

of intent to implement 10 CFR 50.48(c) or other period granted by NRC;

\* \* \* \* \*

## B. Existing Identified Noncompliances

\* \* \* \* \*

(3) It was not willful; and

(4) The licensee submits a letter of intent by December 31, 2005, stating its intent to transition to 10 CFR 50.48(c).

After December 31, 2005, as addressed in (4) above, this enforcement discretion for implementation of corrective actions for existing identified noncompliances will not be available and the requirements of 10 CFR 50.48(b) (and any other requirements in fire protection license conditions) will be enforced in accordance with normal enforcement practices. However, licensees that submit letters of intent to transition to 10 CFR 50.48(c) with existing noncompliances will have the option to implement corrective actions in accordance with the new performance-based regulation. All other elements of the assessment and enforcement process will be exercised even if the licensee submits its letter of intent before the NRC issues its enforcement action for existing noncompliances.

Dated at Rockville, MD, this 11th day of April, 2006.

For the Nuclear Regulatory Commission.

**Andrew L. Bates,**

*Acting Secretary of the Commission.*

[FR Doc. E6-5706 Filed 4-17-06; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-04530]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for U.S. Department of Agriculture Facility in Mission, TX

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

#### FOR FURTHER INFORMATION CONTACT:

Sattar Lodhi, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, telephone (610) 337-5364, fax (610) 337-5269; or by e-mail: [asl@nrc.gov](mailto:asl@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the

issuance of a license amendment to U.S. Department of Agriculture (USDA) for Materials License No. 19-00915-03, to authorize remediation activities at its radioactive waste burial site located at Moore Air Base (MAB) in Mission, Texas. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate.

#### II. EA Summary

The purpose of the proposed action is to authorize remediation activities at the licensee's radioactive waste burial site at MAB in Mission, Texas. USDA was authorized initially by the U.S. Atomic Energy Commission in the mid 1950's and later by the NRC to use radioactive materials for research and development purposes at the site. On May 5, 2005, USDA requested that NRC authorize remediation activities at the burial site. USDA has submitted to the NRC a plan to remediate the burial site.

The NRC staff has prepared an EA in support of the license amendment. The NRC staff has reviewed the information contained in the licensee's remediation plan. Based on its review, the staff has determined that the licensee has developed adequate procedures to ensure that the digging, removing and transporting the waste from the burial site will not have a significant impact on the environment and the workers. The staff has also determined that no additional information is necessary to complete the proposed action. Therefore, the staff considered the impact of the remediation activities at the facility and concluded that a Finding of No Significant Impact is appropriate.

#### III. Finding of No Significant Impact

The NRC staff has prepared the EA (summarized above) in support of the license amendment request. On the basis of the EA, the NRC has concluded that there are no significant environmental impacts from the proposed action, and has determined not to prepare an environmental impact statement for the proposed action.

#### IV. Further Information

Documents related to this action, including the application for the 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 ADAMS accession numbers for the documents related to this Notice are: USDA's plan to remediate the radioactive waste burial site at MAB (ML051300095), EA in support of the amendment request (ML060940281), review of EA by the State of Texas (ML053120414). 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 (800) 397-4209 or (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). These documents may also be viewed electronically on public computers located at the NRC's PDR, 01F21, One White Flint, 11555 Rockville Pike, Rockville, MD 20852. The PDR contractor will copy documents for a fee.

Documents related to operations conducted under this license not specifically referenced in this Notice may not be electronically available and/or may not be publicly available. Persons who have an interest in reviewing these documents should submit a request to NRC under the Freedom of Information Act (FOIA). Instructions for submitting a FOIA request can be found on the NRC's Web site at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

Dated at King of Prussia, Pennsylvania this 6th day of April, 2006.

For the Nuclear Regulatory Commission.

**John D. Kinneman,**

*Chief, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I.*

[FR Doc. E6-5715 Filed 4-17-06; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-08219]

### U.S. Environmental Protection Agency, Denver Federal Center, Building 53: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment

**AGENCY:** Nuclear Regulatory Commission.

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

**FOR FURTHER INFORMATION CONTACT:** D. Blair Spitzberg, Ph.D., Chief, Fuel Cycle and Decommissioning Branch, Division

of Nuclear Materials Safety, Region IV, U.S. Nuclear Regulatory Commission, Arlington, Texas 76011. Telephone: (817) 860-8191; fax number: (817) 860-8188; e-mail: [dbs@nrc.gov](mailto:dbs@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Material License No. 05-14892-01, as requested by the U.S. Environmental Protection Agency (EPA or the licensee), to authorize release of Building 53 at Denver Federal Center, Denver, Colorado, for unrestricted use. The licensee has been authorized by NRC to use radioactive material for instrument calibration and sample analyses at this location. On August 9, 2004, EPA requested that NRC release the facility for unrestricted use. The licensee conducted radiological surveys of the facility and provided information to demonstrate that the site meets the license termination criteria specified in Subpart E to 10 CFR part 20 for unrestricted release. The amendment will be issued if NRC determines that the request meets the standards specified in 10 CFR Part 20 and related NRC guidance documents.

