

21G-19-0119
GOV-01-55-04
ACF-19-0210

ATTACHMENT 1

Summary of NFS D&D Liability and Financial Assurance

(1 page to follow)

SUMMARY OF NFS D&D LIABILITY AND FINANCIAL ASSURANCE
as of September 11, 2019

D&D Cost Estimate Category Name	General Type of Contract(s)	Method(s) of Financial Assurance	Share of Estimate Value	Financial Assurance Documents
DOE	Government	1 Statement of Intent	~ \$368.5M	Letter from DOE/Naval Reactors dated 08/22/19 and 08/13/19
NFS	Commercial	1 Surety Bond + 1 Standby Trust Agreement	~ \$25.0M	<u>Surety Bond:</u> Argo Surety – Bond No. SUR0032602, dated 05/23/2017 <u>Standby Trust Agreement:</u> Regions Bank, N.A. Trust Agreement dated 03/01/2016 (Re-issued 08/30/2019)
TOTAL			~ \$394M	

ATTACHMENT 2

Statement of Intent from DOE/Naval Reactors, dated 08/22/2019

(3 pages to follow)



DEPARTMENT OF ENERGY
NAVAL REACTORS LABORATORY FIELD OFFICE
POST OFFICE BOX 109
WEST MIFFLIN, PENNSYLVANIA 15122-0109

NRLFO:CON:19-186
22 August 2019

Director, Office of Nuclear Material
Safety and Safeguards
U.S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, DC 20555

**SUBJECT: U.S. DEPARTMENT OF ENERGY LIABILITY FOR DECONTAMINATION
AND DECOMMISSIONING OF THE NUCLEAR FUEL SERVICES, INC.
FACILITY IN ERWIN, TENNESSEE**

Via Nuclear Fuel Services, Inc. (NFS) letter (21G-19-0073) dated July 18, 2019, NFS identifies that an updated decontamination and decommissioning (D&D) cost estimate in the amount of \$368,539,000 has been agreed to by the U.S. Nuclear Regulatory Commission (NRC). NFS' letter also requests that the U.S. Department of Energy (DOE) provide assurance to the NRC regarding its knowledge of the updated estimate and confirmation that the contract identifies this obligation.

DOE's prime contract 89233019CNR000008 with NFS contains special clauses covering the DOE's contractual liability for D&D through its completion. However, pursuant to these clauses, the estimated cost and funding for the D&D work is negotiated into the contract on an annual basis. While DOE is aware of long-term estimates for this work, the above estimate is not referenced in the contract.

Historically, the NRC has accepted DOE's contract clauses as assurance of DOE's long-term liability for its portion of the costs of the D&D work at Erwin, Tennessee. In 2014 the NRC requested a statement of intent, signed by an official with the authority to request and obtain decommissioning funds from the appropriate funding body, which has been updated by the enclosure hereto. The DOE's contractual liability for D&D of the NFS Erwin, Tennessee facility under the referenced contract is virtually unchanged from prior years.

Sincerely,

T. M. WEIS
Contracting Officer

Enclosure:

NR Memo dated 13 August 2019 (Ser 08H/19-03897)

Dupe of

ML19246A096

Director, Office of Nuclear Material
Safety and Safeguards

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NRLFO:CON:19-186
22 August 2019

Copy to:

F. X. Masseth, NFS

D. A. Delwiche, NRLFO



DEPARTMENT OF THE NAVY

NAVAL NUCLEAR PROPULSION PROGRAM
NAVAL SEA SYSTEMS COMMAND (SEA 08)
1333 ISAAC HULL AVENUE SE
WASHINGTON NAVY YARD DC 20376-8010

08H:SRS:srs
Ser 08H/19-03897

AUG 13 2019

From: Commander, Naval Sea Systems Command
To: Manager, Naval Reactors Laboratory Field Office

