

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 21st day of October 2008.

For the U.S. Nuclear Regulatory Commission.

**Charles L. Miller,**

*Deputy Director, Office of Federal and State Materials, and Environmental Management Programs.*

[FR Doc. E8-26375 Filed 11-4-08; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 52-008; Early Site Permit]

### In the Matter of Dominion Nuclear North Anna, LLC, Virginia Electric and Power Company, and Old Dominion Electric Cooperative (ESP for North Anna ESP Site); Order Approving Transfer of Early Site Permit and Conforming Amendment

#### I.

Dominion Nuclear North Anna, LLC (DNNA) holds Early Site Permit 003 (ESP-003) issued on November 27, 2007, pursuant to Section 52.24 "Issuance of Early Site Permit," of Title 10 of the *Code of Federal Regulations* (10 CFR Section 52.24). The permit expires on November 27, 2027.

#### II.

Under cover of a letter dated April 24, 2008, DNNA, Virginia Electric and Power Company, doing business as Dominion Virginia Power (DVP), and Old Dominion Electric Cooperative (ODEC), submitted an application requesting an order consenting to the transfer of ESP-003 from DNNA to DVP and ODEC. The application also requests approval of a conforming amendment to ESP-003 to delete references to DNNA, reflect DVP and ODEC as the permit holders, and delete certain provisions that are no longer applicable because they applied only to DNNA. According to the application, transfer of the early site permit to DVP and ODEC will allow DVP to take advantage of the incentives and rate treatment afforded under new legislation enacted by the Commonwealth of Virginia to regulated

public utilities. DVP is a regulated public utility in Virginia. Additionally, DVP and ODEC are the owners of the North Anna Power Station (NAPS) and DVP is the licensed operator of the existing nuclear units at that site. Further, DVP and ODEC submitted a joint application on November 27, 2007, for a combined license (COL) for a new Unit 3 at NAPS. According to the application, transferring the ESP to DVP and ODEC will consolidate the responsibility for the ESP and the COL application into entities that are seeking a license to own and operate the new unit, and will thus facilitate the licensing process. To effectuate DVP's assumption of responsibilities for activities previously performed by DNNA, DNNA will be merged into DVP with DVP being the surviving entity. DVP will then assume all of DNNA's rights and obligations, including all rights and obligations under the ESP. The merger will become effective after receipt of required regulatory approvals, which include in addition to this Order, approval of the merger by the Virginia State Corporation Commission and the North Carolina Utilities Commission. The applicants requested approval of the transfer of the ESP and conforming amendment pursuant to 10 CFR 52.28, 10 CFR 50.80, and 10 CFR 50.90.

Notice of the request for approval and opportunity for a hearing were published in the **Federal Register** on August 27, 2008 (73 FR 50647). No comments and no requests for hearing or petitions for leave to intervene were received.

Pursuant to 10 CFR 52.28 and 10 CFR 50.80, no ESP, shall be transferred, directly or indirectly, through transfer of control of the ESP to any person, unless the Commission gives its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that DVP and ODEC are qualified to hold ESP-003, and the transfer of ESP-003, as proposed in the application is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. The NRC staff has also found that the application for the proposed conforming amendment to the ESP complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; activities at the site will be in conformity with the application, the provisions of the Act, and the rules and regulations of the

Commission; there is reasonable assurance that the activities authorized by the proposed ESP conforming amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed conforming amendment will not be inimical to the common defense and security or to the health and safety of the public; and issuance of the proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC safety evaluation dated October 6, 2008.

#### III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; 10 CFR 52.28 and 10 CFR 50.80, *it is hereby ordered* that the transfer of the ESP, as described herein, to Virginia Electric and Power Company doing business as Dominion Virginia Power (DVP), and the Old Dominion Electric Cooperative (ODEC) is approved.

*It is further ordered* that, consistent with 10 CFR 2.1315(b), a conforming amendment that makes changes as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the ESP to reflect the subject permit transfer is approved. The amendment shall be issued and made effective at the time such proposed ESP transfer is completed.

*It is further ordered* that DVP and ODEC shall inform the Director of the Office of New Reactors in writing of the date of the merger of DNNA into DVP no later than 5 business days prior to the closing of the merger and transfer of the ESP. Should the transfer of the ESP not be completed by October 30, 2009, this Order shall become null and void, provided however, that upon written application and good cause shown, such date may be extended by order.

*This Order is effective upon issuance.*

For further details with respect to this action, see the application dated April 24, 2008, and the safety evaluation dated October 6, 2008, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/>

*reading-rm/adams.html*. The documents are also available at <http://www.nrc.gov/reactors/new-licensing/esp.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, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland this 30th day of October 2008.

For the Nuclear Regulatory Commission.

**Michael R. Johnson,**

*Director, Office of New Reactors.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-04781]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials; License No. 21-00182-03, for Unrestricted Release of the Pharmacia & Upjohn Company LLC; Facility in Kalamazoo, MI

**AGENCY:** Nuclear Regulatory Commission.

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

**FOR FURTHER INFORMATION CONTACT:** William Snell, Senior Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; *telephone:* (630) 829-9871; *fax number:* (630) 515-1259; or by e-mail at [william.snell@nrc.gov](mailto:william.snell@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend Byproduct Materials License No. 21-00182-03. This license is held by Pharmacia & Upjohn Company LLC (the Licensee), and authorizes the use of byproduct materials within Building 267 (the Facility), located at 333 Portage Street, Kalamazoo, Michigan. Amendment of the license would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated July 9, 2008 (ADAMS Accession No. ML081920702). 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 license will be amended 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 July 9, 2008, license amendment request, resulting in release of the Facility for unrestricted use. License No. 21-00182-03 was issued on April 24, 1958, pursuant to 10 CFR Part 30, and has been amended periodically since that time. The license authorizes the use of byproduct materials for conducting research and development.

The Facility is a six-story steel frame building on a 39-acre pharmaceutical research and development campus comprised of offices and laboratories located in a primarily commercial area. The Licensee ceased using licensed materials in the Facility in April 2008, and has conducted final status surveys of the Facility. The results of these surveys along with other supporting information were provided to the NRC to demonstrate that the criteria in Subpart E of 10 CFR Part 20 for unrestricted release have been met.

###### *Need for the Proposed Action*

The licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility.

###### *Environmental Impacts of the Proposed Action*

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Hydrogen-3 and carbon-14. 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 onsite final status surveys on the Facility during April, May and June 2008. The final status survey report was attached to the Licensee's amendment request dated July 9, 2008. 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 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 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 Facility" (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 amendment of the license and release of the Facility for unrestricted use is in compliance with 10 CFR Part 20. 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 Facility be completed and