



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

FEB 11 1982

Docket No. 50-201

Change No. 32
Facility License No. CSF-1

Nuclear Fuel Services, Inc.
ATTN: Mr. Ralph W. Deuster, President
6000 Executive Boulevard, Suite 600
Rockville, MD 20852

New York State Energy Research and
Development Authority
ATTN: Mr. James Larocca, Chairman
Agency Building No. 2, Empire State Plaza
Albany, New York 12223

Gentlemen:

Please find enclosed an amendment (Change No. 32) to Facility License No. CSF-1, together with a copy of a notice concerning this amendment, which has been submitted for publication in the Federal Register, and the NRC staff's safety evaluation related to this licensing action. This amendment is being issued, pursuant to 10 CFR 50.91, in response to the application filed by Nuclear Fuel Services, Inc. on February 1, 1982 and the letter of the New York State Energy Research and Development Authority dated February 9, 1982 with respect thereto. The amendment incorporates the specific text proposed by the New York State Energy Research and Development Authority and agreed to by Nuclear Fuel Services, Inc.

Accordingly, pursuant to 10 CFR 50.91, License No. CSF-1 is amended, as shown in Enclosure 1, to include new paragraph 8.

FOR THE NUCLEAR REGULATORY COMMISSION

Leland C. Rouse

Leland C. Rouse, Chief
Advanced Fuel and Spent Fuel
Licensing Branch
Division of Fuel Cycle and
Material Safety
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. New License Condition 8.
2. Federal Register Notice
3. Safety Evaluation

- 8.A. Effective upon (1) acceptance of surrender of the facility by the New York State Energy Research and Development Authority ("NYSERDA") from NFS; (2) DOE's assumption of exclusive possession of the facility in accordance with Paragraph 7; and (3) the Settlement Date ("Settlement Date") of a Settlement Agreement, Stipulation and Order in Civil Actions No. 81-18E and 81-683E in the United States District Court for the Western District of New York ("Settlement Agreement"):
- a. The authority and responsibility of NFS under the license are terminated. Notwithstanding such termination, NFS shall promptly transfer to NYSERDA all records in the possession of NFS that are maintained pursuant to the license that have not been previously transferred to DOE.
 - b. All references in Paragraph 7 to "licensee," "licensees," "licensees under this license, as their respective interests under this license appear," or "licensees as their respective interests under this license appear" shall thereafter refer exclusively to NYSERDA.
 - c. Indemnity Agreement No. B-29 shall be modified to conform to the change in the authority and responsibility described in subparagraphs a and b of this Paragraph 8.A.
- B. NFS and NYSERDA shall jointly file with the Commission, as soon as practicable, a copy of any Settlement Agreement and notice of acceptance of the facility by NYSERDA; and NYSERDA shall file with the Commission, as soon as practicable, notice of DOE's assumption of exclusive possession of the facility in accordance with Paragraph 7.
- C. As soon as practicable, NFS and NYSERDA shall give the Commission notice of specific date, by month, day, and year, that constitutes the Settlement Date.

FEB 11 1982

UNITED STATES NUCLEAR REGULATORY COMMISSIONDOCKET NO. 50-201NUCLEAR FUEL SERVICES, INC. ANDNEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY(WESTERN NEW YORK NUCLEAR SERVICE CENTER)ISSUANCE OF AMENDMENT TOFACILITY LICENSE NO. CSF-1

Nuclear Fuel Services, Inc. (NFS) and New York State Energy Research and Development Authority (as successor to the New York State Atomic and Space Development Authority) (the Authority) hold Provisional Operating License No. CSF-1. The license, issued under section 104b. of the Atomic Energy Act, had authorized the operation of a spent nuclear fuel reprocessing and radioactive waste disposal facility at the Western New York Nuclear Service Center in West Valley, New York (the Center).

Under the West Valley Demonstration Project Act, Pub. L. 96-368, the Department of Energy has been authorized to carry out a high-level radioactive waste management demonstration project at the Center for the purpose of demonstrating solidification techniques which can be used for preparing high-level liquid radioactive waste for disposal.

On September 30, 1981, the U.S. Nuclear Regulatory Commission (the Commission) issued an amendment to the license which would permit transfer of the facility to the Department of Energy for purposes of the project (46 FR 49237).

