

about Self-Shielded Irradiator Licenses,” as a process that the NRC staff finds acceptable for meeting the regulatory requirements.

## II. Further Information

In April 2008, DG-0019 was published with a public comment period of 60 days from the issuance of the guide. No comments were received and the public comment period closed on June 30, 2008. Electronic copies of Regulatory Guide 10.9, Revision 2 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), which is 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).

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Dated at Rockville, Maryland, this 18th day of September 2008.

For the Nuclear Regulatory Commission.

**Stephen C. O'Connor,**

*Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-022]

### Notice of License Termination CBS Test Reactor Located at Waltz Mill Site, Madison, PA

#### Introduction

The U.S. Nuclear Regulatory Commission (NRC) is noticing the granting of an exemption from 10 CFR 50.82(b)(6)(ii), and the related termination of Facility Operating License No. TR-02, held by CBS for the test reactor (TR) located on the Waltz Mill Site in Madison, PA. CBS requested this action in a letter to NRC dated December 6, 2007 (ML073440024). As discussed below, Westinghouse Electric Company, LLC (Westinghouse) held NRC materials license SNM-770, a license covering the entire Waltz Mill site on which the former TR was located. The granting of this exemption

and the termination of the TR-02 license is administrative in nature.

#### Background

The initial license for the TR was issued on June 19, 1959. Reactor operation permanently ceased following an accident in 1960. On March 25, 1963, the license was amended to allow only possession of special nuclear material but not reactor operation. A Decommissioning Plan (DP) for the TR was submitted on July 27, 1997, and was approved on September 30, 1998.

In the context of facilitating the resolution of a then-pending arbitration dispute regarding the Waltz Mill site between CBS and Westinghouse, the NRC, by letter dated March 17, 2006 (ML060750730), advised the parties that a request for an exemption from 10 CFR 50.82(b)(6)(ii) should be submitted jointly by CBS and Westinghouse, or by CBS with concurrence or an affidavit from Westinghouse, stating Westinghouse's willingness to accept the TR facility in the condition it was left in by CBS. This guidance further stated that the NRC would terminate the TR-2 license when: (1) The SNM-770 license was amended to accept the transfer of all residual radioactive materials, equipment and structures associated with the TR-2 license; and, (2) the NRC's requirements for terminating non-power reactor licenses had been satisfied. The arbitration case between CBS and Westinghouse resulted in a final arbitration opinion and award (American Arbitration Association Case No. 16Y 192 00937 02 dated July 20, 2007). In August 2007, CBS reached a monetary settlement with Westinghouse regarding the completion of decommissioning activities at TR-2.

In a letter dated December 6, 2007, Westinghouse requested that its SNM-770 license be amended to accept the TR-2 radioactive materials, structures, and equipment (ML073620136). In this letter, Westinghouse acknowledged that it will have the sole responsibility for satisfying the NRC's decommissioning requirements applicable to the Waltz Mill site, including requirements applicable to the radioactive materials, structures, and equipment associated with the former TR.

On March 20, 2008, NRC conducted an inspection of the Waltz Mill site for the purpose of assessing the transfer of all residual radioactive material, equipment, and structures from the TR-2 license to Westinghouse's SNM-770 license. No violations were identified during the course of the inspection. On March 26, 2008, the requested amendment was issued authorizing Westinghouse under its license to take

possession of all remaining radioactive material, structures and equipment associated with the TR-2 facility. With this amendment to the SNM-770 license, the need for the separate TR-2 license ended. With the termination of the TR-2 license, the SNM-770 license was the only NRC license in effect for radioactive materials on the Waltz Mill Site. On March 31, 2008, the State of Pennsylvania became an NRC Agreement State. Subsequently, the SNM-770 license was re-issued by Pennsylvania as license PA 1053S.

#### Discussion

##### A. Requirements for Terminating Non-Power Reactor Licenses

The NRC's regulations in 10 CFR 50.82(b)(6) provide that the Commission will terminate a non-power reactor license if it determines that the decommissioning has been performed in accordance with the approved decommissioning plan, and the terminal radiation survey and associated documentation demonstrate that the facility and site are suitable for release in accordance with Subpart E of 10 CFR part 20.

(1) Compliance with the Decommissioning Plan (10 CFR 50.82(b)(6)(i)) As stated above, the NRC approved the TR-2 DP in 1998. DP Revision 1 (the only revision) revised the method for removing the pressure vessel from the TR-2 containment building. The reactor component and equipment removal actions required by the TR-2 DP have been successfully completed. In its March 2006 guidance letter, the NRC advised CBS that the only actions then needed to complete implementation of the TR-2 DP were: (1) Provide documentation showing that the remaining radioactive materials associated with the TR-2 facility would be transferred to the SNM-770 License; and (2) issuance of a license amendment to the SNM-770 License authorizing the transfer of this material. Those actions have now been taken and implementation of the TR-2 DP is thus complete. Accordingly, the NRC finds that the requirements of 10 CFR 50.82(b)(6)(i) have been met.

