrates that the current and projected DTF amounts required for decommissioning provide adequate assurance that funds will be available throughout the decommissioning period;
- A licensee fully explains its DTF structure, for example, are there existing subaccounts, or are funds for different decommissioning activities comingled in one account;
- A licensee provides evidence that funds in the comingled DTF were collected or set aside for specific decommissioning activity(ies) identified in the decommissioning funding plans submitted as required to the NRC;

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<sup>6</sup> The Commission reaffirmed this position in its denial of the Petition for Rulemaking submitted on the behalf of EnergySolutions on February 22, 2019 (Denial of PRM-50-119, 87 Fed. Reg. at 6,435).

<sup>7</sup> The staff will evaluate an exemption request against the criteria of 10 CFR 50.12. The list provided describes examples of information that the NRC staff uses in evaluating an exemption request. Applicants must meet the regulatory requirements to obtain an exemption from regulatory requirements, but are not required to provide all the listed information. A licensee may be able to demonstrate extraordinary circumstances and thus justify an exemption based on the totality of the facts by addressing a subset of the issues listed in the ISG or information not listed that may be beneficial to staff analysis.

- Decommissioning funding assurance (DFA) history demonstrates that over many years the projected DTF has had significant excess funding;
- A licensee provides a cost-benefit analysis on the planned activity (see also 10 CFR 50.12(a)(1)(iii));
- A licensee provides a current financial health narrative;
- A licensee of a rate-regulated utility identifies rate collection mechanisms available to obtain additional funds when a shortfall in the DTF occurs;
- A licensee of a merchant plant (i.e. not a rate-regulated utility or not an “electric utility”) provides existing and potential funding mechanisms that are or could be made available (for example, parent company guarantee, parent company support agreement, or cash injection) to cover future shortfalls in a DTF.

### **Backfitting, Forward Fitting, and Issue Finality**

Issuance of this ISG will not (i) constitute backfitting as defined in section 50.109 of title 10 of the Code of Federal Regulations (10 CFR), “Backfitting,” and as described in Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; (ii) affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certifications, and Approvals for Nuclear Power Plants”; or (iii) constitute forward fitting as that term is defined and described in MD 8.4. This ISG states the NRC staff’s position on the use of decommissioning trust funds during operations for disposal and lists examples of factors that the NRC staff would consider when evaluating exemption requests under 10 CFR 50.12. Applicants and licensees will not be required to comply with the positions set forth in this ISG.

### **Congressional Review Act**

This ISG is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

### **References**

(NRC, 2011) Regulatory Guide 1.159, Revision 2, “Assuring the Availability of Funds for Decommissioning Nuclear Reactors,” dated October 2011.

10 CFR Part 50, “Domestic Licensing of Production and Utilization Facilities.”

“Rulemaking Petition to Amend 10 CFR § 50.2 and 10 CFR § 50.82,” dated February 22, 2019. (ADAMS Accession No. ML19079A293)

“Denial of Petition for Rulemaking: Access to the Decommissioning Trust Fund for the Disposal of Large Components (PRM-50-119; NRC-2019-0083),” dated January 24, 2022. (ADAMS Accession No. ML22012A058)

## APPENDIX A

### Resolution of Public Comments

A notice of opportunity for public comment on this Interim Staff Guidance (ISG) was published in the *Federal Register* (88 FR 40337) on June 21, 2023, for a 60-day comment period. Eight commenters provided comments which were considered before issuance of this ISG in final form.

Comments on this ISG are available electronically at the NRC's electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. Comments were received from the following individuals or groups:

Letter No.	ADAMS No.	Commenter Affiliation	Commenter Name	Abbreviation
1	ML23181A049	Public	Paul Sanders	
2	ML23236A522	Appalachian States Low-Level Radioactive Waste Compact Commission		ACC
3	ML23236A525	Public	Lili Lamar Shari Laskowitz	
4	ML23236A527	Public	Lili Lamar Zucker Ashley Humphries	
5	ML23236A528	EnergySolutions	Justin T. Wheat	ES
6	ML23236A529	Nuclear Energy Institute	Bruce S. Montgomery	NEI
7	ML23236A531	Constellation Energy Generation, LLC	Rebecca Steinman	CEG
8	ML23262B451	New York State Department of Public Service	John J. Sipos	NYSDPS

The comments and the staff responses are provided below.

