[7590-01-P]

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 04000341

NOTICE OF AVAILABILITY OF ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT FOR LICENSE AMENDMENT TO SOURCE MATERIALS LICENSE NO. STC-133, FOR UNRESTRICTED RELEASE OF THE DEFENSE LOGISTICS AGENCY'S FACILITY IN HILLSBOROUGH, NEW JERSEY

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610-337-5366; fax number 610-337-5393; or by email: drl1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Source Materials License No. STC-133. This license is held by Defense Logistics Agency (the Licensee). The license authorizes the Licensee to use licensed material at multiple sites in different States. At issue here is the Licensee's Defense National Stockpile Center Somerville Depot, located at 152 US Highway Route, Hillsborough, New Jersey (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use, but would not involve termination of the license. The Licensee requested this action in a letter dated

January 3, 2007. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the Federal Register.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's January 3, 2007, license amendment request, resulting in release of the Facility for unrestricted use in accordance with 10 CFR 20.1402. License No. STC-133 was issued on July 27, 1983, pursuant to 10 CFR Part 40, and has been amended periodically since that time. With respect to the Facility, the license authorized the Licensee to use unsealed source material for purposes of storage, sampling, repackaging, and transferring materials.

The Facility is situated on 77 acres of land and consists of warehouses and office space. The Facility is located in a mixed industrial area. Within the Facility, use of licensed materials was confined to a decontamination trailer and warehouses 1, 3, and 4. The area of use totaled approximately 50,000 square feet.

On September 16, 2004, the Licensee ceased licensed activities at the Facility, and initiated a survey and decontamination actions there. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation

safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility**.**

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: natural uranium and thorium. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by developing derived concentration guideline levels (DCGLs) for its Facility. The Licensee conducted site-specific dose modeling using input parameters specific to the Facility and a conservative assumption that all residual radioactivity is in equilibrium. Federal Guidance Report Number 13 was used to modify the dose conversion factors because it is based on an improved, more realistic dosimetry model. The licensee selected adults as the critical age group as the expected future use of this facility will be industrial. Based on the type of building, railroad distribution, and truck access, there is no

compelling evidence to indicate that the building will be used for anything other than industrial activities. The residual radioactivity is confined to the structures of the Facility. Since there is no land or water residual radioactivity, the building occupancy scenario may appropriately be applied to the Facility. The Facility is located in an area zoned as Economic Development which includes a variety of uses. Buildings previously sold in the area have been converted to light industrial uses. The buildings would need substantial modification to convert to residential housing. The Licensee thus determined the maximum amount of residual radioactivity on building surfaces, equipment, and materials that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The NRC reviewed the Licensee's methodology and proposed DCGLs, and concluded that the proposed DCGLs are acceptable for use as release criteria at the Facility (this approval was published October 16, 2006 in the *Federal Register* at pages 60770 through 60772).

The NRC staff conducted a survey at the Facility on July 13, 2006, and none of the staff's results exceeded the DCGLs that were later approved for use at the Facility.

The Licensee conducted a final status survey on July 11-13 and 25-27, 2006, August 2, 2006, and November 14-16, 2006 covering the areas of use as stated in the Final Status Survey Plan, dated February 2006. The final status survey results were enclosed with the Licensee's amendment request dated January 3, 2007, and an additional information letter dated February 6, 2007. The Licensee's final status survey results were below the approved DCGLs, and are thus acceptable. The static surveys showed that the average readings in all the survey units are less than the minimum detectable activity for the instrumentation used. Based on the minimum detectable activity for static measurements, the site residual activity will result in less than 5 millirem per year dose.

Based on its own survey results, and its review of the Licensee's final survey report, the staff has determined that the affected environment and any environmental impacts associated

with the proposed action are bounded by the impacts evaluated by the "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" (NUREG-1496) Volumes 1-3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey results to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified, and the NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 40.42(d), requiring that decommissioning of source material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental

impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the State of New Jersey's Department of Environmental Protection (NJDEP) for review on February 20, 2007. By letter dated March 22, 2007, the NJDEP submitted two comments on the proposed release of the Facility for unrestricted use:

(1) The NJDEP's regulations at N.J.A.C. 7:28-12 considers unrestricted use as any use that does not require the continued use of engineering or institutional controls in order to meet established standards. The NJDEP wants the Licensee to have a deed restriction placed on the Facility property limiting future use of the site to industrial or commercial purposes.

