

**U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)**

<b>MD 8.12</b>	<b>DECOMMISSIONING FINANCIAL ASSURANCE INSTRUMENT SECURITY PROGRAM</b>	<b>DT-20-04</b>
<i>Volume 8:</i>	Licensee Oversight Programs	
<i>Approved By:</i>	Margaret Doane Executive Director for Operations	
<i>Date Approved:</i>	March 5, 2020	
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<i>Issuing Office:</i>	Office of Nuclear Material Safety and Safeguards Division of Rulemaking, Environmental, and Financial Support	
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<p><b>EXECUTIVE SUMMARY</b></p> <p>Management Directive (MD) 8.12, “Decommissioning Financial Assurance Instrument Security Program,” provides the U.S. Nuclear Regulatory Commission staff with a guide for ensuring that financial instruments, submitted as financial assurance for decommissioning by material licensees and fuel cycle licensees licensed under Title 10 of the <i>Code of Federal Regulations</i> Parts 30, 40, 50, 61, 70 or 76, fulfill their intent of providing reasonable assurance that financial resources for decommissioning will be available when needed. This MD describes the proper handling and safeguard of financial instruments, the appropriate signature authority for drawing on financial instruments, the appropriate signature authority for returning financial instruments that are no longer valid or needed, and the procedure for regularly reviewing the financial instrument inventory.</p> <p>MD 8.12 is being revised to update the policy guidance contained in this MD. Major changes were made to—</p> <ul style="list-style-type: none"> <li>• Address recommendations resulting from the Office of Inspector General (OIG) Audit, <a href="#">OIG-18-A-09</a>, “Audit of NRC’s Decommissioning Financial Assurance Instrument Inventory,” (<a href="#">ML18039A092</a>, <a href="#">ML18052B455</a>), and</li> <li>• Reflect the merger of the Office of Nuclear Reactor Regulation and the Office of Nuclear Material Safety and Safeguards branches, including reorganization of the division and branch responsible for the decommissioning financial assurance instrument security program.</li> </ul>		

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For updates or revisions to policies contained in this MD that were issued after the MD was signed, please see the Yellow Announcement to Management Directive index ([YA-to-MD index](#)).

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### I. POLICY

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to establish and implement a process for the security of and signature authority for withdrawing funds from decommissioning financial assurance instruments submitted in accordance with applicable rules in Title 10 of the *Code of Federal Regulations* (10 CFR), "Energy," and to perform periodic evaluations of the instruments in its possession to ensure they are safeguarded and complete.

### II. OBJECTIVES

- Ensure that the accepted, originally signed decommissioning financial assurance instruments, submitted in accordance with the following regulations, are safeguarded and used only for the purposes intended.
  - 10 CFR 30.35, "Financial Assurance and Recordkeeping for Decommissioning";
  - 10 CFR 40.36, "Financial Assurance and Recordkeeping for Decommissioning," Appendix A, "Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content," to 10 CFR Part 40, "Domestic Licensing of Source Material";

- 10 CFR Part 50.75, “Reporting and Recordkeeping for Decommissioning Planning”;
  - 10 CFR Part 61, “Licensing Requirements for Land Disposal of Radioactive Waste,” Subpart E, “Financial Assurances”;
  - 10 CFR 70.25, “Financial Assurance and Recordkeeping for Decommissioning”;
  - 10 CFR 72.30, “Financial Assurance and Recordkeeping for Decommissioning”; and
  - 10 CFR 76.35(n), “Contents of Applications.”
- Ensure that NRC signature authority for drawing on a decommissioning financial assurance instrument is unambiguously determined and, when needed, the appropriate individuals sign the needed documents.
  - Ensure that monies drawn on decommissioning financial assurance instruments are placed in standby trust accounts and not transferred directly to the NRC or other parties.
  - Ensure that decommissioning financial assurance instrument evaluations are performed to ascertain that the instruments are properly secured and are complete.

### **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

#### **A. Executive Director for Operations (EDO)**

Establishes a process for decommissioning financial assurance instrument security (DFAIS) and implements it by the decommissioning financial assurance instrument security program. The program will include a process for evaluating the security and completeness of the instruments submitted.

#### **B. Chief Financial Officer (CFO)**

Approves the process established for DFAIS.

#### **C. Director, Office of Nuclear Material Safety and Safeguards (NMSS)**

1. Establishes the DFAIS program and jointly administers the program with the Office of Nuclear Reactor Regulation (NRR) and the regional administrators.
2. Develops, approves, and maintains procedures governing the DFAIS program as it relates to licenses administered by the Office of Nuclear Material Safety and Safeguards (NMSS).
3. Safeguards financial assurance instruments for licenses managed within NMSS and for Non-power Production or Utilization Facility licenses managed within NRR.

