



NUCLEAR REGULATORY COMMISSION

[NRC-2023-0111]

Draft Interim Staff Guidance: Use of the Decommissioning Trust Fund During Operations for Major Radioactive Component Disposal

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft Interim Staff Guidance (ISG) "Use of the Decommissioning Trust Fund During Operations for Major Radioactive Component Disposal." The purpose of this proposed ISG is to provide the NRC staff's regulatory position to licensees of nuclear power reactors regarding the use of funds from the decommissioning trust fund dedicated to the radiological decommissioning of a reactor facility for the disposal of major radioactive components (MRCs) while the facility is in an operational status. This proposed ISG may be used in connection with requests for exemption from NRC regulations related to the withdrawal of funds from reactor decommissioning trust funds (DTFs).

DATES: Submit comments by **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the **Federal rulemaking website**.

- **Federal rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0111**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For

technical questions, contact the individual(s) listed in the “For Further Information Contact” section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Shawn Harwell, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-1309; email: Shawn.Harwell@nrc.gov and Fred Miller, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-6765; email: Fred.Miller@nrc.gov. Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2023-0111** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2023-0111**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to PDR.Resource@nrc.gov. The ISG, “Use of the

Decommissioning Trust Fund During Operations for Major Radioactive Component Disposal,” is available in ADAMS under Accession No. ML23150A051.

- **NRC’s PDR:** You may examine and purchase copies of public documents, by appointment, at the NRC’s PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the **Federal rulemaking website** (<https://www.regulations.gov>). Please include Docket ID **NRC-2023-0111** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

This proposed ISG is intended 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 (MRC) disposal.

The NRC’s reactor licensing regulations in part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Production and Utilization

Facilities,” 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, among other things, 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.

Two separate petitions for rulemaking (PRM) were submitted to the NRC for consideration in 2008 and 2019 requesting that the NRC revise the definition of *Decommissioning* in 10 CFR 50.2 and amend 10 CFR 50.82 to allow access to the DTF to pay for the cost of the disposal of MRCs prior to permanent cessation of operations at nuclear power plants. The Commission subsequently denied both petitions, noting that the subject is adequately covered by existing regulations, including the exemption process in 10 CFR 50.12, “Specific exemptions.” In the analysis recommending denial of the PRMs, the NRC staff notes that any withdrawal of funds from the DTF during operations, other than those allowed by NRC regulations, may challenge the underlying intent of the decommissioning funding regulations. Therefore, only under extraordinary circumstances would a withdrawal from the DTF prior to permanent cessation of operations be permissible. However, the NRC staff envisions certain circumstances, which could be stated in an exemption request, that may lead to the approval of the particular request, based on the totality of the facts. This draft ISG discusses the various ways and means by which the DTF could be used to cover the cost of MRC disposal during operations, including what information would assist the NRC staff in assessing a licensee’s request for exemption from the regulations related to the activity.

Dated: June 14, 2023.

For the Nuclear Regulatory Commission.

John M. Moses,
Deputy Director,
Division of Rulemaking, Environmental, and
Financial Support,
Office of Nuclear Material Safety and
Safeguards.