

September 2, 2004

Dr. Seymour Weiss
Chief Reactor Operations and Engineering
Center for Neutron Research
National Institute of Standards and Technology
U. S. Department of Commerce
Gaithersburg, MD 20899

SUBJECT: DETERMINATION OF ACCEPTABILITY AND SUFFICIENCY FOR
DOCKETING, PROPOSED REVIEW SCHEDULE, AND OPPORTUNITY FOR A
HEARING REGARDING THE APPLICATION FROM THE NATIONAL INSTITUTE
OF STANDARDS AND TECHNOLOGY (NIST) FOR RENEWAL OF THE
OPERATING LICENSE FOR THE NATIONAL INSTITUTE OF STANDARDS AND
TECHNOLOGY REACTOR (THE NBSR) (TAC NO. MC2710)

Dear Dr. Weiss:

On April 9, 2004, the U.S. Nuclear Regulatory Commission (NRC) received the NIST application for renewal of Operating License TR-5 for the NBSR. Notice of receipt of this application was published in the *Federal Register* on May 12, 2004 (69 FR 26414).

The NRC staff has determined that NIST has submitted sufficient information that your application is acceptable for docketing, in accordance with 10 CFR 50.33 and 50.34. However, the staff's determination does not preclude requests for additional information as the review proceeds.

This letter forwards the staff's safety and environmental review schedule for the subject application (Enclosure 1). The NRC staff will follow established review procedures to complete the safety and environmental reviews required by 10 CFR Parts 50 and 51, respectively. Milestones for hearing activities are not included in the enclosed schedule because these dates are established by the Commission and the Atomic Safety and Licensing Board.

I would like to stress that this is a very ambitious schedule. The NRC staff will make every effort to meet the goal of this schedule. We request that you inform the staff as early as possible should potential delays arise in your support of the license renewal activities.

Finally, we have enclosed, for your information, a copy of the notice relating to your license renewal application that is being sent to the Office of the Federal Register for publication (Enclosure 2). This notice provides the opportunity to request a hearing and to file a petition for leave to intervene.

Dr. Seymour Weiss

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September 2, 2004

If you have any questions on this matter, please contact either Mr. Marvin Mendonca by telephone at 301-415-1128 or Mr. Kevin Witt by telephone at 301-415-4075. You may contact Mr. Mendonca and Mr. Witt via electronic mail at mmm@nrc.gov or kmw@nrc.gov, respectively.

Sincerely,

/RA/

Patrick M. Madden, Section Chief
Research and Test Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Docket No. 50-184

Enclosures: As stated

cc w/enclosures: See next page

National Institute of Standards and Technology

Docket No.: 50-184

Montgomery County Executive
County Office Building
Rockville, MD 20858

Director
Department of State Planning
301 West Preston Street
Baltimore, MD 21201

Director
Department of Natural Resources
Power Plant Siting Program
Energy and Coastal Zone Administration
Tawes State Office Building
Annapolis, MD 21401

Honorable Michael L. Subin
Montgomery County Council
Stella B. Werner Council Office Building
Rockville, MD 20850

Test, Research, and Training
Reactor Newsletter
202 Nuclear Sciences Center
University of Florida
Gainesville, FL 32611-8300

Mr. David Brown, Senior Health Physicist
Reactor Group
Occupational Health and Safety Division
National Institute of Standards
and Technology
U.S. Department of Commerce
Gaithersburg, MD 20899

Dr. Seymour Weiss

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Office of Nuclear Reactor Regulation

Docket No. 50-184

Enclosures: As stated

cc w/encls: See next page

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OFFICE	PM:RNRP	RNRP	LA:RNRP	SC:RNRP-B	OGC	SC:RLEP
NAME	MMendonca	KWitt	EHylton:vxj	PMadden	BPoole	JTappert
DATE	5/ 25 /04	5/ 24 /04	5/ 25 /04	9/ 1 /04	8/ 30 /04	7/ 23 /04

