

January 7, 2015

NOTE

FROM: Christopher Ryder, Licensing Project Manager

SUBJECT: Summary of Conference Calls: Annual Certification Of Financial Assurance —  
10 CFR Part 30, Appendix E, Section II.(c)(1)

Date and Time

December 12, 2014, at 1:30 PM (eastern)

December 16, 2014, at 9:00 AM (eastern)

Participants

December 12, 2014

NRC	<u>Licensee</u>
Christopher Ryder <sup>(a)</sup>	Maurine Claver <sup>(b)</sup>
	Jody Murawski <sup>(c)</sup>

Notes

- a. Licensing Project Manager
- b. Manager, Environmental Health and Safety
- c. Director, Financial Reporting, Cost Analysis and Property Inventory

December 16 and 18, 2014

NRC	<u>Penn State</u>
Christopher Ryder <sup>(a)</sup>	Maurine Claver <sup>(b)</sup>
Reginald Augustus <sup>(b)</sup>	Jody Murawski <sup>(c)</sup>
Kenneth Kline <sup>(c)</sup>	Jeffrey Leavey <sup>(f)</sup>
	Jessica Chen <sup>(g)</sup>

Notes

- a. Licensing Project Manager
- b. Principal Technical Reviewer
- c. Supporting Technical Reviewer
- d. Manager, Environmental Health and Safety
- e. Director, Financial Reporting, Cost Analysis and Property Inventory
- f. Radiation Safety Officer
- g. Deloitte and Touche, Independent Auditor

Background

Pennsylvania State University (PSU) uses a self-guarantee as financial assurance for decommissioning. Title 10 of the *Code of Federal Regulations* (10 CFR) Part 30, Appendix E, Section II.(c)(1) requires a licensee's independent certified public accountant to compare the data used by the licensee in the financial test, which is derived from the independently audited, year-end financial statements for the latest fiscal year, with the amounts in such financial statements. The accountant must evaluate the licensee's off-balance sheet transactions and provide an opinion on whether those transactions could materially adversely affect the licensee's ability to pay for decommissioning costs. The accountant must verify that a bond rating, if used to demonstrate passage of the financial test, meets the requirements of Section II of this appendix.

The staff at the U.S. Nuclear Regulatory Commission (NRC) had conference calls on December 12, 2014, December 16, 2014, and December 18, 2014.

#### Discussion of December 12, 2014

As previously discussed (Ref. 1), PSU stated that they have been compiling information to informally submit to the NRC staff so as to learn of the information needs to be in compliant with 10 CFR Part 30, Appendix E, Section II.(c).(1). PSU had not informally submitted the information pending their understanding of how other universities have been complying with the subject regulatory requirement. PSU had been reminded by their independent accountant that the university does not have defined “off-balance sheet transactions” in its audited financial statements as does, for example, Honeywell, which the NRC has been using as an example of the information that is expected. Instead, PSU has letters of credit.

The NRC staff tentatively rephrased the information needs as follows. PSU has “pluses” and “minuses” on their balance sheet. The accountant is to validate the pluses and minuses, compare them, and then give an “opinion” that the net pluses are enough to cover decommissioning costs. The licensee said that compiling draft information from the auditor by the close of business of December 12, 2014, would be very difficult. The NRC staff proposed a conference call on Tuesday morning. Draft final information would be given to us before then for the NRC staff to prepare a conference call on December 16, 2014. Given that the information meets our expectations, the NRC staff expects the final version to be done in a day or two.

#### Discussion on December 16, 2014

From the conference call (Ref. 1) on November 3, 2014, the NRC staff had understood that PSU would send a draft schedule of credits to meet Part 30, Appendix E, Section II.(c)(1); the NRC staff could then determine the extent to which the draft schedule meets expectations. On December 15, 2014, PSU sent two other documents, but without the draft schedule.

The NRC staff explained that they were expecting a calculation of the off-balance sheet transactions to determine a specific amount. This amount, along with the cost of decommissioning, and the bond rating, would be used in a financial test to determine the “solvency” of PSU, and hence, the ability of PSU to decommission.

PSU stated that the example that had been provided, Honeywell (Ref. 3), is irrelevant. Honeywell is a publically owned company reporting specific financial information to the Security and Exchange Commission (SEC). The off-balance “exposure” is well-defined; this is not the case with PSU. The licensee wanted an example of a submittal from another university, to which the NRC staff cited a submission from the Massachusetts Institute of Technology (MIT) (Ref. 4). For both Honeywell and MIT, the independent accountant Price, Waterhouse, and Coopers, LLP, (PWC) gave documentation that is consistent with NRC guidance (see page A-87 of Ref. 2), without the opinion in accordance with guidance of the AICPA. PWC concluded that the off-balance arrangement is less than the tangible net worth. The NRC staff is not asking for an opinion about the financial solvency of PSU; the NRC staff is asking for the value of the off-balance sheet transactions, which is itself unnecessary; the NRC staff wants the independent accountant to verify the value of the off-balance sheet transactions.

PSU was also concerned about providing information that is sensitive. The NRC staff stated that 10 CFR 2.390 allows for sensitive information to be withheld from public disclosure,

provided that regulatory criteria are met. Licensees routinely request that proprietary information be withheld from the public by submitting a request for withholding. Such withholding letters are public. The NRC staff agreed to send PSU such a letter.

#### Discussion on December 18, 2014

PSU and their independent accountant reviewed the submittal from MIT (Ref. 4). The independent accountant stated that a similar evaluation and comparison can be performed for PSU. PSU had determined the constituents of the off-balance sheet transactions (e.g., letters of credit, leases, obligations). PSU intends to work with the independent accountant expeditiously for both the submittal of 2013 and the next submittal.

#### Closing Remarks

The NRC staff asked PSU to consider completing the 2013 submittal first with the off-balance sheet transactions information, before the next submittal. Nonetheless, the next submittal is due no later than 180 days after the close of the fiscal year per a condition in the special nuclear materials license SNM-95; if the off-balance sheet transactions information cannot be submitted by the 180-day metric, consider submitting the remaining information anyway, stating on the cover letter that the off-balance sheet transactions information will be forthcoming by a specific date.

#### References

1. Note from C. Ryder, U.S. NRC, "Summary of Conference Call on November 3, 2014: Annual Certification to Demonstrate Continued Eligibility for Using the Self-Guarantee of Decommissioning Financial Assurance", November 25, 2014. ADAMS accession number ML14329A480.
2. U.S. NRC, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness" NUREG-1757, February 2012. ADAMS accession number ML12048A683.
3. Letter from J. Pritchett, Honeywell, "Supplemental Information Related to the Alternate Financial Assurance and Final Financial Instruments, Honeywell Metropolis Works (TAC L36036)", September 9, 2014. ADAMS accession number ML14254A423.
4. Letter from I. Ruiz, Massachusetts Institute of Technology, "Compliance Submission, Self-Guarantee Agreement Pursuant to 10 CF, 10 CFR Part 70, and NUREG-1757, Vol. 3", October 1, 2014. ADAMS accession number ML14281A311.