

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 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*

NRC provided a draft of this Environmental Assessment to the New Jersey Department of Environmental Protection for review on June 25, 2009. On August 7, 2009, the New Jersey Department of Environmental Protection responded by letter. 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 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. 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";
5. Johnson & Johnson Pharmaceutical Research and Development, LLC, amendment request letter dated March 27, 2009 (ML090960269);
6. Johnson & Johnson Pharmaceutical Research and Development, LLC, additional information letter dated April 28, 2009 (ML091200252);
7. Johnson & Johnson Pharmaceutical Research and Development, LLC,

additional information letter dated May 29, 2009 (ML091490762); and

8. Johnson & Johnson Pharmaceutical Research and Development, LLC, additional information letter dated June 16, 2009 (ML091730375).

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 [PDR.Resource@nrc.gov](mailto:PDR.Resource@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 11th day of September 2009.

For the Nuclear Regulatory Commission.

**James P. Dwyer,**

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

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## **NUCLEAR REGULATORY COMMISSION**

**[NRC-2009-0408]**

### **Exemption From the Specific Import License Requirements**

#### **1.0 Request/Action**

US Ecology Idaho (USEI), a subsidiary of American Ecology, operates a hazardous waste and low-activity radioactive disposal facility near Grand View, Idaho. By letter dated March 19, 2009 (Agency Documents Access Management System [ADAMS] Accession No. ML091600258), USEI requested an exemption from the requirements in 10 CFR Part 110, "Export and Import of Nuclear Equipment and Material," for a specific license to import waste from Canada.

Pursuant to 10 CFR 110.10, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions for the requirements for a specific license in 10 CFR Part 110, when the import is (1) authorized by law; (2) is not inimical to the common defense and security of the United States; and (3) will not constitute an unreasonable risk to the public health and safety.

#### **2.0 Background**

USEI requested an exemption from the requirements in 10 CFR 110.27 for a specific license to import and dispose

of approximately 2,500 cubic meters of soil containing 15% concrete and metal debris contaminated with low concentrations of naturally occurring radium-226 and uranium-238, which will be generated during remediation and redevelopment of a property located in Toronto, Canada. In its March 19, 2009, letter, USEI stated that this material meets the “unimportant quantity of source material” criteria founded in 10 CFR 40.13(a). As part of their request, USEI included a safety assessment of the shipment from the Toronto property to the USEI disposal facility in Idaho and the resulting potential doses to members of the public during transport and disposal.

As a matter of policy, the U.S. Nuclear Regulatory Commission (NRC) reviews the safety implications of disposing of unimportant quantities of material at sites other than Atomic Energy Act-licensed disposal facilities. USEI is permitted by the Idaho Department of Environmental Quality (IDEQ) to operate a Resource Conservation and Recovery Act (RCRA) Subtitle C facility located near Grand View, Idaho and is not an NRC licensee. Consistent with Commission policy (**Federal Register**: August 28, 2002 [Volume 67, Number 167], Proposed Rules, Pages 55175–55179) such a request for transfer would normally be approved if the dose to a member of the public is unlikely to exceed 0.25 mSv/yr (25 mrem/yr).

### 3.0 Discussion

USEI supplied information on the source term of the waste and a proposed scenario to evaluate different possible exposures for members of the public. These scenarios include dose to the transportation workers, USEI workers, and post-closure dose to the general public. The State of Idaho RCRA permit allows the disposal of exempted radioactive material including uranium as either naturally occurring radioactive material or unimportant quantities of source material provided they meet the requirements outlined in 10 CFR 40.13(a) and can demonstrate that no individual would receive a dose in excess of 0.15 mSv/yr (15 mrem/yr) for a period of 100 years after closure of the facility.

Based on sampling results provided, the NRC confirmed that this waste material qualifies as “unimportant quantities of source material” (i.e., containing less than 0.05 weight percent of source material) under 10 CFR 40.13(a). As indicated in the Safety Evaluation Report (ML092380115), the staff verified that the expected dose to a member of the public due to transfer

and disposal of the Toronto waste will be well below 25 mrem/yr.

### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 110.10(a), an exemption from the requirements of 10 CFR 110.27 is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Therefore, the Commission hereby grants USEI an exemption from the requirement of 10 CFR 110.27 for a specific license to import the approximately 2,500 cubic meters of contaminated soil.

This exemption is effective upon issuance.

For The Nuclear Regulatory Commission.

Dated this 9th day of September 2009 at Rockville, Maryland.

**Scott W. Moore,**

*Deputy Director, Office of International Programs.*

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## NUCLEAR REGULATORY COMMISSION

[NRC–2009–0294]

### Notice of Issuance of Regulatory Guide

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of issuance and availability of Regulatory Guide 1.100, Revision 3.

**FOR FURTHER INFORMATION CONTACT:** John Burke, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 251–7628 or e-mail to [John.Burke@nrc.gov](mailto:John.Burke@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency’s “Regulatory Guide” series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 3 of Regulatory Guide 1.100, “Seismic Qualification of Electrical and Active Mechanical Equipment and Functional Qualification of Active

Mechanical Equipment for Nuclear Power Plants,” was issued with a temporary identification as Draft Regulatory Guide, DG–1175. This guide describes methods that the staff of the NRC considers acceptable for use in the seismic qualification of electrical and active mechanical equipment and the functional qualification of active mechanical equipment for nuclear power plants (NPPs).

The general requirements for the seismic qualification of electrical and active mechanical equipment appear in Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, “Domestic Licensing of Production and Utilization Facilities,” and 10 CFR part 52, “Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants.” Particular sections include General Design Criterion (GDC) 1, “Quality Standards and Records”; GDC 2, “Design Bases for Protection Against Natural Phenomena”; and GDC 4, “Environmental and Dynamic Effects Design Basis,” of Appendix A, “General Design Criteria for Nuclear Power Plants,” to 10 CFR part 50; Criterion III, “Design Control”; Criterion XI, “Test Control”; and Criterion XVII, “Quality Assurance Records,” of Appendix B, “Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,” to 10 CFR part 50; and Appendix S, “Earthquake Engineering Criteria for Nuclear Power Plants,” to 10 CFR part 50.

#### II. Further Information

In May 2008, DG–1175 was published with a public comment period of 60 days from the issuance of the guide. The public comment period closed on July 11, 2008. The staff’s responses to the public comments are located in NRC’s Agencywide Documents Access and Management System under accession number ML091320489. Electronic copies of Regulatory Guide 1.100, Revision 3 are available through the NRC’s public Web site under “Regulatory Guides” at <http://www.nrc.gov/reading-rm/doc-collections/>.

In addition, regulatory guides are available for inspection at the NRC’s Public Document Room (PDR) located at Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738. 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) 397–4209, by fax at (301) 415–3548, and by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).