

## SAFETY EVALUATION REPORT INPUT

DOCKET: 70-113

LICENSE: SNM-95

LICENSEE: PENNSYLVANIA STATE UNIVERSITY

SUBJECT: 2016 PSU SELF-GUARANTEE ANNUAL CERTIFICATION

### 1. BACKGROUND

Pennsylvania State University (PSU) uses a self-guarantee as a means to assure that funds will be available to decommission. As required, by letter dated December 22, 2015, (Ref. 1), PSU submitted documentation to demonstrate their continued eligibility to use the self-guarantee. PSU has two licensees issued by the U.S. Nuclear Regulatory Commission (NRC), Special Nuclear Material (SNM) license SNM-95 (Docket 70-113) and license R-2 Breazeale Nuclear Reactor (Docket 050-0005). The subject review is pertains to license SNM-95.

By letter dated March 1, 2016, (Ref. 2) the NRC staff accepted the submittal for a detailed technical review. The NRC staff had no requests for additional information.

### 2. REVIEW PROCESS

The NRC staff reviewed the subject submittal using the Standard Review Plan for financial assurance (Ref. 3) to determine compliance with applicable paragraphs of Title 10 of the *Code of Federal Regulations* (10 CFR) 70.25.

### 3. DISCUSSION

#### 3.1. Timing of the Submittal

##### 3.1.1. Regulatory Requirement

10 CFR Part 30, Appendix E, Section II.(C)(2) states that after the initial financial test, the licensee must repeat passage of the test and provide documentation of its continued eligibility to use the self-guarantee to the Commission within 90 days after the close of each succeeding fiscal year.

##### 3.1.2. Licensee Submittal

PSU submitted documentation to demonstrate their continued eligibility to use the self-guarantee as financial assurance of decommissioning by letter dated December 22, 2015 (Ref. 1).

### 3.1.3. NRC Staff Evaluation

The fiscal year timeline of PSU is as follows:

- The fiscal year of PSU closes on June 30<sup>th</sup>.
- Under the 90-day requirement of Part 30, Appendix A, the annual certification documents are required to be submitted to the NRC by September 28<sup>th</sup>.
- At PSU, the Committee on Audit and Risk meets to review and accept financial statements on behalf of the Board of Trustees during October or November.
- The date on which the PSU Board of Trustees meets to give final approval of the financial statements varies from year to year, but such approval is generally given by November 30<sup>th</sup>.

By letter dated October 23, 2014 (Ref. 4), the NRC staff approved an exemption to 10 CFR Part 30, Appendix E, Section II.(C)(2), allowing the licensee to submit documentation 180 days after the close of the fiscal year.

Given that the fiscal year 2014 ended on June 30, 2015, documentation to demonstrate continued eligibility to use the self-guarantee was due by December 27, 2015. PSU submitted documentation by letter dated December 22, 2015 (Ref. 1). As of the subject submittal, the Amendment 5 of license SNM-95 (Ref. 5) in effect. License condition S-21, states, "Notwithstanding 10 CFR Part 30, Appendix E, Section II.C.2, the annual certification of financial assurance is to be dated and post-marked, by first class mail, no later than 180 days after the close of the fiscal year." Therefore, the NRC staff determined that the licensee submitted the required documentation as required.

### 3.1.4. NRC Staff Finding

As discussed in their preceding evaluation, the NRC staff reviewed the timeliness of submitting documentation to demonstrate continued eligibility to use the self-guarantee. On the basis of the review, the NRC staff has determined that the licensee met license condition S-21 of license SNM-95, Amendment 5.

## 3.2. Method of Guarantee

## 3.3. Regulatory Requirement

10 CFR 70.25(f) requires, in part, that the financial instrument include the licensee's name, license number, and docket number; and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. Financial assurance for decommissioning must be provided by stated methods, including a guarantee of funds by the licensee if the guarantee and test are as contained in Appendix E to 10 CFR Part 30.

## 3.4. Licensee Submittal

By letter dated December 22, 2015, (Ref. 1), PSU submitted documentation to demonstrate their continued eligibility to use the self-guarantee. The submittal consisted of the following:

- Audited Financial Statements

- Self-Guarantee Agreement
- Report from the Independent Accountant on Applying Agreed-Upon Procedures

The self-guarantee agreement states that the guarantee is made by The Pennsylvania State University, a nonprofit university, organized under the laws of the Commonwealth of Pennsylvania, to the U.S. Nuclear Regulatory Commission, on behalf of the university as licensee. The agreement states both license numbers, SNM-95 (docket 70-00113) and R-2 (docket 50-00005), issued by the NRC. PSU has full authority and capacity to enter into this self-guarantee by the bylaws of the Trustees of the Pennsylvania State University. The self-guarantee agreement is signed by J. Doncsecz, Associate Vice President for Finance and Corporate Controller of PSU.