##### II. Environmental Assessment (EA)

*Identification of Proposed Action:* The proposed action is to remove Building 53 from License Condition 10 as a location of use. Once the building is removed from the license, the licensee will be free to use the building in any manner without NRC restriction.

*The Need for the Proposed Action:* The licensee no longer conducts licensed activities in this building. The EPA has vacated the building and desires to release the building for unrestricted use. If the site is properly decommissioned, the licensee would then be in compliance with the Timeliness Rule requirements of 10 CFR 30.36, "Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas."

*Environmental Impacts of the Proposed Action:* Materials License No. 05-14892-01 authorizes EPA to possess small quantities of radioactive material, in both sealed and unsealed form, for instrument calibration and sample analysis. By letter dated August 9, 2004, EPA requested amendment of its license to remove Building 53 as a location of use. Radioactive materials were used in this building from about 1973 until 2003. All radioactive materials were relocated to Building 25 by August 2003.

The licensee conducted a historical review and concluded that the radionuclides of concern were americium-241, strontium-90, natural uranium, radium-226, and radium-228. Based on the historical review, the licensee determined that radioactive materials were used in eight laboratories in Building 53.

A final status survey of the building was conducted during February–March 2004. The final status survey was conducted in five of the eight laboratories. Two rooms were excluded because only sealed sources had been used in these rooms. A third room was excluded because only radioactivity at background levels were stored in this room. (The NRC's confirmatory survey included all eight rooms.) A final status survey report was completed by the licensee, and a copy of the report was attached to the licensee's August 9, 2004, letter.

The EPA concluded in its report that "Building 53 meets the criteria for radiological release \* \* \* thus allowing the facility to be released for unrestricted use and to be removed from the EPA's NRC Radioactive Material License." The NRC conducted a confirmatory survey of the building during October 2005. None of the confirmatory sample results exceeded the proposed derived concentration guideline levels (DCGLs) provided in the final status survey report.

In its final status survey report, the licensee stated that radioactive waste material from previously licensed operations in Building 53 was either transferred to an authorized recipient or placed into temporary storage. Solid waste disposal did not include on-site burial or incineration. Discharges to sewers were not allowed by the licensee's waste disposal program, and no record of disposal by sewer was identified by the licensee during its historical review. Further, no incidents were recorded involving spills or releases of radioactive material.

To demonstrate compliance with the radiological criteria for unrestricted use as specified in 10 CFR 20.1402, the licensee developed DCGLs. The NRC compared the licensee's proposed DCGLs to the screening criteria provided in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The NRC concluded that the proposed DCGLs were acceptable for use as release criteria.

In the final status survey report, the licensee states that radioactive materials were handled only within the eight rooms identified in the historical review. In addition, the licensee did not

dispose of radioactive material through the sewer system, and no spills were documented. Accordingly, there were no environmental impacts from the use of radioactive material in Building 53. 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. No additional hazards or impacts to the environment were identified.

*Environmental Impacts of the Alternatives to the Proposed Action:* The licensee seeks NRC approval of the amendment request. The alternatives to the proposed action are: (1) The no-action alternative, or (2) to deny the amendment request and require the licensee to take some alternate action.

1. *No-Action Alternative:* One alternative available to the NRC is to take no action by denying the amendment request. The no-action alternative is not feasible because it conflicts with the NRC's Timeliness Rule (10 CFR 30.36) which requires licensees to decommission their facilities when licensed activities cease.

2. *Environmental Impacts of Alternative 2:* A second alternative is to deny the licensee's request in favor of alternate release criteria as allowed by § 20.1403 (criteria for restricted conditions) or § 20.1404 (alternate criteria). However, the NRC's analysis of the final status survey data confirmed that the proposed DCGLs meet the license termination requirements of § 20.1402. Accordingly, the NRC has determined that the second alternative is not reasonable, and this alternative action is eliminated from further consideration.

*Conclusion:* Based on its review, the NRC staff concludes that the environmental impacts associated with the proposed action do not warrant denial of the license amendment request. The staff believes that the proposed action will result in no environmental impacts. The staff has determined that approval of the license amendment is the appropriate alternative for selection.

