

Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality.

There are no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR Part 73, the Commission prepared an environmental assessment and published a finding of no significant impact [Part 73, Power Reactor Security Requirements, 74 FR 13926 (March 27, 2009)].

With its request to extend the implementation deadline, the licensee currently maintains a security system acceptable to the NRC and that will continue to provide acceptable physical protection of SONGS 2 and 3 in lieu of the new requirements in 10 CFR Part 73. Therefore, the extension of the implementation date of the new requirements of 10 CFR Part 73 to January 31, 2011, would not have any significant environmental impacts.

The NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed actions, the NRC staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. The environmental impacts of the proposed exemption and the "no-action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for SONGS Units 2 and 3, dated May 12, 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on March 1, 2010, the NRC staff consulted with the California State official, Mr. Stephen Hsu of the California Department of Public Health, regarding the environmental impact of

the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 17, 2009. Portions of the December 17, 2009, submittal contain safeguards information and, accordingly, a redacted version of the December 17, 2009, letter is available for public review in the Agencywide Documents Access and Management System (ADAMS) Accession No. ML093570268. This document may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O-1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site: <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209 or 301-415-4737, or send an e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland, this 10th day of March 2010.

For The Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010-5683 Filed 3-15-10; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7015; NRC-2009-0187]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for Exemption From 10 CFR 30, 40, and 70; Commencement of Construction Requirements; AREVA Enrichment Services, Eagle Rock Enrichment Facility, Bonneville County, ID

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of Environmental Assessment and Finding

of No Significant Impact for Exemption from Commencement of Construction Requirements.

FOR FURTHER INFORMATION CONTACT:

Mary Adams, Senior Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Rockville, Maryland 20852. *Telephone:* (301) 492-3113; *Fax:* (301) 492-3363; *e-mail:* Mary.Adams@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated June 17, 2009, Byproduct, Source, and Special Nuclear Materials License applicant AREVA Enrichment Services, LLC, (the Applicant) submitted a request to exempt certain activities described in the license application from the "commencement of construction" provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) 70.4, 70.23(a)(7), 30.4, 30.33, 40.4, and 40.32(e). The U.S. Nuclear Regulatory Commission (NRC) staff is considering issuing an exemption to the Applicant from provisions in 10 CFR 70.4, 70.23(a)(7), 30.4, 30.33, 40.4, and 40.32(e). The exemption would authorize the Applicant to undertake certain site preparation activities at its proposed uranium enrichment facility in Bonneville County, Idaho. Granting this exemption is not a guarantee that the NRC has decided to issue an operating license to the Applicant. The Applicant would be undertaking these site preparation activities with the risk that its license application may later be denied. NRC has prepared an Environmental Assessment (EA) in support of this exemption in accordance with the requirements of 10 CFR 51.21 and 51.33. Based on this EA, the NRC has reached a Finding of No Significant Impact.

II. Summary of the Environmental Assessment

Background

The commencement of construction provisions of 10 CFR 30.33, 40.32(e), and 70.23(a)(7) date back to 1972, when they were initially codified by the NRC as part of a comprehensive rulemaking pertaining to all facilities licensed under Parts 30, 40, 50 and 70. These regulatory provisions remained unchanged until the NRC in 1980 amended its regulations in 10 CFR part 40. These revisions required that the NRC's NEPA review be completed prior to authorizing any uranium milling

activities. NRC also amended 10 CFR parts 30 and 70 to conform to the amendment of Part 40.

Subsequently, in 2007, the NRC completed a rulemaking amending the regulations applicable to limited work authorizations (LWAs) for nuclear power plants (LWA rulemaking), which included a consideration of issues pertaining to preconstruction and site preparation work performed by Part 50 (and Part 52) licensees and applicants. As part of that rulemaking, the NRC modified the scope of activities that are considered construction and for which a construction permit, combined license, or LWA is necessary. After noting that the Atomic Energy Act of 1954, as amended (AEA) does not require an applicant to obtain permission before undertaking site preparation activities that do not implicate radiological health and safety or common defense and security, the NRC developed a revised definition of construction that excluded certain preparatory activities.