4. For licenses managed within NMSS, signs documents for drawing on instruments. This signature authority may not be delegated below the level of deputy office director ([ML19274C371](#)).
5. For licenses managed within NMSS, signs documents for accepting, canceling and returning financial assurance instruments. Signature authority for these types of instruments (not used for drawn down purposes) may not be redelegated below the level of branch chief ([ML19274C653](#)).
6. Designates decommissioning financial assurance instrument custodians (FAICs), alternate financial assurance instrument custodians (AFAICs), and FAIC managers, and ensures performance of appropriate program verifications.
7. Provides guidance to decommissioning FAICs, AFAICs, and FAIC managers to ensure that instrument evaluations are properly performed.

**D. Director, Office of Nuclear Reactor Regulation (NRR)**

1. Jointly administer the DFAIS program with the Director, NMSS and the regional administrators.
2. Safeguards financial assurance instruments for licenses managed within NRR.
3. For licenses managed within NRR, signs documents for drawing on instruments. This signature authority may not be delegated below the level of deputy office director ([ML19240B408](#)).
4. For licenses managed within NRR, signs documents for accepting, canceling, and returning financial assurance instruments. Signature authority for these types of instruments (not used for drawn down purposes) may not be redelegated below the level of branch chief ([ML19240B408](#)).

**E. Regional Administrators**

1. Jointly administer the DFAIS program with the Director, NMSS.
2. Maintain procedures governing the DFAIS program as the procedures relate to the licenses administered by the respective regions.
3. Safeguard financial assurance instruments for licenses managed within their region.
4. Sign documents for drawing on instruments for those licenses managed within their region. This signature authority may not be delegated below the level of deputy regional administrator ([ML19288A095](#), [ML19136A245](#), [ML19259A066](#)).
5. For licenses managed within the region, sign documents for accepting, canceling, and returning financial assurance instruments. Signature authority for these types of

instruments (not used for drawn down purposes) may not be redelegated below the level of branch chief ([ML19288A095](#), [ML14296A081](#), [ML19289A006](#)).

6. Designate decommissioning FAICs, AFAICs, and FAIC managers, and ensure performance of appropriate program verifications.
7. Provide guidance to regional FAICs, AFAICs, and FAIC managers to ensure that instrument evaluations are properly performed.

**F. Director, Division of Rulemaking, Environmental, and Financial Support (REFS), NMSS**

Signs documents for accepting, canceling, and returning financial assurance instruments. Signature authority for these types of instruments (not used for drawn down purposes) may not be redelegated below the level of branch chief ([ML19274C371](#)).

**G. Chief, Financial Assessment Branch (FAB), REFS, NMSS**

Signs documents for accepting, canceling, and returning financial assurance instruments. Signature authority for these types of instruments (not used for drawn down purposes) may not be redelegated below the level of branch chief ([ML19274C653](#)).

## **IV. APPLICABILITY**

The policy and guidance in this directive and handbook apply to all NRC employees and NRC contractors.

## **V. DIRECTIVE HANDBOOK**

Handbook 8.12 contains procedures for implementing decommissioning financial assurance instrument security for materials, fuel cycle, and power reactor and research test reactor licensees.

## **VI. REFERENCES**

***Code of Federal Regulations***

Title 10 of the *Code of Federal Regulations*, "Energy."

10 CFR 2.390, "Public Inspections, Exemptions, Requests for Withholding."

10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

10 CFR 30.35, "Financial Assurance and Recordkeeping for Decommissioning."

10 CFR Part 30, Appendix A, "Criteria Related to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning."

10 CFR Part 30, Appendix C, "Criteria Related to Use of Financial Tests and Self-Guarantees for Providing Reasonable Assurance of Funds for Decommissioning."

10 CFR Part 30, Appendix D, "Criteria Related to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have No Outstanding Rated Bonds."

10 CFR Part 30, Appendix E, "Criteria Related to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Nonprofit Colleges, Universities, and Hospitals."

10 CFR Part 40, "Domestic Licensing of Source Material."

10 CFR 40.36, "Financial Assurance and Recordkeeping for Decommissioning."

10 CFR Part 40, Appendix A, "Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content."

10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities."

10 CFR Part 50.75, "Reporting and Recordkeeping for Decommissioning Planning."

10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," Subpart E, "Financial Assurances."

10 CFR Part 70, "Domestic Licensing of Special Nuclear Material."

10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste."

