

From: Hill, Dan (NPS Q&R) [dan.hill01@cardinalhealth.com]
Sent: Friday, January 13, 2012 12:34 PM
To: Ullrich, Elizabeth; Null, Kevin
Cc: Regits, Willie; Fields, Darren; Matthews, James R
Subject: RE: January financial assurance progress report

Importance: High
Sensitivity: Confidential

RE: Cardinal Health NRC license numbers 34-32780-02, East Hartford, CT and 34-32780-01, St. Louis Missouri

January 2012 Decommissioning Financial Assurance (DFA) Progress Report

Review

September 7, 2011 – DFP cost estimate approved by NRC for G.E. PETTrace cyclotron (vault design) decommissioning

September 12, 2011 – Receipt of request from NRC Region I for monthly updates for progress of financial assurance.

October 5, 2011 – Certification of financial assurance with standby trust agreement for cyclotron locations, letter sent to both Region I and Region III for cyclotrons in Missouri and Connecticut. (1st DFA monthly progress report)

October 21, 2011 – Received corrected amendment 1 of 34-32780-02 dated 10/17/2011

November 7, 2011 – Received letter dated November 2, 2011 from NRC Region I indicating no further questions regarding DFA; however, request made for revision of sections 8, 14 and 17 of the standby trust agreement to revise and remove certain statements or representations.

November 7, 2011 – Email response sent to reference surety bond and standby trust for East Hartford CT. (DFA monthly progress report)

December 19, 2011 – Reply to email 12/19/2011 from NRC Region I for progress (DFA monthly progress report) review of Nov. 7, 2011 email reply to indicate that NUREG 1757 Vol. 3 Appendix A provides guidance for using Checklist 17-B with other wording in the standby trust other than using Checklist 17-A.

Current Status

January 12, 2012 Receipt of NRC license 34-32780-01, (St. Louis Missouri) with condition for monthly reporting of status for financial assurance. The decommissioning cost estimate (DCE), surety bond for \$500,000, standby trust agreement, power of attorney and certification of financial assurance were included in our correspondence dated December 5, 2011 sent to NRC Region III which is a condition (21.B.) of this license.

January 12, 2012 – Request for information in telephone message left for Kevin Null, and via email.

January 13, 2012 DFA monthly progress report

Cardinal Health legal and financial teams continue to review guidance and options for revisions to standby trust agreement covering multiple locations, negotiating with qualified financial institution as trustee, per request for changes from NRC Region I dated November 2, 2011.

If you have any questions, please contact myself or Willie Regits (614) 757-3147.

Dan

Dan Hill, Q&R
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From: Hill, Dan (NPS Q&R)
Sent: Monday, December 19, 2011 9:13 AM
To: 'Ullrich, Elizabeth'
Cc: Null, Kevin; Regits, Willie
Subject: RE: December financial assurance progress report
Importance: High
Sensitivity: Confidential

Betsy,

Due to the holidays and employees or stakeholders out of the office, we would like to request more time to review your suggestions in the letter dated Nov. 2, 2011. We replied on November 7, 2011 to reference the trust agreement and surety bond for our East Hartford CT cyclotron facility. Later, on the same day we received the letter dated November 2, 2011 which indicated that NRC has no further questions regarding CFA dated September 30, 2011. It was our understanding that the templates in NUREG 1757, Vol. 3 were to be used as guidance, and since there are options for using a trust agreement wording other than what is in checklist 17-A for the standby trust agreement. The financial institution / trustee also has input to the NRC requirement for a mutually acceptable and legally binding trust agreement.

in my review of the guidance, I find the following in Appendix A, Section A.17, Checklist 17-B:

Checklist 17–B Terms and Conditions Needed in Decommissioning Standby Trust Agreements

Use this checklist only if deviating from the wording recommended in Section A.17.4.

- _ Execution date of standby trust.
- _ Purpose of standby trust (“whereas” clauses).
- _ Statement of licensee’s regulatory obligations as reason for the standby trust fund.
- _ Grantor or grantors (introductory paragraph).
- _ Trustee or trustees (introductory paragraph):
 - _ 1. names and addresses, and
 - _ 2. bank or corporate trustee.
- _ Identification of facilities (name, address, and license number) and cost estimates or prescribed amount (Section A.2 and Schedule A).

- _ Words of transfer, conveyance, and delivery in trust (Section A.3).
- _ Description of trust property (Section A.4 and Schedule B):
 - _ 1. cash,
 - _ 2. securities, and
 - _ 3. other liquid assets.
- _ Additions to trust (Section A.4).
- _ Distribution of trust principal (Section A.5) when the following conditions are met:
 - _ 1. disbursement to licensee upon proper certification;
 - _ 2. payment for activities at NRC's direction in writing;
 - _ 3. refund to grantor at NRC's written specification upon completion of decommissioning; and
 - _ 4. maximum withdrawal of funds at one time for a particular license is limited to 10 percent of the remaining funds available for that license unless NRC written approval is attached.
- _ Trust management (Sections A.6–A.8):
 - _ 1. discretionary powers,
 - _ 2. fiduciary duty,
 - _ 3. commingling and investment,
 - _ 4. sale or exchange of trust property,
 - _ 5. scope of investments,
 - _ 6. express powers of trustee,
 - _ 7. borrowing money and encumbering trust assets,
 - _ 8. insurance (optional),
 - _ 9. operation of business (optional), and
 - _ 10. compromise of claims (optional).
- _ Taxes and expenses (Section A.9).
- _ Annual valuation (Section A.10).
- _ Advice of counsel (Section A.11).
- _ Authority, compensation, and tenure of trustees (Sections A.12–A.14):
 - _ 1. trustee compensation (Schedule C),
 - _ 2. successor trustee, and
 - _ 3. instructions to trustee.
- _ Amendment of agreement (Section A.15).
- _ Irrevocability and termination (Section A.16).
- _ Immunity and indemnification (Section A.17).
- _ Law to govern construction and operation of trust (Section A.18).
- _ Interpretation and severability (Section A.19).
- _ Signatures and titles.
- _ Acknowledgments, seals, or attestations, if necessary or desired (witness by notary public).
- _ Acceptance of standby trust by trustee or trustees (acknowledgment).

Our legal team also reviewed NUREG 1757, Vol. 3 to be used as guidance, and using legal format and references selected legal terminology that was determined to be appropriate. Can we have additional time to resolve these issues after the holidays, perhaps in January 2012?

At no time do we wish to withdraw our application for the radioactive material license which has already been issued. Ref. 34-32780-02, Cardinal Health, East Hartford, CT.

Thank you.

Dan

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From: Ullrich, Elizabeth [<mailto:Elizabeth.Ullrich@nrc.gov>]
Sent: Monday, December 19, 2011 8:30 AM
To: Hill, Dan (NPS Q&R)
Cc: Null, Kevin
Subject: December update on financial assurance progress

Dan,

Just checking to see if you got our letter requesting changes to the FA instrument, and your progress on that. You last update was November 7.

Thanks,
Betsy

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