

CFR 30.3 by Mr. Pitts, as discussed above, has raised serious doubt as to whether he can be relied upon to comply with NRC requirements in the future.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Pitts were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Pitts be prohibited from any involvement in NRC-licensed activities for a period of five (5) years from the date of this Order. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Pitts's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

#### IV

Accordingly, pursuant to sections 81, 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 30.10, and 10 CFR 150.20, *it is hereby ordered, effective immediately, that:*

1. Stanley Pitts is prohibited for five (5) years from the date of this Order from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Pitts is currently involved in NRC-licensed activities, he must immediately cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer.

3. Subsequent to expiration of the five year prohibition, Mr. Stanley Pitts shall, for the next five years and within 20 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or entity where he is, or will be, involved in the NRC-licensed activities. In the notification, Stanley Pitts shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have

confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Pitts of good cause.

#### V

In accordance with 10 CFR 2.202, Stanley Pitts must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Pitts or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, and to Mr. Pitts if the answer or hearing request is by a person other than Mr. Pitts. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). If a person other than Mr. Pitts requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by Mr. Pitts or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(I), Mr. Pitts, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 2nd day of August, 2005.

For The Nuclear Regulatory Commission.

**Martin J. Virgilio,**

*Deputy Executive Director for Materials, Research, State and Compliance Programs.*  
[FR Doc. E5-4373 Filed 8-11-05; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-05626]

### Notice of Environmental Assessment Related to the Issuance of a License Amendment to Byproduct Material License No. 34-00507-16, for the National Aeronautics And Space Administration, Cleveland, OH

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental Assessment and Finding of No Significant Impact for license amendment.

#### FOR FURTHER INFORMATION CONTACT:

George M. McCann, Senior Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532-4352; telephone: (630) 829-9856; or by e-mail at [gmm@nrc.gov](mailto:gmm@nrc.gov).

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

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to NRC materials license No. 34-00507-16 to allow the National Aeronautics and Space Administration (NASA), the licensee, to temporarily store seven activated control rods containing cadmium in a commercially available on-site storage container on an outdoor storage pad located at its Plum Brook Station, a federal reservation, in Sandusky, Ohio. The NRC has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has determined that a Finding of No Significant Impact (FONSI) is appropriate.

**II. Environmental Assessment***Background*

The licensee submitted a license amendment to the U.S. Nuclear Regulatory Commission (NRC) by letter dated December 15, 2004 (ADAMS Accession No. ML043560196). The licensee requested that the NRC approve the temporary storage of seven activated control rods containing cadmium in two commercially available "on-site storage containers" (one inside the other) on an outdoor pad, located at its Plum Brook Station in Sandusky, Ohio. The control rods are from the licensee's former Plum Brook Research Reactor facility, which is currently undergoing decommissioning. The NRC is considering the issuance of an amendment to the licensee's John H. Glenn Research Center materials license 34-00507-16, which currently authorizes NASA to possess byproduct materials for research and development activities at its research facilities, which are also located at the Plum Brook Station Federal Reservation. If approved by the NRC, the licensee will be authorized to possess, for temporary storage, the activated control rods in commercially available on site storage containers on an outdoor pad.

The NRC has prepared an Environmental Assessment (EA) in support of this licensing action in accordance with the requirements of title 10, Code of Federal Regulations (CFR), part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions." The EA was developed to provide sufficient evidence and analysis for determining whether to prepare an Environmental Impact Statement or

Finding of No Significant Impact (FONSI). Based on the results of the EA, the NRC has determined that a FONSI is appropriate.

*Proposed Action*

The proposed action is to grant an amendment to license No. 34-00507-16 that would allow the licensee to store the activated control rods in two commercially available on-site storage containers (one inside the other) on an outdoor storage pad in accordance with 10 CFR part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," and 10 CFR part 20, "Standards for Protection Against Radiation," and related NRC guidance documents. The NASA John H. Glenn Research Center currently possesses two NRC reactor licenses (TR-3 and R-93), and one byproduct materials license authorizing activities at the Plum Brook Station facility. The licensee proposes to transfer possession of the activated control rods from the reactor license to the byproduct materials license. The responsibility for storage and oversight of the control rods will remain with NASA, but will be transferred to the NASA John H. Glenn Research Center's byproduct material license.

