

April 29, 2013

MEMORANDUM TO: Robert Johnson, Chief
Fuel Manufacturing Branch
Fuel Facility Licensing Directorate
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards

FROM: Lydia Chang, Chief **/RA/**
Special Projects Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: SAFETY EVALUATION REPORT INPUT WITH RESPECT TO
PENNSYLVANIA STATE UNIVERSITY SELF-GUARANTEE

Enclosed is our Safety Evaluation Report input with respect to the self-guarantee for Pennsylvania State University's Breazeale Nuclear Reactor and Special Nuclear Material licenses. Please contact Reginald Augustus if you have any specific questions regarding our input.

Docket Nos.: 050-0005, 70-113
License Nos.: R-2, SNM-95

Enclosure:
Safety Evaluation Report Input

CONTACT: Reginald Augustus, FSME/DWMEP
(301) 415-0165

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SAFETY EVALUATION REPORT INPUT

DOCKET NOS.: 50-0005, 70-113
LICENSES: R-2, SNM-95
LICENSEE: PENNSYLVANIA STATE UNIVERSITY (PSU)
SUBJECT: PSU SELF-GUARANTEE ANNUAL CERTIFICATION

BACKGROUND

In a letter dated November 16, 2012, Pennsylvania State University (PSU) submitted its annual certification of their self-guarantee (SG) for its Breazeale Nuclear Reactor (Docket 050-0005) and Special Nuclear Material (Docket 70-113). On February 21, 2013, the Special Projects Branch (SPB) in the Division of Waste Management and Environmental Programs submitted a memo to the Fuel Manufacturing Branch (FMB) in the Division of Fuel Cycle Safety and Safeguards stating that PSU's submittal was adequate to perform a detailed review. On March 15, 2013, SPB staff submitted a memo to the FMB staff recommending requests for additional information (RAIs). The RAI's were sent to the licensee. A follow-up conference call was held with the licensee to discuss, clarify, and ultimately determine that the RAI's were not necessary. The RAI's were based on new requirements the licensee needed to meet after December 17, 2012. The licensee's SG submittal was sent to NRC on November 16, 2012. At the time of the submittal, the licensee was not required to submit the new regulatory language in its SG. The licensee stated that their license renewal application expected in the fall of 2013 would include the newly required documentation.

DISCUSSION

Regulatory Requirements

Nuclear facilities licensed under 10 CFR Parts 50 and 70 are required to establish adequate financial assurance for decommissioning, decontamination, and reclamation pursuant to 10 CFR 50.25, "Reporting and Recordkeeping for Decommissioning Planning" and 10 CFR 70.25, "Financial Assurance and Recordkeeping for Decommissioning," respectively.

10 CFR 50.25 and 70.25 require that non-profit college and university licensees that utilize an SG to provide reasonable assurance of available funds for decommissioning costs through an SG are required to annually provide an SG agreement and pass a financial test pursuant to Appendix E to 10 CFR Part 30, "Criteria Relating to Use of Financial Tests and Self-Guarantees For Providing Reasonable Assurance of Funds For Decommissioning by Nonprofit Colleges, Universities, and Hospitals." PSU is a holder of a reactor license and a special nuclear material license and uses a SG for meeting the financial assurance requirements. This review pertains to SG for both of PSU's licenses.

Staff Review

Upon review of PSU's November 16, 2012, submittal, as detailed below, the SPB staff (staff) finds that PSU's SG is acceptable.

Staff Review of Self- Guarantee and Supporting Documentation

In its review, the staff relied on the regulations set forth in Appendix E to 10 CFR Part 30, 10 CFR 50.75, and 10 CFR 70.25, as well as NRC guidance contained in NUREG-1757, Volume 3, Rev. 1, Appendix A.9. PSU's November 16, 2012, submittal included:

- an SG;
- a letter from PSU's Associate Vice President for Finance and Corporate Controller and financial test; and
- PSU's Audited Financial Statements

The staff reviewed the November 16, 2012, submittal and initially found that additional information was needed to complete the review. By letter dated March 15, 2013 (ML13071A358), the staff provided its RAI. Per discussions with the site's project manager and the licensee, NRC staff determined that the RAI's requested were related to the SG regulatory changes from the Decommissioning Planning Rule that became effective on December 17, 2012. The licensee submitted its annual certification on November 16, 2012, and therefore, met the regulatory requirements at that time. The licensee confirmed that the required additional information would be included in their license renewal application expected in fall 2013.

In order for PSU to qualify for use of an SG, it must satisfy the criteria found in 10 CFR Part 30, Appendix E, Section II.A.1 or A.2. PSU's November 16, 2012, submittal intends to demonstrate compliance with 10 CFR Part 30, Appendix E, Section II.A.1 (the "Financial Test"). The Financial Test, in pertinent part, requires that PSU have a current rating for its most recent bond issuance of AAA, AA, A as issued by Standard & Poor's or Aaa, Aa, or A as issued by Moody's.

As part of the November 16, 2012, submittal, the letter from PSU's Associate Vice President for Finance and Corporate Controller 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 AA, as rated by Standard & Poor's. Therefore, PSU meets the requirement of 10 CFR Part 30, Appendix E, Section II.A.1. Thus, PSU meets the requirements of the Financial Test.

10 CFR Part 30, Appendix E, Section III.A through E, describes the terms that are required in an SG 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; and
- 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.

The staff finds the language of the SG to comply with the terms and conditions needed in NUREG-1757, Volume 3, Appendix A.13. Because the SG is consistent with the recommended language contained in NUREG -1757, Volume 3, Appendix A.9, Checklist B, which the NRC staff has previously determined would comply with the NRC's regulatory requirements, the staff therefore finds that the proposed SG meets the requirements of 10 CFR Part 30, Appendix E, Section III.A, B, C, D, and E.

Relying upon the SG dated November 16, 2012, the staff finds that PSU meets the requirements of the Financial Test set forth in 10 CFR Part 30, Appendix E, Section II.A.1, the SG, Controller Letter, and Audited Financial Statements are consistent with NRC guidance, and that the SG meets the requirements of 10 CFR Part 30, Appendix E, Section III.A through E.

CONCLUSION

On the basis of the staff's review, as discussed above, PSU has demonstrated that (1) its financial condition meets the requirements of 10 CFR Part 30, Appendix E and (2) the language of the SG, Controller Letter, and Audited Financial Statements submitted by cover letter dated November 16, 2012, are consistent with NRC guidance. Therefore, the staff finds that PSU's November 16, 2012, SG and supporting documentation are acceptable and are, therefore, approved.