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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 personal privacy information, such as social security numbers, home addresses, or home phone 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 works.

VII

A Request for Hearing Shall Not Stay the Immediate Effectiveness of this Order.

Dated this 6th day of August 2009.

For the Nuclear Regulatory Commission.

Victor M. McCree,

Deputy Regional Administrator.

[FR Doc. E9-19642 Filed 8-14-09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC-2009-0357; Docket No. 03037121]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 47-19315-02, for Termination of the License and Unrestricted Release of the West Virginia School of Osteopathic Medicine's Facility in Lewisburg, WV

AGENCY: Nuclear Regulatory Commission.

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

FOR FURTHER INFORMATION CONTACT:

Steve Hammann, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, PA 19406; telephone (610)-337-5399; fax number (610)-337-5269; or by e-mail: stephen.hammann@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 47-19315-02. This license is held by West Virginia School of Osteopathic Medicine (the Licensee), for its Smith Science Building (the Facility), located at 400 North Lee Street in Lewisburg, West Virginia. Issuance of the amendment would authorize release of the Facility for unrestricted use and termination of the NRC license. The Licensee requested this action in a letter dated May 1, 2009. 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 May 1, 2009, license amendment request, resulting in release of the Facility for unrestricted use and the termination of its NRC materials license. License No. 47-19315-02 was issued on February 24, 2006, pursuant to 10 CFR part 30, and has been amended once since that time. This license authorized the Licensee to use unsealed byproduct material for the purpose of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is located on the campus of the West Virginia School of Osteopathic Medicine and consists of classrooms, office space, and laboratories. The Facility is located in a mixed residential/commercial area. Within the Facility, use of licensed materials was confined to rooms 242 and 243 which have a combined area of 100 square meters.

On July 10, 2007, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. 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 conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in subpart E of 10 CFR part 20 for unrestricted release and for license termination.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility and the termination of its NRC materials license.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved one radionuclide, hydrogen-3, with half-life greater than 120 days. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by the radionuclide.

The Licensee conducted a final status survey on April 28, 2009. This survey covered the two rooms in which licensed materials were used. The final status survey report was attached to the Licensee's amendment request dated May 1, 2009. 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 NMSS 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 and the termination of the NRC materials license 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 confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release and for license termination. 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

NRC provided a draft of this Environmental Assessment to the State of West Virginia Office of Environmental Health Services for review on June 25, 2009. On July 23, 2009, the State of West Virginia Office of Environmental Health Services responded by e-mail. The State 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 has 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 Document 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. NUREG-1757, “Consolidated NMSS Decommissioning Guidance;”

2. Title 10, *Code of Federal Regulations*, part 20, subpart E, “Radiological Criteria for License Termination;”

3. Title 10, *Code of Federal Regulations*, part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;”

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

5. Termination Request and Final Survey dated May 1, 2009 (ML091390322).

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 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 Region I, 475 Allendale Road, King of Prussia, PA this 7th day of August 2009.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E9-19653 Filed 8-14-09; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC-2009-0356; Docket No. 040-00341]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Source Materials License No. Stc-133, for Unrestricted Release of the Defense Logistics Agency’s Curtis Bay Depot Facility In Baltimore, MD

AGENCY: Nuclear Regulatory Commission.

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

FOR FURTHER INFORMATION CONTACT:

Steve Hammann, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406; telephone 610-337-5399; fax number 610-337-5269; or by e-mail: stephen.hammann@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Source Materials License No. STC-133. This license is held by Defense Logistics Agency (the Licensee), for its Curtis Bay Depot (the Facility), located at 710 Ordnance Road in Baltimore, Maryland. Issuance of the amendment would authorize release of the Facility for