TECHNICAL EVALUATION REPORT
REQUEST FOR ALTERNATIVE DECOMMISSIONING SCHEDULE

DATE: March 4, 2021

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LICENSE NO.: 45-23645-01NA

LICENSEE: Department of the Navy

Summary and Conclusions

By letters dated July 28, 2020, and September 15, 2020, the Department of the Navy (DON) requested a license amendment for alternative decommissioning schedules for activities under their Master Materials License (MML). Based on the information provided in the application and the detailed review conducted of the proposed alternative decommissioning schedules for activities under the licensee's MML, the NRC staff concludes that alternative decommissioning schedules are acceptable and in the public interest. Therefore, the NRC staff will amend MML License 45-23645-01NA to incorporate the alternative decommissioning schedules.

The NRC staff has prepared a separate environmental assessment for this action.

Background

By letters dated July 28, 2020, and September 15, 2020, the Department of the Navy (DON) requested a license amendment for alternative decommissioning schedules for activities under their MML. In conformance with Title 10 of the *Code of Federal Regulations* (10 CFR) 30.36(h), the DON seeks U.S. Nuclear Regulatory Commission (NRC) approval to extend the period of decommissioning beyond the 24-month time limit for decommissioning specified in 10 CFR 30.36(h)(1) and (2).

In accordance with License Condition, 21.W, the Navy incorporates a permitting program for the use of licensed material into its MML. Individual entities that are subject to this permitting program are called permittees. For decommissioning purposes, each permittee associated with this MML is responsible to ensure that it meets the 24-month time limit requirements in 10 CFR 30.36(h) discussed above. Therefore, in evaluating this license amendment request, the NRC staff is applying its analysis to all permittees associated with the MML.

As a rationale for its request, the licensee described its funding plan for defense programs (the Future Years Defense Program (FYDP)).[1] As described by the licensee, the FYDP is a rolling five-year financial picture of projected expenditures. These projected expenditures include the decommissioning of defense-related facilities. For projects to be included in the FYDP, including the decommissioning of facilities, there is a two-year lead time. In other words, the earliest that money would be allocated for decommissioning a site is two years from the time a determination to decommission that site is made. Therefore, it is not possible to comply with the 24-month time limit for decommissioning specified in 10 CFR 30.36(h)(1) and (2).

[1] For a description of the Department of Defense budgeting process, including the FYDP, see https://crsreports.congress.gov/product/pdf/IF/IF10831 and https://crsreports.congress.gov/product/pdf/IF/IF10429 , accessed October 29, 2020.

Regulatory Requirement

The regulations in 10 CFR 30.36(h) state:

> (h)(1) Except as provided in paragraph (i) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.
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> (2) Except as provided in paragraph (i) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

Staff Review and Analysis

NRC staff reviewed the DON's above-referenced submittal with the considerations listed in 10 CFR 30.36(i). These considerations are as follows:

> (1) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;
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> (2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;
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> (3) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;
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> (4) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay;
>
> (5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, groundwater treatment activities, monitored natural groundwater restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

For the following reasons, considerations 1 through 4 above do not support extending the schedules.

First, considering the number of activities under the licensee's MML, the NRC staff cannot make a generalization as to whether it is technically feasible to complete decommissioning of all of the licensee's facilities within the allotted 24- month period. Therefore, the NRC staff assumed for the purpose of this review that, at least for some separate buildings or outdoor areas, it is technically feasible to complete decommissioning within the allotted 24-month period.

Second, the licensee provided no rationale for the NRC staff to consider whether waste disposal would impede the ability of the licensee to complete decommissioning within the allotted 24-month period. Therefore, the NRC staff assumed for the purpose of this review that there is sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period.

Third, the licensee did not claim that a significant portion of the radioactive material licensed under its MML consists of short-lived radionuclides. Therefore, the NRC staff assumed for the purpose of this review that there are no volume reduction benefits that would be achieved by allowing short-lived radionuclides to decay. Fourth, because the license did not assert that a significant number of short-lived radionuclides, the NRC, also, assumed for the purpose of this review that there is no significant reduction in radiation exposure to workers that would be achieved by allowing short-lived radionuclides to decay.

