

staff. To be certain of consideration, comments on the draft supplement to the GEIS and the proposed action must be received by November 24, 2004. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Room T-6D59, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Electronic comments may be submitted to the NRC by e-mail at [ANOEIS@nrc.gov](mailto:ANOEIS@nrc.gov). All comments received by the Commission, including those made by Federal, State, and local agencies, Native American Tribes, or other interested persons, will be made available electronically at the Commission's PDR in Rockville, Maryland, and from the PARS component of ADAMS.

The NRC staff will hold a public meeting to present an overview of the draft plant-specific supplement to the GEIS and to accept public comments on the document. The public meeting will be held on October 21, 2004, at the Holiday Inn, 2407 N. Arkansas Avenue, Russellville, Arkansas. The meeting will commence at 7 p.m. and will continue until 10 p.m. It will be transcribed and will include: (1) A presentation of the contents of the draft plant-specific supplement to the GEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC staff will host informal discussions one hour before the start of the meeting at the same location. No comments on the draft supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meeting or in writing, as discussed below. Persons may pre-register to attend or present oral comments at the meeting by contacting Mr. Thomas Kenyon by telephone at 1-800-368-5642, extension 1120, or by e-mail at [ANOEIS@nrc.gov](mailto:ANOEIS@nrc.gov) no later than October 15, 2004. Members of the public may also register within 15 minutes of the start of the session to provide oral comments. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or

accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Kenyon's attention no later than October 15, 2004, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

**FOR FURTHER INFORMATION CONTACT:** Thomas Kenyon, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Mr. Kenyon may be contacted at the aforementioned telephone number or e-mail address.

Dated in Rockville, Maryland, this 30th day of August, 2004.

For the Nuclear Regulatory Commission.

**Samson S. Lee,**

*Acting Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-20192 Filed 9-3-04; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-390]

### Tennessee Valley Authority; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Tennessee Valley Authority (the licensee) to withdraw its April 7, 2004, application for proposed amendment to Facility Operating License No. NPF-90 for the Watts Bar Nuclear Plant (WBN), Unit 1, located in Rhea County, Tennessee.

The proposed amendment would have revised the WBN Unit 1, Technical Specification (TS) 3.7.9, "Ultimate Heat Sink (UHS)" Surveillance Requirement and TS 5.7 "Procedures, Programs and Manuals."

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 27, 2004 (69 FR 22884). However, by electronic mail dated August 9, 2004, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated April 7, 2004, and the licensee's electronic mail dated August 9, 2004, 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 O-1F21, 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/adams/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 27th day of August 2004.

For the Nuclear Regulatory Commission.

**Manny M. Comar,**

*Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04-20194 Filed 9-3-04; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### State of Utah: Discontinuance of Certain Commission Regulatory Authority Within the State; Notice of Amendment to Agreement Between the Nuclear Regulatory Commission and the State of Utah

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of amendment to the agreement between NRC and the state of Utah.

**SUMMARY:** This notice is announcing that on August 10, 2004, Dr. Nils J. Diaz, Chairman of the U.S. Nuclear Regulatory Commission (NRC) and on August 16, 2004, Governor Olene S. Walker of the State of Utah signed an amendment to the Agreement between the NRC and the State of Utah as authorized by section 274b of the Atomic Energy Act of 1954, as amended (Act). The amendment to the Agreement became effective on August 16, 2004. The amendment to the Agreement provides for the Commission to discontinue its regulatory authority and for Utah to assume regulatory authority over the possession and use of byproduct material as defined in section 11e.(2) of the Act. Under the amendment to the Agreement, a person in Utah possessing this material is exempt from certain Commission regulations. The exemptions have been

previously published in the **Federal Register** (FR) and are codified in the Commission's regulations at 10 CFR part 150. The amendment to the Agreement (Appendix A) is published as required by section 274e of the Act.

**FOR FURTHER INFORMATION CONTACT:**

Dennis M. Sollenberger, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone (301) 415-2819 or e-mail [DMS4@nrc.gov](mailto:DMS4@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The draft amendment to the Agreement was published in the **Federal Register** (FR) for comment once a week for four consecutive weeks (*see e.g.*, 69 FR 7026; February 12, 2004) as required by the Act. The public comment period ended on March 15, 2004. The Commission received one comment letter (ML040780577 and ML040780567) which was addressed by the NRC staff. The commenter raised questions on Utah's adoption of the NRC policy allowing alternate feed materials to be processed at uranium mills, on proceeding with the amendment to the Agreement while the Commission is considering the proposed alternative groundwater standards, and on several other issues dealing with specific NRC past actions and what approach Utah should take in the future in implementing the amendment to the Agreement. The NRC staff analyzed these comments and prepared responses to them (ML042240493). The NRC staff determined that the comments received do not affect the NRC staff's assessment which finds the Utah 11e.(2) byproduct material program adequate to protect public health, safety, and environment, and compatible with the NRC's program. Thus, Utah meets NRC's criteria for an Agreement for 11e.(2) byproduct material. The proposed Utah amendment to the Agreement is consistent with Commission policy and thus, meets the criteria for an 11e.(2) byproduct material amendment to the Agreement with the Commission.

After considering the request for an amendment to the Agreement by the Governor of Utah, the supporting documentation submitted with the request for the amendment to the Agreement, and the interactions with the staff of the Utah Division of Radiation Control, Department of Environmental Quality, the NRC staff completed an assessment of the Utah 11e.(2) byproduct material program. A copy of the NRC staff assessment (ML041940185) was made available in the NRC's PDR and electronically on NRC's Web site. Based on the documents submitted by Utah, the NRC

staff's analysis of comments, and the NRC staff's assessment, the Commission determined on August 4, 2004, that the proposed Utah 11e.(2) byproduct material program is adequate to protect public health, safety, and the environment, and that it is compatible with the NRC's program (ML042170320).

Documents referred to in this notice and other publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. 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).

Dated at Rockville, Maryland, this 31st day of August, 2004.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook**,  
*Secretary of the Commission.*

Appendix A—Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

*Whereas*, the United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) entered into an Agreement on March 29, 1984 (hereinafter referred to as the Agreement of March 29, 1984) with the State of Utah under Section 274 of the Atomic Energy Act of 1954, as amended (hereafter referred to as the Act) which became effective on April 1, 1984, providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and Section 161 of the Act with respect to byproduct materials as defined in Section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

*Whereas*, the Commission entered into an amendment to the Agreement of March 29, 1984 (hereinafter referred to as the Agreement of March 29, 1984, as amended) pursuant to the Act providing for discontinuance of regulatory authority of the Commission with respect to the land disposal of source, byproduct, and special nuclear material received from other persons which became effective on May 9, 1990; and,

*Whereas*, the Governor of the State of Utah requested, and the Commission agreed, that the Commission reassert Commission authority for the evaluation of radiation

safety information for sealed sources or devices containing byproduct, source or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission; and,

*Whereas*, the Governor of the State of Utah is authorized under Utah Code Annotated 19-3-113 to enter into this amendment to the Agreement of March 29, 1984, as amended, between the Commission and the State of Utah; and,

*Whereas*, the Governor of the State of Utah has requested this amendment in accordance with Section 274 of the Act by certifying on January 2, 2003 that the State of Utah (hereinafter referred to as the State) has a program for the control of radiological and non-radiological hazards adequate to protect the public health and safety and the environment with respect to byproduct material as defined in Section 11e.(2) of the Act and facilities that generate this material and that the State desires to assume regulatory responsibility for such material; and,

*Whereas*, the Commission found on August 4, 2004, that the program of the State for the regulation of materials covered by this Amendment is in accordance with the requirements of the Act and in all other respects compatible with the Commission's program for the regulation of byproduct material as defined in Section 11e.(2) of the Act and is adequate to protect public health and safety; and,

*Whereas*, the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that the State and the Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

*Whereas*, this Amendment to the Agreement of March 29, 1984, as amended, is entered into pursuant to the provisions of the Act.