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NBSR LICENSE RENEWAL APPLICATION REVIEW SCHEDULE

Milestone	Schedule	Actual
Receive license renewal application	04/09/04	04/09/04
Federal Register Notice (FRN) published for receipt and availability	05/12/04	05/12/04
FRN published for acceptance/rejection/opportunity for hearing	09/16/04	
Deadline for filing hearing requests and petitions for intervention	11/15/04	
FRN published for intent/environmental scoping meeting	03/05	
Environmental scoping and screening methodology audit complete	03/05	
Public Meeting - Environmental scoping meeting	04/05	
Environmental scoping period ends	05/05	
Environmental requests for additional information (RAIs) issued	06/05	
Final set of safety RAIs issued	08/05	
Environmental RAIs responses received	08/05	
Final set of safety RAI responses received	10/05	
Draft environmental impact statement (EIS) issued	12/05	
FRN published for availability/comment on draft EIS	01/06	
Public Meeting to discuss draft EIS	02/06	
End of draft EIS comment period	03/06	
Final EIS issued	07/06	
FRN published for availability of final EIS	08/06	
Safety evaluation report (SER) with open items issued	01/07	
Advisory Committee on Reactor Safeguards (ACRS) Subcommittee meeting on SER with open items	04/07	
SER open items responses received	06/07	
ACRS Full Committee meeting on SER	09/07	
ACRS letter issued	10/07	
License Renewal and SER issued	05/08	

UNITED STATES NUCLEAR REGULATORY COMMISSION
NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST)
NOTICE OF ACCEPTANCE FOR DOCKETING OF THE APPLICATION
AND NOTICE OF OPPORTUNITY FOR HEARING REGARDING RENEWAL OF
THE NATIONAL BUREAU OF STANDARDS REACTOR (THE NBSR)
FACILITY OPERATING LICENSE NO. TR-5
FOR AN ADDITIONAL 20-YEAR PERIOD
DOCKET NO. 50-184

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating License No. TR-5, which authorizes the National Institute of Standards and Technology (NIST), to operate the National Bureau of Standards Reactor (NBSR) at 20 megawatts thermal power for an additional 20-year period beyond the period specified in the current operating license. The current operating license for the NBSR (TR-5) expired on May 16, 2004.

On April 9, 2004, the Commission's staff received applications from NIST filed pursuant to 10 CFR 50.51(a), to renew the Operating License No. TR-5 for the NBSR. A Notice of Receipt and Availability of the license renewal application, "National Institute of Standards and Technology (NIST) Notice of Receipt and Availability of Application for Renewal of the National Institute of Standards and Technology Reactor (the NBSR) Facility Operating License No. TR-5 for an Additional 20-year Period," was published in the *Federal Register* on May 12, 2004 (69 FR 26414). Because the license renewal application was timely filed under 10 CFR 2.109, the license will not be deemed to have expired until the license renewal application has been finally determined.

The Commission's staff has determined that NIST has submitted sufficient information in accordance with 10 CFR 50.33 and 50.34 that is acceptable for docketing. The current Docket No. 50-184 for Operating License No. TR-5, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of the requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. Additionally, in accordance with 10 CFR 51.20(b)(2), the NRC will prepare an environmental impact statement that contains a statement of the license renewal purpose and a description of the environment that is affected. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future *Federal Register* notice.

Within 60 days after the date of publication of this *Federal Register* Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the licensee. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1-800-397-4209, or by email at pdrc@nrc.gov. If a

request for a hearing or a petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 50 and 51, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the requestor's/petitioner's right under the Atomic Energy Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue

of law or fact.¹ Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical - - primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applicant's safety analysis for the NBSR license renewal application.
2. Environmental - - primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the license renewal application.
3. Miscellaneous - - does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention, the requestors/petitioners shall jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention. If a requestor/petitioner seeks to adopt the contention of another sponsoring requestor/petitioner, the requestor/petitioner who seeks to adopt the contention must either agree that the sponsoring requestor/petitioner shall act as the representative with respect to that contention, or jointly designate with the sponsoring requestor/petitioner a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to participate fully in the conduct of the hearing. A

¹To the extent that the applications contain attachments and supporting documents that are not publically available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

request for a hearing or a petition for leave to intervene must be filed by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) Email addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Rulemakings and Adjudications Staff at 301-415-1101, verification number is 301-415-1966. A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to the licensee. The licensee's contact for this is Dr. Seymour H. Weiss, Chief, Reactor Operations and Engineering, Center for Neutron Research, National Institute of Standards and Technology, U.S. Department of Commerce, 100 Bureau Drive, Gaithersburg, MD 20899.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the document NUREG-1537, entitled "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors," can be obtained from the Commission's PDR. Copies of the application to renew the operating license for the

NBSR are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855-2738, and on the NRC's web page at <http://www.nrc.gov/what-we-do/regulatory/adjudicatory/hearing-license-applications.html>. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The application also may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS accession number ML041120161. Persons who do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, may contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 2nd day of September, 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Patrick M. Madden, Section Chief
Research and Test Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation