



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD – SUITE 102
KING OF PRUSSIA, PA 19406-1415

August 4, 2023

Alisa R. Wilma, COL, USA, VC
Director
Defense Health Agency
Defense Centers for Public Health – Aberdeen
Building 5158
8252 Blackhawk Road
Aberdeen Proving Ground, MD 21010-5403

SUBJECT: DEFENSE HEALTH AGENCY, DEFENSE CENTERS FOR PUBLIC HEALTH –
ABERDEEN, ACCEPTANCE OF NOTIFICATION OF CHANGE OF CONTROL,
MAIL CONTROL NOS. 634525, 634526 AND 634527

Dear COL Wilma:

By letter dated January 23, 2023 (Agencywide Documents Access and Management System (ADAMS) Accession Number) ML23046A171, Defense Health Agency, Defense Centers for Public Health – Aberdeen submitted to the U.S. Nuclear Regulatory Commission (NRC) a request for written consent to a direct transfer of control of NRC Materials License numbers 19-09880-01, SMB-707, and SNM-860 issued to the U. S. Army Public Health Center. In accordance with Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 30.34, the NRC consents to the transfer.

The U. S. Army Public Health Center (US Army PHC) is authorized by the NRC for the possession and use of byproduct material under Part 30, source material under Part 40, and special nuclear material under Part 70. By letter dated January 23, 2023, Defense Health Agency, Defense Centers for Public Health – Aberdeen (Defense Health Agency DCPH-A) requested written consent to the direct transfer of control of the US Army PHC licenses from the NRC. Because the license was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," Part 40 "Domestic Licensing of Source Material," and Part 70, "Domestic Licensing of Special Nuclear Material," the NRC must find that the transfer is in accordance with the provisions of the AEA and, if so, must give its consent in writing prior to the transfer, in accordance with Section 184 of the AEA and 10 CFR 30.34(b), 40.41(b) and 70.32(a). Additionally, the NRC staff reviewed the direct transfer of control request using the guidance in NUREG-1556, Volume 15, Revision 1, "Consolidated Guidance About Materials Licenses – Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated June 2016.

10 CFR 30.34(b) states:

- (1) No license issued or granted pursuant to the regulations in [parts 30] through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the

Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

- (2) An application for transfer of license must include:
- (i) The identity, technical and financial qualifications of the proposed transferee; and
 - (ii) Financial assurance for decommissioning information required by [10 CFR] 30.35.

As described in ADAMS document accession number ML23046A171, the direct transfer of control resulted from the National Defense Authorization Action for Fiscal Year 2019, Section 711, which directed the transfer of the US Army PHC from the Department of the Army to the Defense Health Agency. The NRC staff finds that the licensee request adequately provides a complete and clear description of the proposed transaction, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1. The sufficiency of the description is evaluated below.

The request for a direct transfer of ownership was posted for public comment on the NRC website for 30 days in accordance with 10 CFR Part 2, Subpart M and as described in NRC's Regulatory Issue Summary 2014-08, Revision 1. No comments were received from members of the public.

In the request for a direct transfer of ownership, the Defense Health Agency DCPH-A provided information regarding the US Army PHC current decommissioning funding plans. Based on the information provided, the US Army PHC licenses are required to have financial assurance for decommissioning because of the types and amount of material authorized in the licenses. At this time, the financial assurance is provided by the Department of the Army, Army Public Health Center based on a Decommissioning Funding Plan dated January 2022, using a Statement of Intent. The NRC staff finds that the licensee's request adequately provided information for financial assurance for decommissioning, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1.

Further, the NRC conducted an inspection of US Army PHC License Nos. 19-09880-01 and SMB-707 on March 24, 2021; and License No. SNM-860 on June 6, 2022. The NRC identified no violations.

Additionally, as described in its request, Defense health Agency DCPH-A commits that it:

- A. will not change the locations, facilities, and equipment authorized in the NRC license;
- B. will not change the radiation safety program authorized in the NRC license; and
- C. will keep regulatory required surveillance records and decommissioning records.

The Defense Health Agency DCPH-A has provided a Decommissioning Funding Plan and Statement of Intent from the Defense Health Agency in the same amount as that formerly provided by the Department of the Army. The name on the license and the radiation safety officer will be changed to the same as listed on the current Defense Health Agency DCPH-A License No. 45-35423-01. The Defense Health Agency intends to incorporate the activities under the three former US Army PHC licenses into the Defense Health Agency DCPH-A license at a future date and terminate the three licenses simultaneously at that time.

Based on these commitments, the NRC staff finds that the licensee request adequately documents the constraints, license conditions, requirements, representations, and commitments made by the transferee, consistent with 10 CFR 30.34(b) and Chapter 5 and Appendix E of NUREG-1556, Vol. 15, Rev. 1.

The Defense Health Agency DCPH-A holds NRC License No. 45-35423-01, primarily for medical use and research. The NRC staff used the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards' "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the application," January 29, 2019 revision. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use. Therefore, for security purposes, Defense Health Agency DCPH-A is considered a known entity because it has a current NRC license.

An environmental assessment for this action is not required because this action is categorically excluded under 10 CFR 51.22(c)(21).

The staff has reviewed the request for a direct transfer of control of License Nos. 19-09880-01, SMB-707, and SNM-860. The NRC staff finds that the direct transfer of control is in accordance with Section 184 of the AEA and 10 CFR 30.34(b) and consents to the transfer. Please note that you will need to notify us promptly, in writing, after the transaction has been finalized and include a signed copy of the sales agreement confirming completion of the transaction. If this planned sale has not been consummated within 30 days of the date of this letter, please notify us in writing.

Future changes in the licensee's name, licensed use, licensed materials, licensed location, persons responsible for licensed material, or other changes to the corporate organizational structure require submission of a request to amend the license or a request to transfer the license. NRC approval must be received prior to implementation of any such proposed change.

In accordance with 10 CFR 2.390, a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>. If you have any questions regarding this letter, please contact Betsy Ullrich at 240-704-4575 or by electronic mail to Elizabeth.Ullrich@nrc.gov.

Thank you for your cooperation in this matter.

Sincerely,

Betsy Ullrich, Senior Health Physicist
Commercial, Industrial, R&D
and Academic Branch
Division of Radiological Safety and Security
Region I

License Nos. 19-09880-01, SMB-707, and SNM-860
Docket Nos. 030-04550, 040-07008, and 070-00867
Mail Control Nos. 634525, 634526, and 634527

cc: Ricardo Reyes, Ph.D., DHA Radiation Safety Director

DEFENSE HEALTH AGENCY, DEFENSE CENTERS FOR PUBLIC HEALTH – ABERDEEN,
ACCEPTANCE OF NOTIFICATION OF CHANGE OF CONTROL, MAIL CONTROL NOS.
634525, 634526 AND 634527 DATED AUGUST 4, 2023

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860,634525.6.7.docx

SUNSI Review Complete: Betsy Ullrich

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