

or other parts your body from the side or to the front of this chair while it is in motion.”

#### 16. Exclusion Zone

The applicant must/would:

- (a) Establish a clearly designated exclusion zone around the bottom landing of the hoist system; and
- (b) Prohibit any worker from entering the exclusion zone except to access a personnel- or material-transport device, and then only when the device is at the bottom landing and not in operation (*i.e.*, when the drive components of the hoist machine are disengaged and the braking mechanism is properly applied).

#### 17. Inspections, Tests, and Accident Prevention

(a) The applicant must/would:

- (i) Conduct inspections of the hoist system as required by 29 CFR 1926.20(b)(2);
  - (ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and
  - (iii) Inspect and test the hoist system as specified by 29 CFR 1926.552(c)(15).
- (b) The applicant must/would comply with the accident prevention requirements of 29 CFR 1926.20(b)(3).

#### 18. Welding

(a) The applicant must/would ensure that only qualified welders weld components of the hoisting system.

(b) The applicant must/would ensure that the qualified welders:

- (i) Are familiar with the weld grades, types, and materials specified in the design of the system; and
- (ii) Perform the welding tasks in accordance with 29 CFR part 1926, subpart J (“Welding and Cutting”).

#### 19. OSHA Notification

(a) At least 15 calendar days prior to commencing any chimney construction operation using the conditions specified herein, the applicant must/would notify the OSHA Area Office nearest to the worksite, or the appropriate State Plan Office, of the operation, including the location of the operation and the date the operation will commence;

(b) The applicant must/would inform OSHA national headquarters as soon as it has knowledge that it will:

- (i) Cease to do business; or
- (ii) Transfer the activities covered by this permanent variance to a successor company.

#### V. Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW.,

Washington, DC directed the preparation of this notice. This notice is issued under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor’s Order No. 5–2007 (72 FR 31160), and 29 CFR part 1905.

Signed at Washington, DC, on November 2, 2009.

**Jordan Barab,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. E9–26930 Filed 11–6–09; 8:45 am]

**BILLING CODE 4510–26–P**

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (09–094)]

#### NASA International Space Station Advisory Committee; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NASA International Space Station Advisory Committee.

**DATES:** December 11, 2009, 1–2 p.m. Eastern Standard Time.

**ADDRESSES:** National Aeronautics and Space Administration Headquarters, 300 E Street, SW., Room 7H45, Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Dr. J. Donald Miller, Office of External Relations, (202) 358–1527, National Aeronautics and Space Administration, Washington, DC 20546–0001.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public up to the seating capacity of the room. Five seats will be reserved for members of the press. The purpose of the meeting is to assess NASA and Roscosmos plans to support a six-person crew aboard the International Space Station, including transportation, crew rotation, training, and micro meteoroid and orbital debris shielding. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country,

expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees should provide identifying information in advance by contacting Dr. Miller via e-mail at

[j.d.miller@nasa.gov](mailto:j.d.miller@nasa.gov) or by telephone at (202) 358–1527 by December 2, 2009.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Dated: November 3, 2009.

**P. Diane Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. E9–26907 Filed 11–6–09; 8:45 am]

**BILLING CODE 7510–13–P**

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9068; NRC–2009–0391]

#### Notice of Availability of Draft Environmental Assessment and Opportunity To Provide Comments for Exemption Request for Lost Creek ISR, LLC, Sweetwater County, WY

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**DATES:** Comments regarding this draft Environmental Assessment must be received by December 9, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Stephen J. Cohen, Team Leader, Uranium Recovery Licensing Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. Telephone: (301) 401–7182; fax number: (301) 415–5369; e-mail: [stephen.cohen@nrc.gov](mailto:stephen.cohen@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The U.S. Nuclear Regulatory Commission (NRC) staff, pursuant to 10 CFR 51.33, is publishing a draft environmental assessment (EA) for public review and comment. The draft EA pertains to the planned issuance of an exemption from the commencement of construction requirements in 10 CFR 40.32(e) to Lost Creek ISR, LLC. The request for this exemption was submitted to the NRC staff on July 2, 2009. Also pending before the NRC is Lost Creek’s earlier license application for authorization to operate an in situ recovery (ISR) uranium milling facility in Sweetwater County, Wyoming. Issuance of the

requested exemption would authorize Lost Creek ISR, LLC to conduct certain site preparation activities at, and in, the vicinity of its proposed ISR site. Based on the draft EA, presented below, the NRC staff proposes to make a Finding of No Significant Impact (FONSI) regarding the requested exemption.

