

Translation

Ministerial Regulation on the Provision and Management of Financial Guarantee,
B.E. 2567 (2024)

By virtue of section 5 paragraph two of the Nuclear Energy for Peace Act, B.E. 2559 (2016), as amended by the Nuclear Energy for Peace Act (No. 2), B.E. 2562 (2019), and sections 31 paragraph one, paragraph two and paragraph six, section 32, section 44, section 69, and section 80 paragraph two of the Nuclear Energy for Peace Act, B.E. 2559 (2016), the Minister of Higher Education, Science, Research, and Innovation hereby issues a Ministerial Regulation as follows:

Clause 1 This Ministerial Regulation shall come into force after the expiration of thirty days from the date of its publication in the Government Gazette.

Clause 2 In this Ministerial Regulation,

“a license holder” means

- (1) A holder of a License of Radioactive Material Production
- (2) A holder of a License of Possession or Use of Radioactive Materials
- (3) A holder of a License to Make Radiation Generator
- (4) A holder of a License to Have in Possession or Use Radiation Generator
- (5) A holder of a License for Possession or Use of Nuclear Material
- (6) A holder of a License for Nuclear Facility Operation
- (7) A holder of a License for Waste Management Facility Operation

Clause 3 License holders that are government agencies, excluding state enterprises, shall be exempted from providing financial guarantees under this Ministerial Regulation.

Chapter 1

Provision of Financial Provisions

Clause 4 A financial guarantee shall be as follows:

- (1) Cash or a cashier's check.
- (2) Thai government bond.
- (3) A bank guarantee.
- (4) An insurance policy, of a kind that covers the obligations and liabilities of a license holder.

Remark: This translation is provided by the Office of Atoms for Peace as the competent authority for information purposes only. Whilst the Office of Atoms for Peace has made efforts to ensure the accuracy and correctness of the translation, the original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.

(5) An irrevocable standby letter of credit.

(6) A promissory note.

Rules and methods for value and credibility determination of financial guarantees, as well as their details and conditions, shall be published in accordance with the criteria prescribed by the Secretary General in the Government Gazette.

Clause 5 A license holder shall estimate the expense for the radioactive waste management, spent nuclear fuel management, implementation under the decommissioning plan for a nuclear facility, or a waste management facility, and the operation of a competent official under section 104 in accordance with the rules and rates as follows:

(1) A radioactive material license holder shall calculate the expense at a rate of 15 baht per giga-becquerel (GBq), but the expense shall not be less than 5,000 baht and shall not exceed 10,000,000 baht.

(2) A radiation generator license holder that is capable of producing activation product shall calculate the expense at a rate of 15 baht per giga-becquerel (GBq), but the expense shall not be less than 5,000 baht and shall not exceed 10,000,000 baht.

(3) A nuclear material license holder shall calculate the expense as follows:

(a) For source material, calculate at a rate of 50 baht per kilogram.

(b) For special nuclear material, calculate at a rate of 50 baht per gram.

(4) A holder of a License for Nuclear Facility Operation shall calculate financial guarantees as follows:

(a) Facility utilizing a power reactor shall be calculated at a rate of 1,950,000 baht per megawatt (thermal power rating).

(b) Facility utilizing research nuclear reactor shall be calculated at a rate of 500,000 baht per kilowatt (thermal power rating).

(c) A milling facility with the purpose of acquiring nuclear material, facility to convert or enrich nuclear material, facility to fabricate or store nuclear fuel or facility to store or reprocess spent fuel shall provide financial guarantee based on the radioactivity of radioactive material and the quantity of nuclear material authorized for operation at the facility. The calculation shall be as follows:

1) Radioactive material shall be calculated at a rate of 15 baht per giga-becquerel (GBq) but shall not be less than 5,000 baht.

2) Nuclear material classified as source material shall be calculated at a rate of 50 baht per kilogram.

3) Nuclear materials classified as special nuclear materials shall be calculated at a rate of 50 baht per gram.

(5) A holder of a License for Waste Management Facility Operation shall calculate financial guarantee at a rate of 15 baht per giga-becquerel (GBq). The total shall not be less than 10,000 baht and shall not exceed 10,000,000 baht.

Clause 6 A license holder has a duty to provide a financial guarantee under clause 4 within thirty days from the date of receiving the license from the Secretary General. The license holder must submit an application to provide a financial guarantee, including details and conditions, and remit the full amount of the guarantee based on the estimated expenses as calculated under clause 5 to be examined/verified by the officer.

A holder of a license to operate a nuclear facility, and who also holds licenses related to radioactive materials or nuclear materials for use in that nuclear facility shall submit an application to provide a guarantee under paragraph one solely for the nuclear facility.

A holder of a license to operate a Nuclear Facility and a holder of a license to operate Waste Management Facility who submit an application to provide a Guarantee in the form of cash, a cashier's check, or a Thai government bond, under clause 4 (1) or (2), may provide the guarantee through instalments in accordance with the rules and conditions as prescribed by the Secretary General through an announcement in the Government Gazette.

Clause 7 After the official has received an application to provide a Guarantee, they shall review the guarantee, including its details and conditions. If found that the guarantee is incorrect or incomplete according to the estimated expenses under clause 5, or if the guarantee is deemed unreliable, or contains certain details or conditions that make it inappropriate to accept such guarantee, the official shall notify the license holder in writing to correct or complete the guarantee, or to amend the details or conditions to make the guarantee reliable or appropriate within the period specified by the Secretary General.