On October 6, 1981, the Commission received from NFS an application for amendment of License No. CSF-1 to relieve NFS of all operational responsibility under the license. Notice of receipt of this application was published in the FEDERAL REGISTER on November 13, 1981 (46 FR 56086). The Commission denied the application on January 11, 1981, without prejudice, in order to avoid adjudication before the Commission of issues of law and fact that are being litigated between NFS and the Authority in the federal court system.

NFS submitted a further application to the Commission on February 1, 1982. The new application requests that the authority and responsibility of NFS under the license be terminated upon the occurrence of certain events. A supporting letter, dated February 9, 1982, was filed by the Authority. The Department of Energy, by letter of February 10, 1982, advised the Commission that it has no objection to the issuance of the requested amendment.

In accordance with 10 CFR §2.106, notice is hereby given that the Commission has today issued an amendment to License No. CSF-1, substantially as requested by NFS, which provides for termination of the authority and responsibility of NFS under said license, effective upon 1) acceptance of surrender of the facility by the Authority from NFS; 2) DOE's assumption of exclusive possession of the facility, and 3) the Settlement Date of a

Settlement Agreement in pending civil actions in the United States District Court for the Western District of New York. The Commission has determined that the application for the amendment complies with the requirements of the Atomic Energy Act and the regulations of the Commission (10 CFR Chapter I). The Commission has determined that this amendment involves no significant hazards consideration. Copies of the amendment to the license and the NRC staff's safety evaluation are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Local Public Document Rooms maintained at the Buffalo and Erie County Public Library, Lafayette Square, Buffalo, New York; and the Town of Concord Public Library, 23 North Buffalo Street, Springville, New York.

Dated at Silver Spring, Maryland, this 11th day of February 1982.

FOR THE NUCLEAR REGULATORY COMMISSION

Leland C. Rouse

Leland C. Rouse, Chief
Advanced Fuel and Spent Fuel
Licensing Branch
Division of Fuel Cycle and
Material Safety

U.S. NUCLEAR REGULATORY COMMISSION
SAFETY EVALUATION REPORT
RELATED TO
AMENDMENT NO. 32
TO FACILITY OPERATING LICENSE CSF-1
DIVISION OF FUEL CYCLE AND MATERIAL SAFETY
FEBRUARY 1982

I. FINDING OF NO SIGNIFICANT HAZARDS CONSIDERATION

Introduction

Paragraph 4.A. of License No. CSF-1 provides that in the event of any expiration, modification, cancellation, or termination of the contractual arrangement between Nuclear Fuel Services, Inc. (NFS) and the New York State Energy Research and Development Authority (NYSERDA)^{1/} or any other change in the relationship between them, including any proposed transfer from NFS to NYSERDA of responsibility for the operation and care of those portions of the facility in which the storage and burial of radioactive wastes will take place, NFS or NYSERDA may apply to the U.S. Nuclear Regulatory Commission (the Commission) for an appropriate amendment of this license reflecting the future responsibilities of NFS and NYSERDA with respect to satisfying Commission regulatory requirements.

NFS and NYSERDA have agreed, subject to the occurrence of certain contingencies, to terminate the contractual agreement between them and have proposed to transfer from NFS to NYSERDA, in the event of such termination, responsibility for the operation and care of the facility following the completion of

^{1/} The New York State Energy Research and Development Authority (NYSERDA) is successor to the Atomic and Space Development Authority (ASDA), the agency which is named in License No. CSF-1.

high-level waste solidification by the Department of Energy. To reflect this change in responsibility, the Commission proposes to modify the license by terminating the authority and responsibility of HFS upon DOE assuming exclusive possession and control of the facility as provided in paragraph 7, of License CSF-1, as amended, and the occurrence of the contingencies referred to above.

Consideration of Criteria

As provided by 10 CFR § 50.91, the U.S. Nuclear Regulatory Commission (the Commission) determines, before acting thereon, whether a proposed amendment to a facility license involves a significant hazards consideration. In making this determination, it is appropriate to consider whether operation of the facility would (1) involve a significant increase in the probability of consequences of an accident previously evaluated; (2) create the possibility of an accident of a type different from any evaluated previously, or (3) involve a significant reduction in a margin of safety. If the Commission reaches a negative conclusion on all criteria set forth in (1), (2), and (3) above, the proposed amendment may be considered to involve no significant hazards consideration.