*Now, Therefore*, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of March 29, 1984, as amended, is amended by adding a new paragraph B and renumbering paragraphs B through D as paragraphs C through E. Paragraph B will read as follows: "B. Byproduct materials as defined in Section 11e.(2) of the Act;"

Section 2. Article II of the Agreement of March 29, 1984, as amended, is amended by deleting paragraph E and inserting a new paragraph E to implement the reassertion of Commission authority over sealed sources and devices to read:

"E. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission."

Section 3. Article II of the Agreement of March 29, 1984, as amended, is amended by numbering the current Article as "A" by

placing an A in front of the current Article language. The subsequent paragraphs A through E are renumbered as paragraphs 1 through 5. After the current amended language, the following new Paragraph B is added to read:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11e.(2) of the Act:

1. Prior to the termination of a State license for such byproduct material, or for any activity that resulted in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met;

2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as a disposal site for such material. Such reserved authority includes:

a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State of Utah at the option of the State (provided such option is exercised prior to termination of the license);

c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to 2.b. in this Section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, as amended, provided that the Commission determines that such use would not endanger public health, safety, welfare, or the environment;

d. The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this Section taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or the State;

e. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect public health and safety, and other actions as the Commission deems necessary; and

f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such

byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States."

Section 4. Article IX of the 1984 Agreement, as amended, is renumbered as Article X and a new Article IX is inserted to read:

#### "ARTICLE IX

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in the production of such byproduct material, the State shall comply with the provisions of Section 274o of the Act. If in such licensing and regulation, the State requires financial surety arrangements for reclamation or long-term surveillance and maintenance of such byproduct material:

A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such byproduct material and its disposal site is transferred to the United States upon termination of the State license for such byproduct material or any activity that results in the production of such byproduct material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

B. Such surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site."

This amendment shall become effective on August 15, 2004, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII of the Agreement of March 29, 1984, as amended.

Done at Rockville, Maryland, in triplicate, this 10th day of August 2004.

For the United States Nuclear Regulatory Commission.

/RA/  
Nils J. Diaz,

*Chairman.*

Done at Salt Lake City, Utah, in triplicate, this 16th day of August 2004.

For the state of Utah.

/RA/  
Olene S. Walker,  
*Governor.*

[FR Doc. 04-20190 Filed 9-3-04; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### State of Utah: Final Determination on Proposed Alternative Groundwater Standards for 11e.(2) Byproduct Material

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Final Commission Determination under Section 274o of the Atomic Energy Act of 1954, as amended; State of Utah Proposed Alternative Groundwater Standards.

**SUMMARY:** This notice is announcing that on August 4, 2004, the Nuclear Regulatory Commission (NRC) made the determination required by section 274o of the Atomic Energy Act of 1954, as amended (Act) for Agreement State proposed alternative standards for 11e.(2) byproduct material. The Commission has determined that the State of Utah's proposed alternative groundwater standards will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and non-radiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275 of the Act. This notice completes the notice and public hearing process required in section 274o of the Act for proposed State alternative standards.

**FOR FURTHER INFORMATION CONTACT:** Dennis M. Sollenberger, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone (301) 415-2819 or e-mail [DMS4@nrc.gov](mailto:DMS4@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission approved a similar process to that specified at 10 CFR part 2, subpart H to fulfill both provisions for notice and for opportunity for public hearing required by section 274o of the Act. The Commission published a notice and opportunity for public hearing in the **Federal Register** on the State of Utah's proposed alternative groundwater standards for a 30-day comment period (68 FR 51516, August 27, 2003). On October 24, 2003, the Commission published a clarification of the notice and opportunity for public hearing in the August 27, 2003 notice, noticed the electronic availability of two