10 CFR 72.30, "Financial Assurance and Recordkeeping for Decommissioning."

10 CFR Part 76, "Certification of Gaseous Diffusion Plants."

10 CFR 76.35(n), "Contents of Applications."

### ***Delegations of Authority***

ADM-200, Revision 13, "Delegation of Signature Authority," ([ML19240B408](#)).

Memorandum to John R. Tappert, Director, Division of Rulemaking, Environmental and Financial Support, Office of Nuclear Materials Safety and Safety, from John W. Lubinski, Director, Office of Nuclear Materials Safety and Safety, for "Redelegation of

Authority for the Decommissioning Financial Assurance Instrument Security Program,” November 1, 2019 ([ML19274C371](#)).

Memorandum to Fred Miller, Chief, Financial Assessment Branch, Division of Rulemaking Environmental and Financial Support, Office of Nuclear Materials Safety and Safety, from John R. Tappert, Director, Division of Rulemaking, Environmental and Financial Support, Office of Nuclear Materials Safety and Safety, “Redelegation of Authority for the Decommissioning Financial Assurance Instrument Security Program,” November 1, 2019 ([ML19274C653](#)).

Memorandum to James M. Trapp, Director, Division of Nuclear Materials Safety, Region I, from David C. Lew, Regional Administrator, Region I, for “Delegation of Authority – Cancelling and Returning Decommissioning Financial Assurance Instruments, and Other Responsibilities,” January 15, 2020 ([ML19288A095](#)).

Memorandum to David L. Pelton, Director, Division of Nuclear Materials Safety, Region III, from Darrell J. Roberts (signed by Jack Giessner, Acting RA), Regional Administrator, Region III, for “Redelegation of Authority for the Decommissioning Financial Assurance Instrument Security Program,” May 15, 2019 ([ML19136A245](#)).

Memorandum to Patricia J. Pelke, Chief, Materials Licensing Branch, Division of Nuclear Materials Safety, Region III, from Patrick L. Loudon, Director, Division of Nuclear Materials Safety, Region R III, for “Delegation of Authority - Canceling and Returning Decommissioning Financial Assurance Instrument Security Program,” October 23, 2014 ([ML14296A081](#)).

Memorandum to Michael J. Hay, Director, Division of Nuclear Materials Safety, Region IV, from Scott A. Morris, Regional Administrator, Region IV Director, for “Redelegation of Authority for the Decommissioning Financial Assurance Instrument Security Program,” October 15, 2019 ([ML19259A066](#)).

Memorandum to Heather J. Gepford, Chief, Materials Licensing and Decommissioning Branch, Division of Nuclear Materials Safety, Region IV, from Michael J. Hay, Director, Division of Nuclear Materials Safety, Region IV, for “Redelegation of Authority – Cancelling and Returning Decommissioning Financial Assurance Instruments,” October 15, 2019 ([ML19289A006](#)).

### ***Federal Register***

“General Requirements for Decommissioning Nuclear Facilities,” 53 FR 24018 (June 27, 1988).

### ***Nuclear Regulatory Commission Documents***

Management Directives—

5.6, “Integrated Materials Performance Evaluation Program (IMPEP).”

12.1, "NRC Facility Security Program."

Memorandum to B. Baker, OIG, from D. Dorman, OEDO, "Audit of the U.S. Nuclear Regulatory Commission's Decommissioning Financial Assurance Instrument Inventory (OIG-18-A-09)," March 7, 2018 ([ML18052B455](#)).

NUREG-1757, Vol. 3, Rev. 1, "Consolidated Decommissioning Guidance – Financial Assurance, Recordkeeping and Timeliness," February 2012 ([ML12048A683](#)).

Office of the Inspector General "Audit of NRC's Decommissioning Financial Assurance Instrument Inventory OIG-18-A-09," February 8, 2018 ([ML18039A092](#)).

***United States Code***

Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

Securities and Exchange Act of 1934 (15 U.S.C. 78a, et seq.).

Dodd–Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et. seq.).



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<i>Issuing Office:</i>	Office of Nuclear Material Safety and Safeguards Division of Rulemaking, Environmental, and Financial Support
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<i>Contact Name:</i>	Kenneth Kline	Reginald Augustus
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### EXECUTIVE SUMMARY

Management Directive (MD) 8.12, "Decommissioning Financial Assurance Instrument Security Program," provides the U.S. Nuclear Regulatory Commission staff with a guide for ensuring that financial instruments, submitted as financial assurance for decommissioning by material licensees and fuel cycle licensees licensed under Title 10 of the *Code of Federal Regulations* Parts 30, 40, 50, 61, 70 or 76, fulfill their intent of providing reasonable assurance that financial resources for decommissioning will be available when needed. This MD describes the proper handling and safeguard of financial instruments, the appropriate signature authority for drawing on financial instruments, the appropriate signature authority for returning financial instruments that are no longer valid or needed, and the procedure for regularly reviewing the financial instrument inventory.