Comment 1: Paul Saunders, a member of the public, stated that it would be prudent to allow disposition of major radioactive components (MRCs) during operations using the decommissioning trust fund (DTF) to ensure sufficient funds are available for decommissioning at permanent cessation of operations. Mr. Saunders stated that in his 50+ years in the nuclear waste industry, costs have never decreased. Rather, most recently, decommissioning costs have “increased dramatically.” Therefore, Mr. Saunders supported “near-term” use of the DTF for MRC disposition as a more cost-effective use of funds.

NRC Response: The NRC neither agrees nor disagrees with the comment. NRC recognizes that radiological cost trends have generally increased over time. When evaluating a licensee’s decommissioning funding assurance (DFA), staff considers the current estimated amount (cost) needed to radiologically decommission a facility compared to the current amount of funds in the DTF dedicated to radiological decommissioning, including projected earnings on that amount. However, the financial strategy a licensee implements to forecast these expected costs and accrue the funding required to satisfy its regulatory obligations is a business decision, bound within NRC decommissioning funding assurance regulations. Therefore, no change was made to the final ISG as a result of this comment.

Comment 2: The Appalachian States Low-Level Radioactive Waste Compact Commission (ACC) agreed with NRC’s position that use of the DTF for MRC disposal during operations should be granted only in extraordinary circumstances and under the 10 CFR 50.12 special

exemption process. The ACC also recommended that a cost-benefit analysis be performed and included as part of exemption request to use the DTF for MRC disposal disposition. Further, the ACC stated that the NRC should develop a set of “minimum necessary requirements” for evaluating an exemption request and that, at a minimum, financial guarantees should be included, even if the projected DTF amounts indicate adequate funding for the proposed activity. Finally, the ACC requested that the NRC seek input from the “host state” during the exemption evaluation process.

NRC Response: The NRC staff agrees and disagrees with the comments provided by the ACC. First, the staff agrees that, as stated in the draft ISG, use of the DTF during operations for the MRC disposal should be granted only under extraordinary circumstances. No change was made to the final ISG with respect to this comment. Additionally, the staff agrees that a cost-benefit analysis, performed by the licensee, may assist NRC staff in assessing an exemption request. As such, the final ISG was changed by adding the inclusion of a cost-benefit analysis to the list under *Information a Licensee May Provide to the NRC Staff to Support an Exemption Request*.

The staff disagrees with the comment that the NRC should develop a set of “minimum necessary requirements” for evaluating an exemption request. The NRC will evaluate each exemption request on a case-by-case basis and will consider the totality of facts presented in the request. For instance, while inclusion of a “financial guarantee” in addition to adequate funding in the DTF would indeed bolster an exemption request, it is not a requirement for approval, nor would the inclusion of additional financial assurance necessarily guarantee approval. Therefore, no change was made to the final ISG as a result of this comment.

Finally, the NRC staff neither agrees nor disagrees with the comment related to seeking input from the host state during an exemption evaluation. The NRC will consider host state consultation on a case-by-case basis, based on the facts presented in an exemption request.

Comments 3 and 4: The comments submitted by Lili Lamar Shari Laskowitz (Comment 3) and Lili Lamar Zucker Ashley Humphries (Comment 4) are unrelated to the draft ISG.

NRC Response: The information provided in Comments 3 and 4 are unrelated to the draft ISG or any other NRC activities. Therefore, these comments are out of scope and were not considered by the NRC staff. No change was made to the final ISG as a result of these comments.

Comment 5: Comment 5, submitted by EnergySolutions (ES), is a multi-part comment containing nine distinct comments/recommendations. Comments 5.1 and 5.2 are general comments reflecting ES’s agreement with NRC staff’s decision (1) not to specifically define what are acceptable differences between the DTF and the decommissioning cost estimate (DCE), but instead to address these factors on a case-by-case basis as part of the totality of the facts presented in an exemption request ES also agreed with the NRC’s to evaluate the time remaining until permanent cessation of operations on a case-by-case basis. ES also agreed with the NRC’s decision to provide guidance on information that assists NRC staff in evaluating an exemption request.