Subj: U.S. DEPARTMENT OF ENERGY LIABILITY FOR DECONTAMINATION
AND DECOMMISSIONING OF THE NUCLEAR FUEL SERVICES, INC.
FACILITY IN ERWIN, TENNESSEE; STATEMENT OF INTENT

1. As Director of Fleet Readiness Naval Nuclear Propulsion Program, I exercise express authority and responsibility to request funds from the U.S. Navy for decommissioning activities associated with the operations authorized by U.S. Nuclear Regulatory Commission Materials License No. SNM-124 for the Naval Nuclear Propulsion Program. This authority is established by 50 U.S. Code § 2406, 2511 Sec. 8 and my position. Within this authority, I intend to request that funds be made available, when necessary, to decommission the Nuclear Fuel Services facility in Erwin, TN. I understand that the cost estimate for decommissioning activities under Naval Reactors' prime contract through its Naval Reactors Laboratory Field Office 89233019CNR000008 is \$368,539,000.

S. R. SCHARPNICK
By direction

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ATTACHMENT 3

Amendment No. 3 of the
Standby Trust Agreement, dated 03/01/2016
(Re-issued 08/30/2019)

(2 pages to follow)

AMENDMENT No. 3
To
Trust Agreement Dated March 1, 2016
By And Between
Nuclear Fuel Services, Inc. (as "Grantor")
And
Regions Bank (as "Trustee")
(the "Trust Agreement")


NOW THEREFORE, the parties to the Trust Agreement hereby agree that Schedule A to the Trust Agreement is, effective as of the date of this Amendment No. 3, hereby deleted and replaced in its entirety by the amended Schedule A attached as Annex A hereto.

All other provisions of the Trust Agreement remain unchanged.


This Amendment No. 3 shall be administered, construed and enforced according to the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 3 to be executed by the respective officers duly authorized effective as of this 30th day of August, 2019.

Nuclear Fuel Services, Inc.
As Grantor


By: **KIRT J. KUBBS**
Its: **TREASURER**

Regions Bank
As Trustee


By: **ODELL ROMEO**
Its: **VICE PRESIDENT**

ACCEPTED AND AGREED BY:

United States Nuclear Regulatory Commission

By:
Its:
Date:

Annex A

SCHEDULE A

This Agreement demonstrates financial assurance for the following cost estimates or prescribed amounts for the following licensed activities:

U.S. Nuclear Regulatory Commission License Number

SNM-124

Name and Address of Licensee

Nuclear Fuel Services, Inc.
1205 Banner Hill Road
Erwin, TN 37650

Address of Licensed Activity

Nuclear Fuel Services, Inc.
1205 Banner Hill Road
Erwin, TN 37650

Cost Estimates for Regulatory Assurances Demonstrated by this Agreement

Total Cost Estimates: \$ 25,020,000

The cost estimates listed here were last adjusted and approved by NRC on June 24, 2019.

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ATTACHMENT 4

Surety Bond

(2 pages to follow)



ARGO SURETY

Member Argo Group

Argonaut Insurance Company

Deliveries Only: 225 W. Washington,

24th Floor, Chicago, IL 60606

United States Postal Service:

P.O. Box 469011, San Antonio, TX 78246

RIDER

To be attached to and form part of Bond No. SUR0032603

Issued on behalf of Nuclear Fuel Services, Inc. as Principal, and in favor of United States Nuclear Regulatory Commission as Obligee dated 23rd day of May, 2017.

It is agreed that:

- ☐ 1. The Surety hereby gives its consent to change the Name:
from:
to:
- ☐ 2. The Surety hereby gives its consent to change the Address:
from:
to:
- ☒ 3. The Surety hereby gives its consent to change the: Penal Sum of Bond
from: \$23,250,000.00
to: \$25,020,000.00
4. This rider shall become effective as of August 30, 2019

PROVIDED, however, that the liability of the Surety under the attached bond as changed by this Rider shall not be cumulative. No other terms and conditions of the bond are altered other than the foregoing.