MD 8.12 is being revised to update the policy guidance contained in this MD. Major changes were made to —

- Address recommendations resulting from the Office of Inspector General (OIG) Audit, [OIG-18-A-09](#), "Audit of NRC's Decommissioning Financial Assurance Instrument Inventory," ([ML18039A092](#), [ML18052B455](#)), and
- Reflect the merger of the Office of Nuclear Reactor Regulation and the Office of Nuclear Material Safety and Safeguards branches including reorganization of the division and branch responsible for the decommissioning financial assurance instrument security program.

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### I. PURPOSE

- A. The U.S. Nuclear Regulatory Commission (NRC) established technical and financial regulations for decommissioning licensed facilities pursuant to 53 FR 24018 “General Requirements for Decommissioning Nuclear Facilities” (June 27, 1988), to ensure that the decommissioning of all licensed facilities will be accomplished in a safe and timely manner and that licensees will provide adequate funds to cover all costs associated with decommissioning.
1. The following regulations address decommissioning planning needs, timing, funding methods, and environmental requirements for public and private facilities:
    - (a) 10 CFR 30.35, “Financial Assurance and Recordkeeping for Decommissioning”;
    - (a) 10 CFR 40.36, “Financial Assurance and Recordkeeping for Decommissioning”;
    - (b) 10 CFR Part 40, Appendix A, “Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content,” to 10 CFR Part 40, “Domestic Licensing of Source Material”;

- (c) 10 CFR Part 50.75, "Reporting and Recordkeeping for Decommissioning Planning";
  - (d) 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," Subpart E, "Financial Assurances";
  - (e) 10 CFR 70.25, "Financial Assurance and Recordkeeping for Decommissioning";
  - (f) 10 CFR 72.30, "Financial Assurance and Recordkeeping for Decommissioning"; and
  - (g) 10 CFR 76.35(n), "Contents of Applications."
2. These regulations further specify which financial instruments licensees may use to provide financial assurance. As a result of these regulations, the NRC receives financial assurance instruments that require safeguarding to permit ready retrieval when needed and to prevent unauthorized use.

**B. The Decommissioning Financial Assurance Instrument Security (DFAIS) Program**

1. The Decommissioning Financial Assurance Instrument Security (DFAIS) Program provides procedures for the security of financial assurance instruments submitted by licensees licensed under the following regulations:
- (a) 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material";
  - (b) 10 CFR Part 40, "Domestic Licensing of Source Material";
  - (c) 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities";
  - (d) 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," Subpart E, "Financial Assurances";
  - (e) 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material";
  - (f) 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste"; and
  - (g) 10 CFR Part 76, "Certification of Gaseous Diffusion Plants."
2. The procedures prescribe the positions of specific individuals authorized to sign documents for drawing on financial assurance instruments. They also address the transfer of monies drawn on instruments so that monies are placed in standby trusts and are not transferred directly to the NRC or other parties.
3. The program also provides for the designation of financial assurance instrument custodians (FAICs), alternate financial assurance instrument custodians (AFAICs),

and FAIC managers to organize, evaluate, and secure the storage of financial assurance instruments.

## **II. SECURITY OF THE DECOMMISSIONING FINANCIAL ASSURANCE INSTRUMENT**

- A.** The Director of the Office of Nuclear Material Safety and Safeguards (NMSS), Director of the Office of Nuclear Reactor Regulation (NRR), and the regional administrators are responsible for safeguarding financial assurance instruments submitted by licensees managed under their programs. These individuals shall designate in writing the decommissioning FAICs, AFAICs, and FAIC managers within their office or region (as applicable). Documents required to be maintained in a safe include financial assurance instruments and all associated amendments to those instruments (e.g., surety riders, standby trust agreement schedules).
- B.** No one shall have access to the records other than through the FAICs, AFAICs, and FAIC managers. Their responsibilities follow.
  - 1. The FAIC is responsible for—
    - (a) Ensuring that financial assurance instruments are properly secured.
    - (b) Maintaining instrument inventories and logs and performing annual verifications of instrument inventories (see Section III, “Verification of the Decommissioning Financial Assurance Inventory,” of this handbook).
    - (c) Maintaining a segregation of duties between the FAIC/AFAIC who maintains the financial assurance inventory list and the FAIC/AFAIC who completes the instrument inventory internal evaluation.
  - 2. Alternate Financial Assurance Instrument Custodian

The AFAIC is responsible for assisting the FAIC in maintaining instrument inventories and logs and performing verifications of instrument inventories (see Section III of this handbook).
  - 3. FAIC Managers

The manager of a FAIC is responsible for performing or appointing a designee to perform verifications of the DFAIS program and reporting the results to the office director or applicable regional administrator (see Section V, “Internal Evaluations,” of this handbook).