*The Need for the Proposed Action*

The licensee is requesting this license amendment for the temporary storage of the activated rods to facilitate the decommissioning of its Plum Brook Reactor Facility, which was shutdown in 1973. The licensee's decommissioning plan for the Plum Brook Reactor Facility was approved by the NRC on March 20, 2002 (ADAMS Accession No. ML020390069). The licensee is required by license condition to complete decommissioning of the reactor site by December 31, 2007. The licensee must conduct remedial action status surveys to ensure that the contaminated material has been removed to levels consistent with limits for unrestricted release specified in 10 CFR part 20 subpart E, "Radiological Criteria for License Termination," section 20.1401, "General Provisions and Scope" which limits the total dose for unrestricted release to 25 millirem per year. After the Commission verifies that the release criteria have been met, the reactor license will be terminated. However, the licensee has determined that the activated rods are categorized as a "Class C" waste per 10 CFR 61.55, "Waste Classification," based upon their radiological composition. The presence of the cadmium modifies the waste categorization to a "Mixed Class C" waste, and currently there are no disposal sites commercially available for

such wastes. Thus, the continued presence of the activated control rods on the Plum Brook Reactor Facility site could prevent NASA from meeting the December 31, 2007, completion date.

*Alternatives to the Proposed Action*

There are two possible alternatives to the proposed action of allowing the on-site transfer of the control rods between the two NASA licenses at the Plum Brook Station. The first option is no action, and the second is to have the cadmium separated from the activated stainless steel with the endpoint being a Class C waste that would not be classified as a toxic waste. The licensee indicated in a letter dated May 25, 2005 (ADAMS Accession No. ML051930478), that the licensee did not think it was necessary to continue pursuing this reprocessing pathway, which would be costly, and the outcome of which would be uncertain. Rather, the licensee believes that it is in the best interest of the government to transfer the control rods to one of the appropriate U.S. Department of Energy (DOE) disposal sites, once they become available. Under the no-action alternative, the rods would remain under the authority of NASA's NRC reactor license. Denial of the license amendment request would result in no change to current conditions at the facility. Neither of the alternatives are acceptable because they could result in the licensee being in violation of its NRC reactor license, which requires the licensee to decommission its Plum Brook Reactor Facility by December 31, 2007. The alternatives would also impose an unnecessary regulatory burden and limit potential benefits from future use of the former reactor site. Also, as discussed below, there are minimal, if any, effects from the proposed action to establish the temporary interim storage area. Thus, the alternatives are not considered reasonable or cost effective, and they are not addressed any further in this environmental assessment.

*Environmental Impacts of the Proposed Action*

The objective of the temporary storage pad is to accommodate and ensure continued decommissioning of a former NASA reactor site. The presence of the activated control rods could delay termination of the reactor license. The movement of the rods from the reactor site for storage in a commercially available on-site storage container on the temporary pad is considered an interim measure, and NASA is required by license commitments (see, e.g. letter dated May 25, 2005 (ADAMS Accession No. ML051930478)), and NRC license

condition, to find an appropriate disposal site as expeditiously as possible, but no later than the year 2010. The storage of the control rods will not involve any physical or chemical work, which could damage or change the integrity of the solid metal control rods. The licensee's license also does not authorize any processing or destructive work on the control rods in any way, such that under normal conditions radioactive materials will not be released.

The 6400 acres that comprise the Plum Brook Station Federal Reservation are surrounded by a ten-foot high chain-link fence with barbed wire. The federal reservation can be accessed only through guarded gates. The site also possesses an on-site security force. The temporary rod storage pad is located to the south of the Plum Brook Station's Building 9209, Shipping and Receiving Building, in the "Excess Materials Storage Yard." This storage yard is surrounded by a chain-link security fence. Both the Excess Materials Storage Yard and the on-site storage container can be accessed only by designated persons with keys to locked gates.

The concrete storage pad is 18 inches thick, and 17 feet square, and is surrounded by its own 8 feet high and 24 feet square chain-link security fence. The on-site storage container was manufactured by Dufrane Nuclear Shielding, Inc., and is identified as a "Secure Environmental Container," Model 8-120-H. The seven activated control rods, which weigh 45 pounds each, will be placed in a commercially available polyethylene high integrity container, manufactured by Dufrane, Model OP-246, and will be placed in the on-site storage container.

