

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.

NUREG-1757, "Consolidated NMSS Decommissioning Guidance;"

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

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

NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"

Licensee letter dated June 21, 2005 and attachments—first request to remove ARL facility from license (ML051920272); and

Licensee letter dated August 28, 2006 and attachments—final request to remove ARL facility from license (ML062550071).

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 U.S. NRC Region I Office located in King of Prussia, Pennsylvania this 4th day of December 2006.

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

[FR Doc. E6-20957 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-12998]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 37-07438-15, for the Unrestricted Release of the Philadelphia Health & Education Corporation's Facility in Doylestown, PA

**AGENCY:** Nuclear Regulatory Commission.

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

#### FOR FURTHER INFORMATION CONTACT:

Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1, 475 Allendale Road, King of Prussia, Pennsylvania; telephone (610) 337-5366; fax number (610) 337-5393; or by e-mail: [drl1@nrc.gov](mailto:drl1@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 37-07438-15. This license is held by Philadelphia Health & Education Corporation, d/b/a/ Drexel University College of Medicine (the Licensee), for the area leased to the Licensee within the Delaware Valley College of Agriculture and Science's Mandrell Science Building (the Facility), located at 700 E. Butler Avenue in Doylestown, Pennsylvania. Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated August 28, 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 amendment will be issued to the Licensee 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 Licensee's August 28, 2006, license amendment request, resulting in release of the Facility for unrestricted use. License No. 37-07438-15 was issued on July 17, 1977, pursuant to 10 CFR Part 30 and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is a 15,000 square foot leased area, within the 66,300 square foot Mandrell Science Building, located on the 80 acre Delaware Valley College of Agriculture and Science Campus. The Facility consists of office space and laboratories. Within the Facility, use of licensed materials was confined to laboratories totaling 2,680 square feet.

On July 26, 2006, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

### Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks release of the Facility for unrestricted use.

### Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of hydrogen-3, which has a half-life greater than 120 days. Prior to

performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on August 15, 2006. This survey covered areas of material use within the Facility. The final status survey report was attached to the Licensee's amendment request dated August 28, 2006. A previous survey was performed on July 30, 2004, after the use of hydrogen-3 had been completed at the Facility. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are 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 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. 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 the Facility. 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 the Facility for unrestricted use and the termination of the NRC materials license is in compliance with

10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility 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 Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. 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 Commonwealth of Pennsylvania's Department of Environmental Protection, Bureau of Radiation Protection, for review on November 13, 2006. On November 14, 2006, the Commonwealth responded by e-mail. The Commonwealth 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-1757, "Consolidated NMSS Decommissioning Guidance;"
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination;"
3. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;"
4. NUREG-1496, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities;"
5. Philadelphia Health & Education Corp. d/b/a/ Drexel University College of Medicine, Amendment Request Letter dated August 28, 2006. (ML062550419)
6. Philadelphia Health & Education Corp. d/b/a/ Drexel University College of Medicine, Deficiency Response Letter dated October 10, 2006. (ML062960347)
7. Philadelphia Health and Education Corporation d/b/a/ Drexel University College of Medicine, RAI, Previous Transfer of Location of Use of the Mandell Science Building located in Doylestown, PA, telephone log dated October 30, 2006. (ML063060010)
8. Thomas Jefferson University Hospital, additional information facsimile dated July 30, 2004. (ML042190441)

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 Region 1, 475 Allendale Road, King of Prussia, Pennsylvania, this 4th day of December 2006.

For the Nuclear Regulatory Commission.

**James P. Dwyer,**

*Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1.*

[FR Doc. E6-20955 Filed 12-8-06; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[EA-06-290]

### In the Matter of All Licensees Identified in Attachment 1 to Order EA-06-289 and all Other Persons Who Seek or Obtain Access to Safeguards Information Described Herein; Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information; (Effective Immediately)

#### I

The Licensees identified in Attachment 1<sup>1</sup> to Order EA-06-289 hold licenses issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or Commission) or Agreement States, authorizing them to engage in an activity subject to regulation by the Commission or Agreement States. On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is to be permitted to have access to Safeguards Information (SGI)<sup>2</sup>. The NRC's implementation of this requirement cannot await the completion of the SGI rulemaking, which is underway, because the EPAct fingerprinting and criminal history records check requirements for access to

<sup>1</sup> Attachment 1 to Order EA-06-289 contains sensitive information and will not be released to the public.

<sup>2</sup> Safeguards Information is a form of sensitive, unclassified, security-related information that the Commission has the authority to designate and protect under section 147 of the AEA.

SGI were immediately effective upon enactment of the EPAct. Although the EPAct permits the Commission by rule to except certain categories of individuals from the fingerprinting requirement, which the Commission has done [see 10 CFR 73.59, 71 FR 33,989 (June 13, 2006)], it is unlikely that licensee employees or others are excepted from the fingerprinting requirement by the "fingerprinting relief" rule. Individuals relieved from fingerprinting and criminal history records checks under the relief rule include Federal, State, and local officials and law enforcement personnel; Agreement State inspectors who conduct security inspections on behalf of the NRC; members of Congress and certain employees of members of Congress or Congressional Committees, and representatives of the International Atomic Energy Agency (IAEA) or certain foreign government organizations. In addition, individuals who have a favorably-decided U.S. Government criminal history records check within the last five (5) years, or individuals who have active federal security clearances (provided in either case that they make available the appropriate documentation), have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again. Therefore, in accordance with Section 149 of the AEA, as amended by the EPAct, the Commission is imposing additional requirements for access to SGI, as set forth by this Order, so that affected licensees can obtain and grant access to SGI. This Order also imposes requirements for access to SGI by any person, from any person<sup>3</sup>, whether or not a Licensee, Applicant, or Certificate Holder of the Commission or Agreement States.

#### II

The Commission has broad statutory authority to protect and prohibit the unauthorized disclosure of SGI. Section 147 of the AEA grants the Commission explicit authority to issue such Orders as necessary to prohibit the unauthorized disclosure of SGI. Furthermore, Section 652 of the EPAct

<sup>3</sup> Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person with respect to those facilities of the Department of Energy specified in section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

amended Section 149 of the AEA to require fingerprinting and an FBI identification and criminal history records check of each individual who seeks access to SGI. In addition, no person may have access to SGI unless the person has an established need-to-know the information and satisfies the trustworthy and reliability requirements described in Attachment 3 to Order EA-06-289.

In order to provide assurance that the Licensees identified in Attachment 1 to Order EA-06-289 are implementing appropriate measures to comply with the fingerprinting and criminal history records check requirements for access to SGI, all Licensees identified in Attachment 1 to Order EA-06-289 shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety and interest require that this Order be effective immediately.

#### III

Accordingly, pursuant to Sections 81, 147, 149, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Parts 30 and 73, *it is hereby ordered*, effective immediately, that all licensees identified in attachment 1 to order ea-06-289 and all other persons who seek or obtain access to safeguards information, as described above, shall comply with the requirements set forth in this order and its attachment.

A. 1. No person may have access to SGI unless that person has a need-to-know the SGI, has been fingerprinted or who has a favorably-decided FBI identification and criminal history records check, and satisfies all other applicable requirements for access to SGI. Fingerprinting and the FBI identification and criminal history records check are not required, however, for any person who is relieved from that requirement by 10 CFR 73.59 [71 FR 33,989 (June 13, 2006)], or who has a favorably-decided U.S. Government criminal history records check within the last five (5) years, or who has an active federal security clearance, provided in the latter two cases that the appropriate documentation is made available to the Licensee's NRC-approved reviewing official.

2. No person may have access to any SGI if the NRC has determined, based on fingerprinting and an FBI identification and criminal history