

805, "Performance-Based Standard for Fire Protection for Light-Water Reactor Electric Generating Plants."

In accordance with 10 CFR 50.48(a), each operating nuclear power plant must have an FPP that satisfies General Design Criterion (GDC) 3, "Fire Protection," of Appendix A, "General Design Criteria for Nuclear Power Plants," to 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities." In addition, plants that were licensed to operate before January 1, 1979, must meet the requirements of Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," to 10 CFR part 50, except to the extent provided for in 10 CFR 50.48(b). Plants licensed to operate after January 1, 1979, are required to comply with 10 CFR 50.48(a), as well as any plant-specific fire protection license conditions and technical specifications.

## II. Further Information

The NRC staff is soliciting comments on DG-1218. Comments may be accompanied by relevant information or supporting data and should mention DG-1218 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. *Mail comments to:* Chief, Rulemaking and Directives Branch, MS TWB-05-B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

2. *Fax comments to:* Chief, Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492-3446.

Requests for technical information about DG-1218 may be directed to the NRC contact, Steven Laur at (301) 415-2889 or e-mail to [Steven.Laur@nrc.gov](mailto:Steven.Laur@nrc.gov).

Comments would be most helpful if received by May 22, 2009. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG-1218 are available through the NRC's public Web

site under Draft Regulatory Guides in the "Regulatory Guides" collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in ADAMS (<http://www.nrc.gov/reading-rm/adams.html>), under Accession No. ML090420462.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 16th day of March, 2009.

For the Nuclear Regulatory Commission.

**Andrea D. Valentin**,  
Chief, Regulatory Guide Development Branch,  
Division of Engineering, Office of Nuclear  
Regulatory Research.

[FR Doc. E9-6553 Filed 3-24-09; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-33266; NRC-2009-0130]

### Notice of Environmental Assessment Related to the Issuance of a License Amendment To Terminate Byproduct Materials License No. 21-26519-01, for Aastron Biosciences, Ann Arbor, MI

**AGENCY:** Nuclear Regulatory Commission.

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

#### FOR FURTHER INFORMATION CONTACT:

Samuel J. Muly, Health Physicist, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenton Road, Lisle, Illinois 60532; telephone: (630) 829-9837.

#### SUPPLEMENTARY INFORMATION:

### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to terminate NRC Byproduct Materials License No. 21-26519-01, which is held by Aastron Biosciences (licensee). The issuance of the amendment would authorize the

unrestricted release of the licensee's facility located at 24 Frank Lloyd Wright Drive, Lobby K, Domino's Farm, Ann Arbor, Michigan (the Facility).

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 termination amendment request dated September 30, 2008, (ML090210643), and approve release of the Facility for unrestricted use in accordance with 10 CFR part 20, subpart E. The licensee operated a research laboratory in a 20,000 square foot leased space. License No. 21-26519-01 was issued on September 10, 1993, pursuant to 10 CFR part 30, and has been amended periodically since that time. This license authorized the use of unsealed byproduct materials for conducting a variety of research and development applications on laboratory bench tops and in hoods. The Facility is located in a mixed residential, agricultural and commercial area, and a former authorized location of use there was previously released by the NRC for unrestricted use. The licensee ceased licensed activities in April 2007 and Lobby K was used to store standard sources and a cell harvester. The licensee did not perform research activities involving licensed material in Lobby K. 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 submitted a license termination request in a letter dated September 30, 2008, (ML090210643). The licensee submitted a final status survey report to the NRC on October 31, 2008, (ML083080216), and additional correspondence dated February 11, 2009, (ML090500353), which demonstrates that the Lobby K

facility meets the criteria in subpart E of 10 CFR part 20 for unrestricted use.

#### *Need for the Proposed Action*

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

#### *Environmental Impacts of the Proposed Action*

The historical review of licensed research activities performed by the licensee at the Facility determined that the activities involved primarily the use of hydrogen-3, which has a half-life greater than 120 days.

The licensee's final status survey report was attached to the Licensee's letter dated October 31, 2008, (ML083080216). The licensee's report indicated that the final status survey of its Facility was completed on October 1, 2008. Additional correspondence was submitted in a letter dated February 11, 2009, (ML090500353) to clarify and support information provided in the final status survey report.

The licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, 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 report 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. 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 30.36(d) requiring that decommissioning of byproduct 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 and additional, supporting documentation 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*

On February 4, 2009, the NRC provided a draft of this EA to the State of Michigan, Radioactive Material and Medical Waste Materials Unit, Waste and Hazardous Materials Division, Michigan Department of Environmental Quality. The State responded by e-mail

on February 4, 2009, and agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has 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 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 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. Bradley J. Martin, PhD., Aastrom Biosciences, letter to U.S. Nuclear Regulatory Commission, Region III, dated September 30, 2008, (ADAMS Accession No. ML090210643).

2. Bradley J. Martin, PhD., Aastrom Biosciences, letter dated October 31, 2008, with the attached final status survey to U.S. Nuclear Regulatory Commission, Region III, (ADAMS Accession No. ML083080216).

3. Bradley J. Martin, PhD., Aastrom Biosciences, letter to the U.S. Nuclear Regulatory Commission, Region III, dated February 11, 2009, (ADAMS Accession No. ML090500353).

4. Title 10 Code of Federal Regulations, part 20, subpart E, "Radiological Criteria for License Termination";

5. Title 10 Code of Federal Regulations, part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions";

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

7. NUREG-1757, Consolidated Decommissioning Guidance.

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](mailto: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 Lisle, Illinois, this 13th day of March 2009.

For the Nuclear Regulatory Commission.

**Christine A. Lipa,**

*Chief, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III.*

[FR Doc. E9-6399 Filed 3-24-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 52-033-COL; ASLBP No. 09-880-05-COL-BD01]

### Detroit Edison Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register*, 37 FR 28,710 (1972), and the Commission's regulations, see 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

#### Detroit Edison Company

(Fermi Nuclear Power Plant, Unit 3)

This proceeding concerns a Petition to Intervene and Request for Hearing dated March 9, 2009 from Beyond Nuclear, *et al.*, that was submitted in response to a January 8, 2009 Notice of Hearing and Opportunity to Petition for Leave to Intervene on a Combined License for the Fermi Nuclear Power Plant, Unit 3 (74 FR 836). The petitioners challenge the application filed by Detroit Edison Company pursuant to Subpart C of 10 CFR Part 52 for a combined license for Fermi Nuclear Power Plant, Unit 3, which would be located in Monroe County, Michigan.

The Board is comprised of the following administrative judges:

Ronald M. Spritzer, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Michael F. Kennedy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Randall J. Charbeneau, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 19th day of March 2009.

**E. Roy Hawkens,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. E9-6555 Filed 3-24-09; 8:45 am]

BILLING CODE 7590-01-P

## OVERSEAS PRIVATE INVESTMENT CORPORATION

### April 7, 2009 Annual Public Hearing

*Time and Date:* Tuesday, April 7, 2009, 2 p.m.

*Place:* Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

*Status:* Hearing open to the Public at 2 p.m.

*Purpose:* Annual Public Hearing to afford an opportunity for any person to present views regarding the activities of the Corporation.

#### *Procedures:*

Individuals wishing to make address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m., Thursday, April 2, 2009. The notice must include the individual's name, organization, address and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request to participate an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m., Thursday, April 2, 2009. Such statements must be typewritten, double-

spaced and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda for the hearing identifying speakers, setting forth the subject on which each participant will speak, and the time allotted for each presentation. The agenda will be available at the hearing.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

#### *Contact Person for Information:*

Information on the hearing may be obtained from Connie M. Downs at (202) 336-8438, via facsimile at (202) 408-0136, or via e-mail at [connie.downs@opic.gov](mailto:connie.downs@opic.gov).

*Supplementary Information:* OPIC is a U.S. Government agency that provides, on a commercial basis, political risk insurance and financing in friendly developing countries and emerging democracies for environmentally sound projects that confer positive developmental benefits upon the project country while creating employment in the U.S. OPIC is required by section 231A(c) of the Foreign Assistance Act of 1961, as amended (the "Act") to hold at least one public hearing each year.

Dated: March 20, 2009.

**Connie M. Downs,**

*OPIC Corporate Secretary.*

[FR Doc. E9-6582 Filed 3-24-09; 8:45 am]

BILLING CODE 3210-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59599; File No. SR-FINRA-2008-020]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to Private Placements of Securities Issued by Members

March 19, 2009.

#### I. Introduction

The Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("Commission" or "SEC") on September 11, 2008, and amended on January 7, 2009,<sup>1</sup> pursuant to Section 19(b)(1) of

<sup>1</sup> Amendment No. 2 to SR-FINRA-2008-020. This amendment replaced and superseded the