Signed, sealed and dated August 30, 2019.

Argonaut Insurance Company

By: David T. Miclette
David T. Miclette, Attorney-in-Fact

Nuclear Fuel Services, Inc.

By: Kirt J. Kubbs
Principal KIRT J. KUBBS, TREASURER

Acknowledged & Accepted by: _____
, Obligee

Date: _____

Argonaut Insurance Company
Deliveries Only: 225 W. Washington, 24th Floor
Chicago, IL 60606
United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

David T. Miclette, Barry K. McCord, Kristi Lovett, Ashley Britt Platt, Rita G. Gulizo, Tabitha Dorman, Nikole Jeannette, Robert C. Davis, Heather Noles, Susan Zapalowski, Alyson Carmichael, Lauren O. Moudy, Robert M. Overbey, Jr.

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$50,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.

Argonaut Insurance Company



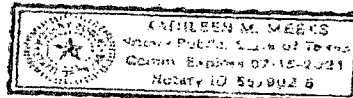
by: _____

Joshua C. Betz, Senior Vice President

STATE OF TEXAS
COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



Kathleen M. Meeks
(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 30th day of August, 2019



James Bluzard, Vice President-Surety

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ATTACHMENT 5

Certification of Financial Assurance

(1 page to follow)

CERTIFICATION OF FINANCIAL ASSURANCE

PRINCIPAL: Nuclear Fuel Services, Inc.
1205 Banner Hill Road
Erwin, Tennessee 37650

NRC Materials License SNM-124
Docket No. 70-143
Nuclear Fuel Services, Inc.
1205 Banner Hill Road
Erwin, Tennessee 37650

ISSUED TO: U.S. Nuclear Regulatory Commission

I certify that Nuclear Fuel Services, Inc. is licensed to possess the following types of unsealed special nuclear materials licensed under 10 CFR 70:

- Uranium enriched up to 100 weight percent in the uranium-235 isotope which may contain up to an average of 10^{-6} grams of plutonium per gram of uranium, 0.25 millicuries of fission products per gram of uranium, and 1.5×10^{-5} grams of transuranic materials (including plutonium) per gram of uranium as contaminants.
- Uranium enriched up to 100 weight percent in the uranium-233 isotope as residual contamination from previous operations.
- Plutonium as counting and calibration standards, as residual contamination and holdup from previous operations, and for analysis or for input into development studies.
- Transuranic Isotopes as waste resulting from processing enriched uranium.
- Fission Products as waste resulting from processing enriched uranium.

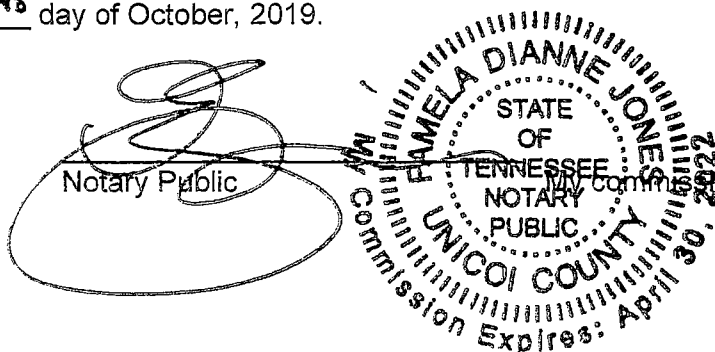
I, Richard J. Freudenberger, also certify that financial assurance in the amount of \$393,559,000 has been obtained for the purpose of decommissioning as prescribed by 10 CFR Part 70.


Richard J. Freudenberger
Director, Safety and Safeguards

10/2/19

Date

I certify the above named person appeared before me and executed this document on this the 2nd day of October, 2019.