The pad site was selected and evaluated by a NASA Senior Project Engineer (Professional Engineer). The location chosen is a gravel-covered yard, which has been used as a large equipment lay down area since the 1960s. The Senior Project Engineer evaluated the pad and the effects of the loading of the commercially available on-site storage container on it to ascertain whether the pad could adequately hold the weight without detrimental shifting or sinking. The Senior Project Engineer, in a February 16, 2005, memorandum (ADAMS Accession No. ML052130172), certified "that the soil and concrete pad can accommodate the weight of the secure environmental container for the foreseeable storage period."

The activated control rods are constructed primarily of stainless steel, with some cadmium. The radiological activation constituents of the rods were

identified as: hydrogen-3, carbon-14, iron-55, nickel-59, cobalt-60, nickel-63, niobium-94, and technetium-99.

The on-site storage container offers at least five inches of lead equivalent shielding. The dose rates on contact with the on-site storage container are estimated to be approximately ten millirem per hour. The perimeter fence around the on-site storage container was placed at a distance, based on radiation dose projections, such that the need for controlling access to areas around the on-site storage container for radiation protection purposes is not necessary. The licensee determined, using a computer radiation shielding modeling program, that the estimated dose rate at the perimeter fence will be well below the two millirem in any one hour limit as specified in 10 CFR part 20, subpart D, "Radiation Dose Limits for Individual Members of the Public."

The NRC staff also considered potential impacts on air quality, groundwater, and surface water runoff. The radioactive materials will be monitored and controlled by implementation of the NRC-approved radiation protection program, along with a license restriction which precludes physical work on the activated control rods. Together with the limitation of on-site storage in a commercially designed shielded secure environmental container in an access-controlled storage area, these controls provide assurance that the radioactive materials will not have any impacts on air quality, groundwater, or surface water runoff.

The NRC staff has also considered other resources not impacted, such as transportation, potential noise, or socioeconomic effects. Again, based on the small size of the storage area, the limited handling of the control rods, NASA's ongoing industrial and research operations, and previous use of the facility at the site of the proposed action, potential noise, socioeconomic, or transportation effects are considered unlikely. Therefore, no further consideration for these areas is considered necessary.

The licensee will utilize an area that is currently being used for storage of construction and industrial material and the area is of small size (17 feet square), and there is no processing of radioactive materials. Physical barriers will be in place to prevent the release of radioactive material into the environment. These barriers would also prevent wildlife access. Therefore, NRC staff has determined that the proposed action will not affect listed species or critical habitats.

## Conclusion

The staff has examined the licensee's request and the information provided in support of its request, which included security, audits, environmental impacts on the storage container, and the dose modeling data performed to demonstrate compliance with radiation protection criteria for persons working in and around the storage area. Based on its review of the specific proposed activities associated with the transfer of the control rods from the authority of the John H. Glenn Research Center's Plum Brook Reactor Facility license to the John H. Glenn Research Center's byproduct material license No. 34-00507-16, the NRC staff concludes that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

## Agencies and Persons Contacted

The NRC staff has determined that the proposed action will not affect listed species or critical habitats. Therefore, no further consultation is required under section 7 of the Endangered Species Act. Likewise, the NRC staff has determined that the proposed action is not a type of activity that has potential to cause effect on historic properties. Therefore, consultation under section 106 of the National Historic Preservation Act is not required.

The NRC consulted with the Ohio Department of Health, Bureau of Radiation Protection. The Ohio Department of Health was provided the draft EA for comment on July 13, 2005. The State responded back to the NRC on July 18, 2005, and indicated the following: "Provided all license conditions and commitments remain intact, the Ohio Department of Health, Bureau of Radiation Protection concurs with the NRC's Finding of No Significant Impact from the Environmental Assessment related to the issuance of a license amendment to NASA's byproduct material license No. 34-00507-16." The NRC staff did not make any deletions to the NASA's license, but did add the following license condition, "The licensee will continue to take all actions within its ability to dispose of its material and notify NRC within 30 days if disposal is achieved."