Comment 5.3 recommends deletion of language describing MRC disposal during operations as a “cost of doing business,” similar to MRC removal and replacement. ES discusses regulatory language describing MRC removal and timing, as well as the additional decommissioning costs of storing MRCs onsite until permanent cessation of operation and commencement of decommissioning activities.

Comment 5.4 recommends the addition of language describing NRC staff's use of a totality of facts analysis in its findings. The comment challenges the term "extraordinary circumstances" as vague and subjective and recommends that the ISG describe how to satisfy the demonstration of extraordinary circumstances in an exemption request evaluation.

Comment 5.5 recommends additional information be included in the *Information that Assists NRC Staff in Evaluating an Exemption Request Include* section stating that meeting all criteria is not a requirement and that extraordinary circumstances may be demonstrated by addressing a subset of the list.

Comment 5.6 recommends the deletion of the word "comingled" when describing the makeup of a DTF.

Comment 5.7 recommends the deletion of the phrase "over many years" and the word "significant" when discussing the history of the status of the DTF, stating that both are either irrelevant or not quantifiable for the purpose evaluating an exemption request.

Comment 5.8 recommends inserting the word "not" prior to the phrase "had significant shortfalls" when discussing the historical occurrence of significant shortfalls. ES states that, as written, the information request suggests a preference for significant shortfalls.

Comment 5.9 recommends the deletion of the phrase "of a rate-regulated" at the end of bullet 9 of the draft ISG. ES states that the phrase appears to have been included in error and if not, requests clarification.

NRC Response: After review of ES's comments, the NRC staff both agrees and disagrees with various points.

NRC staff agrees with the general in Comments 5.1 and 5.2. No change was made to the final ISG as a result of these comments.

Staff agrees with Comment 5.3 to the extent that the language in the ISG should not classify MRC disposal as a "cost of doing business." NRC recognizes the regulations prohibiting the use of the DTF for disposal of an MRC *during operations* are unusual, when that expenditure would otherwise be allowed as a major decommissioning activity *after cessation of operations*. Nevertheless, the NRC staff also recognizes the decision to remove and replace MRCs to continue operations with a goal of continued profitability is a cost of doing business. That said, the NRC staff understands the nuance in the phrase "cost of doing business" and recognizes that disposal is a necessary business activity regardless of timing. Therefore, the final ISG was changed to reflect MRC disposal as a business activity.

Staff agrees with Comments 5.4 and 5.5 in that clarity in the draft ISG on how "extraordinary circumstances" could be demonstrated in an exemption request was necessary. Furthermore, NRC staff is clarifying that the list of information provided in the draft ISG: (1) represents examples of information that may assist NRC staff's evaluation; (2) is non-exhaustive; and (3) is not a requirement (either as individual elements or in totality). Accordingly, the final ISG adds a footnote incorporating ES's recommended language, and the NRC staff adds examples to the list which may be used to demonstrate extraordinary circumstances.



Staff disagrees with Comment 5.6 regarding the deletion of the word “comingled.” NRC staff includes several examples in the list of information that may be useful in evaluating an exemption: (1) a description of a licensee’s DTF structure, (2) including how funds are comingled in a DTF, and (3) providing evidence of funds in a comingled account being set aside for specific activities. A description of how funds are accumulated, accounted for, and potentially spent will provide information that assists the NRC in finding decommissioning funding assurance. Additionally, and as discussed above, the NRC does not require a licensee include a description of fund structure or identify specific funds in a comingled account dedicated to a specific activity (e.g. MRC disposal) in an exemption request. No change was made to the final ISG as a result of this comment.

The NRC staff disagrees with Comment 5.7. When considering a licensee’s DFA history, both the duration of and amount of DFA excess are relevant to evaluating future DFA potential. For example, when a licensee shows a lengthy period of excess funding in the DTF, this indicates a greater likelihood or a higher probability that a withdrawal during operations for MRC disposal would not negatively impact DFA in the future. That said, DFA history is a single datapoint to be considered, if provided, in a totality of facts evaluation. Additionally, inclusion of DFA history is not a requirement in assessing an exemption request. No change was made to the final ISG as a result of this comment.

NRC staff agrees with Comment 5.8 relating to deleting the word “not” prior to the phrase “had significant shortfall.” After further evaluation, NRC staff found that the word was included in error. Additionally, NRC staff determined that the inclusion of the example would not be beneficial to NRC staff in its evaluation of an exemption request. The final ISG was changed by deleting the entire example.

