

August 30, 2001

MEMORANDUM TO: Larry W. Camper, Chief  
Decommissioning Branch, DWM/NMSS

FROM: Robert A. Nelson, Chief  
Facilities Decommissioning Section /RA/  
Decommissioning Branch, DWM/NMSS

Thomas L. Fredrichs, Project Manager  
Facilities Decommissioning Section  
Decommissioning Branch, DWM/NMSS

SUBJECT: 2001 MID-YEAR EVALUATION OF THE DECOMMISSIONING  
FINANCIAL ASSURANCE INSTRUMENT SECURITY PROGRAM  
AND INVENTORY

Management Directive (MD) 8.12, "Decommissioning Financial Assurance Instrument Security Program," directs the staff to evaluate the effectiveness of the program twice per year.

During the period August 20 through 23, 2001, the staff performed the mid-year evaluation. The staff found that the originally signed duplicates of financial instruments for three licensees had not been forwarded to the Financial Assurance Instrument Custodian at the time of the evaluation. They were located and placed in the safe maintained by DWM, in accordance with MD 8.12. Several files were removed from the safe since the original documents are maintained by Region I or certain States. Three licensees currently require changes to their financial assurance instruments to conform to regulatory requirements or guidance.

Details of the mid-year evaluation are attached.

All financial assurance documents were present and accounted for as of August 23, 2001.

Attachment: 2001 Mid-Year Evaluation

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**AN: ML-012410214**

**Template No.: NMSS-010**

DISTRIBUTION: File Center DCB r/f NMSS r/f J.Piccione

DOCUMENT NAME: C:\Program Files\Adobe\Acrobat 4.0\PDF Output\2001 Mid Year Eval.wpd

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**2001 MID-YEAR EVALUATION  
NMSS DECOMMISSIONING FINANCIAL ASSURANCE INSTRUMENT  
SECURITY PROGRAM**

**1. SECURITY OF FINANCIAL ASSURANCE INSTRUMENTS**

Decommissioning financial assurance documents for NMSS licensees administered by Headquarters are maintained in a General Services Administration approved fire-proof security container. The two-drawer safe is located in room T7-C12. Standard Form 702, Security Container Check, is used to document that the safe is locked and checked daily. On June 20, 2001, the Security force found the safe open during its daily rounds and locked it. The contents were checked by the staff and no documents were found missing. Discussion with the Security force indicated that the dial lock on the safe should be rotated at least four complete turns in order to assure that the lock cannot be reopened without the combination.

All financial assurance documents were present and accounted for as of August 23, 2001.

**2. DOCUMENT INVENTORY**

A review of each instrument in the safe was performed during the period August 20 through 23, 2001, in accordance with the directions of MD 8.12. The originals of the annual updates to the financial instruments for three licensees (International Uranium USA, Homestake Mines, and Western Nuclear) had not been forwarded to the Financial Assurance Instrument Custodian at the time of the evaluation. The original documents were located and placed in the DWM safe.

Financial assurance documents for Westinghouse facilities in Columbia, South Carolina, and Hematite, Missouri (Licenses SNM-1107 and SNM-33), are combined with other Westinghouse facilities in a parent company guarantee (PCG). Because many of the licenses covered by the PCG are administered by Region I, the Region holds the original PCG agreement. Headquarters held amendments to the PCG to cover the South Carolina and Missouri facilities. The contents of the files held by Headquarters were forwarded to Region I to consolidate the documents at one location. Therefore, the files were removed from the DWM safe.

Pennsylvania State University maintains a self-guarantee that covers seven NRC licenses. One of the licenses is administered by NMSS staff. However, the original financial assurance documents are located in Region I since most of the licenses held by Penn State are administered by the Region. Therefore, the file was removed from the DWM safe.

Several uranium recovery licensees continue to maintain surety arrangements with State governments. No files are kept in the safe for those licensees since the original documents are held by, and payable to, the respective State. A file for Rio Algom's Smith Ranch facility, License No. SUA-1548, was in the safe. However, the surety for that licensee had been assumed by the State of Wyoming. Therefore, the file was removed from the DWM safe.

Independent Spent Fuel Storage Facility Installations (ISFSI) are required to maintain financial assurance. However, unlike other materials licensees, there is no regulatory requirement for them to submit their original financial assurance documents to the NRC. Accordingly, no ISFSI files are maintained in the DWM safe.

In each of the cases where a file was removed from the DWM safe, an annotation was entered into the License Tracking System (LTS) to document the location of the financial assurance instruments.

A Controlled List of financial assurance inventory is maintained and kept in the safe. It was accurate and up-to-date as of August 23, 2001.

### 3. LTS REVIEW

The contents of the LTS relating to financial assurance were checked against the contents of the Controlled List maintained by DWM staff. The LTS was updated as necessary. As discussed above, it was annotated with the location of financial assurance instruments that were not held in the DWM safe. It was accurate and up-to-date as of August 23, 2001.

### 4. FINANCIAL ASSURANCE INSTRUMENTS REQUIRING CHANGES

Three licensees have financial assurance instruments in the safe that require changes.

General Electric Company (GE) maintains a Self-Guarantee (SG) for six licenses. Its original submittal for the SG was made in 1994, before guidance was issued for preparation of a SG. Unfortunately, the original submittal did not include a written self-guarantee agreement. GE updates its SG annually by copying its previous submittal and making appropriate adjustments in the amounts needed for decommissioning. As a result, the financial assurance documentation continues to omit the written agreement. The licensee was informed of the need to revise its financial assurance documents. The licensee responded with a written commitment to make the necessary changes when it submits its annual update for financial assurance in April, 2002. The staff considers this acceptable timing.

Mallinkrodt submitted a revised decommissioning cost estimate on August 18, 2000, which was substantially higher than its previously guaranteed amount. It submitted revised financial assurance instruments to cover the higher cost at the same time. However, the standby trust submitted by Mallinkrodt was not acceptable to NRC. The licensee's proposed trust agreement included the bank issuing the associated letter of credit as a party to the agreement. Due to the rights given to the bank under the proposed agreement, which do not conform to regulatory guidance, the trust was not acceptable. By letter dated December 13, 2000, the licensee was informed that it must revise its proposed standby trust agreement, but it has not yet done so. In July 2001, the licensee informed the staff that it was working on a revision to its standby trust agreement. Mallinkrodt has letters of credit held by the NRC which pre-date the August 18, 2000 submittal. The staff is holding them until the licensee submits an acceptable standby trust agreement.

Unocal submitted a parent company guarantee (PCG) on behalf of Molycorp, Inc., on May 30, 2001. However, it contained an auditor's report that apparently did not comply with regulatory requirements. An inadequate auditor's report does not invalidate the PCG. However, without an adequate auditor's report, it is possible that the financial test demonstrating eligibility to use a PCG may be inaccurate. The staff is drafting a deficiency letter to the licensee.