Based on the licensee's application, the NRC staff focused on the consideration in 10 CFR 30.36(i)(5) The licensee explained that the Federal funding process impacts the timing for funding decommissioning activities at facilities under its MML. This funding process takes many different Department of Defense decommissioning programs into consideration. Ultimately, the funding is appropriated by Congress through the federal budgeting process. Because the funding process is tied to the Congressional budgeting process, the 24-month decommissioning timeline is inconsistent with the availability of funds for decommissioning activities.

The information provided by the licensee, however, is consistent with the guidance for operators of Federal facilities in NUREG-1757 (see Section 2.6.1 of NRC, 2012). Therefore, the NRC staff finds that an alternative schedule is warranted based on the above-referenced funding issues presented by the licensee. Although the licensee requested a 10-year period to complete decommissioning, the NRC staff is recommending a 5-year period based on the licensee's application. If this extension is found to be insufficient for the licensee to complete its decommissioning activities, it can submit another request and provide sufficient rationale for additional time. The staff also finds that extending the licensee's decommissioning schedule provides reasonable assurance that decommissioning for activities under its MML will be completed as soon as practicable.

The NRC staff considers it prudent to limit the extension to those decommissioning activities and termination requests that do not involve groundwater contamination. This limitation is to avoid any potential environmental impacts associated with contaminated groundwater under a generic request.

In addition, consistent with NRC guidance for other material licensees (e.g., Section 5.1 of NRC, 2006), the NRC staff also evaluated whether this request is in the public interest. In evaluating whether this request is in the public interest, the NRC staff notes that the alternative action of not approving the request would not change the Federal funding process and would most likely force the licensee into noncompliance with the decommissioning regulations as it can't spend Federal funds that have not been authorized and thus would not meet the 24-month schedule in any case. This would cause the licensee to spend public money addressing violations at numerous facilities over an administrative process with no safety significance. The NRC staff finds that allowing the licensee to extend the decommissioning period will not result in any significant change in the types, or significant increase in the amounts, of any effluents that may be released offsite. Therefore, the NRC staff concludes that approving this request is in the public interest.

Conclusion

Based on the information provided in the application and the detailed review conducted of the alternative decommissioning schedule for the DON, the NRC staff concludes that the alternative decommissioning schedule for permittees is acceptable and in the public interest.

Therefore, the NRC staff recommends amending MML License 45-23645-01NA to incorporate the alternative decommissioning schedule for permittees as follows:

> Pursuant to the requests dated July 28, 2020 (ML20224A099) and September 15, 2020 (ML20260H015), the licensee is approved for:
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> 1. An alternative schedule for permittees for the completion of decommissioning at any permitted site or separate building or outdoor area that do not involve groundwater contamination. Decommissioning shall be completed as soon as practical but no later than five years following the initiation of decommissioning except as otherwise approved.
> 2. An alternative schedule for requesting permit termination when decommissioning involves an entire permittee's site and that site does not involve groundwater contamination. The licensee shall request permit termination for an entire site as soon as practical but no later than five years following the initiation of decommissioning except as otherwise approved.

REFERENCES

10 CFR Part 30. *Code of Federal Regulations*, Title 10, Energy, Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material."

DON, 2020a. Letter from Williams, A.S., Department of the Navy, to Elliott, R., U.S. Nuclear Regulatory Commission, Proposed Exemption Amendment to Master Materials License (MML) 45-23645-01NA to the Decommissioning Timeliness Under 10 CFR 30.36 and Financial Surety Requirements Under 10 CFR 30.35 for the Department of the Navy, July 28, 2020, ADAMS Accession No. ML20224A099.

DON, 2020b. Letter from Goodfellow, S.T., Department of the Navy, to Elliott, R., U.S. Nuclear Regulatory Commission, Reply to Nuclear Regulatory Commission's Request for Additional Information, September 15, 2020, ADAMS Accession No. ML20260H015.

NRC, 2012. NUREG–1757, Vol. 3, Rev.1, "Consolidated Decommissioning Guidance, Financial Assurance, Recordkeeping, and Timeliness", February 2012, ADAMS Accession No. ML12048A683

NRC, 2006. NUREG–1757, Vol. 1, Rev.2, "Consolidated Decommissioning Guidance, Decommissioning Process for Materials Licensees", September 2006, ADAMS Accession No. ML063000243.