4. Licensing Project Managers/Licensing Reviewers

- (a) Verify that the licensees they manage have submitted the required financial assurance instruments. The licensing project managers are responsible for providing the originally signed financial assurance instruments to the FAIC or the AFAIC. The instruments must be stored in—
    - (i) A fire-rated, locked safe, defined as having at least a fire rating of 350° Fahrenheit for 1 hour or
    - (ii) A security container (safe) for classified information as approved by the NRC Division of Facilities and Security, Office of Administration. (See Handbook, Section II.H, “Security Container Management,” of Management Directive (MD) 12.1, “NRC Facility Security Program”).
  - (b) When using a classified safe, all individuals requiring access will meet the requirements as outlined in MD 12.1, Section II.J, “General Services Administration Approved Containers.”
  - (c) Financial instruments should be filed in the safe in alphanumeric order by licensee or license number so that the instruments can be readily retrieved.
  - (d) Licensing project managers shall also archive and declare as official agency records copies of the instruments in the Agencywide Document Access and Management System (ADAMS). Financial instruments that contain the identification number of the instrument or information requested to be withheld are contained in 10 CFR 2.390, “Public Inspections, Exemptions, Requests for Withholding,” as proprietary information shall be marked as non-public and proprietary in ADAMS. Financial instruments that are suitable for public release shall be made publicly available in ADAMS, provided that the identification number of the instrument and information requested to be withheld under 10 CFR 2.390 is redacted.
5. The Director of NMSS, NRR, and regional administrators shall designate in writing those individuals authorized to have access to the safe.

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### III. VERIFICATION OF THE DECOMMISSIONING FINANCIAL ASSURANCE INVENTORY

#### A. Inventory List

1. The FAIC or the AFAIC shall maintain an inventory list of the decommissioning financial assurance instruments held in the safe. The inventory list must include—
  - (a) The licensee name, license number, and docket number (all digits),
  - (b) The type of instrument submitted,
  - (c) The name of the entity issuing the instrument,
  - (d) The issuer's designation of the instrument (usually a number),
  - (e) The amount of the instrument (or if standby trust agreement, enter "N/A"), and
  - (f) The effective date of the instrument issuance, expiration date (or if open-ended enter "until canceled"), and any amendments made to the original instrument.

- B.** An example of an acceptable inventory-controlled list is provided in Exhibit 1, "Financial Assurance Inventory – Controlled List," of this handbook. The inventory list shall be marked as controlled (in bold, uppercase font), and the top and bottom of each page of the report shall contain the following markings:

**OFFICIAL USE ONLY – SENSITIVE INTERNAL INFORMATION<sup>1</sup>**

#### C. Inventory Log

The FAIC or the AFAIC shall maintain an inventory log of instrument removals from, and returns to, the safe. Removal of instruments from the safe must be for official use only (e.g., review by project manager, replacement of an instrument). The inventory log must indicate the licensee, specifics about the instrument removed from or returned to the safe, the date and the signature of the person handling the inventory change, and the reasons for the change. An example of an acceptable inventory log is provided in Exhibit 2, "Financial Assurance Inventory Log," of this handbook.

#### D. Changed or Canceled Financial Instruments

1. Within 60 days of NRC review and approval, financial instruments being replaced or canceled shall be returned to licensees, per their written instructions. When instruments are removed from the safe to be returned to the licensee, the licensing

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<sup>1</sup> Following the implementation of the Controlled Unclassified Information (CUI) program, all report markings will be updated to reflect the appropriate CUI categorization(s).

project manager shall be responsible for returning them to the licensee and documenting their return in ADAMS. The FAIC or AFAIC shall verify that any new financial assurance instrument is submitted to the NRC within 30 days of NRC review and approval of the instrument.