### III. Finding of No Significant Impact

Pursuant to 10 CFR part 51, the NRC staff has considered the environmental consequences of the proposed action to allow the licensee to amend its license for the temporary storage of the activated control rods. On the basis of this EA, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

### IV. Further Information

A copy of this document will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of the NRC's document system. 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 following references are available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

1. Blotzer, Michael J., NASA letter to the NRC dated September 8, 2004, "requesting license amendment for possession and storage of seven control rods from the Plum Brook Research Reactor (ADAMS Accession No. ML042590171)."

2. Kortjes, Trudy E., NEPA Program Manager, NASA Glenn Research Center, email dated March 3, 2005, "PRBF Rod Storage/NEPA issue" (ADAMS Accession No. ML052130148).

3. Blasio, Chris, Radiation Safety Officer, John H. Glenn Research Center, NASA, facsimile to NRC dated March 21, 2005, "Maintenance Plan and PE letter for OSSC holding control rods" (ADAMS Accession No. ML052130155).

4. NRC Telephone Conversation record dated April 27, 2005, documenting call with Christopher Blasio, Radiation Safety Officer, John H. Glenn Research Center, "Request for Additional Information Regarding Request for a Possession Only License Authorization for Activated Cadmium Control Rods on a Temporary Storage Pad" (ADAMS Accession No. ML052130155).

5. McCann, George M., Senior Health Physicist, Decommissioning Branch, Division of Nuclear Material Safety, NRC Region III, email dated April 29, 2005, "Additional Information (Regarding pad and Microshield data)" (ADAMS Accession No. ML052130213).

6. Blasio, Christopher, Radiation Safety Officer, John H. Glenn Research

Center, NASA, e-mail dated May 6, 2005, "Additional Information (1. Pad design, 2. Microshield calculations, and 3. Updated/survey sheet for On Site Storage Container)" (ADAMS Accession No. ML052130217).

7. Blasio, Christopher J., Radiation Safety Officer, NASA John H. Glenn Research Center, letter dated May 25, 2005, "Resubmission of additional information to Control No. 314017, Docket No. 030-05626 (ADAMS Accession No. ML051930478)."

8. NRC, NUREG-1748, "Environmental Review Guidance for Licensing Actions Associated With NMSS Programs," July 2003.

9. NRC, NUREG-1757, "Consolidated NMSS Decommissioning Guidance," Volumes 1-3, September 2003.

10. NRC, Policy and Guidance Directive (PG) 1-27, Revision 0, "Reviewing Requests to Convert Active Licenses to Possession-Only Licenses," February 22, 2000.

11. NRC, Policy and Guidance Directive, PG-9-12, "Reviewing Efforts to Dispose of Licensed Material and Requesting DOE Assistance."

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 (800) 397-4209, (301) 415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). 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 in Lisle, Illinois, this 5th day of August 2005.

For the Nuclear Regulatory Commission.

**Jamnes L. Cameron,**

*Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.*

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**BILLING CODE 7590-01-P**

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## SECURITIES AND EXCHANGE COMMISSION

### Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:* Rule 10A-1; SEC File No. 270-425; OMB Control No. 3235-0468.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities

and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 10A-1 implements the reporting requirements in Section 10A of the Exchange Act, which was enacted by Congress on December 22, 1995 as part of the Private Securities Litigation Reform Act of 1995, Public Law No. 104-67. Under section 10A and Rule 10A-1 reporting occurs only if a registrant's board of directors receives a report from its auditors that (1) There is an illegal act material to the registrant's financial statements, (2) senior management and the board have not taken timely and appropriate remedial action, and (3) the failure to take such action is reasonably expected to warrant the auditor's modification of the audit report or resignation from the audit engagement. The board of directors must notify the Commission within one business day of receiving such a report. If the board fails to provide that notice, then the auditor, within the next business day, must provide the Commission with a copy of the report that it gave to the board.

Likely respondents are those registrants filing audited financial statements under the Securities Exchange Act of 1934 and the Investment Company Act of 1940.

It is estimated that Rule 10A-1 results in an aggregate additional reporting burden of 10 hours per year. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

There are no recordkeeping retention periods in Rule 10A-1. Because of the one business day reporting periods, recordkeeping retention periods should not be significant.

Filing the notice or report under Rule 10A-1 is mandatory once the conditions noted above have been satisfied.

Because these notices and reports discuss potential illegal acts, they are considered to be investigative records and are kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of