

**Article VIII**

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the Commonwealth, or upon request of the Governor of the Commonwealth, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the Commonwealth has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this Agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the Commonwealth has failed to take necessary steps. The Commission shall periodically review actions taken by the Commonwealth under this Agreement to ensure compliance with Section 274 of the Act which requires a Commonwealth program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

**Article IX**

This Agreement shall become effective on March 31, 2008, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Rockville, Maryland, in triplicate, this 10th day of March, 2008.

For the United States Nuclear Regulatory Commission.

**Dale E. Klein,**  
*Chairman.*

Done at Harrisburg, Pennsylvania, in triplicate, this 26th day of March, 2008.

For the Commonwealth of Pennsylvania.

**Edward G. Rendell,**  
*Governor.*

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**NUCLEAR REGULATORY COMMISSION**

[Docket No. 040-06394]

**Notice of Consideration of Amendment Request for Decommissioning of the Department of the Army, U.S. Army Research, Development and Engineering Command, Army Research Laboratory, Aberdeen Proving Ground, Maryland and Opportunity To Request a Hearing**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of amendment request and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by June 9, 2008.

**FOR FURTHER INFORMATION CONTACT:** Betsy Ullrich, Senior Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, U.S. Nuclear Regulatory Commission, King of Prussia, PA 19406. Telephone: (610) 337-5040; fax number: (610) 337-5269; or e-mail: [exu@nrc.gov](mailto:exu@nrc.gov).

**SUPPLEMENTARY INFORMATION:****I. Introduction**

The Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to Source Material License No. SMB-141 issued to the Department of the Army, U.S. Army Research, Development and Engineering Command, Army Research Laboratory (the Licensee), to authorize decommissioning of its Army Research Laboratory (ARL) Experimental Facility 14, formally known as Range 14, at the Aberdeen Proving Ground, Maryland (the Facility), under the Licensee's Decommissioning Plan (DP).

An NRC administrative review, documented in a letter to the Army Research Laboratory dated December 18, 2007, found the DP acceptable to begin a technical review.

If the NRC approves the DP, the approval will be documented in an amendment to NRC License No. SMB-141. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment and/or an Environmental Impact Statement. The license will be amended to authorize release of the Facility for unrestricted use if this amendment is approved following completion of decommissioning activities and verification by the NRC that the

radiological criteria for license termination have been met.

**II. Opportunity To Request a Hearing**

The NRC hereby provides notice that this is a proceeding on an application for a license amendment regarding the decommissioning of Range 14. Any person whose interest may be affected by this proceeding and who desires to participate as a party must file a request for a hearing and, a specification of the contentions which the person seeks to have litigated in the hearing, in accordance with the NRC E-Filing rule, which the NRC promulgated in August, 2007, 72 FR 49139 (Aug. 28, 2007). The E-Filing rule requires participants to submit and serve documents over the internet or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least five (5) days prior to the filing deadline, the petitioner/requester must contact the Office of the Secretary by e-mail at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by calling (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances in which the petitioner/requester (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each petitioner/requester 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 website at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

Once a petitioner/requester 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 website 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 website 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)-(c)(1)(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>, 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 social security 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 submission.

The formal requirements for documents contained in 10 CFR 2.304(c)-(e) must be met. If the NRC grants an electronic document exemption in accordance with 10 CFR 2.302(g)(3), then the requirements for paper documents, set forth in 10 CFR 2.304(b) must be met.

In accordance with 10 CFR 2.309(b), a request for a hearing must be filed by June 9, 2008.

In addition to meeting other applicable requirements of 10 CFR 2.309, the general requirements involving a request for a hearing filed by a person other than an applicant must state:

1. The name, address, and telephone number of the requester;
2. The nature of the requester's right under the Act to be made a party to the proceeding;
3. The nature and extent of the requester's property, financial, or other interest in the proceeding;
4. The possible effect of any decision or order that may be issued in the proceeding on the requester's interest; and
5. The circumstances establishing that the request for a hearing is timely in accordance with 10 CFR 2.309(b).

In accordance with 10 CFR 2.309(f)(1), a request for hearing or petitions for leave to intervene must set forth with particularity the contentions sought to be raised. For each contention, the request or petition must:

1. Provide a specific statement of the issue of law or fact to be raised or controverted;
2. Provide a brief explanation of the basis for the contention;
3. Demonstrate that the issue raised in the contention is within the scope of the proceeding;

4. Demonstrate that the issue raised in the contention is material to the findings that the NRC must make to support the action that is involved in the proceeding;

5. Provide a concise statement of the alleged facts or expert opinions which support the requester's/petitioner's position on the issue and on which the requester/petitioner intends to rely to support its position on the issue; and

6. Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the requester/petitioner disputes and the supporting reasons for each dispute, or, if the requester/petitioner believes the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requester's/petitioner's belief.

Requesters/petitioners should, when possible, consult with each other in preparing contentions and combine similar subject matter concerns into a joint contention, for which one of the co-sponsoring requesters/petitioners is designated the lead representative. Further, in accordance with 10 CFR 2.309(f)(3), any requester/petitioner that wishes to adopt a contention proposed by another requester/petitioner must do so, in accordance with the E-Filing rule, within ten days of the date the contention is filed, and designate a representative who shall have the authority to act for the requester/petitioner.

In accordance with 10 CFR 2.309(g), a request for hearing and/or petition for leave to intervene may also address the selection of the hearing procedures, taking into account the provisions of 10 CFR 2.310.

