November 29, 2002

MEMORANDUM TO: Michael T. Lesar, Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration

FROM: Larry W. Camper, Chief **/RA/**
Decommissioning Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

SUBJECT: CONSIDERATION OF A LICENSE AMENDMENT FOR DECOMMISSIONING DOW CHEMICALS SITE, BAY CITY, MICHIGAN AND OPPORTUNITY FOR A HEARING

Attached please find one signed original of the subject Federal Register notice for your transmittal to the Office of the Federal Register for publication. Also, attached are five copies of the signed notice and a 3.5" diskette with the notice in WordPerfect.

Docket No. 40-00017
License No. STB-527

Attachments: 1. One signed original FRN
2. Five copies of signed FRN
3. 3.5" diskette of FRN

cc: Dow Chemicals distribution list

Contact: M. (Sam) Nalluswami, NMSS/DWM/DCB
(301) 415-6694

[7590-01-P]

U.S. NUCLEAR REGULATORY COMMISSION
DOCKET NO. 040-00017
NOTICE OF CONSIDERATION OF AMENDMENT REQUEST FOR
THE DOW CHEMICAL COMPANY, MIDLAND, MICHIGAN AND
OPPORTUNITY FOR PROVIDING COMMENTS AND REQUESTING A HEARING

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Material License No. STB-527 issued to The Dow Chemical Company (Dow), to authorize decommissioning of its Bay City Site Decommissioning Management Plan (SDMP) site in Bay City, Michigan.

Dow began using thorium metal and compounds in 1956 for the production of magnesium-thorium alloys at a Dow-owned site in Bay City, Michigan. The waste slag from the alloying process was disposed of on Dow property in Bay City. Magnesium-thorium material returned by Dow customers was received at Dow's Midland, MI, site for storage. The decommissioning plan (DP) submitted by Dow to decommission the two (Midland and Bay City) sites was approved by a license amendment on July 19, 1996 (Amendment 6). The Midland site was remediated and removed from the license on March 3, 2000 (Amendment 8). After remediating about 31 acres of the 40 acre contaminated area at the Bay City site, Dow proposed, in March 2001, a different approach and conceptual plan for remediating the remaining nine acres. According to Dow, the reason for the change in the approach is that the decommissioning cost is expected to be too high under the previously approved DP. In August 2001, Dow submitted a Supplement to the previously (1996) approved DP. This Supplement was rejected in September 2001 because it was found to be administratively deficient for a detailed technical review. Dow submitted a revised Supplement on January 31, 2002. On July 19, 2002, Dow submitted Attachment 1 to the January 31, 2002, revised Supplement. An NRC administrative review, documented in a letter to Dow dated August 5, 2002, found the revised Supplement acceptable to begin a technical review.

If the NRC approves the revised Supplement, the approval will be documented in an amendment to NRC License No. STB-527. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and either an Environmental Assessment or an Environmental Impact Statement.

II. Opportunity to Provide Comments

The NRC is providing notice to individuals in the vicinity of the site that the NRC is in receipt of a revised Supplement to the DP, and will accept comments concerning this decommissioning proposal and its associated environmental impacts. Comments with respect to this action should be provided in writing within 30 days of this notice and addressed to M. (Sam) Nalluswami, Project Manager, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6694, fax number (301) 415-5398, e-mail: smn@nrc.gov. Comments received after 30 days will be considered if practicable to do so, but only those comments received on or before the due date can be assured consideration.

III Opportunity to Request a Hearing

NRC also provides notice that this is a proceeding on an application for an amendment of a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Whether or not a person has or intends to provide comments as

set out in section II above, pursuant to §2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with §2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this Federal Register notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, between 7:45 a.m. and 4:15 p.m., Federal workdays; or

2. By mail or telegram, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Rulemakings and Adjudications Staff. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing be also transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101, or by e-mail to hearingdocket@nrc.gov.

In accordance with 10 CFR §2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, The Dow Chemical Company, Ashman Center, 4520 East Ashman, Midland, MI 48674, Attention: Mr. Ben Baker, Project Manager, and;

2. The NRC staff, by delivery to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, between 7:45 am and 4:15 p.m., Federal workdays, or by mail, addressed to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Because of continuing disruptions in the delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725, or by e-mail to OGCMailCenter@nrc.gov.

In addition to meeting other applicable requirements of 10 CFR Part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in §2.1205(h);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with §2.1205(d).

IV Further Information

The application for the license amendment and supporting documentation are available for

inspection at NRC's Public Electronic Reading Room at http://www.nrc.gov/NRC/ADAMS/index.html. (ADAMS Access Numbers: January 31,2002, Revised Supplement - ML023170462; July 19, 2002, Attachment 1 - ML023170508; August 5, 2002, Acceptance Letter - ML022280370) Any questions with respect to this action should be referred to M. (Sam) Nalluswami, Project Manager, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6694. Fax: (301) 415-5398.

Dated at Rockville, Maryland, this 29th day of November, 2002.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Larry Camper, Chief
Decommissioning Branch
Division of Waste Management
Office of Nuclear Material Safety
and Safeguards

November 29, 2002

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AN: **TEMPLATE: NMSS/RGN-001**

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