



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

January 25, 2017

Janet Schlueter, Sr. Director  
Radiation and Materials Safety  
Nuclear Energy Institute  
1201 F Street, NW, Suite 1100  
Washington, DC 20004

**SUBJECT: REQUIRED UPDATES TO DECOMMISSIONING FUNDING PLANS**

Dear Ms. Schlueter:

By letter dated June 27, 2016, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16229A175), the Nuclear Energy Institute (NEI) expressed concerns regarding recent positions taken by the U.S. Nuclear Regulatory Commission (NRC) staff on Decommissioning Funding Plan (DFP) updates. NEI specifically identified three concerns with the following positions that it indicated had been taken by the NRC staff: 1) inventory must be considered in calculating appropriate DFPs; 2) the amount of inventory is based on a worst-case analysis; 3) the need for a DFP covering inventory over and above the required contingency factor. NEI also expressed concerns regarding NRC's timely review of DFPs. NRC held a public meeting on September 16, 2016, to allow NEI, the industry, the public, and NRC to discuss the 10 Code of Federal Regulations (CFR) Part 70 requirements regarding DFPs including the 2012 Decommissioning Planning Rule (DPR) requirements pertaining to inventory onsite. The slides (ADAMS Accession No. ML16253A217 and ML16292A187) used during the meeting and the meeting minutes have been made publicly available (ADAMS Accession No. ML16295A049).

With regard to NEI's concern that changes to the 2012 DPR rule do not support the need for information related to the disposition of inventory, the DPR is a broad rule which added a number of new requirements, including changes to 10 CFR 70.25, "Financial assurance and recordkeeping for decommissioning". The most pertinent 10 CFR 70.25 changes include the 10 CFR 70.25(e)(1)(ii) requirement for identification of, and justification for, the key assumptions contained in the Decommissioning Cost Estimate (DCE). The DPR also added 10 CFR 70.25(e)(2), requiring that the DFP must specifically consider the impact of events on decommissioning costs, including changes in authorized possession limits. These changes to the DPR require that key assumptions and changes related to inventory be considered in DFP submittals.

With regard to industry's assumption that inventory is removed at the time of decommissioning, and as such, NRC's consideration of inventory is "worst case", the NRC staff through its review of the most recent DFP submittals, has evaluated how inventory should be considered with respect to the new requirements. There are three general types of inventory: (1) licensee owned, (2) customer owned, and (3) inventory-in-process. During the review of the most recent DFP submittals, the NRC staff issued Requests for Additional Information (RAIs) and held

several meetings with the individual licensees to ensure they understood the RAIs. The licensees were also able to ask questions as they developed their responses. The NRC staff completed several reviews of the triennial DFPs in the last few months. While the NRC staff acknowledges that in many cases, licensee or customer owned inventory will be removed before decommissioning, DFP submittals must include a reasonable justification for this assumption. An overview of the approaches which were acceptable to the NRC is shown in the Enclosure to this letter entitled, "Part 70 Inventory".

NRC's guidance for reviewing 10 CFR Part 70.25 DFPs is NUREG-1757, Vol. 3, Rev. 1, "Consolidated NMSS Decommissioning Guidance - Financial Assurance, Recordkeeping, and Timeliness" (NUREG-1757). Page A-22 from NUREG-1757 states: "...the site-specific cost estimate must assume that the decommissioning work should represent the licensee's best approximation of all direct and indirect costs of decommissioning its facilities 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; and inventories of materials and wastes at the time of decommissioning will be in amounts that are consistent with routine facility conditions. As such, inventory that may be present due to routine operations must be considered in DFPs. However, the staff's position is the DFPs need not account for disposition of "worst case" possession limit of inventory, but rather that licensees articulate the basis of their assumption that inventory will be removed.

The NRC staff agrees with NEI's statement that the 25% contingency factor is for unexpected or unanticipated events but does not agree that the contingency factor should be used to account for any inventory left onsite at the time of decommissioning. Inventory onsite is a known factor. 10 CFR 70.25(e)(1)(i)(D) requires an adequate contingency factor. Further, NUREG-1757 provides guidance that an adequate contingency factor is for unforeseen circumstances. The NRC staff considers unforeseen circumstances to be uncertain factors, such a fluctuations of gasoline costs (transportation costs) during the three year interval between DFP updates.

With regard to your concern about the timeliness of NRC reviews of DFPs, NRC has a goal of completing reviews of DFPs within 6 months of accepting the submittal for a technical review. As noted in your letter, the NRC staff have not consistently met that goal, such as when the NRC staff worked with licensees to communicate expectations in accounting for inventory. We recognize that improvements in the timeliness of our reviews can be made, and the NRC staff have used several of the techniques mentioned in your letter to focus our reviews. Lessons learned from the implementing the 2012 DPR as well as acceptable approaches to justifying key assumptions on inventory as indicated in the Enclosure will be issued as interim staff guidance. This interim guidance will provide improved guidance for the next round of triennial reviews for both licensees and reviewers. This approach should shorten review times.

NRC staff will continue to engage NEI and industry to establish reasonable financial assurance for decommissioning and review the submittals as efficiently and effectively as possible with a goal of completing these reviews within 6 months of acceptance.

J. Schleuter

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In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions regarding this letter, please contact Ken Kline at 301-415-7075 or [kenneth.kline@nrc.gov](mailto:kenneth.kline@nrc.gov).

Sincerely,

*/RA/*

John Tappert, Director  
Division of Decommissioning, Uranium Recovery  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:  
Part 70 Inventory

J. Schlueter

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If you have any questions regarding this letter, please contact Ken Kline at 301-415-7075 or [kenneth.kline@nrc.gov](mailto:kenneth.kline@nrc.gov).

Sincerely,

*/RA/*

John Tappert, Director  
Division of Decommissioning, Uranium Recovery  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

Enclosure:  
Part 70 Inventory

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**ADAMS Accession No.: ML16307A014**

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## **Part 70 Inventory**

Part 70 facilities generally have three types of inventory present during operations: licensee-owned material, customer-owned material and in-process material.

For the three types of inventory, NRC has found the following as adequate to justify the key assumption that inventory will be removed prior to decommissioning. The justifications for the key assumptions can be covered in the Decommissioning Funding Plan.

Licensee-owned:      1) Licensee has a contract in place where another party pays for packing, loading and shipping to an end destination.  
                                 2) Costs for packaging, loading and shipping to an end destination are included in the Decommissioning Cost Estimate (DCE).

Customer-owned:      1) Customer retains legal title to the material and is contractually responsible for packing, loading and shipping to an end destination.  
                                 2) Costs for packaging, loading and shipping to an end destination are included in the DCE.

Inventory in-process: - In order to reduce the likelihood of additional contamination, the licensee may justify a brief window of time, such as 30 days, in which it will process the material through into finished product, and then it will fall into one of the two categories above, licensee-owned or customer-owned and be handled consistently with the material in these categories.

Enclosure