

December 17, 2007

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

FROM: Keith I. McConnell, Deputy Director /RA/  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: FEDERAL REGISTER NOTICE OF LICENSE AMENDMENT REQUEST,  
AND OPPORTUNITY TO REQUEST A HEARING

Enclosed, please find one signed original, four copies and an electronic version on a 3.5 diskette of the subject Federal Register Notice for transmittal to the Office of the Federal Register for publication.

ADM/DAS/RDB has been given owner's rights to the Notice in ADAMS (ML073440259). Publicly available U.S. Nuclear Regulatory Commission documents referenced in the Notice have been finalized in ADAMS and profiled for public release.

Enclosures:

1. Signed original FRN
2. 4 copies of FRN
3. Diskette

CONTACT: John T. Buckley, FSME/DWMEP  
(301) 415-6607

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**ML073440259** \*see previous concurrence

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DATE	12/10/07	11/26/ 07	12/11/07	12/13/ 07	12/17/07

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**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 40-6563]**

**Notice of License Amendment Request by Mallinckrodt Inc., St. Louis, Missouri,  
And Opportunity to Request a Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment, and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by February 13, 2008.

**FOR FURTHER INFORMATION CONTACT:** John Buckley, Senior Project Manager, Reactor Decommissioning Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Mail Stop T-8F5, Washington, DC, 20555-0001. Telephone: (301) 415-6607; fax number: (301) 415-5369; e-mail: [jtb@nrc.gov](mailto:jtb@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

The Nuclear Regulatory Commission (NRC) has received, by letter dated November 20, 2007, a license amendment application from Mallinckrodt Inc. (Mallinckrodt), requesting authorization to excavate un-reacted Columbium-Tantalum (C-T) ore (URO) from an area of its St. Louis, Missouri downtown site. Mallinckrodt holds License No. STB-401, a 10 CFR Part 40, Possession-Only license. The buried URO at issue comprises approximately 300 cubic yards of material located at the area known as "Plant 6W". Mallinckrodt plans to package and dispose of the material at an NRC-approved off-site disposal facility. An NRC administrative review, documented in a letter to Mallinckrodt dated December 10, 2007 (ML073400250), found the application acceptable to begin a technical review. If the NRC approves the amendment, the

approval will be documented in an amendment to NRC License No. STB-401. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations. These findings will be documented in a Safety Evaluation Report. Environmental findings will be documented in a separate Environmental Assessment.

## **II. Opportunity to Request a Hearing**

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding Mallinckrodt's request to excavate, and dispose of, URO located at its St. Louis, Missouri site. Any person whose interest may be affected by this proceeding, and who desires to participate as a party, must file a request for a hearing and, a specification of the contentions, which the person seeks to have litigated in the hearing, in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 Federal Register 49139 (August 28, 2007). The E-Filing rule requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/ requestor must contact the Office of the Secretary by e-mail at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/ requestor will need to download the Workplace Forms Viewer™ to

access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public website at <http://www.nrc.gov/site-help/e-submittals.html>.

A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR. 2.302(g), with their initial paper

filings requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely 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 and/or request should be granted and/or the contentions should be admitted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include social security numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3)), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by February 13, 2008. In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;
4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;
5. Provide a concise statement of the alleged facts or expert opinions which support the requester/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

In addition, in accordance with 10 CFR 2.309(f)(2), contentions must be based on documents or other information available at the time the petition is to be filed, such as the application, supporting safety analysis report, environmental report or other supporting document filed by an applicant or licensee, or otherwise available to the petitioner. On issues arising under the National Environmental Policy Act, the requester/petitioner shall file contentions based on the applicant's environmental report. The requester/petitioner may amend those contentions or file new contentions if there are data or conclusions in the NRC draft, or final environmental impact statement, environmental assessment, or any supplements relating thereto, that differ significantly from the data or conclusions in the applicant's documents. Otherwise, contentions may be amended or new contentions filed after the initial filing only with leave of the presiding officer.

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

1. Technical - primarily concerns issues relating to matters discussed or referenced in the Safety Evaluation Report for the proposed action.
2. Environmental - primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the proposed action.
3. Emergency Planning - primarily concerns issues relating to matters discussed or

referenced in the Emergency Plan as it relates to the proposed action.

4. Physical Security - primarily concerns issues relating to matters discussed or referenced in the Physical Security Plan as it relates to the proposed action.

5. Miscellaneous - does not fall into one of the categories outlined above.

If the requester/petitioner believes a contention raises issues that cannot be classified as primarily falling into one of these categories, the requester/petitioner must set forth the contention and supporting bases, in full, separately for each category into which the requester/petitioner asserts the contention belongs with a separate designation for that category.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### **III. Further Information**

Documents related to this action, including the application for 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 ADAMS accession number for Mallinckrodt's Request for License Amendment to Remove URO from Plant 6W, is ML073390035. 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](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (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 Rockville, MD, this 14th day of December 2007.

For the Nuclear Regulatory Commission,

/RA/

Keith I. McConnell, Deputy Director  
Decommissioning and Uranium Recovery  
Licensing Directorate,  
Division of Waste Management  
and Environmental Protection,  
Office of Federal and State Materials and  
Environmental Management Programs