

October 21, 2013

NOTE

FROM: Christopher Ryder, Licensing Project Manager
SUBJECT: Need for a Standby Trust Fund Regarding Financial Assurance For Decommissioning

Date and Time

Wednesday, October 2, 2013, at 1:00 P.M. (Eastern)

Participants

<u>NRC</u>	<u>Penn State</u>
Kenneth Kline ^(a)	Jeff Leavey ^(c)
Reginald Augustus ^(a)	Jody Murawski ^(d)
Christopher Ryder ^(b)	Sue Wiedemer ^(e)

Notes

- a. Technical Reviewer
- b. Licensing Project Manager
- c. Radiation Safety Officer
- d. Director Financial Reporting and Cost Analysis
- e. Associate Controller

Background

Pennsylvania State University uses a self-guarantee to ensure for funds for decommissioning. The licensee asked if a standby trust fund (STF) is required. The licensee was unable to come to a final determination from U.S. Nuclear Regulatory Commission (NRC) guidance. The subject conference call was arranged for the licensee to ask questions to the NRC staff (Staff) about the guidance and the requirements.

C. Ryder began the conference call, stating that the note of the call would be placed on the docket. The Staff would not be giving guidance or making suggestions.

Discussion

NRC guidance (Ref. 1) states that NRC can order the licensee to establish a standby trust fund. In the absence of an order, the licensee wanted to know if the STF is required. The licensee's ambiguity stems from page A-114.

The Staff first ensured that the most recent version of the guidance, which is Revision 1 dated February 2012, was being used. The Staff acknowledged that the guidance may need to be clarified. But the Staff also stated that the regulations supersede the guidance.

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 30, Appendix E, states that the STF must be established. This language in the regulations is recent. Prior to December 17, 2012, the STF had been optional for a non-profit university. Now the STF is required.

The Staff briefly stated the context of the new language. In 2008, with an economic downturn, studies of guarantees had been done. Without a STF, the Staff would be delayed in getting to funds for decommissioning should a licensee be financially deteriorating. Should a letter of credit be used instead of a STF, NRC could not retain funds for use in decommissioning. The funds would be sent to the U.S. Treasury and the Staff would have to ask Congress for appropriations. To avoid delays, NRC requires licensees to establish a STF that the Staff can access should the need arise. The change in the regulations was formal, involving notices in the *Federal Register* and public meetings.

The licensee agreed to send the specific pages of the guidance to the Staff to indicate their points of ambiguity.

Closing Remarks

Because the subject of the call involves licensing activities, C. Ryder asked the question about the need for the STF and relevant pages of the guidance be formally sent to NRC. The Staff will formally respond, thereby having a formal response on the docket.

References

1. U.S. Nuclear Regulatory Commission, "Consolidated NMSS Decommissioning Guidance Financial Assurance, Recordkeeping, and Timeliness," NUREG-1757, Volume 3, Rev. 1, Appendix A.8.3, February 2012. ADAMS Accession Number ML12048A683.