My commission expires:

4-30-22

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ATTACHMENT 6

SNM-124, Chapter 10, Update Per License Condition S-2

(7 pages to follow)

**SPECIAL NUCLEAR MATERIAL LICENSE
SNM-124
CHAPTER 10**

**DECOMMISSIONING
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DECOMMISSIONING

10.1 Decommissioning Funding Plan (DFP)

NFS has a DFP that contains the elements called for in 10 CFR 70.25(e), including a decommissioning cost estimate; a description of the methods used to assure funds for decommissioning are available when needed; a means for adjusting the cost estimate and associated funding levels periodically over the life of the facility; and, when applicable, certification that financial assurance has been provided in amounts that cover the current estimates for decommissioning. The DFP addresses the decommissioning of facilities with potential for contamination with licensed materials at the Erwin, Tennessee site.

10.2 Decommissioning Cost Estimate

NFS will review and update the decommissioning cost estimate in accordance with 10 CFR 70.25(e) at an interval not to exceed three (3) years. NFS' Decommissioning Cost Estimate was most recently updated and submitted to NRC on November 30, 2018, (NFS document No. 21G-18-0148). NRC completed their review and accepted the updated estimate on June 24, 2019, (NRC Enterprise Project Identifier L-2018-DFA-0011).

10.3 Financial Assurance for Decommissioning

Financial assurance for decommissioning-related activities will be provided by a method authorized in 10 CFR 70.25(f), and will be in place prior to introducing licensed material that could contaminate new equipment or facilities. An outline of the types of financial assurance methods currently in use by NFS is included below.

10.3.1 U.S. Government Funding Method

An exemption to the financial assurance requirements of 10 CFR 70.25(f) for decommissioning of certain facilities used for U.S. Government projects can be found in Chapter 1.

- a. Due to NFS contracts to manufacture items containing radioactive material for the U.S. Department of Energy (DOE), the U.S. Government has agreed to pay expenses incurred in decommissioning NFS' facilities and grounds. A copy of the relevant clauses from the NFS/DOE Contract which sets forth the U.S. Government assumption of liability for decommissioning NFS' facilities is included as Appendix 10A.

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10.3.2 Surety Method – Surety Bond or Letters of Credit

NFS has a Surety Bond, Letters of Credit, and Standby Trust Agreements in place for decommissioning of the following facilities or portions thereof:

- Building 333 (BPF)
- Building 301 (CDL)
- Building 440 (LEU Dilution and Loading Facility)

10.4 Recordkeeping for Decommissioning

In accordance with 10 CFR 70.25(g), NFS will maintain records important to the decommissioning of the facilities on the site until the site is released for unrestricted use.

10.5 Decommissioning Plan (DP)

NFS will decommission plant facilities and grounds in a timely manner and in accordance with applicable NRC regulations and guidance. As part of the Change Control process described in Chapter 11, decommissioning-related activities, including associated procedures, are reviewed against the criteria in 10 CFR 70.38(g)(1) to determine if a decommissioning plan is required. If required, the plan must be submitted to NRC for review and approval prior to starting the activities. Release of a plant area from this license will require NRC review and approval.

Portions of the facility and grounds no longer in use, or in need of decontamination to protect the environment, may be decontaminated on a project-by-project basis prior to the end of plant life at NFS' discretion. The decommissioning-related decontamination is authorized by Chapter 1 of this license and activities may include:

- Dismantlement of contaminated buildings and equipment;
- Pumping and treatment of contaminated groundwater and surface water;
- Washing, spraying, stripping, vacuuming, or otherwise cleaning the surfaces of structures or equipment;
- Scabbling, scaling, or otherwise decontaminating structural and equipment surfaces;
- Characterization efforts; and,
- Source reduction measures, including removal of soil and debris.

