SAFETY EVALUATION REPORT

DOCKET: 70-938

LICENSES: SNM-986, R-37

LICENSEE: MASSACHUSETTS INSTITUTE OF TECHNOLOGY

SUBJECT: MASSACHUSETTS INSTITUTE OF TECHNOLOGY SELF-GUARANTEE ANNUAL CERTIFICATION

## BACKGROUND

In a letter dated October 1, 2014, the Massachusetts Institute of Technology (MIT) submitted its annual certification of its self-guarantee for its Special Nuclear Material (SNM) License SNM-986, and the Research Reactor License Number R-37 (R-37). The Performance Assessment Branch of the Office of Nuclear Material Safety and Safeguards conducted the review of SNM-986. The Financial Analysis and International Projects Branch of the Office of Nuclear Reactor Regulation reviewed the R-37 portion of the submittal. The submittal was found acceptable for a more detailed review on November 18, 2014.

The self-guarantee method of assurance and associated terms were previously determined to be acceptable by the U.S. Nuclear Regulatory Commission (NRC) on July 16, 2010, in a prior review entitled, “Acceptance of the Massachusetts Request to Change to a Self-Guarantee to Provide Decommissioning Funding Assurance for the Massachusetts Institute of Technology’s Research Reactor” (Agencywide Document Access and Management System (ADAMS) Accession Nos. ML102090007 and ML102710002.)

## REGULATORY REQUIREMENTS

Nuclear facilities licensed under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 70 and Part 50 are required to establish adequate financial assurance for decommissioning and decontamination pursuant to 10 CFR 70.25, "Financial Assurance and Recordkeeping for Decommissioning," and 10 CFR 50.75, “Reporting and Recordkeeping for Decommission Planning,” respectively.

Section 70.25 of 10 CFR requires that non-profit college and university licensees that provide reasonable assurance of available funds for decommissioning costs through a self-guarantee are required to annually provide a self-guarantee agreement and pass a financial test pursuant to Appendix E to 10 CFR Part 30, “Criteria Relating to Use of Financial Tests and Self-Guarantee For Providing Reasonable Assurance of Funds For Decommissioning by Nonprofit Colleges, Universities, and Hospitals." Similarly, the requirements of 10 CFR 50.75(e)(1)(iii)(C), state, in part, that “a guarantee of funds by the applicant or licensee may be used if the guarantee and test are as contained in Appendix E to 10 CFR Part 30.”

Enclosure

DISCUSSION

The staff reviewed MIT's submittal pursuant to the requirements of Appendix E to 10 CFR Part 30, including, the Financial Test, Additional Requirements, and Self-Guarantee requirements contained in Sections (II)(A)(1), (II)(C), and (III), respectively, and following the guidance contained in Regulatory Guide-1757 (NUREG-1757), Volume 3, Revision 1, "Consolidated Decommissioning Guidance: Financial Assurance, Recordkeeping, and Timeliness."

NUREG-1757 states, in part, that a submittal used to satisfy the requirements of Appendix E to 10 CFR Part 30 can be verified through the use of the Chief Financial Officer's (CFO) Certification, the Independent Auditors' Report, and MIT's Financial Statements. MIT provided each of these items to support the staff's review.

The Financial Test in 10 CFR Appendix E, Section (II)(A)(1) requires that MIT have a current rating for its most recent bond issuance of AAA, AA, A as issued by Standard and Poor's or Aaa, Aa, or A as issued by Moody's. As part of the October 1, 2014, submittal, the letter from MIT's CFO included the identification of the Financial Test used as part of NUREG-1757, Volume 3, Appendix A, Checklist 9-B to demonstrate passage of the Financial Test. The submittal states that the current bond rating of the most recent unsecured bond issuance is AAA, as rated by Standard and Poor's. Therefore, MIT meets the requirement of the Financial Test in 10 CFR Part 30, Appendix E, Section (II)(A)(1).