It should be noted, first, that the previous Amendment (Change No. 31) authorized transfer of the facility to DOE. Because DOE is exempt from Commission licensing, there is no need to evaluate any hazard associated with operation during the period when the facility is in DOE's possession

and control.^{2/} Whereas the license previously suspended the rights and responsibilities of NFS during the period of DOE possession and control, the proposed license modification would terminate NFS's authority and responsibility. The authority and responsibility of NYSERDA would continue to be suspended. During this period, all three of the above criteria are met and the proposed license modification may be considered to involve no significant hazards consideration.

Having made this determination, it is appropriate to consider whether, when DOE completes the West Valley Demonstration Project and NYSERDA reacquires the facility, its operation would involve a significant increase in the probability or consequences of an accident previously evaluated. Two factors influence the probability or consequences of an accident. They are the radiological risk inherent in conditions at the facility, and the ability of the facility operator to prevent accidents or to mitigate their consequences.

Upon resumption of activities under the license following completion of the West Valley Demonstration Project by DOE, the most important safety-related aspect at the site, the continued care of the liquid high-level waste, will no longer exist. It will have been solidified and transported to a Federal repository for permanent disposal. At least part of the facility will have been decontaminated and decommissioned by DOE in accordance with such requirements as the Commission may prescribe. The inherent risk associated with conditions at the site will have been reduced accordingly.

^{2/} The Commission is required, however, to conduct an informal review and consultation with respect to the project pursuant to arrangements with DOE. Pub. L. 96-368, 94 Stat. 1347, §2(c). Such arrangements have been established by means of a Memorandum of Understanding effective September 23, 1981. 45 FR 56960, November 19, 1981.

The proposed license modification would terminate HFS as the facility operator without changing the authorization of HYSERDA to hold title to the facility. HYSERDA is not currently licensed to operate the facility nor would it be under the proposed modification. Whether a licensed operator possessing the requisite financial and technical qualifications will be necessary when HYSERDA, or its successor, reacquires the facility cannot be determined now. It is clear that upon completion of the West Valley Demonstration Project, radiological risk at the facility will be reduced from its present level. It is not clear whether that reduction in radiological risk will permit release of the facility to unrestricted use not requiring a Commission licensed operator. This cannot be determined now because DOE plans for operation of the facility have not been finalized and the requirements for decontamination and decommissioning the facility have not yet been established. It is important to note, however, that under the West Valley Demonstration Project Act, the Commission will prescribe these decontamination and decommissioning requirements. In doing so, the Commission will determine the level of long term radiological risk remaining at the facility and any need for a licensed operator. The Commission considers HYSERDA, as an agency of the State of New York, to possess sufficient institutional stability and financial resources, to enable it to acquire the technical qualifications to prevent accidents or to mitigate their consequences, if a licensed operator is needed when HYSERDA, or its successor, reacquires the facility. Under paragraph 7, HYSERDA would be required to comply with technical specifications and such other conditions as the Commission finds to be necessary and proper. Operation of the facility at that time will not involve a significant increase in the probability or consequences of an accident previously evaluated.

When NYSERDA, or its successor, reacquires the facility there will be no possibility of creating a type of accident different from those presently evaluated because the project facilities will have been decontaminated and decommissioned and no new activities are authorized.

In addition, the margins of safety will be increased, rather than reduced, since the high level liquid radioactive waste will no longer be present and since the facility will have been decontaminated and decommissioned according to such requirements as the Commission may prescribe.

Upon resumption of licensed activities, the three criteria are met and the proposed license modification may be considered to involve no significant hazards consideration.

Conclusions

Based on the above discussion, the staff has concluded that the issuance of Amendment No. 32 to Facility License No. CSF-1 involves no significant hazards consideration.

II. FURTHER FINDINGS

In accordance with 10 CFR § 50.91, the staff further concludes that the issuance of the license amendment will not be inimical to the common defense and security or to the health and safety of the public.

In accordance with 10 CFR § 51.5(d)(4), no environmental report, environmental impact appraisal or assessment, negative declaration or finding of significant impact or environmental impact statement is required with respect to the issuance of the license amendment.