NRC staff agrees with Comment 5.9 relating to deleting the phrase “of a rate-regulated.” The inclusion of this phrase was duplicative and in error. The final ISG was changed by deleting the duplicative phrase.

Comment 6: The Nuclear Energy Institute (NEI) provided two specific comments on the draft ISG. NEI recommends revising the ISG to focus on the regulations that create the need for an exemption to use the DTF during operation for MRC disposal, rather than using subjective language describing MRC disposal as a “cost of doing business.” Additionally, NEI recommended that the ISG clarify that the list under *Information a Licensee May Provide to the NRC Staff to Support an Exemption Request* be viewed as non-exhaustive and that a totality of the facts presented may demonstrate extraordinary circumstances.

NRC Response: Staff agrees with NEI on both comments. As discussed above, NRC staff recognizes the regulations prohibiting the use of the DTF for disposal of an MRC *during operations* are unusual, when that expenditure would otherwise be allowed as a major decommissioning activity *after cessation of operations*. Nevertheless, the NRC staff also recognizes the decision to remove and replace MRCs to continue operations with a goal of continued profitability is a cost of doing business. That said, the NRC staff understands the nuance in the phrase “cost of doing business” and recognizes that disposal is a necessary business activity regardless of timing. Therefore, the final ISG was changed to reflect MRC disposal as a business activity.

Additionally, NRC staff agrees that clarifying that the list of information provided in the draft ISG: represents examples of information that may assist NRC staff’s evaluation; is non-exhaustive; and is not a requirement (either as individual elements or in totality). As such, the final ISG was

changed by adding a footnote representing ES's recommended language, along with further clarification from NRC staff on the use of the list to demonstrate extraordinary circumstances.

Comment 7: Constellation Energy Generation, LLC (CEG) stated that CEG agrees with the comments submitted by NEI on the general robustness of trust funds across the industry merit a case-by-case consideration of an exemption to allow the use of the DTF during operations for MRC disposal. Additionally, CEG supports the clarifications and improvements suggested by NEI in its comments.

NRC Response: NRC staff considered the comments provided by CEG, as they pertain to comments provided by NEI. NRC staff discussion related to NEI comment resolution are discussed in "Comment 5" above.

Comment 8: The New York State Department of Public Service (NYS DPS) provided three comments to the NRC on the draft ISG. First, NYSDPS stated that the final ISG should clarify that exemptions will not be granted if the nuclear decommissioning trust (NDT) and agrees with various points.

The NRC staff disagrees with the comment that an exemption will not be granted unless the DTF can be reasonably expected to fund all radiological decommissioning, spent fuel management, and site restoration. The NRC staff will evaluate each exemption request on a case-by-case basis and in consideration of the totality of facts. Licensees have various strategies on both demonstrating DFA and completing the decommissioning of a site. While NRC has oversight of radiological decommissioning and spent fuel management, it does not have oversight over site restoration activities. Therefore, while the NRC staff may consider funding after license termination (i.e. during the site restoration period) as a single datapoint, this consideration may not necessarily preclude the NRC from granting an exemption. No change was made to the final ISG as a result of this comment.

The NRC staff agrees with the comment that NRC staff should not engage in non-conservative financial analyses or assume that the reactor will remain operational beyond its current license term. The NRC staff uses conservatism in its financial assessments related to financial qualifications and decommissioning funding assurance, as described in NRC regulations. Additionally, NRC staff does not consider license extensions in its DFA evaluations unless the extension has been granted. As such, no change was made to the final ISG as a result of this comment.

The staff disagrees with the comment that any supplemental funding mechanisms relied upon by an exemption applicant must inure to the benefit of any subsequent license holders. The NRC staff evaluates exemptions on a case-by-case basis. Should a current licensee have supplemental funding mechanisms in place, the NRC staff will consider that in its evaluation. That said, when considering a license transfer application, the new owner is evaluated on its own financial merits. Unless requested by the parties involved, or if NRC staff finds it necessary to demonstrate DFA, a supplemental funding mechanism would not be made a requirement on a new licensee. No change was made to the final ISG as a result of this comment.