## Draft Environmental Assessment

### 1.0 Introduction

By letter dated July 2, 2009, Lost Creek ISR, LLC (the Applicant) submitted an exemption request (LCI, 2009) to the NRC. The Applicant seeks an exemption from the “commencement of construction” provisions of 10 CFR 40.32(e) for certain activities described in its exemption request. The Applicant had initially submitted an application for a new source material license on October 30, 2007 (LCI, 2007), for a proposed in situ recovery (ISR) facility in Sweetwater County, Wyoming. After being withdrawn, the application for authorization to conduct uranium milling operations was resubmitted on March 28, 2008, and is still under NRC review (LCI, 2008).

The NRC staff is considering issuing an exemption to the Applicant that would grant the July 2, 2009, request, in part. The exemption would authorize the Applicant to undertake certain site preparation activities for its proposed Lost Creek ISR operations before a decision is made on whether to authorize uranium milling. Granting this exemption would not mean that the NRC has decided to issue an operating license to the Applicant. The Applicant would be undertaking these site preparation activities with the risk that its license application may later be denied. The NRC has prepared a draft EA in support of this exemption in accordance with the requirements of 10 CFR 51.21. The EA contains the information required by 10 CFR 51.30(a). Based on this EA, the NRC is proposing to make a FONSI regarding the exemption request.

### 2.0 Background

On October 9, 2007, the NRC published its limited work authorization (LWA) regulations for nuclear power plants (72 FR 57416). As part of this final rule, a definition of construction was added to 10 CFR 51.4. Site preparation activities that were deemed not to have a direct nexus to radiological health and safety were listed in 10 CFR 51.4 as activities not included within the “construction” definition. On this point, 10 CFR 51.4 states, in relevant part, that “construction” does not include:

- Site exploration, including necessary borings to determine foundation conditions or other reconstruction monitoring to establish background information related to the suitability of the site, the environmental impacts of construction or operation, or the protection of environmental values;
- Preparation of a site for construction of a facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;
  - Erection of fences and other access control measures;
  - Excavation;
  - Erection of support buildings (such as, construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;
  - Building of service facilities, such as paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines;

However, the LWA rule did not make a corresponding change to 10 CFR Part 40. Thus, in contrast to the above portions of 10 CFR 51.4, 10 CFR 40.32(e) states that, with some limited exceptions, “commencement of construction” prior to license issuance is grounds for license denial. Section 40.32(e) states, in relevant part, as follows:

The term “commencement of construction” means any clearing of land, excavation, or other substantial action that would adversely affect the environment of a site. The term does not mean site exploration, roads necessary for site exploration, borings to determine foundation conditions, or other preconstruction monitoring or testing to establish background information related to the suitability of the site or the protection of environmental values.

While this inconsistency in the regulations exists, the NRC staff will review exemption requests to consider whether site preparation activities will be permitted before an operating license is issued.

### 3.0 Proposed Action

The NRC proposes to grant an exemption that will allow the Applicant to conduct certain site preparation activities that are currently allowed under 10 CFR 51.4, notwithstanding the 10 CFR 40.32(e) provisions discussed above. The scope of the Applicant’s July 2 exemption request includes the following 10 items. The NRC staff, as

part of its safety review of the request, is considering approving each item on the list as an exempted activity, except for part of Item 2 and all of Item 9.

1. Leveling and surfacing of the area around the plant and maintenance building.

2. Construction of the plant and maintenance buildings—maintenance building construction as approved by the NRC staff. Construction of the plant would not be approved because this activity does not meet the definition of any activity not considered “construction” under 10 CFR 51.4.

3. Install household septic systems for the plant and maintenance buildings.

4. Install fence around the plant and maintenance building area.

5. Upgrade existing road access from the west to the plant.

6. Upgrade existing road access from the east to the plant.

7. Install fence for early wellfield area.

8. Install power line to the plant and maintenance buildings and drillers shed.

9. Drill and vase up to four deep wells—This activity would not be approved by NRC staff because this activity has a direct nexus to radiological safety and is, therefore, considered “construction” under 10 CFR 51.4.

10. Construct a drillers shed and staging area.

### 4.0 Purpose and Need for the Proposed Action

As indicated by the above list, the Applicant seeks permission to engage in certain site preparation activities before it is authorized to conduct uranium milling operations. The NRC staff proposes to grant the exemption request, in part, and allow the Applicant to begin site preparation activities.