### 3.5. NRC Staff Evaluation

As required, by letter dated December 22, 2015, (Ref. 1), PSU submitted documentation to demonstrate their continued eligibility to use the self-guarantee. The self-guarantee agreement states the name of the licensee, the license number, and the docket number.

### 3.6. NRC Staff Finding

As discussed in their preceding evaluation, the NRC staff reviewed the method of providing financial assurance. On the basis of the review, the NRC staff has determined that the licensee has an acceptable method to decommission, so as to protect health and minimize danger to life or property. Therefore, the NRC staff finds that the licensee meets the requirement of 10 CFR 70.25(f).

### 3.7. Financial Test

#### 3.7.1. Regulatory Requirement

10 CFR Part 30, Appendix E, Section II.A.1, states that, for a university issuing bonds, the university must have a current rating for its most recent uninsured, uncollateralized, and unencumbered bond issuance of AAA, AA, or A (including adjustments of + or –) as issued by Standard and Poor's (S&P) or Aaa, Aa, or A (including adjustments) as issued by Moody's.

#### 3.7.2. Licensee Submittal

The Associate Vice President for Finance and Corporate Controller identified the financial test to demonstrate passage of the Financial Test. The submittal states that the current bond rating of the most recent unsecured bond issuance is AA, as rated by Standard & Poor's.

#### 3.7.3. NRC Staff Evaluation

The NRC staff determined that PSU has a bond rating of AA as issued by Standard and Poor's. A bond rate of AA is one of the rating stated in 10 CFR Part 30, Appendix E, Section II.A.1. The NRC staff determined that the license passes the financial test.

#### 3.7.4. NRC Staff Finding

As discussed in their preceding evaluation, the NRC staff reviewed the financial test. On the basis of the review, the NRC staff has determined that the licensee has an adequate bond rating. Therefore, the NRC staff finds that the licensee meets the requirement of 10 CFR Part 30, Appendix E, Section III.A.1.

#### 3.8. Terms of the Self-Guarantee

##### 3.8.1. Regulatory Requirement

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

(A) The guarantee must 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 must provide alternate financial assurance as specified in the NRC 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.

(F) A standby trust to protect public health and safety and the environment must be established for decommissioning costs before the self-guarantee agreement is submitted.

##### 3.8.2. Licensee Submittal

By letter dated December 22, 2015, (Ref. 1), PSU submitted documentation to demonstrate all terms required in a self-guarantee. The submittal consisted of the following:

###### (A) Guarantee Remain In Force

PSU included language in the self-guarantee that it may cancel the self-guarantee by sending notice to by certified mail to the NRC and that such cancellation would not become effective before an alternative financial assurance mechanism has been put in place by PSU.

(B) Alternate Financial Assurance

PSU included language in the self-guarantee that in the event that after 90 days from notice to NRC of cancellation it does not have alternative financial assurance in place, it will provide by full payment under the self-guarantee.

(C) Duration Of The Guarantee

PSU included language in the self-guarantee that it agrees to be bound to the self-guarantee for as long as it must comply with applicable financial assurance requirements of 10 CFR Part 30, 50, or 70 and if not, then it will provide alternative financial assurance.

(D) Written Guarantee To Decommission

PSU included language in the self-guarantee that it guarantees to the NRC that it will carry out the required decommissioning activities for the SNM-95 and R-2 licenses. In addition, PSU further agrees that if it is unable to pay its debts, NRC may declare the financial assurance guaranteed by the guarantee agreement is immediately due and payable to the standby trust fund.

(E) Notice to the NRC

PSU included language in the self-guarantee that it agrees that if at any time before termination of the self-guarantee, its most recent bond issuance ceases to be rated in any category of "A-" and above by Standard and Poor's or in any category of "A3" and above by Moody's, the licensee will notify NRC in writing 20 days after publication of the change by the rating service.

(F) Standby Trust Agreement

By letter dated December 20, 2013 (Ref. 6), PSU submitted a Standby Trust Agreement.

3.8.3. NRC Staff Evaluation

(A) Guarantee Remain In Force

The NRC staff determined that PSU has provided language in its self-guarantee regarding the guarantee's remaining in force, unless notice of cancellation is provided to NRC and alternative financial assurance is provided, in compliance with 10 CFR Part 30, Appendix E, Section III.A.

(B) Alternate Financial Assurance

The NRC staff determined that PSU has provided language in its self-guarantee regarding the provision of alternative financial assurance within 90 days of sending notice of cancellation of the guarantee to NRC in compliance with 10 CFR Part 30, Appendix E, Section III.B.

(C) Duration Of The Guarantee

The NRC staff determined that PSU has provided language in its self-guarantee stating that it agrees to maintain the guarantee as long as it must comply with requirements of 10 CFR Part

30, 50, or 70 and if not, then it will provide alternative financial assurance, in compliance with 10 CFR Part 30, Appendix E, Section III.C.

