

July 19, 2013

Ms. Nancy Nuttbrock, Administrator
Land Quality Division
Wyoming Department of Environmental Quality
122 West 25th St, Herschler Building
Cheyenne, WY 82002

SUBJECT: PROCEDURES FOR CONCURRENT REVIEWS OF FINANCIAL ASSURANCE
ESTIMATES AND INSTRUMENTS

Dear Ms. Nuttbrock:

On January 25, 2013, staff from the Wyoming Department of Environmental Quality (WDEQ) and the U.S. Nuclear Regulatory Commission (NRC) discussed, via teleconference, the framework for managing surety reviews and surety instruments for uranium recovery facilities in the State of Wyoming. Because Wyoming uranium recovery facilities are regulated by both the WDEQ and the NRC, both agencies are required to maintain sureties for site decommissioning. However, 10 CFR Part 40, Appendix A, Criterion 9, allows the NRC to consolidate sureties with other agencies to avoid the need for the licensee to provide duplicate financial sureties.

As discussed on January 25, 2013, both agencies seek to engage in a two-step process to resolve outstanding issues regarding the concurrent reviews of decommissioning cost estimates (DCEs) and surety instruments. This letter represents the first step of this process and describes the procedures for concurrent reviews of DCEs and the language to be used in surety instruments. The second step, to occur at a later date, is to develop a memorandum of understanding (MOU) that identifies the responsibilities of each agency in the event of a facility bankruptcy and the need to utilize the surety for decommissioning.

The following establishes the formal lines of communication for reviewing sureties:

A. Lines of Communication – NRC

1. The primary NRC Point of Contact (POC) for each individual uranium recovery facility is the Project Manager (PM). This person is responsible for regulating the daily operations of regulated uranium recovery facilities. As the primary regulatory contact, the NRC PM will be responsible for managing the review of initial DCEs, DCE updates, and surety instruments.
2. The Branch Chief (BC) in the Decommissioning and Uranium Recovery Licensing Directorate (DURLD) is the NRC PM's first line supervisor. The DURLD PM is responsible for overseeing the regulation of all active licensed uranium recovery facilities. The BC is the secondary POC for all surety reviews and concurs on the PM's review and recommendation for approval or disapproval of the DCE and surety instrument.

3. The DURLD Deputy Director is the first-line senior executive responsible for all uranium recovery activities, including licensing, operations, and the decommissioning of uranium recovery facilities. The NRC Deputy Director will issue final approval of the initial DCE, DCE updates, and surety instruments, and will be the tertiary POC for the proposed MOU.
4. The Director of the Division of Waste Management and Environmental Protection (DWMEP) is ultimately responsible for the implementation of the uranium recovery program and is the next highest senior executive above the Deputy Director. The DWMEP Director is responsible for committing the NRC staff to fulfill its obligations under the proposed MOU.

B. Lines of Communication - WDEQ

WDEQ will identify its lines of communication for reviewing DCEs and sureties to the NRC under separate letter

Lists of above referenced personnel will be exchanged between the WDEQ and the NRC within 14 calendar days of the date of this letter.

Formal surety review procedures are as follows:

1. A licensee/permittee should prepare one DCE that identifies those costs and activities associated with the NRC's license and WDEQ's permit. Where overlap of costs occurs, the licensee/permittee should identify those overlap costs and state that such costs cover both agencies' programs. The DCE estimate should be submitted to the WDEQ, pursuant to its permit, with a copy concurrently sent to the NRC, pursuant to its license.
2. The NRC POC will acknowledge receipt of a DCE by email sent to the WDEQ POC.
3. The NRC POC will issue requests for additional information (RAIs) to the licensee/permittee and copy the WDEQ POC. The NRC's goal is to issue RAIs within 45 calendar days of receipt of the DCE. It should be noted that some DCE reviews, such as new or rebaselined DCEs, may require more time. The WDEQ POC will provide a copy of its DCE comments to the NRC POC.
4. The NRC POC's goal is to issue a decision on the DCE within 45 calendar days after the licensee/permittee satisfactorily resolves NRC's RAIs. If no RAIs were issued, then the NRC POC's goal is to issue a decision on the DCE within 45 calendar days of receiving the DCE. NRC's approval of a DCE will be in two steps. First, the NRC POC will provide the WDEQ POC with a written "intent to approve." This "intent to approve" will be classified as "OFFICIAL USE ONLY" and must remain non-public. Second, the NRC will issue a license amendment approving the DCE, which is the NRC's formal approval mechanism.

5. After a DCE is approved by both the WDEQ and the NRC, a licensee/permittee shall submit a revised surety instrument to the WDEQ with a copy to the NRC for approval and storage.
6. The NRC will implement administrative license amendments for its Wyoming-based uranium recovery licensees to synchronize its surety estimate submission dates with those of the WDEQ.
7. Surety instruments will contain the following language:

“This surety instrument is established pursuant to Title 10 Code of Federal Regulations Part 40, Appendix A, Criterion 9, and it reflects the approved decommissioning cost estimate stated in the U.S. NRC Materials License _____.”

The NRC staff appreciates this opportunity to streamline the surety review process. After receiving this letter, please provide the lines of communication to us. If you have any questions regarding the procedures presented in this letter, please contact me at 301-415-7319 or by email at Andrew.Persinko@nrc.gov. You may also contact Douglas Mandeville of my staff (phone: 301-415-0724; email: douglas.mandeville@nrc.gov) or Kenneth Kline, DWMEP financial assurance specialist, (phone: 301-415-7075; email: Kenneth.kline@nrc.gov).

Sincerely,

/RA/

Andrew Persinko, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management and
Environmental Protection
Office of Federal and State Materials and
Environmental Management Programs

8. The NRC will undertake administrative license amendments to synchronize its surety estimate submission dates with those of the WDEQ.
9. Surety instruments will contain the following language:

This surety instrument is established pursuant to Title 10 Code of Federal Regulations Part 40, Appendix A, Criterion 9, and it reflects the approved decommissioning cost estimate presented in the U.S. NRC Materials License _____.

The NRC staff appreciates this opportunity to streamline the surety review process. After receiving this letter, please provide the lines of communication to us. If you have any questions regarding the procedures presented in this letter, please contact me at 301-415-7319 or by email at Andrew.Persinko@nrc.gov. You may also contact Stephen Cohen of my staff (phone: 301-415-7182; email: Stephen.Cohen@nrc.gov) or Kenneth Kline, DWMEP financial assurance specialist, (phone: 301-415-7075; email: Kenneth.kline@nrc.gov).

Sincerely,

/RA/

Andrew Persinko, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management and
Environmental Protection
Office of Federal and State Materials and
Environmental Management Programs

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