

January 13, 2009

Mr. Albert E. Kennedy, Licensing Manager
GE Hitachi Global Laser Enrichment
P.O. Box 780
3901 Castle Hayne Road
Wilmington, NC 28402

SUBJECT: APPROVAL OF GE-HITACHI EXEMPTION REQUEST RELATED TO
ENVIRONMENTAL REPORT SUBMITTAL

Dear Mr. Kennedy:

On December 8, 2008, GE-Hitachi Global Laser Enrichment (GEH) transmitted a "Request for Exemption from *Code of Federal Regulations* (10 CFR), §§ 51.60(a) and 70.21(h) to Allow Early Submittal of an Environmental Report" to the U.S. Nuclear Regulatory Commission (NRC) for review and approval. GEH plans to submit later in 2009 a license application for a uranium enrichment facility. If approved, the facility would be constructed and operated on a 100-acre GEH-owned site in Wilmington, North Carolina.

In the exemption request, GEH requested an exemption from the requirements in Title 10 of the 10 CFR Sections 51.60(a) and 70.21(h). GEH wants to submit its required Environmental Report for the facility up to three months before it submits the rest of its license application. GEH also requested an exemption from the applicable provisions of 10 CFR 30.32(f) and 40.31(k) as those provisions apply to the licensing of GEH's proposed facility. Under the current regulations, an applicant must submit a complete application, i.e., its Environmental Report with its other licensing basis documents.

A Safety Evaluation Report of the staff's review of the exemption request is attached in the enclosure. Based on its review, the staff finds that the request for early filing of the Environmental Report is authorized by law, will not endanger life or property or common defense and security, and is in the public interest. Therefore, GEH is granted an exemption from 10 CFR 30.32(f), 40.31(k), 51.60(a), and 70.21(h) for early submittal of its Environmental Report. Neither granting the exemption request nor beginning a review of the Environmental Report prior to receipt of the complete license application indicates a commitment by NRC to accept the license application for review.

A. Kennedy

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If you have any questions, please contact Mr. Timothy C. Johnson at (301) 492-3121.

Sincerely,

/RA/

Daniel H. Dorman, Director
Division of Fuel Cycle Safety
and Safeguards
Office of Nuclear Material Safety
and Safeguards

Enclosure: Safety Evaluation Report

Docket No.: 70-7016

cc:	William Szymanski/DOE	Bruce Shell/New Hanover County
	Patricia Campbell/GEH	Marty Lawing/Brunswick County
	Robert Brown/GEH	George Brown/Pender County
	Tammy Orr/GEH	Bill Saffo/Wilmington
	Mike Giles/CFC	Malissa Talbert/Wilmington
	Tom Clements/FOTE	Wanda Lagoe/NCOSH
	Doug Springer/CFRW	Cameron Weaver/NCDENR
	Stephen Rynas/NCDENR	Jennifer Frye/USACE
	Jennifer Braswell/New Hanover County	Kimberly Garvey/USACE
	Christopher O'Keefe/New Hanover County	David Weaver/New Hanover County

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Enclosure

DOCKET: 070--7016

LICENSEE: GE-Hitachi Global Laser Enrichment
Wilmington, North Carolina

SUBJECT: SAFETY EVALUATION REPORT: EXEMPTION REQUEST FOR EARLY
SUBMITTAL OF ENVIRONMENTAL REPORT

BACKGROUND

On December 8, 2008, GE-Hitachi Global Laser Enrichment (GEH) requested an exemption from the requirements in Title 10 of the *Code of Federal Regulations* (10 CFR), Sections 51.60(a) and 70.21(h). GEH also requested an exemption from the applicable provisions of 10 CFR 30.32(f) and 40.31(k) as those provisions apply to the licensing of GEH's proposed uranium enrichment facility. Under the existing regulations (10 CFR 30.32(f), 40.31(k), 51.60(a), and 70.21(h)), the Environmental Report (ER) is a required part of the license application, and must be submitted at the same time as the license application for authority to construct and operate a uranium enrichment facility.

DISCUSSION

GEH intends to submit a license application under 10 CFR Parts 40 and 70 to the U.S. Nuclear Regulatory Commission (NRC) to construct and operate a uranium enrichment facility in Wilmington, North Carolina. The ER will be used to support NRC's required preparation of an Environmental Impact Statement (EIS).

Under 10 CFR 30.11, 40.14, 51.6, and 70.17, NRC may grant an exemption to the regulations if the exemption is authorized by law, will not endanger life or property or the common defense and security, and is in the public interest. As discussed below, the NRC staff views 10 CFR 51.60(a), 70.21(h), and the related provisions as procedural requirements, and finds that granting the requested exemptions will not have any impacts on radiological health and safety. The staff further finds that granting the requested exemptions is in the public interest. As resources allow, early submittal of the ER may allow the staff to commence its environmental review in a more timely manner, thereby adding some efficiency to the licensing process without adversely affecting NRC's overall review of the project.

The staff agrees with GEH's statements that the Atomic Energy Act of 1954, as amended (AEA), contains no provisions prohibiting the early submission of an Environmental Report, and that granting the requested exemptions will not endanger life or property or common defense and security. Before any uranium enrichment facility license is issued, AEA Section 193 requires the NRC to address public health and safety, and common defense and security issues as part of a mandatory adjudicatory hearing. Additionally, as indicated above, AEA Section 193 requires the preparation of an EIS to evaluate the impacts of any proposed uranium enrichment facility.

The staff also agrees with GEH's statements that granting the requested exemptions is in the public interest. GEH has adequately shown that there is a need for advanced uranium enrichment capacity to support national energy objectives, and that the licensing process should be facilitated here in a manner consistent with radiological health and safety and the common defense and security.

Enclosure

Accordingly, NRC staff agrees that the proposed exemption is authorized by law, will not endanger life or property or common defense and security, and is in the public interest. Therefore, NRC staff recommends that the exemption request be approved.

CONCLUSION

Based on the above considerations, the Staff finds that granting this exemption is authorized by law, will not endanger life or property or common defense and security, and is otherwise in the public interest. Therefore, the Staff finds the request acceptable and recommends approval of the exemption.

PRINCIPAL CONTRIBUTOR

Timothy C. Johnson