If the license holder fails to correct or complete the financial guarantee, or amend its details or conditions within the specified period under paragraph one, the Secretary General shall issue an order rejecting the financial guarantee and notify the license holder in writing.

If the official determines that the financial guarantee is correct and complete based on the estimated expenses under clause 5, is trustworthy, and contains appropriate details or conditions of the financial guarantee, the Secretary General shall issue an acknowledgement of financial guarantee provision to the licensee holder to retain as a record.

Clause 8 In the case where the license holder fails to provide the financial guarantee within the specified time under clause 6, paragraph one, or if the Secretary General issues an order rejecting the financial guarantee under clause 7, paragraph two, the Secretary General shall proceed in accordance with section 31, paragraph three.

Clause 9 The Secretary General shall have the power to increase or decrease the financial guarantee if it is found that the estimated expenses for radioactive waste management, spent nuclear fuel management, the implementation of a decommissioning plan for a nuclear facility or a radioactive waste management facility, or the operation of a competent official have increased or decreased. The Secretary General shall notify the license holder in writing, with the reasons for such adjustment.

The license holder may request an increase or decrease in the financial guarantee by submitting a Request to increase or decrease financial guarantee, along with the reasons and details of the increased or decreased financial guarantee adjustment, to the Secretary General for the approval. The Secretary General shall complete the consideration of the request within thirty days from the date of receiving the request and shall notify the license holder in writing.

The license holder shall provide the additional portion of the guarantee within sixty days from the date of receiving the written notice from the Secretary General, and the Secretary General shall return the reduced portion of the guarantee within the period specified in clause 15 (1).

Clause 7 and clause 8 shall be applied mutatis mutandis to the consideration of the Request to Increase or Decrease the Financial Guarantee.

Clause 10 The license holder may provide the financial guarantee under clause 4 in a single type or a combination of multiple types. If the license holder intends to change the financial guarantee, they shall submit a Request for Financial Guarantee Modification, with the reasons and details of the modification, to the Secretary General for approval. The Secretary General shall complete the consideration within thirty days from the date of receiving the Request for Financial Guarantee Modification and shall notify the license holder in writing.

The Secretary General shall have the power to modify the financial guarantee and shall notify the license holder in writing with the reasons and details of financial guarantee modified.

The license holder shall complete the modification of the financial guarantee within sixty days from the date of receiving the written notice from the Secretary General under paragraph two.

Clause 7 and clause 8 shall apply mutatis mutandis to the consideration of the Request for Financial Guarantee Modification.

Clause 11 The submission of a financial guarantee provision application, details of the financial guarantee, requests to increase or decrease the financial guarantee, requests to modify the financial guarantee, or any other communications, and the issuance of relevant documents under this Ministerial Regulation, shall be conducted in accordance with the law on the Management of State Affairs by Electronic Means.

In the case where an electronic transaction cannot be conducted under paragraph one, the process shall be carried out at the Office.

Clause 12 The Application for Financial Guarantee, Financial Guarantee Receipt Form, Request to Increase or Decrease the Financial Guarantee, and Change Request for Financial Guarantee Type shall be in the formats prescribed by the Secretary General as announced in the Government Gazette.

Chapter 2

Preservation, Disbursement, and Refund of Financial Guarantee

Clause 13 Financial guarantees in cash shall be deposited into an Office's account with the Ministry of Finance for maintaining financial guarantees.

Financial guarantees other than cash shall be securely placed in a safe or other secure locations.

The retaining financial guarantees under paragraph two, including accounting records and records of retaining financial guarantees shall be in accordance with the rules and procedures prescribed by the Secretary General as announced in the Government Gazette.

Clause 14 In the case where the Secretary General assigns other person to manage radioactive waste, or to manage spent nuclear fuel, or to implement the decommissioning plan of a nuclear facility, or a radioactive waste management facility, or the operation of a competent official for the license holder, the expense for that person shall be paid from the financial guarantee of the license holder.

For the disbursement of the financial guarantee to the person under paragraph one, such person shall submit a request to the Secretary General with the details and supporting documents of the expenses, within thirty days from the date the assigned activities have been completed. The Secretary General shall then transfer the disbursed amount to that person's account or by other means as determined by the Secretary General.

Clause 15 The Secretary General shall return the financial guarantee provided by the license holder as follows:

- (1) Within sixty days from the date the Secretary General approves the reduction in the value of the guarantee under clause 9 or the change in the type of guarantee under clause 10
- (2) Within sixty days from the date the license holder presents a document confirming the completion of radioactive waste management.
- (3) Within sixty days from the date the license holder presents a document or evidence of the shipment of radioactive material, radiation generator, or nuclear material to the vendor's country, or the recipient at the destination country.
- (4) Within sixty days from the date the Secretary General, with the approval of the Committee, orders the licensed nuclear facility or the radioactive waste management facility to be released from the regulatory control.
- (5) Within sixty days from the date the transferor of the license presents document or evidence confirming the complete provision of the financial guarantee by the transferee of the license.

Transitional Provisions

Clause 16 A license holder who has been granted a license before the date this Ministerial Regulation comes into force shall provide a full financial guarantee in the amount prescribed by this Ministerial Regulation within ninety days from the date this Ministerial Regulation come into force.

Given on 19th November, B.E. 2567 (2024)

Supamas Isarabhakdi

Minister of Higher Education, Science, Research, and Innovation