(2) The NJDEP also wants the licensee to demonstrate that the final status survey results will meet the New Jersey release criterion of 15 millirem per year.

The NRC staff finds that the proposed action can go forward notwithstanding the NJDEP comments. Regarding the first comment, this release is unrestricted as specified in 10 CFR 20.1402 in that there are no engineering or institutional controls required in order to meet established standards. The licensee's use of the DandD computer code default values, updated with the Federal Guidance Report 13 values for dose conversion factors, required them to consider age groups other than adults. As reflected above in the impacts assessment, The NRC staff finds that, the critical group here is adult light industrial workers, because the warehouse buildings would need substantial modification to convert them to residential housing. Since the conditions at the site meet the site specific DCGL for the critical group, an unrestricted release is approved. In addition, putting the requested deed restriction into place now would not make 10 CFR § 20.1403, "Criteria for license termination under restricted conditions," applicable here. While an earlier Licensee submittal (dated April 26, 2006, [ML061220479]) contained an April 17, 2006 memorandum from the headquarters of the Defense Logistics Agency indicated that the Licensee would be willing to put the requested deed restriction into place, the NRC staff finds that no deed restriction will be necessary as a prerequisite to taking the proposed action. Placing such a restriction on the property would not be consistent with unrestricted use under 10 CFR § 20.1402.

Regarding the NJDEP's second comment above, the NRC staff recognizes that the State of New Jersey has established a 15 millirem per year standard (under NJDEP's regulations at N.J.A.C. 7:28-12). The NRC has previously advised the NJDEP that these regulations raise preemption concerns [ML003763858]. States are preempted from regulating NRC-licensed materials for the purposes of radiation protection unless they enter into a formal agreement with the NRC. To date, New Jersey has not done so. Moreover, as indicated above, the Licensee has developed DCGLs acceptable to the NRC which support the 25 millirem per year standard

set forth in 10 CFR 20.1402, and the staff must implement these DCGLs for the purpose of evaluating the proposed action.

The NRC staff has further determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at http://www.nrc.gov/reading-rm/adams.html. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG-1757, "Consolidated NMSS Decommissioning Guidance;"

2. Title 10 Code of Federal Regulations, Part 20, Subpart E, “Radiological Criteria for License Termination;”

3. Title 10, Code of Federal Regulations, Part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;”

4. NUREG-1496, “Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;”

5. Defense Logistics Agency, “Radiological Historical Site Assessment Report, Defense National Stockpile Center, Somerville Depot, Hillsborough, NJ" dated January 2006 [ML060730422];

6. “Final Status Survey Plan, DNSC, Somerville Depot, Hillsborough, NJ” dated February 2006 [ML060730417]

7. Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. STC-133 Authorizing the Use of Site-Specific Derived Concentration Guideline Levels When Determining if Unrestricted Release Criteria Has Been Met for the Defense Logistics Agency, Defense Nuclear Supply Center Depot in Somerville, NJ” published in the Federal Register Volume 71, Number 199 on October 16, 2006, pages 60770 and 60772;

8. Defense Logistics Agency, Amendment Request letter dated January 3, 2007 containing the “Final Status Survey Report, DNSC, Somerville Depot, Hillsborough, NJ” dated December 2006 [ML070050120];

9. Defense Logistics Agency, Deficiency Response Letter dated February 6, 2007 [ML070380535];

10. State of New Jersey, Department of Environmental Protection Letter dated March 22, 2007 [ML070950546];

11. Defense Logistics Agency, Deficiency Response Letter dated April 26, 2006 [ML061220479];

12. Letter to the State of New Jersey Regarding Proposed Rule, Soil Remediation Standards for Radioactive Materials [ML003763858]; and

13. State of New Jersey, Department of Environmental Protection Letter dated July 20, 2006 [ML062070300].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I 475 Allendale Road, King of Prussia this 18th day of September 2007.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

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