2. Signature authority for all financial assurance documents, other than for the purpose of drawing on those financial assurance instruments, is appropriate, if authorized, at the deputy division director level for those licenses under his or her office's responsibilities (ADAMS [ML19274C653](#), [ML19240B408](#), [ML19288A095](#), [ML14296A081](#), [ML19289A006](#)). If authorized, signature authority other than for the purpose of drawing on financial assurance instruments may be delegated down (1) to the branch chief responsible for financial reviews or (2) to the branch chief responsible for the site whose financial assurance instrument(s) are being signed. In either case, the cover letter returning the financial assurance instrument(s) shall, at a minimum, receive the concurrence of both above-mentioned branch chiefs and a licensing reviewer.
3. A canceled notation or stamp must be placed on the documents that are no longer valid, unless the licensee specifically requested that the NRC not do so. All original, executed copies or replacement copies of the applicable financial assurance instruments that are no longer valid must be returned per the licensee's instructions, which are provided to the NRC in writing. A copy of the returned, canceled instrument is maintained by the NRC. Copies of the transmittal letter also may be sent to the issuer of the instrument, if specifically requested by the licensee.
4. All transmittal letters regarding the cancellation and return of instruments shall be documented in ADAMS. The public version of the transmittal letters, if available, shall have the instrument number and any information withheld under 10 CFR 2.390 redacted. Inventory logs must be modified, as appropriate.

#### **IV. SIGNATURE FOR DRAWING ON THE DECOMMISSIONING FINANCIAL ASSURANCE INSTRUMENT**

The Director of NMSS, the Director of NRR, and the regional administrators are authorized to sign documents for drawing on decommissioning financial assurance instruments for those licenses under their program responsibilities. This signature authority may not be delegated below the level of deputy office director or deputy regional administrator (ADAMS [ML19274C371](#), [ML19240B408](#), [ML19288A095](#), [ML19136A245](#), [ML19259A066](#)).

#### **V. INTERNAL EVALUATIONS**

##### **A. Evaluation of the Security of Decommissioning Financial Assurance Instruments**

1. The FAICS, AFAICS, or FAIC managers shall verify that the financial assurance instruments are safeguarded in a container meeting the requirements specified in

Section II.B.4 of this handbook and that none of the instruments has been removed without being accounted for properly. The financial assurance inventory log will be used to identify any instruments that were not in the safe at the time of the evaluation.

2. The evaluation will verify that access to the safe is limited to the persons who are authorized to have access to the safe.
3. Evaluations will be conducted by the end of the calendar year by the FAIC, AFAIC, or FAIC manager or designated independent license reviewer(s) knowledgeable of the financial assurance requirements. This will constitute a portion of the evaluation report that the FAIC manager will provide to those applicable individuals specified in Section V.C, "Evaluation Report," of this handbook.

**B. Evaluation of the Decommissioning Financial Assurance Inventory**

1. The person performing the evaluation will use the financial assurance inventory-controlled list to systematically verify whether the instruments provided on the controlled list are in the safe and whether the information related to the instruments is correct, current, and complete.
2. A 100 percent evaluation will be performed of each financial assurance instrument in the safe to—
  - (a) Ensure that the current inventory list is up-to-date and verify the complete and current instrument is in the safe.
  - (b) Ensure that the corporation name is correct and current on the inventory list.
  - (c) Verify that the instrument type and issue date is correct on the inventory list.
  - (d) Verify that the instrument amount is correct on the inventory list.
  - (e) Verify that the instrument amendments are present, and the issue dates are correctly listed on the inventory list.
  - (f) Verify that all documents that accompany the instrument have been recorded in ADAMS.
  - (g) Verify that the instruments in the safe are the original executed instruments or that there is an acceptable replacement copy.
  - (h) Verify that the name of the instrument issuer is correctly listed on inventory list.
  - (i) Verify that the instrument number is correctly listed on the inventory list.
  - (j) Verify that a standby trust instrument has been submitted for all instruments that require a standby trust.



- (k) Verify the name of the standby trust trustee.
- (l) Verify that Trust Agreements and Standby Trust Agreements include the documentation recommended by Appendix A.4, "Trust Funds," and Appendix A.12, "Standby Trust Funds"; and NUREG-1757, Vol. 3, Rev. 1, "Consolidated Decommissioning Guidance – Financial Assurance, Recordkeeping and Timeliness."
- (m) Verify that a parent company guarantee (along with being filed in the safe) and its accompanying documents have been recorded in ADAMS including—
  - (i) The parent guarantee agreement;
  - (ii) A letter from the Chief Executive Officer (CEO) of the licensee;
  - (iii) A letter from the Chief Financial Officer (CFO) of the corporate parent;
  - (iv) A financial test using either Alternative I or Alternative II (see 10 CFR Part 30, Appendix A, "Criteria Related to Use of Financial Tests and Parent Company Guarantees for Providing Reasonable Assurance of Funds for Decommissioning");
  - (v) An auditor's special report by a certified public accountant reconciling amounts contained in the CFO's letter; and
  - (vi) Documentation that the parent guarantor has a majority ownership interest in the licensee.
- (n) Verify that a self-guarantee (along with being filed in the safe) and its accompanying documents have been recorded in ADAMS including—
  - (i) The self-guarantee agreement;
  - (ii) A letter from the CEO and CFO of the self-guarantor;
  - (iii) A financial test using one of the applicable financial tests set forth in 10 CFR Part 30, Appendix C, "Criteria Related to Use of Financial Tests and Self-Guarantees for Providing Reasonable Assurance of Funds for Decommissioning";
  - (iv) Appendix D, "Criteria Related to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Commercial Companies That Have No Outstanding Rated Bonds";
  - (v) Appendix E, "Criteria Related to Use of Financial Tests and Self-Guarantee for Providing Reasonable Assurance of Funds for Decommissioning by Nonprofit Colleges, Universities, and Hospitals" (as applicable to the licensee);