(D) Written Guarantee To Decommission

The NRC staff determined that PSU has provided language in its self-guarantee stating that it will carry out the decommissioning activities for SNM-95 and R-2 licenses, and further agrees that if it is unable to pay its debts, NRC may declare the financial assurance is immediately due and payable to the standby trust fund.

(E) Notice to the NRC

The NRC staff determined that PSU provided language in its self-guarantee stating that if its bond rating falls below "A-" for Standard and Poor's or "A3" for Moody it agrees to notify NRC within 20 days after publication by the rating service.

(F) Standby Trust Agreement

The NRC staff had previously reviewed and approved (Ref. 7) the Standby Trust Agreement that have submitted by letter dated December 20, 2013 (Ref. 6).

3.8.4. NRC Staff Finding

As discussed in their preceding evaluation, the NRC staff reviewed the terms required in PSU's self-guarantee. On the basis of the review, the NRC staff has determined that the licensee has provided adequate language in its terms of the self-guarantee in compliance with 10 CFR Part 30, Appendix E, Section III.A through F.

3.9. Opinion of the Independent Certified Public Accountant

3.9.1. Regulatory Requirement

10 CFR Part 30, Appendix E, Section II.C.(1) requires an independent certified public accountant of the licensee 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 statement. 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.

3.9.2. Licensee Submittal

As part of the submittal dated December 22, 2015 (Ref. 1), PSU included an independent auditors' report made to the Board of Trustees of The Pennsylvania State University University Park, Pennsylvania. Consolidated financial statements of The Pennsylvania State University and its subsidiaries were audited. The financial statements comprise the financial position as of June 30, 2015 and 2014, and the related consolidated statements of activities and cash flows for the years then ended, and the related notes to the consolidated financial statements. The independent auditor stated an opinion that the consolidated financial statements present fairly,

in all material respects, the financial position of the University as of June 30, 2015 and 2014. Changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

### 3.9.3. NRC Staff Evaluation

The NRC staff determined that the licensee had their independent certified public accountant of the licensee 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 statement. The accountant evaluated off-balance sheet transactions. The accountant gave an opinion that the transactions would not materially adversely affect the ability of PSU to pay for decommissioning costs. The accountant verified the bond rating meets the requirements of 10 CFR Part 30, Section II.

### 3.9.4. NRC Staff Finding

As discussed in their preceding evaluation, the NRC staff reviewed the opinion of the independent account of PSU. On the basis of the review, the NRC staff has determined that the accountant of PSU gave the required opinion to ensure that the licensee has funds to decommission. Therefore, the NRC staff finds that the licensee meets the requirement of 10 CFR Part 30, Appendix E, Section II.C.(1).

## 4. CONCLUSION

Based on the reviews documented in this SER, the NRC staff concludes that there is reasonable assurance of PSU having demonstrated continued eligibility to use the self-guarantee as financial assurance of decommissioning. The NRC staff has reasonable assurance that PSU will have adequate funds to decommission so as not to create an undue risk to public health and safety. The NRC staff finds that PSU meets the requirement of 10 CFR 70.25 and 10 CFR Part 30, Appendix E.

## 5. REFERENCES

1. J. Doncsecz, Pennsylvania State University (PSU), "Audited Financial Statements -Fiscal Year Ending June 30, 2015 and Self-Guarantee Agreement", December 22, 2015. ADAMS accession number ML16005A047.
2. Letter from C. Ryder, U.S. Nuclear Regulatory Commission, "Acceptance For Technical Review: Annual Demonstration Of Continued Eligibility To Use The Self-Guarantee As Financial Assurance Of Decommissioning", March 1, 2016. ADAMS accession number ML16055A239.
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.
4. Letter from M. Bailey, U.S. Nuclear Regulatory Commission, "Approval Of Pennsylvania State University Exemption From Title 10 Of The Code Of Federal Regulations Part 30, Appendix E, Section II.C.(2)", October 23, 2014. ADAMS accession number ML13325A031.

5. Letter from R. Johnson, U.S. Nuclear Regulatory Commission, "Approval Of Amendment 5 – Pennsylvania State University, Use Of Special Nuclear Material At An Alternate Location (Technical Assignment Control Number L33305)", September 18, 2014. ADAMS accession number ML14114A298.
6. Letter from J. Doncsecz, Pennsylvania State University (PSU), "Audited Financial Statements - Year Ending June 30, 2013, Self-Guarantee Agreement and Standby Trust Agreement", December 20, 2013. ADAMS accession number ML14015A387.
7. Letter to J. Doncsecz, Pennsylvania State University (PSU), Annual Certification Of Financial Assurance For Fiscal Year 2014: Pennsylvania State University (Technical Assignment Control Number L33359)", June 16, 2015. ADAMS accession number ML15155A694.