### III. 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:

Submittal Letter dated November 6, 2007—ML073180538.  
R14 Range DP, Rev. 0—ML073180560.

R14 Range DP Rev. 0, App. A, License No. SMB-141, Am. 27—ML073180578.

R14 Range DP Rev. 0, App. B, Characterization Report—ML073180594.

R14 Range DP Rev. 0, App. C, Determination of DCGLs—ML073180601.

R14 Range DP Rev. 0, App. D, Final Status Survey Plan—ML073180603.

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 [pdrc@nrc.gov](mailto:pdrc@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 475 Allendale Road, King of Prussia, PA, this 2nd day of April, 2008.

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

[Docket No. 50-243; EA-08-099]

### In the Matter of Oregon State University (Oregon State University TRIGA Reactor); Order Modifying Amended Facility Operating License No. R-106

#### I

Oregon State University (the licensee) is the holder of Amended Facility Operating License No. R-106 (the license), originally issued on March 7, 1967, by the U.S. Atomic Energy Commission. The license authorizes operation of the Oregon State University TRIGA Reactor (the facility) at a power level up to 1100 kilowatts thermal and in the pulse mode, with reactivity insertions not to exceed 2.55\$, and to receive, possess, and use special nuclear material associated with facility operation. The facility is a research reactor located on the campus of Oregon State University, in the city of Corvallis, Benton County, Oregon. The mailing address is Radiation Center, Oregon State University, 100 Radiation Center, Corvallis, Oregon 97331-5903.

#### II

Title 10, Section 50.64, "Limitations on the Use of Highly Enriched Uranium (HEU) in Domestic Non-Power Reactors," of the *Code of Federal Regulations* (10 CFR 50.64), limits the use of high-enriched uranium (HEU) fuel in domestic non-power reactors (research and test reactors) (see 51 FR 6514). The regulation, which became effective on March 27, 1986, requires that if Federal Government funding for conversion-related costs is available, each licensee of a non-power reactor authorized to use HEU fuel shall replace it with low-enriched uranium (LEU) fuel acceptable to the Commission unless the Commission has determined that the reactor has a unique purpose. The Commission's stated purpose for these requirements was to reduce, to the maximum extent possible, the use of HEU fuel in order to reduce the risk of theft and diversion of HEU fuel used in non-power reactors.

Paragraphs 50.64(b)(2)(i) and (ii) require that a licensee of a non-power reactor (1) not acquire more HEU fuel if LEU fuel that is acceptable to the Commission for that reactor is available when the licensee proposes to acquire HEU fuel and (2) replace all HEU fuel in its possession with available LEU fuel acceptable to the Commission for that reactor in accordance with a schedule determined pursuant to 10 CFR 50.64(c)(2).

Paragraph 50.64(c)(2)(i) requires, among other things, that each licensee of a non-power reactor authorized to possess and use HEU fuel develop and submit to the Director of the Office of Nuclear Reactor Regulation (the Director) by March 27, 1987, and at 12-month intervals thereafter, a written proposal for meeting the requirements of the rule. The licensee shall include in its proposal a certification that Federal Government funding for conversion is available through the U.S. Department of Energy or other appropriate Federal agency. The proposal should also provide a schedule for conversion, based upon the availability of replacement fuel acceptable to the Commission for that reactor and upon consideration of other factors such as the availability of shipping casks, implementation of arrangements for available financial support, and reactor usage.

Paragraph 50.64(c)(2)(iii) requires the licensee to include in the proposal, to the extent required to effect conversion, all necessary changes to the license, the facility, and licensee procedures. This paragraph also requires the licensee to

submit supporting safety analyses in time to meet the conversion schedule.

Paragraph 50.64(c)(2)(iii) also requires the Director to review the licensee proposal, to confirm the status of Federal Government funding, and to determine a final schedule, if the licensee has submitted a schedule for conversion.

Paragraph 50.64(c)(3) requires the Director to review the supporting safety analyses and to issue an appropriate enforcement order directing both the conversion and, to the extent consistent with the protection of public health and safety, any necessary changes to the license, the facility, and licensee procedures. In the **Federal Register** notice of the final rule (51 FR 6514), the Commission explained that in most, if not all, cases, the enforcement order would be an order to modify the license under 10 CFR 2.204 (now 10 CFR 2.202, "Orders").

Any person, other than the licensee, whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for hearing or petition for leave to intervene meeting the requirements of 10 CFR 2.309, "Hearing Requests, Petitions to Intervene, Requirements for Standing, and Contentions."

#### III

The U.S. Nuclear Regulatory Commission (NRC) maintains the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. On November 6, 2007, the licensee submitted its conversion proposal (ADAMS Accession No. ML080420546), which was supplemented on February 11, 2008 (ADAMS Accession No. ML080730057). The NRC staff is in the process of reviewing the conversion proposal. The licensee indicated that an order, separate from the order for converting the reactor to LEU fuel, is needed that increases the uranium-235 possession limit because of a constraint on the timing of the shipment of replacement LEU fuel. The certification of the shipping containers used to transfer the LEU fuel from the manufacturer in France to the licensee will expire in June 2008, before the NRC can issue the order for reactor conversion. Therefore, the licensee requires the receipt and possession, but not use in the reactor, of the LEU fuel at this time to allow the fuel to be received before the shipping container loses its certification. The LEU fuel contains the uranium-235 isotope at an enrichment of less than 20 percent. The NRC staff reviewed the licensee's proposal and the