

June 20, 2014

NOTE

FROM: Christopher Ryder

SUBJECT: Summary of Conference Call on May 5, and May 15, 2014, Regarding the Annual Certification of Eligibility to Use the Self-Guarantee for Financial Assurance of Decommissioning

Background

Pennsylvania State University submitted the annual certification of financial assurance (Ref. 1). The U.S. Nuclear Regulatory Commission (NRC) staff requested additional information (RAI) (Ref. 2). The licensee wanted to discuss the RAIs.

Participants

<u>NRC</u>	<u>Pennsylvania State University</u>
Christopher Ryder ^(a)	Jeffrey Leavey ^(c)
Reginald Augustus ^(b)	Jody Murawski ^(d)

Notes

- a. Licensing Project Manager
- b. Technical Reviewer
- c. Radiation Safety Officer
- d. Director of Financial Reporting

RAI 1

The NRC staff requested an evaluation by its independent certified public accountant of the off-balance sheet transactions.

RAI 2

The self-guarantee agreement does not include the express waivers of notice in paragraphs 17 and 21 of the recommended self-guarantee agreement model language. Though not a regulatory requirement, NRC staff request that the self-guarantee agreement be revised to include the express waivers of notice language recommended in Appendix A.9.12 of Reference {1 in the RAI, Ref. 3 in the subject note}.

Items Deleted By the Licensee From The Self-Guarantee Agreement

- 17. The guarantor expressly waives notice of acceptance of this self-guarantee by the NRC. The guarantor also expressly waives notice of amendments or modification of the decommissioning requirements.
- 21. The guarantor expressly waives notice of acceptance of this guarantee by the NRC. The guarantor also expressly waives notice of amendments or modifications of the decommissioning requirements or modifications of the license. (See also Recital 17)

Discussion

The NRC staff agrees that Paragraph 21 should not be in the self-guarantee agreement. The paragraph is inapplicable to a licensee using the self-guarantee.

The second sentence of Paragraph 17 states that the NRC does not have to give notice of changes to decommissioning regulations that is specifically addressed to the licensee. The NRC gives such notice to all licensees and the public of rulemaking by publishing as such in the *Federal Register*.

The discussion of this conference call focused on the first sentence of Paragraph 17 where the licensee would waive their right to NRC formally acknowledging that the licensee passes the financial tests and remains eligible to use the self-guarantee for decommissioning. The NRC staff explained that the validity of the self-guarantee is not contingent upon the NRC *acknowledging* that the licensee passed the financial test. Given that the licensee remains eligible to use the self-guarantee, the self-guarantee is in effect. Nonetheless, having performed a review, the NRC staff issues a letter to docket following:

- A review was done.
- A finding was made that the licensee meets applicable regulatory requirements.
- The technical assignment control (TAC) number to which NRC staff time was charged is closed.

Paragraph 17 is recommended language per NRC guidance. Whether or not the paragraph remains in the self-guarantee agreement does not change the end result:

- The licensee has to demonstrate their eligibility to use the self-guarantee.
- The NRC staff does not notify individual licensee of changes in regulations.

Guidance from the American Institute of Certified Public Accountants does not allow for an opinion of the off-balance sheet transactions. The NRC staff acknowledged the discrepancy between the AICPA guidance and new regulatory requirements. Nonetheless, the NRC staff expects assurance that those transactions will not have a material effect on the licensee's ability to pay its obligation. Some licensees have obtained statements from their auditors that would suffice until the discrepancy can be resolved. The NRC staff asked the licensee to inquire about what statements their auditor would be willing to make, and then draft a response to the RAI. Though the NRC staff would not perform a formal review on the draft response, the NRC staff would inform the licensee about the extent to which the draft response meets the NRC staff's expectations.

Follow-Up Actions

The licensee indicated that they would need additional time to respond to the RAIs. The NRC staff requested that an e-mail been sent as such. The request and the response would be docketed.

References

1. Joseph J. Doncsecz, Pennsylvania State University, "Audited Financial Statements - Year Ending June 30, 2013, Self-Guarantee Agreement and Standby Trust Agreement", December 20, 2013. ADAMS accession number ML14015A387.
2. Letter from C. Ryder, U.S. Nuclear Regulatory Commission, to J. Leavey, Pennsylvania State University, "Request For Additional Information - Annual Certification Of Financial Assurance (Technical Assignment Control Number L33304)", April 24, 2014. ADAMS accession number ML14108A126.
3. U.S. Nuclear Regulatory Commission, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness, Final Report", NUREG-1757, Vol. 3, Rev. 1, February 2012. ADAMS Accession Number ML12048A683.