In doing so, the NRC determined that its NEPA obligations and responsibilities arise only when the NRC undertakes a “Federal” action, and that NEPA, a purely procedural statute, does not expand the NRC’s jurisdiction beyond the scope of the AEA. Regarding the site preparation activities excluded from the LWA definition of construction, the NRC noted that such activities do not have a reasonable nexus to radiological health and safety or the common defense and security, and as such, were “non-Federal actions.” Accordingly, these site preparation activities are not subject to the requirements of NEPA because they are not within the scope of the NRC’s AEA authority. The NRC, therefore, amended its 10 CFR part 51 NEPA regulations to include a definition of construction that was consistent with the definition added to 10 CFR 50.10. Site preparation activities that were deemed not to have a direct nexus to radiological health and safety were listed in 10 CFR 51.4 as activities not included within the “construction” definition.

The NRC’s determination that certain site preparation activities did not constitute “construction” impacted the scope of the agency’s NEPA review of such activities. The NRC clarified that because these site preparation activities lacked a reasonable radiological nexus to radiological health and safety and/or common defense and security—and thus did not require NRC approval or oversight—these activities were not Federal actions within the context of NEPA. Consequently, these activities would only be considered in the

agency’s environmental review to that extent necessary to establish an environmental baseline against which the incremental effect of the NRC’s subsequent major Federal action (*i.e.*, issuance of a license) would be measured.

While the NRC had previously recognized the need for uniformity in carefully approving conforming amendments when it modified the “commencement of construction” provisions in 1980, no conforming amendments were made in Parts 30, 40 and 70 when the LWA rulemaking was finalized in 2007. Ever since, the NRC’s “commencement of construction” provisions in Parts 30, 40 and 70 have been inconsistent with the Part 51 “construction” definition. Activities that do not constitute construction under 10 CFR parts 50, 51, and 52, are viewed as construction under 10 CFR parts 30, 40 and 70. Site preparation actions that a materials license applicant or licensee cannot engage in—absent an exemption—are the same actions that the NRC determined in the LWA rulemaking were not within the scope of the agency’s licensing review under the AEA. In short, while 10 CFR 30.33, 40.32(e), and 70.23(a)(7) specifically cite the need to perform a Part 51 environmental analysis, the terms of 10 CFR 30.4, 30.33, 40.4, 40.32(e), 70.4 and 70.23(a)(7) are now inconsistent with 10 CFR part 51 as modified by the LWA rulemaking.

Identification of the Proposed Action

NRC proposes to grant an exemption that will allow the Applicant to conduct certain site preparation activities that are currently allowed under 10 CFR 51.4, notwithstanding the provisions of 10 CFR 30.33(a)(5), 40.32(e) and 70.23(a)(7). The scope of the Applicant’s June 17, 2009, exemption request includes the following nine items. NRC staff, as part of its safety review of the request, is considering approving each item on the list as an exempted activity.

- Clearing the site.
- Site grading and erosion control.
- Excavating the site including rock blasting and removal.
- Installing parking areas.
- Constructing the storm water detention pond.
- Constructing highway access roadways and site roads.
- Installing utilities (*e.g.*, temporary and permanent power) and storage tanks.
- Installing fences for investment protection (not used to implement the Physical Security Plan).

- Installing construction buildings, offices (including construction trailers), warehouses and guard houses.

In response to a request for additional information dated September 14, 2009, the Applicant clarified that the storage tanks would be used strictly for construction purposes; the guardhouses are not part of the physical security plan; and the construction buildings, offices, and warehouses are not part of the Standard Practice Procedure Plan for the Protection of Classified Matter.

This EA has been prepared pursuant to 10 CFR 51.21, which states, “[a]ll licensing and regulatory actions subject to this subpart require an environmental assessment * * *.” The only two exceptions to this rule are those actions requiring environmental impact statements, and those that are categorically excluded or identified as otherwise not requiring environmental review pursuant to § 51.22. Exemptions are not currently covered by any categorical exclusion, and, therefore, an EA is required here.