*Agencies and Persons Contacted:* The NRC staff did not consult with the Colorado State Historic Preservation Officer or the local U.S. Fish & Wildlife Service because licensed activities occurred only within Building 53. There was no evidence of use or release of radioactive material outside of the building. Accordingly, there was no impact to the cultural resources, endangered species, or critical habitats outside of Building 53. The Colorado Department of Public Health and Environment, Radiation Management

Unit, was consulted about this EA. The State informed the NRC by letter dated March 6, 2006, that it had no comments on the EA.

### III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed license amendment to release Building 53 for unrestricted use. On the basis of this EA, NRC has concluded that there are no significant environmental impacts from the proposed action, and the license amendment does not warrant the preparation of an environmental impact statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

### IV. Further Information

Documents related to this action, including the application for 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 ADAMS accession numbers for the documents related to this notice are:

1. NRC, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities," NUREG-1496, July 1997 (ML042310492, ML042320379, and ML042330385).
2. NRC, "Consolidated NMSS Decommissioning Guidance," NUREG-1757, Volume 2, September 2003 (ML053260027).
3. Ossinger, Albert, U.S. Environmental Protection Agency, License Amendment Request, August 9, 2004 (ML042510569, ML042570068, ML061000701 [Appendix D has been redacted because it contains confidential laboratory protocols], ML042570073, ML042570076, ML042570077, and ML042570080).
4. NRC Inspection Report 030-08219/05-001, November 14, 2005 (ML053180267).
5. Tarlton, Steve, Colorado Department of Public Health and Environment, "Request for Comments on Draft Environmental Assessment For Decommissioning of Building 53 at Denver Federal Center," March 6, 2006 (ML060790512).

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 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 Arlington, Texas, this 30th day of March, 2006.

For the Nuclear Regulatory Commission.

**D. Blair Spitzberg,**

*Chief, Fuel Cycle & Decommissioning Branch,  
Division of Nuclear Materials Safety, Region IV.*

[FR Doc. E6-5702 Filed 4-17-06; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Notice of Availability of Meeting Notice for Discussion of Draft Interim Staff Guidance Document for Fuel Cycle Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Meeting notice and agenda.

#### FOR FURTHER INFORMATION CONTACT:

James Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005-0001. Telephone: (301) 415-6459; fax number: (301) 415-5370; e-mail: [jas4@nrc.gov](mailto:jas4@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The Nuclear Regulatory Commission (NRC) continues to prepare and issue Interim Staff Guidance (ISG) documents for fuel cycle facilities. These ISG documents provide clarifying guidance to the NRC staff when reviewing licensee integrated safety analyses, license applications or amendment requests or other related licensing activities for fuel cycle facilities under 10 CFR Part 70. Currently, the NRC has revised one of these documents, Draft ISG-FCSS-10, Rev. 2, based on comments received on Revision 1. The NRC plans to discuss the resolution of these comments at a public meeting to be held April 28, 2006, at the NRC Headquarters Auditorium in Rockville, Maryland.

#### II. Summary

The purpose of this notice is to provide the public with a meeting notice and proposed agenda for a public

meeting scheduled for April 28, 2006, at the NRC Headquarters Auditorium in which the NRC will discuss revision of the draft guidance document, FCSS-ISG-10, Revision 2, which provides guidance to NRC staff to determine whether the minimum margin of subcriticality is sufficient to provide an adequate assurance of subcriticality for safety to demonstrate compliance with the performance requirements of 10 CFR 70.61(d), and its resolution of comments received on Revision 1. Revision 2 of the draft ISG and the ADAMS accession number for an associated table of comment resolution were previously noticed in the **Federal Register** on March 20, 2006. The agenda for the April 28, 2006, meeting is provided below.

### III. Proposed Agenda

Public Meeting, Scheduled for April 28, 2006, To Discuss Draft FCSS-ISG-10, Revision 2, "Justification for Minimum Margin of Subcriticality for Safety"

- 7:30 am Check in for security badging @ Two White Flint North, 11545 Rockville Pike
- 8 a.m. Purpose of workshop, introductions, agenda, and discussion process
- 8:15 a.m. NRC presentation on context/intent of FCSS-ISG-10
- 8:30 a.m. NRC summary of major changes to current version of FCSS-ISG-10
- 8:45 a.m. Section-by-section discussion of comments received and changes made
- 11:45 a.m. Meeting wrap-up
- 12:30 p.m. Adjourn

### IV. Further Information

The documents related to this action 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 ADAMS accession numbers for the documents related to this notice are provided in the following table. 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).

Interim staff guidance	ADAMS accession No.
Draft FCSS Interim Staff Guidance-10, Revision 2.	ML060260479