The staff notes that 10 CFR 30 Appendix E(II)(C)(1) requires the licensee's independent certified public accountant (CPA) to evaluate the licensee's off-balance sheet transactions and render an opinion on whether those transactions could adversely affect the licensee's ability to pay for decommissioning costs. However, the licensee's CPA has affirmed that the guidelines established by the American Institute of Certified Public Accountants prohibit an accountant from rendering such an opinion. Nonetheless, the CPA confirmed that the total of the all known off-balance sheet arrangements is less than the tangible net worth reported in MIT's CFO's Letter.

Section (III)(A) through (F) of 10 CFR Part 30, Appendix E describes the terms that are required in a self-guarantee as follows:

A. the guarantee will remain in force unless the licensee sends notice of cancellation by certified mail, and/or return receipt requested to the NRC. Cancellation may not occur unless an alternative financial assurance mechanism is in place;

B. the license shall provide alternate financial assurance as specified in the NRC's regulations within 90 days following receipt by the NRC of a notice of cancellation of the guarantee;

C. the guarantee and financial test provisions must remain in effect until the NRC has terminated the license or until another financial assurance method acceptable to the NRC has been put in effect by the licensee;

D. the applicant or licensee must provide, to the NRC, a written guarantee which states that the licensee will fund and carry out the required decommissioning activities or, upon issuance of an order by the NRC, the licensee will set up and fund a trust in the amount of the current cost estimates for decommissioning;

E. if, at any time, the licensee's most recent bond issuance ceases to be rated in any category of "A" or above by either Standard and Poor's or Moody's, the licensee shall provide notice in writing of such fact to the NRC within 20 days after publication of the change by the rating service; and

F. a standby trust must be established to protect public health and safety and the environment for decommissioning costs prior to a self-guarantee being submitted.

The staff also notes that 10 CFR 50.75(e)(1)(iii)(C) includes a provision, which states, in part, that a guarantee by the licensee may not be used in any situation in which the licensee has a parent company holding majority control of voting stock of the company. MIT does not have a parent company holding majority control of its voting stock.

FINDINGS

Based on its review, the staff finds that the licensee provided complete documentation, including a letter from the CFO containing the self-guarantee financial test; an auditor's special report confirming the CFO letter, and reconciling amounts, with the licensee's financial statements; and the licensee's audited financial statements for the most recent fiscal year. In addition, the staff finds that the licensee does not have a parent company holding majority control of its voting stock and that the amount of the self-guarantee exceeds the required coverage level.

The staff finds the language of the self-guarantee to be consistent with the recommended language, and terms and conditions described in NUREG-1757, Volume 3, Rev.1, Appendix A.9, Checklist B, and A.13, respectively. Since the self-guarantee is consistent with the recommended language contained in NUREG-1757, Volume 3, Rev.1, which the NRC staff has previously determined would comply with the NRC's regulatory requirements, the staff therefore finds that the proposed self-guarantee meets the requirements of 10 CFR Part 30, Appendix E, Section (III)(A) through (F).

Relying upon the self-guarantee submission, the staff finds that MIT meets the requirements of the Financial Test set forth in 10 CFR Part 30, Appendix E, Section (II)(A)(1). The self-guarantee, CFO Letter, and Audited Financial Statements are consistent with NRC guidance and the requirements of 10 CFR Part 30, Appendix E, Section (III)(A) through (F).

Upon review of MIT's October 1, 2014, submittal, the staff finds that MIT's self-guarantee is acceptable.

CONCLUSION

On the basis of the staff's review, as discussed above, MIT has demonstrated that (1) it's financial condition meets the requirements of 10 CFR Part 30, Appendix E, and (2) the language of the self-guarantee, CFO Letter, independent auditor's report, and Standby Trust Agreement are consistent with NRC guidance. Therefore, the staff finds MIT's self-guarantee and supporting documentation acceptable, and therefore, approved.

Principal Reviewers
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