

representative) already holds an NRC-issued digital ID certificate). Each petitioner/requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the filer submits its documents through EIE. To be timely, an electronic filing must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC technical help line, which is available between 8:30 a.m. and 4:15 p.m., Eastern Time, Monday through Friday. The help line number is (800) 397-4209 or locally, (301) 415-4737.

Participants who believe that they have a good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1)

First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted and/or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii). To be timely, filings must be submitted no later than 11:59 p.m. Eastern Time on the due date.

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](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 submissions.

Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the document NUREG-1537, entitled "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors," can be obtained from the Commission's PDR. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The detailed review guidance (NUREG-1537) may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/>

[adams.html](#) under ADAMS Accession No. ML041230055 for part one and ML041230048 for part two. Copies of the application to renew the facility license for the licensee are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852-2738. The initial application and other related documents may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS Accession No. ML072210835 (Redacted Version). Persons who do not have access to ADAMS, or have problems accessing the documents located in ADAMS, may contact the NRC Public Document Room Reference staff at (800) 397-4209, or locally, (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 9th day of May, 2008.

For the Nuclear Regulatory Commission.

**Daniel S. Collins,**

*Chief, Research and Test Reactors Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. E8-10862 Filed 5-14-08; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-29462]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact Related to the Approval for the Department of the Navy To Issue an Amendment to a Materials Permit for the Unrestricted Release of Building 133 at the Naval Air Depot in Cherry Point, North Carolina, Under Byproduct Materials License No. 45-23645-01NA

**AGENCY:** Nuclear Regulatory Commission.

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

#### FOR FURTHER INFORMATION CONTACT:

Orysia Masnyk Bailey, Health Physicist, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406; phone number (864) 427-1032; fax number (610) 680-3497; or by e-mail: [omm@nrc.gov](mailto:omm@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

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

allowing the Department of the Navy (Navy) to issue an amendment to a materials permit in accordance with NRC Byproduct Materials License No. 45-23645-01NA. The NRC approval would authorize the Navy to release, for unrestricted use, Building 133 at the Naval Air Depot in Cherry Point, North Carolina. The Navy requested this action in a letter dated May 21, 2006. 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 proposed action will be taken 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 Navy's May 21, 2006, request to release Building 133 at the Naval Air Depot in Cherry Point, North Carolina (the Facility), for unrestricted use.

Building 133 is a one-story open structure used for repair and maintenance of aircraft engines. This Facility is located within a secure military base in a rural area, and use of licensed materials was confined to three shop areas: the Aircraft and Component Clean, Strip, and Corrosion Control Shop; the Machine Repair Power Plant Shop; and the Engine Parts Repair Shop. Each shop maintained dedicated, marked 55 gallon drums for storage of low level radioactive waste (LLRW) generated from Mg-Th operations. At the end of each shift in which Mg-Th maintenance was performed, areas were cleaned with dedicated shop vacuums equipped with HEPA filters. Mg-Th components were cleaned in an enclosed parts washer to prevent the spread of contamination.

In March 2006, the Navy ceased licensed activities at the Facility, and initiated a survey and decontamination of Building 133. Based on the Navy's historical knowledge of the site and the conditions of Building 133, the Navy determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Navy was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures were consistent with those approved for routine operations. The Navy conducted

Facility surveys 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 permit termination.

### *Need for the Proposed Action*

The Navy is requesting approval of this permitting action because it has ceased conducting licensed activities at its Facility, and seeks its unrestricted use and termination of the permit.

### *Environmental Impacts of the Proposed Action*

The historical review of licensed activities conducted in Building 133 shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Thorium 232. Prior to performing the final status survey, the Navy conducted decontamination activities, as necessary, in the areas of Building 133 affected by these radionuclides.

The Navy conducted a final status survey in May 2006. This survey covered Building 133 and, conservatively, the LLRW storage room in Building 134 and the Outside LLRW Storage Pad. The final status survey report was attached to the Navy's request for permit amendment approval dated May 21, 2006. The Navy elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by developing a derived concentration guideline level (DCGL) for thorium of 450 disintegrations per minute gross alpha activity per 100 square-centimeters area ( $\alpha$  dpm/100 cm<sup>2</sup>) for Building 133. The past history of Building 133 suggests that use of a surface criterion is appropriate. The Navy developed their final DCGL by utilizing the DANDD code and its default industrial scenario to calculate the "default" DCGL for thorium. The Navy then utilized the suggested resuspension factor in NUREG-1720 "Re-Evaluation of the Indoor Resuspension Factor for the Screening Analysis of the Building Occupancy Scenario for NRC's License Termination Rule—Draft Report" to calculate a site-specific DCGL. The Navy developed a ratio of the default resuspension value in the code and the re-evaluated value from draft NUREG-1720 and multiplied the "default" DCGL for thorium by this ratio to result in a site-specific 450  $\alpha$  dpm/100 cm<sup>2</sup> DCGL for thorium. The Navy thus determined the maximum amount of residual radioactivity on building surfaces, equipment, materials, and soils that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The

NRC reviewed the Navy's methodology and proposed DCGL, and concluded that the proposed DCGL is acceptable for use as release criteria for Building 133. The Navy's final status survey results were below this DCGL, and are thus 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. The staff finds there were no significant environmental impacts from the Facility's use of radioactive material. 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 Building 133. 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 Building 133 for unrestricted use and the termination of the Navy's materials permit is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at Building 133 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 Navy's final status survey data confirmed that Building 133 meets the requirements of 10 CFR 20.1402 for unrestricted release and for permit 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 North Carolina Department of Environment and Natural Resources, Radioactive Materials Branch for review on February 13, 2008. On February 14, 2008, the North Carolina Department of Environment and Natural Resources 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-1720, "Re-Evaluation of the Indoor Resuspension Factor for the

Screening Analysis of the Building Occupancy Scenario for NRC's License Termination Rule—Draft Report;"

2. NUREG-1757, "Consolidated NMSS Decommissioning Guidance;"

3. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"

4. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"

5. NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities" Volumes 1-3 (ML042310492, ML042320379, and ML042330385);

6. NRC License No. 45-23645-01NA inspection and licensing records.

7. Department of the Navy, Termination of Naval Radioactive Materials Permit No. 32-65923-S1NP issued to Naval Air Depot, Cherry Point, North Carolina, dated March 17, 2006 (ML060890561); and

8. Department of the Navy, Request Assistance in Preparing an Environmental Assessment for Termination of Naval Radioactive Materials Permit No. 32-65923-S1NP issued to Naval Air Depot, Cherry Point, North Carolina, dated May 21, 2007 (ML071450474).

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 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 King of Prussia, Pennsylvania this 8th day of May 2008.

For the Nuclear Regulatory Commission,  
**Marie Miller,**  
Chief, Security and Industrial Branch,  
Division of Nuclear Materials Safety, Region I.

[FR Doc. E8-10860 Filed 5-14-08; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-305]

### Dominion Energy Kewaunee, Inc; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Dominion Energy Kewaunee, Inc. (the licensee), to withdraw its November 9, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML073180499), application for proposed amendment to Facility Operating License No. DPR-43 for the Kewaunee Power Station (KPS), located in Kewaunee County, Wisconsin.

The proposed amendment would have revised the license to allow the use of a methodology not currently approved for use at KPS for performing the seismic qualification analysis of the auxiliary building crane.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 18, 2007 (72 FR 71707). However, by letter dated April 11, 2008 (ADAMS Accession No. ML081050011), the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 9, 2007, and the licensee's letter dated April 11, 2008, which withdrew the application for license amendment. Documents 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 O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm.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 by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 9th day of May 2008.