

November 13, 2003

Ms. B. Marie Moore, Vice President  
Safety and Regulatory  
Nuclear Fuel Services, Inc.  
P.O. Box 337, MS 123  
Erwin, TN 37650

SUBJECT: NUCLEAR FUEL SERVICES, INC. AMENDMENT 45 - REQUEST FOR  
EXEMPTION FROM DECOMMISSIONING FINANCIAL ASSURANCE  
REQUIREMENTS (TAC NO. L31786)

Dear Ms. Moore:

In accordance with the information in your letter dated October 27, 2003 (NFS No. 21G-03-0278), which requested an exemption from 10 CFR 70.25(f) requirements for portions of the Blended Low-Enriched Uranium Preparation Facility at Building 333, and pursuant to Part 70 to Title 10 of the Code of Federal Regulations, Materials License SNM-124 is hereby amended to exempt Nuclear Fuel Services (NFS) from that requirement which limits the use of a statement of intent to government licensees. Accordingly, Safety Condition S-1 has been revised to include a reference to your letter dated October 27, 2003. All other conditions of this license remain the same.

Enclosed are copies of the revised Materials License SNM-124 and the Safety Evaluation Report.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) Component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Sincerely,

**/RA/**

Robert C. Pierson, Director  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Material Safety  
and Safeguards

Docket 70-143  
License SNM-124  
Amendment 45

Enclosure: 1. Materials License SNM-124  
2. Safety Evaluation Report

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Office of Nuclear Material Safety  
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License SNM-124  
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**CLOSES TAC NO. L31786**

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DOCKET: 70-143

LICENSEE: Nuclear Fuel Service, Inc.  
Erwin, Tennessee

SUBJECT: SAFETY EVALUATION REPORT: AMENDMENT 45 - REQUEST FOR  
EXEMPTION FROM FINANCIAL ASSURANCE REQUIREMENT (TAC  
NO. L31786)

### BACKGROUND

By letter dated October 27, 2003 (ADAMS no. ML033030311), Nuclear Fuel Services (NFS) requested an exemption from the requirement in 10 CFR 70.25(f) which limits the use of a statement of intent for financial assurance to government licensees. NFS is a non-government licensee and proposes to submit a statement of intent from the U.S. Department of Energy (DOE) as part of the financial assurance required for the Blended Low-Enriched Uranium (BLEU) Preparation Facility.

DOE has entered into an Interagency Agreement with the Tennessee Valley Authority (TVA) to downblend 7,400 kilograms  $U_x$  of high-enriched uranium. NFS has been selected as the contractor to perform the downblending. Article V of the Interagency Agreement obligates DOE, subject to allocation of funds by Congress, to reimburse the actual costs of decommissioning the equipment and facilities used for processing, recovery, and downblending of the uranium. DOE's obligation flows directly to NFS because NFS is the designated contractor under the agreement. NFS proposes to conduct downblending operations in the BLEU Preparation Facility for DOE.

By letter dated October 20, 2003 (ADAMS no. ML033010362), DOE submitted a statement of intent committing DOE to pay for the actual cost of decommissioning of equipment and facilities used to process, purify, and blend down 7,400 kg of high-enriched uranium in the form of uranium-aluminum ingots at NFS.

### DISCUSSION

An exemption from the requirements in 10 CFR Part 70 may be issued under 10 CFR 70.17 if it is authorized by law and will not endanger life or property or the common defense or security, and is in the public interest. As discussed further below, the NFS exemption request meets these criteria.

The intent of the financial assurance regulations in 10 CFR 70.25 is to assure that funds will be available for decommissioning when they are needed. DOE commits to funding the decommissioning costs as they arise at Building 333 with the exception of equipment associated with processing high-enriched uranium metal (i.e., metal dissolution). The commitment from DOE is part of an Interagency Agreement, through which the DOE commits

the United States Government to provide funding for decommissioning portions of the BLEU Project. DOE has committed to fund the actual cost of decommissioning, which provides for unanticipated costs in excess of the cost estimate, in the event such costs arise. The ability of the United States Government to pay its obligations is at least equivalent to the ability of a private financial institution to honor a guarantee of funds through one of the other instruments specified in 10 CFR 70.25(f). Therefore, the exemption will not decrease the assurance that funds will be available when needed, and its approval will not endanger life or property or the common defense or security. In addition, use of the DOE letter will avoid the carrying costs of providing financial assurance by one of the other methods specified in the regulation. Therefore, the cost of the BLEU Project to DOE will be decreased by the amount of such carrying costs, which is in the public interest.

### ENVIRONMENTAL REVIEW

Pursuant to 10 CFR Part 51, the NRC staff has considered the environmental consequences of amending NRC Materials License SNM-124 to exempt NFS from the financial assurance requirements in 10 CFR 70.25(f) for the BLEU Preparation Facility. On the basis of this assessment, the Commission has concluded that environmental impacts associated with the proposed action would not be significant and the Commission has made a finding of no significant impact. Accordingly, preparation of an environmental impact statement is not warranted. The finding of no significant impact was published in the Federal Register on November 10, 2003 (68 FR 63825).

### CONCLUSION

The NRC staff finds that the requested exemption will not endanger life or property or the common defense or security, and is in the public interest. Therefore, the staff recommends approval of the request for exemption from 10 CFR 70.25(f) for the DOE portion of the decommissioning funding of the BLEU Project.

The Region II inspection staff has no objections to the proposed action.

### PRINCIPAL CONTRIBUTORS

Kevin M. Ramsey  
Thomas L. Fredrichs