Need for the Proposed Action

As indicated by the above list, the Applicant seeks permission to engage in certain site preparation work before it is authorized to conduct uranium enrichment operations. This action is needed to allow the Applicant to complete certain on-site activities in parallel with the licensing and hearing processes, so that it can begin construction promptly upon issuance of the license. The NRC staff proposes to grant the exemption request and allow the Applicant to begin site preparation activities.

Alternatives to the Proposed Action

An alternative is to not grant the exemption and not allow the Applicant to engage in any site preparation activities before an operating license is issued. If the NRC does not grant the exemption, the Applicant would need to wait until a decision is made on its license application request to engage in the preconstruction activities.

Environmental Impacts of the Proposed Action

The NRC staff reviewed the Applicant’s exemption request in the context of whether or not the requested activities fall within one of the categories of site preparation activities considered not construction under § 51.4. The staff intends to exempt only those activities that fall within this definition. Therefore, the impacts of those activities are excluded from this EA. The impacts of site preparation activities will be addressed in the

environmental impact statement being prepared in conjunction with the NRC's review of the license application.

As discussed in Section 2 of the EA, the site preparation activities will only be considered in the NRC's environmental review of the subsequent major Federal action (*i.e.*, issuance of a license) to the extent necessary to establish an environmental baseline. Thus, these preparatory activities will be considered in the environmental impact statement (EIS) the NRC staff is preparing to support a licensing decision on the proposed Eagle Rock Enrichment Facility.

Environmental Impacts of the No-Action Alternative

There are no environmental impacts of not granting the exemption.

Agencies and Persons Consulted

The NRC staff consulted with the Idaho State Historic Preservation Office, the U.S. Fish and Wildlife Service, and the Idaho Department of Environmental Quality regarding the site preparation activities addressed in this EA.

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, because none of the activities approved by the action are considered "construction" for the purposes of Part 51 environmental analyses, 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

The Applicant's exemption request is 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 ADAMS accession number for the June 17, 2009, exemption request is ML091770390, and the October 15, 2009, reply to NRC's request for additional information is ML092920169. The ADAMS accession number for the NRC staff's September 14, 2009, request for additional information is ML092180375. The ADAMS Accession number for the complete EA is ML093220528.

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 via e-mail to pdr.resource@nrc.gov.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 8th day of March 2010.

For the U.S. Nuclear Regulatory Commission.

Marissa G. Bailey,

Deputy Director, Special Projects and Technical, Support Directorate, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2010-5677 Filed 3-15-10; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC-2010-0002]

Sunshine Act; Meeting Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of March 15, 22, 29, April 5, 12, 19, 2010.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 15, 2010

Tuesday, March 16, 2010

1:30 p.m. Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission on Grid Reliability (Public Meeting). (*Contact:* Kenn Miller, 301-415-3152).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of March 22, 2010—Tentative

There are no meetings scheduled for the week of March 22, 2010.

Week of March 29, 2010—Tentative

Tuesday, March 30, 2010

9:30 a.m. Briefing on Safety Culture (Public Meeting) (*Contact:* Jose Ibarra, 301-415-2581).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of April 5, 2010—Tentative

Tuesday, April 6, 2010

9 a.m. Periodic Briefing on New Reactor Issues—Design Certifications

(Public Meeting) (*Contact:* Amy Snyder, 301-415-6822).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Thursday, April 8, 2010

9:30 a.m. Briefing on Regional Programs—Programs, Performance, and Future Plans (Public Meeting) (*Contact:* Richard Barkley, 610-337-5065).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of April 12, 2010—Tentative

Thursday, April 15, 2010

9:30 a.m. Briefing on Resolution of Generic Safety Issue (GSI)—191, Assessment of Debris Accumulation on Pressurized Water Reactor (PWR) Sump Performance (Public Meeting) (*Contact:* Michael Scott, 301-415-0565).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

Week of April 19, 2010—Tentative

There are no meetings scheduled for the week of April 19, 2010.

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*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—(301) 415-1292. Contact person for more information: Rochelle Bavol, (301) 415-1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/about-nrc/policy-making/schedule.html>.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify Angela Bolduc, Chief, Employee/Labor Relations and Work Life Branch, at 301-492-2230, TDD: 301-415-2100, or by e-mail at angela.bolduc@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

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