

## SAFETY EVALUATION REPORT

DOCKET: 70-113

LICENSE: SNM-95

LICENSEE: PENNSYLVANIA STATE UNIVERSITY

SUBJECT: PENNSYLVANIA STATE UNIVERSITY — SELF-GUARANTEE ANNUAL  
CERTIFICATION FOR FISCAL YEAR 2016

### I. 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 19, 2016, (Ref. 1), PSU submitted documentation to demonstrate their continued eligibility to use the self-guarantee. PSU has two licenses issued by the U.S. Nuclear Regulatory Commission (NRC), Special Nuclear Material (SNM) license SNM-95 (Docket 70-113) and license R-2 for the Breazeale Nuclear Reactor (Docket 50-005). The subject review pertains to only license SNM-95, not to license R-2.

By letter dated February 21, 2017, (Ref. 2) the NRC staff accepted the submittal for a detailed technical review. The NRC staff had no requests for additional information.

### II. 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) Section 70.25.

### III. DISCUSSION

#### 1. Timing of the Submittal

##### 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.

##### 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 19, 2016 (Ref. 1)

##### 1.3. NRC Staff Evaluation

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. The reason stems from the timeline of the fiscal year:

Enclosure

- 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>.

Given that the fiscal year 2015 ended on June 30, 2016, documentation to demonstrate continued eligibility to use the self-guarantee was due by December 27, 2016. PSU submitted documentation by letter dated December 19, 2016 (Ref.1). From Amendment 5 of license SNM-95 (Ref. 5), which is 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.

#### 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.

## 2. Method of Guarantee

### 2.1. Regulatory Requirement

10 CFR Paragraph 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, for nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the licensee may be used if the guarantee and test are as contained in Appendix E to 10 CFR Part 30.

### 2.2. Licensee Submittal

By letter dated December 19, 2016, (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
- Independent Accountant's Report on Applying Agreed-Upon Procedures

The self-guarantee agreement states that the guarantee 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 70-113) and R-2 (Docket 50-005), 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.

### 2.3. NRC Staff Evaluation

As required, by letter dated December 19, 2016, (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.

### 2.4. 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. Financial Test

### 3.1. 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 of 1, 2, or 3) as issued by Moody's.

### 3.2. 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 S&P.

### 3.3. NRC Staff Evaluation

The NRC staff determined that PSU has a bond rating of AA as issued by S&P. A bond rate of AA is one of the ratings stated in 10 CFR Part 30, Appendix E, Section II.A.1. The NRC staff determined that the licensee passes the financial test.

### 3.4. 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.

## 4. Terms of the Self-Guarantee

### 4.1. 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'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.

(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.

#### 4.2. Licensee Submittal

By letter dated December 19, 2016, (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 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 Parts 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 shall carry out the required decommissioning activities for its 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 S&P 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 19, 2016 (Ref. 1), PSU submitted a revised Standby Trust Agreement (STA). The STA included an updated decommissioning cost amount in its Schedule A.

#### 4.3. 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 Parts 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

(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 S&P 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 determined that PSU provided in its submission a revised STA, including model guidance language and schedules updates to the total decommissioning costs. In addition, the Trustee for the STA remains federally regulated.

#### 4.4. 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.

### 5. Opinion of the Independent Certified Public Accountant

#### 5.1. 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.

## 5.2. Licensee Submittal

As part of the submittal dated December 19, 2016 (Ref. 1), PSU included an independent auditors' report made to the Board of Trustees of The Pennsylvania State University Park, Pennsylvania. Consolidated financial statements of PSU and its subsidiaries were audited. The financial statements comprise the financial position as of June 30, 2016, 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, 2016. 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.

## 5.3. 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.

## 5.4. NRC Staff Finding

As discussed in their preceding evaluation, the NRC staff reviewed the opinion of the independent accountant 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).

## IV. CONCLUSION

Based on the reviews documented in this Safety Evaluation Report, the NRC staff concludes there is reasonable assurance that PSU has 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.

## V. REFERENCES

1. J. Doncsecz, Pennsylvania State University (PSU), "Audited Financial Statements -Fiscal Year Ending June 30, 2016 and Self-Guarantee Agreement", December 19, 2016. ADAMS accession number ML16363A358.
2. Letter from C. Ryder, U.S. Nuclear Regulatory Commission, "Acceptance For Technical Review: Annual Certification Of Financial Assurance For Continued Eligibility To Use The Self-Guarantee As Financial Assurance Of Decommissioning (Cost Activity Code LU0172)", February 21, 2017. ADAMS accession number ML17044A401

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.