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APPENDIX 10A

EXCERPTS FROM NFS/DOE CONTRACT
No. 89233019CNR000008

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APPENDIX 10A

EXCERPTS FROM NFS/DOE CONTRACT
No. 89233019CNR000008

H-10(b) Decommissioning Escrow Account

The Contractor is authorized to retain \$1,600,000 in the Source and Special Nuclear Material Decommissioning Escrow Fund as a revolving account for the acquisition of certain capital assets or for other purposes as approved by the Contracting Officer. In the event that the balance in the escrow fund becomes insufficient to meet capital funding requirements for Decommissioning, the Government shall make a good faith effort to secure additional funding to meet capital requirements in support of Decommissioning. Capital acquisitions from this account must meet NFS' disclosed accounting practices and either be directly related to completing the decommissioning work or required to maintain facilities needed for support of the decommissioning work. The Contractor will depreciate these assets in accordance with its disclosed accounting practices, and funds received from payment of depreciation charges will be deposited in the Source and Special Nuclear Material Decommissioning Escrow Fund. This revolving account will continue in existence until the Government has satisfied its obligation under Paragraph H-10(e). At that time, the balance in the revolving account, including all income earned, will be paid to the Government as directed by the Contracting Officer.

H-10(e) Statement of Government Liability

- (1) As part of the consideration for the manufacture and delivery of all items under this contract, the Government hereby assumes the obligation to pay the expenses incurred in decommissioning NFS' facilities as required by NFS' License with the Nuclear Regulatory Commission (NRC). The Government's liability for said payments is subject to the availability of appropriated funds at the time a contingency occurs. When said event occurs, the DOE will pursue the necessary funding; however, nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet said deficiencies.
- (2) In making such payments, the Contractor shall use reasonable and prudent fiscal and operational judgments to reduce the overall cost of decommissioning activities. Any disagreement between the parties concerning this provision shall be considered a dispute within the terms of the "Disputes" clause of this contract.

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- (3) This provision shall survive the completion of the contract and shall continue until decommissioning is completed as determined by the NRC or any successor agency, or until alternative arrangements are agreed by the parties, in separate contracts, or otherwise.

H-10(f) Memorandum of Understanding (MOU) Concerning Decommissioning of the NFS Erwin Facilities

- (1) The following clarifies responsibilities under Paragraph H-10(e) (and earlier contracts containing this same provision) with regard to future activities of NFS that may affect the decommissioning of the NFS Erwin facilities as required by NFS' license with the Nuclear Regulatory Commission (NRC):
- (i) The Government is not obligated and shall not be liable under Paragraph H-10(e) for the expenses related to:
 - a. Decommissioning any NFS Erwin facilities which are acquired or added to the NFS site after March 1, 1992, and which are utilized for non-Naval Reactors activities;
 - b. Decommissioning any currently non-Contaminated portion of the NFS Erwin facilities where non-Naval Reactor activities occurring after December 8, 1992, give rise to the need for decommissioning;
 - c. Decommissioning any NFS Erwin facility that has been decommissioned in accordance with the provisions of H-10(e) and is subsequently recontaminated due to the use of this facility for non-Naval Reactors activities.
 - (ii) In the event:
 - a. DOE has the necessary appropriated funds available to decommission the NFS Erwin facilities in accordance with the Paragraph H-10(e) decommissioning schedules; and,
 - b. NFS elects to continue utilizing a particular portion of the Erwin facilities for non-Naval Reactors purposes; and,
 - c. Such use would delay the decommissioning activities delineated in the decommissioning schedules; then, the parties will negotiate in good faith to determine the

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Government's specific liability for the decommissioning costs
for that portion of the facilities.

- (iii) In the event:
 - a. NFS uses, subsequent to the March 1, 1992, an NFS Erwin facility or facilities for non-Naval Reactors purposes; and,
 - b. The Government is otherwise responsible for decommissioning that facility under Paragraph H-10(e) of the Contract Schedule; and,
 - c. Such use by NFS increases the scope of the decommissioning work; then, the parties will negotiate in good faith to determine what the Government's specific liability for decommissioning would have been absent NFS' subsequent use of the facility.