- (vi) An auditor's special report by a certified public accountant reconciling amounts contained in the CFO's letter; and
  - (vii) Documentation that the self-guarantor has at least one class of equity securities registered under the Securities Exchange Act of 1934.
  - (o) Verify that all licensees relying on a self- or parent company-guarantee agreement have submitted documentation demonstrating that the guarantor passes the financial test, as required by 10 CFR 30, Appendix A, Section II.C.1; Appendix C, Section II.B.(3); Appendix D, Section II.B.(2); and Appendix E, Section II.C.(2).
  - (p) Verify that all surety bonds have a broker/agent's power of attorney attached.
  - (q) Verify that all statements of intent provide documentation that the signatory has the authority to request and obtain funds from its governmental authority for decommissioning when needed.
  - (r) Verify that all Part 30, 40, and 70 licensees, excluding uranium recovery licensees, have an up-to-date certification that financial assurance is in an amount at least as great as the amount of the cost estimate, as required by 10 CFR 30.35(e), 40.36(d), and 70.25(e).
  - (s) Ensure that there is a financial assurance instrument for all licenses required to have financial assurance. This includes verifying that the licensees have updated their decommissioning cost estimates as required by regulation and/or license condition.
- 3. The results and any discrepancies in the financial assurance inventory also will constitute a portion of the evaluation report.
  - 4. A checklist shall be used by the evaluator to detail his or her findings and to document that all procedural steps were followed for each item listed under Section V.B.2 of this handbook. An example of an acceptable checklist is provided in Exhibit 3, "Financial Instrument Evaluation Checklist," of this handbook.

### **C. Evaluation Report**

- 1. The FAIC manager or designee shall prepare a report providing the results of the evaluation, identifying any discrepancies, and recommending actions to correct the discrepancies. The report shall be provided to the Deputy Director of the Division of Rulemaking, Environmental, and Financial Support (REFS), NMSS, or the appropriate regional division director. Copies will be provided to the Director of REFS, NMSS, the Director of NMSS, and the Director of NRR or the appropriate regional administrator.

2. The report shall be marked as controlled. In bold, uppercase font, the top and bottom of each page of the report shall contain the following markings:

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3. The report shall be transmitted with a cover memorandum, briefly describing the review. For the benefit of the public, this cover memorandum shall be made publicly available in ADAMS and, therefore, shall not contain any non-public information.
4. The FAIC manager or designee shall provide written followup to the evaluation report to ensure any identified discrepancies are corrected. There shall be a segregation between staff that performs the evaluation and staff that provides the response.

## **VI. TYPES OF INSTRUMENTS**

Examples of the types of decommissioning financial assurance instruments the NRC accepted at the time this MD was published can be found in NUREG-1757, Vol. 3, Rev. 1, Section 4.3, "Financial Assurance Mechanisms." Note that if the regulations stated in Section I.A.1 of this handbook are revised, the types of instruments considered acceptable may change.

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<sup>2</sup> Following the implementation of the Controlled Unclassified Information (CUI) program, all report markings will be updated to reflect the appropriate CUI categorization(s).