### 5.0 Scope of Review

This EA is being prepared pursuant to 10 CFR 51.21, which states, “[a]ll licensing and regulatory actions subject to this subpart require an environmental assessment \* \* \*.” The only two exceptions to this rule are those actions requiring environmental impact statements, and those that are categorically excluded or identified as otherwise not requiring environmental review pursuant to 10 CFR 51.22. Exemptions are not currently covered by any categorical exclusion, and, therefore, an EA is required for this action.

### 6.0 Alternatives

The staff considered two alternatives in this EA, granting the request (the proposed action) and not granting the

request (the no action alternative). The no action alternative is to not grant the exemption and not allow the Applicant to engage in any site preparation activities before an operating license is issued. If the NRC does not grant the exemption, the Applicant would need to wait until a decision is made on its license application request.

### 7.0 Impacts of the No-Action Alternative

There are no environmental impacts of not granting the exemption.

### 8.0 Impacts of the Proposed Action

In preparing this EA, the NRC staff reviewed the Applicant's exemption request to determine if the requested activities fall within one of the categories of site preparation activities that are not "construction" under 10 CFR 51.4. As indicated in Sections 2.0 and 3.0, the staff intends to exempt only those activities that, pursuant to 10 CFR 51.4, are not "construction." The impacts of those activities allowed by this exemption, which are not considered to be "construction" under 10 CFR 51.4, are not evaluated in this EA. However, as reflected in Section 12 below, the staff plans to condition any exemption approval so as to protect endangered species and cultural and historic resources from the effects of site preparation activities.

The impacts of all site preparation activities will be evaluated as cumulative impacts in the supplemental environmental impact statement (SEIS) being prepared for this site. The NRC staff expects to issue the draft SEIS for comment in December 2009.

### 9.0 Other Federal and State Agencies

Several regulatory agencies will be directly involved with the review and approval of site preparation activities at the proposed Lost Creek project, as well as later construction activities. The U.S. Bureau of Land Management (BLM) will require that a Plan of Operations and associated EA be submitted and approved before allowing any disturbance greater than five (5) acres. Part of this process entails a bond estimate to be submitted to BLM for approval. BLM currently oversees the protection of cultural resources and will continue to do so under all future construction and operation activities.

The Wyoming Department of Environmental Quality (WDEQ) will also have significant oversight of the construction activities through its mine permit process. The Permit to Mine application submitted to WDEQ in December 2007, describes the facility as it is intended to be constructed. The site

preparation activities described in the July 2 exemption request will not commence until the Permit to Mine is issued by WDEQ, or unless such activities are approved as part of a Drill Notification or other authorization. The Applicant expects the Permit to Mine to be issued by the WDEQ in November of 2009.

### 10.0 Agencies Consulted

The NRC staff is currently consulting with the Wyoming State Historic Preservation Office, the U.S. Fish and Wildlife Service (FWS), the BLM, and the WDEQ regarding the site preparation activities discussed in this EA.

### 11.0 Conclusions

This EA meets the requirements of 10 CFR 51.21. The purpose of this review was to describe the proposed action and alternatives to the proposed action. Impacts associated with the site preparation activities not considered to be part of "construction" per 10 CFR 51.4 have not been evaluated for the reasons discussed above. The NRC staff concludes there will be no significant NEPA impacts caused by the action considered in this EA, because none of the activities approved by this action are considered "construction" under 10 CFR 51.4 for purposes of Part 51 environmental analyses. Additionally, as reflected below, the staff's approval will be conditioned to ensure that endangered species and cultural and historic resources are protected.

### 12.0 Protective Conditions

As part of its safety review of the July 2 exemption request, the NRC staff plans to condition any exemption approval to ensure that endangered species and cultural and historic resources are protected. As drafted, these conditions include the following:

1. All construction associated with the proposed development will be completed in compliance with the National Historic Preservation Act of 1966 (as amended) and its implementing regulations (36 CFR Part 800), and the Archaeological Resources Protection Act of 1979 (as amended) and its implementing regulations (43 CFR Part 7). In order to ensure that no unapproved disturbance of cultural resources occurs, any work resulting in the discovery of previously unknown cultural artifacts shall cease. The artifacts shall be inventoried and evaluated in accordance with 36 CFR Part 800, and no disturbance shall occur until the Applicant has received authorization from NRC to proceed.

2. The Applicant will adhere to all construction restrictions required by the

WDEQ, BLM, and FWS regarding disturbances to endangered species habitat.

