

NUCLEAR REGULATORY COMMISSION

DOCKET NO. 030-29462

[NRC-2008-0653]

**NOTICE OF CONSIDERATION OF AMENDMENT REQUEST FOR DECOMMISSIONING OF
THE DEPARTMENT OF THE NAVY, NAVAL SURFACE WARFARE CENTER DAHLGREN
DIVISION, DAHLGREN, VIRGINIA AND OPPORTUNITY TO REQUEST A HEARING**

AGENCY: Nuclear Regulatory Commission.

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

DATES: A request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM DATE OF PUBLICATION]**.

FOR FURTHER INFORMATION CONTACT: Orysia Masnyk Bailey, Health Physicist,
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SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Materials License No. 45-23645-01NA. This license is held by the Department of the Navy (Navy). This is a Master Materials License and covers many sites around the country. The proposed action pertains to Building 200 and adjacent grounds (the Facility) at the Navy's

Naval Surface Warfare Center Dahlgren Division in Dahlgren, Virginia. The amendment would authorize the decommissioning of the Facility under the Licensee's Decommissioning Plan.

An NRC administrative review found the Decommissioning Plan acceptable to begin a technical review. If the NRC approves the Decommissioning Plan, the approval will be documented in an amendment to NRC License No. 45-23645-01NA. 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 an Environmental Assessment and/or an Environmental Impact Statement. Following completion of decommissioning activities and verification by the NRC that the radiological criteria for license termination have been met, the NRC will amend the license to authorize release of the Facility for unrestricted use.

II. Opportunity to Request a Hearing

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding the decommissioning of Building 200 and surrounding grounds. 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. 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.

In order to comply with the procedural requirements of E-Filing, at least five days prior to the filing deadline, the petitioner/requester 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/requester (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requester will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange, 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/requester has obtained a digital ID certificate, had an electronic docket created, and downloaded the Electronic Information Exchange viewer, the individual can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format 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 the Electronic Information Exchange. To be timely, an electronic filing must be submitted to the Electronic Information Exchange system no later than 11:59 p.m. Eastern Standard 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 Electronic Information Exchange 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 does not need to 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 Standard 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 Part 2.302(g), with their initial paper filing 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 Part 2.309(c)(1)(i)-(viii). In

order to be considered timely, filings must be submitted no later than 11:59 p.m. Eastern Standard 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 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 Part 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR Part 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR Part 2.304(b) must be met.

In accordance with 10 CFR Part 2.309(b), a request for a hearing must be filed by **[INSERT DATE: 60 DAYS FROM THE DATE OF PUBLICATION]**.

In addition to meeting other applicable requirements of 10 CFR Part 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 Part 2.309(b).

In accordance with 10 CFR Part 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 that support the requester's/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.

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 Part 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 that the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR Part 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 Part 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 Documents 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. Building 200, Bay 4 Decommissioning Assessment, ADAMS Accession No. ML063340558; and
2. Building 200 Decommissioning Plan, ADMAS Accession No. ML080980180.

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 e-mail to pdr@nrc.gov. These documents may also be

viewed electronically on the public computers located at the NRC's Public Document Room, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The Public Document Room reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road, King of Prussia, PA, this 6th day of February, 2009.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Randolph C. Ragland, Jr., Chief
Decommissioning Branch
Division of Nuclear Materials Safety
Region I