## EXHIBITS

### EXHIBIT 1 Financial Assurance Inventory – Controlled List

Mark the Inventory List as controlled, per MD 8.12 Handbook, Section III.B

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Licensee; License No.	Instrument Type and No.	Provider	Issuance Date	Expiration Date	Amount	Date Placed in Safe	Notes
ABC, LLC License SUA-ABC Docket 40- ABC	Standby Trust	LMN Trust Company	7/6/10	Until Canceled	N/A	7/6/10	New Instrument
	Surety Bond 567	DEF Insurance Co.	7/6/10	Until Canceled	\$6,000,000	7/6/10	
	Certification of Financial Assurance	ABC, LLC	7/6/10	Until Canceled	\$6,000,000	7/6/10	
	Surety Rider to Surety Bond 567	DEF Insurance Co.	7/6/11	Until Canceled	\$8,000,000	7/6/11	Updated amount
	Schedule A and B to Standby Trust	LMN Trust Company	7/6/11	Until Canceled	N/A	7/6/11	
XYZ, Corp License SNM-XYZ Docket 70- XYZ	Self Guarantee	XYZ Corp	1/6/10	Until Canceled	N/A	1/6/10	New Instrument
	CFO Letter	XYZ Corp	1/6/10	Until Canceled	\$50,000,000	1/6/10	
	Certification of Financial Assurance	XYZ Corp	1/6/10	Until Canceled	\$50,000,000	1/6/10	
	CEO Letter	XYZ Corp	1/6/10	Until Canceled	N/A	1/6/10	
	Auditor's Report	ABC Accounting	1/6/10	Until Canceled	N/A	1/6/10	

#### OFFICIAL USE ONLY – SENSITIVE INTERNAL INFORMATION

Mark the Inventory List as controlled, per MD 8.12 Handbook, Section III.B

<sup>3</sup> Following the implementation of the Controlled Unclassified Information (CUI) program, all report markings will be updated to reflect the appropriate CUI categorization(s).

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**EXHIBIT 2 Financial Assurance Inventory Log**

**NMSS Financial Assurance Instrument  
Maintenance & Review Program**

Licensee Name: \_\_ABC, LLC

License Number: 11-111111

Docket No: 40-00000

Document Description & Date or ID Number	Add (A)/ Remove (R)	Date	By (Initials)	Reason
Surety Bond Rider	A	5/5/18	XYZ	Amendment to instrument

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**EXHIBIT 3 Financial Instrument Evaluation Checklist**

**NMSS Financial Instrument Evaluation Checklist**

(i) Current inventory list is up to date and the complete and current instrument is in the safe.

Percentage of Inventory Audited: 100%

Issues Identified:

The current financial assurance instruments were missing for the following licensees:

- XYZ, Inc. (Surety Bond Amendment);
- ABC Corp. (Surety Bond Rider);
- 123, Inc. (Self-Guarantee).

Issues Resolved During Audit:

- XYZ, Inc. – A valid copy of the current surety bond instrument was properly logged and placed in XYZ's safe file;
- 123, Inc. - A copy of 123's updated self-guarantee was properly logged and placed in 123's safe file.

Remaining Issues to Resolve:

- (Major) ABC Corp. – The latest surety rider to ABC's bond for its material license is still missing. Staff is working with the licensee to obtain a duplicate original within the next 30 days.

(ii) Corporation name is correct and current on the inventory list.

Percentage of Inventory Audited: <Reviewed %>

Issues Identified:

Issues Resolved During Audit:

Remaining Issues to Resolve: <and priority>

(iii) The instrument type and issue date are correct on the inventory list.

Percentage of Inventory Audited: <Reviewed %>

Issues Identified:

Issues Resolved During Audit:

Remaining Issues to Resolve: <and priority>

(iv) The instrument amount is correct on the inventory list.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(v) The instrument amendments are present, and the issue dates are correctly listed on the inventory list.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(vi) All documents that accompany the instrument are recorded in ADAMS.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(vii) The instruments in the safe are the original executed instruments or there is an acceptable replacement copy.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(viii) The name of the instrument issuer is correctly listed on inventory list.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(ix) The instrument number is correctly listed on the inventory list.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(x) Standby trust instruments have been submitted for all instruments that require a standby trust.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xi) The name of the standby trust trustee.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xii) Trust Agreements and Standby Trust Agreements are as described in Section I.E.2(b)(xii).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xiii) The parent company guarantees are as described in Section I.E.2(b)(xiii).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xiv) The self-guarantees are as described in Section I.E.2(b)(xiv).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xv) All licensees relying on a self or parent company guarantee agreement have annually submitted documentation as described in Section I.E.2(b)(xv).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>



(xvi) All surety bonds have a broker/agent's power of attorney attached.

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xvii) All statements of intent are as described in Section E.2(b)(xvii).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xviii) All Part 30, 40, and 70 licensees, excluding uranium recovery licensees, are as described in Section E.2(b)(xviii).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>

(xix) There is a financial assurance instrument as described in Section E.2(b)(xix).

Percentage of Inventory Audited: <Reviewed %>  
Issues Identified:  
Issues Resolved During Audit:  
Remaining Issues to Resolve: <and priority>