(2) Terminal Radiation Survey and Associated Documentation (10 CFR 50.82(b)(6)(ii))

In addition to showing that decommissioning has been performed in accordance with the approved DP, a radiation survey and associated documentation must show that the facility and site are suitable for release in accordance with Subpart E of 10 CFR Part 20 before a non-power reactor license may be terminated. This is the

requirement from which CBS seeks an exemption in its December 6, 2007, submittal.

Therein, CBS notes that the purpose of the approved DP was to dismantle and remove TR components to the point that there would no longer be a utilization (reactor) facility remaining on the site. These actions would then allow the residual radioactive materials, structures, and equipment associated with the former TR to be transferred to the Westinghouse SNM-770 materials license for further remediation to the extent necessary. After all principal licensed activities at the Waltz Mill Site cease, the residual radioactive materials, structures, and equipment associated with the former TR, along with other buildings and lands covered by their existing license, will be decommissioned by Westinghouse in accordance with the State of Pennsylvania's requirements. As discussed below, the NRC finds that the requested exemption is warranted.

#### *B. Requirements for Granting Exemptions From 10 CFR Part 50*

Pursuant to 10 CFR 50.12(a)(1), the NRC must find that granting the requested exemption is authorized by law, will not present any undue risk to the public health and safety and would be consistent with the common defense and security. Because the TR-2 radioactive materials will remain under an NRC's Agreement State's License (PA-1053S) held by Westinghouse, they will be fully subject to appropriate regulatory authority and control. Full decommissioning at the Waltz Mill Site may safely be deferred until such time that all licensed activities there cease. The NRC thus finds that the requirements of 10 CFR 50.12(a)(1) are met.

Pursuant to 10 CFR 50.12(a)(2), the NRC must also find, in granting any exemption, that at least one of several enumerated "special circumstances" are present. In this regard, CBS maintains that the special circumstance here is that the application of 10 CFR 52.82(b)(6)(ii) to this case is unnecessary to achieve the underlying purpose of the rule, which is to provide for safe decommissioning and license termination. The NRC agrees, and finds that CBS has met the requirements of 10 CFR 50.12(a)(2)(ii) for granting an exemption. The basis for this finding is that Westinghouse has assumed complete responsibility for the safe decommissioning of the Waltz Mill Site, initially under its materials license SNM-770, and now under PA-1053S.

An environmental assessment does not need to be performed as this action

falls within the class of actions categorically excluded by 10 CFR 51.22(c)(11). The proposed action is administrative and procedural in nature. NRC staff has evaluated the granting of this exemption request and has determined the granting of the exemption is consistent with the staff's March 17, 2006 letter, and that the proposed action to terminate the license has also occurred in accordance within the guidance of the staff's March 17th letter.

#### **Conclusion**

The NRC is granting an exemption from 10 CFR 50.82(b)(6)(ii) and is terminating the license of the TR following the transfer of the radioactive materials, structures and equipment of the TR to Westinghouse LLC, the holder of the PA-1053S license for the remainder of the Waltz Mill Site. This is in accordance with the 2007 arbitration opinion and award.

With the SNM-770 license amended and transferred to the State of Pennsylvania and the TR-2 license terminated, the PA-1053S license will be the only license in effect for radioactive materials at the Waltz Mill Site. Westinghouse, as the remaining licensee on the Site, will now be solely responsible for the safe and environmentally acceptable possession and management of radioactive materials on the Waltz Mill Site, and the later remediation and decommissioning of the Waltz Mill Site.

For further details with respect to the above action, see CBS's letter dated December 6, 2007 and the NRC's letter to the CBS Corporation terminating the TR-2 license (ML081330398). The above referenced documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR) at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/readingrm/adams.html>. Persons who do not have access to ADAMS or who have problems in accessing the documents in ADAMS should call the NRC PDR reference staff at 1-800-397-4209 or 301-415-4737 or e-mail [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this the 19th day of September 2008.

**Keith I. McConnell,**

*Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.*

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## **NUCLEAR REGULATORY COMMISSION**

### **Notice of Availability of Memorandum of Understanding Between U.S. Army Corps of Engineers and U.S. Nuclear Regulatory Commission on Environmental Reviews Related to the Issuance of Authorizations To Construct and Operate Nuclear Power Plants**

**SUMMARY:** On September 12, 2008, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Army Corps of Engineers (Corps) signed a Memorandum of Understanding (MOU) which establishes a framework for early coordination and participation among the agencies. The MOU is an effort to facilitate the timely review of proposed nuclear power plant applications and it establishes a commitment to early agency involvement; proactive participation and informal communication throughout the review process; sharing of information gathered, considered and relied upon by each agency; and, if requested, interagency participation in public hearings. Interagency cooperation under the MOU will facilitate each agency's compliance with its review responsibilities under the National Environmental Policy Act and other related statutes with respect to the authorizations required to construct and operate nuclear power plants licensed by the NRC. It is anticipated that the Corps will act as a cooperating agency in most circumstances; however, the MOU does not preclude different forms of coordination (e.g., Corps participation as a consulting agency).

#### **FOR FURTHER INFORMATION CONTACT:**

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