### 13.0 References

- Lost Creek ISR, LLC; Application for a Source Materials License; October 30, 2007; (ADAMS Accession No. ML073190539).
- Lost Creek ISR, LLC; Resubmitted Application for a Source Materials License; March 20, 2008; (ADAMS Accession No. ML081060525).
- Lost Creek ISR, LLC; Exemption Request to Allow Pre-Licensing Activities; (ADAMS Accession No. ML091940438).

### End of Draft Environmental Assessment

**ADDRESSES:** The NRC is requesting comments regarding this draft EA. Comments must be submitted or postmarked by December 9, 2009. Please include Docket ID NRC-2009-0040-9068 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed. You may submit comments in the following manner:

*Electronic Filing through Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2009-0391. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RDB at (301) 492-3446.

You can access publicly available documents related to this notice using the following methods:

*NRC's Public Document Room (PDR):* The public may examine and have

copied for a fee publicly available documents at the NRC's PDR, Public File Area 01 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into 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's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The Lost Creek ISR, LLC exemption request is available electronically under ADAMS Accession Number ML091940438.

*Federal Rulemaking Web Site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2009-0391. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

Dated at Rockville, Maryland, this 2nd day of November 2009.

For the U.S. Nuclear Regulatory Commission.

**Keith I. McConnell,**

*Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. E9-26908 Filed 11-6-09; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0226]

### Office of New Reactors; Final Interim Staff Guidance on Finalizing Licensing Basis Information

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of availability.

**SUMMARY:** The NRC is issuing its Final Interim Staff Guidance (ISG) DC/COL-ISG-011 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML092890623). This ISG is to clarify the NRC staff position on finalizing licensing basis information at a point during the licensing review, a so-called freeze point, and the control of licensing basis information during and following

the initial review of applications for design certifications (DCs) or combined licenses (COLs). The NRC staff issues COL/DC-ISGs to facilitate timely implementation of current staff guidance and to facilitate activities associated with review of applications for DCs and COLs by the Office of New Reactors (NRO). The NRC staff intends to incorporate the final approved DC/COL-ISG-011 into the next revision of Regulatory Guide 1.206, "Combined License Applications for Nuclear Power Plants."

*Disposition:* On May 28, 2009, the NRC staff issued the proposed ISG on "Finalizing Licensing Basis Information," ADAMS Accession No. ML090550772. There were no comments received on the proposed ISG. Therefore, the guidance is issued as final without any changes to the proposed notification as above.

**ADDRESSES:** The NRC maintains ADAMS which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <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 Public Document reference staff at 1-800-397-4209, 301-415-4737, or by e-mail at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Mr. William D. Reckley, Chief, Advanced Reactors Branch 1, Advanced Reactor Program, Office of the New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone at 301-415-7490 or e-mail at [william.reckley@nrc.gov](mailto:william.reckley@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The agency posts its issued staff guidance in the agency external Web page (<http://www.nrc.gov/reading-rm/doc-collections/isg/>).

Dated at Rockville, Maryland, this 2nd day of November 2009.

For the Nuclear Regulatory Commission.

**William F. Burton,**

*Branch Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors.*

[FR Doc. E9-26909 Filed 11-6-09; 8:45 am]

**BILLING CODE 7590-01-P**

## RAILROAD RETIREMENT BOARD

### Proposed Collection; Comment Request

*Summary:* In accordance with the requirement of Section 3506 (c)(2)(A) of

the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

*Comments are invited on:* (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

*Title and purpose of information collection:*

### Job Information Report, OMB 3220-0193

In July of 1997, the Railroad Retirement Board (RRB) adopted standards for the adjudication of occupational disabilities under the Railroad Retirement Act (RRA). As part of these standards, the RRB requests job information to determine an applicant's eligibility for an occupational disability. The job information received from the railroad employer and railroad employee is compared, reconciled (if needed), and then used in the occupational disability determination process. The process of obtaining information from railroad employers used to determine an applicant's eligibility for an occupational disability is outlined in 20 CFR 220.13(b)(2)(e).

To determine an occupational disability, the RRB determines if an employee is precluded from performing the full range of duties of his or her regular railroad occupation. This is accomplished by comparing the restrictions on impairment(s) causes against an employee's ability to perform his/her normal duties. To collect information needed to determine the effect of a disability on an applicant's ability to work, the RRB needs the applicant's work history. The RRB currently utilizes Form G-251, *Vocational Report* (OMB 3220-0141), to obtain this information from the employee applicant.

**Note:** Form G-251 is provided to all applicants for employee disability annuities and to those applicants for a widow(er)'s disability annuity who indicate that they have been employed at some time.

In accordance with the standards, the RRB also requests pertinent job